

OFFICE OF THE COUNTY MANAGER CLARK COUNTY, NEVADA

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County Manager

Date: 06/07/2010

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Issue: Arena RFI Responses

Subject/Issue Statement:

Arena Request for Information (RFI) Responses

Summary:

County staff has identified several issues regarding the requests for public subsidy for various arena projects within Clark County.

A. Staff issues:

- 1. A public subsidy provided to an arena project would be in direct competition to existing and possible future private enterprises.**
 - a. There are already five large arenas with combined seating capacity of more than 63,000 in Clark County.¹ All but one of these facilities were built by private companies and would directly compete with a publicly subsidized arena. A publicly subsidized new arena would almost certainly negatively impact these private arenas, and vice-versa.
 - b. While proponents characterize their arenas as stand-alone ventures, there are obvious and important economic benefits that would be realized by the closest gaming and resort companies to each arena.
- 2. A Clark County arena is likely a viable private enterprise in better economic conditions.**
 - a. Private arenas with capacities of up to 15,520 have already been built in Clark County.¹
 - b. One of the three current proponents recently announced their strong intention and ability to build a completely privately funded arena.²
 - c. Arenas have been built in other cities with little or no public subsidy.³

- d. Arenas in Las Vegas have a different business model than in other municipalities because of the significant indirect benefits to nearby gaming and resort properties.

3. Incomplete information is available to form an accurate advisory question.

- a. The proposed arena district sales and use tax rates contained in the RFI responses are estimates, subject to variance, and require further evaluation. There has not been a detailed inventory of businesses that would be subject to the tax rate contemplated, and staff cannot opine that the sales and use tax rates suggested for the advisory question are accurate.⁴
- b. The sales and use tax rates requested do not provide adequate revenue coverage to issue the governmental bonds in the amount asked for by the arena proponents, based on the proponents' own estimates. For example, in the case of one of the proposals, the 0.8 percent sales and use tax rate is expected to generate approximately \$31 million in the first year of debt service. The requested amount of governmental bonds (\$360 million) would also require about \$31 million of annual debt service. The credit markets would require at least a 1.5 times coverage ratio for this type of public financing, which would either limit the amount of borrowing and subsidy to approximately \$240 million, require a sales tax rate of 1.2 percent, or require private financing.⁵ The other arena district proposal has similar issues, but to a lesser degree.

4. The arena district question is legislative in nature and belongs in the legislative session.

- a. The arena tax districts proposed do not exist in current law, and would require a significant legislative effort to construct.
- b. The advisory question, which could be materially incorrect as described in the previous comment, is neither necessary nor binding in respect to any possible legislation.
- c. The arena proponents had the opportunity to place a question on the ballot had they chosen to. The proponent could have acquired petition signatures via the initiative method in order to do so, but that deadline has, as a practical matter, passed for this November's election. This effort would have to be completed by July 5, 2010.⁶

5. There is an alternative public financing option available for these projects.

- a. The proponents purport the benefit of an arena to the entire proposed arena tax district.
- b. Local Improvement District statute provides an existing financing mechanism that allows for equitable public financing of construction projects based on benefit received from the project.⁷
- c. If state law were amended to allow for an arena as an allowed project, existing law already allows for equitable assessment to all properties receiving special benefits from the project, as well as public financing of the project. Existing law also already provides the ability to finance most infrastructure and parking for an arena.⁷
- d. The creation of the district would allow input from all interested (assessed) parties.⁷

- e. Over time, the assessments arguably would have similar incidence as a sales and use tax, meaning the assessments could be borne in similar proportion by district properties and tourists.
- 6. Public subsidy of an arena would require contribution well in excess of the likely public revenue generation.**
- a. The Las Vegas Arena Foundation request is for approximately \$31 million per year of public revenue. The other requests are for less.
 - b. Applied Analysis predicts approximately \$10 million of truly new, or incremental, public revenue generation per year from an arena project. This is less than one-third of the amount of annual public resources requested by the Foundation.⁸
 - c. These economic estimates, by their own disclosure, have a wide range of possible outcomes and are based on estimates of new visitor activity reported by the proponents. It is possible, if not likely, that the incremental economic activities generated by the arena are overstated, perhaps significantly.
- 7. Public ownership is probably what the public should get for its investment, but may not be the best outcome.**
- a. Nationally, virtually every arena with significant public subsidy is publicly owned.
 - b. This ownership structure is probably what the public should receive for the significant use of its funds.
 - c. A new publicly owned arena would require a comprehensive analysis of risk and effort and would be a competitor to existing public and private facilities.
- 8. There will likely be requests for additional public subsidy in other forms.**
- a. It is very likely that the traffic and other infrastructure demands of a new arena will lead to future construction of public roads and other projects, increasing the total public cost of an arena.
- 9. There are opportunity costs.**
- a. The fact that the proposed sales and use tax rate would be a new tax ignores the opportunity costs of increasing an already relatively high sales and use tax rate, limiting this funding source for any future alternative public purposes.
 - b. The property tax increment monies are already programmed into the budgets of the various taxing entities and are needed for what is likely to be a prolonged economic recovery. There is no guarantee that the arena will generate new economic activity to recover these property tax increment dollars.
- 10. The need for an arena is questionable.**
- a. There is no reasonable assurance that an NBA or NHL team would come to Clark County if an arena were built.
 - b. There are other arenas, Kansas City's Sprint Center being notable, that have built arenas for the same purpose without success.
 - c. Numerous studies have come to the conclusion that the economics of an arena with sports franchises are worse than without. The primary reason

is that the team owners and athletes tend to be the recipients of significant portions of the arena revenue streams and spend those monies outside the metropolitan area.

- d. Current arena owners report that existing arenas have excess capacity.⁹
- e. Current arena owners strongly dispute the notion that shows are not coming to Clark County because of facility constraints.
- f. There is a belief among certain interested parties that a stadium is a better venture than an arena. This could occur as either a newly constructed facility, or an expansion and renovation to Sam Boyd Stadium.

1 – *Analysis of a Las Vegas Events Center*, CSL International, November 27, 2006.

2 – *Joint Venture: Arena plan unveiled, Harrah's, AEG to build facility for NHL, NBA*, Las Vegas Review-Journal, August 23, 2007.

3 – The AT&T Center in San Antonio, TX, the Pepsi Center in Denver, Co, the Staples Center in Los Angeles, CA, the TD BankNorth Garden in Boston, Madison Square Garden in Manhattan, and the Consol Energy Center in Pittsburgh are examples of comparable arenas with either no subsidies or much smaller subsidies than are requested of the County.

4 – *Taxable Retail Sales District Analysis, Las Vegas Resort Corridor*, Applied Analysis, March 18, 2010.

5 – *Las Vegas Arena Bond Calculations*, Harrah's, May 26, 2010

6 – *Nevada Revised Statutes, Chapter 295.045*.

7 – *Nevada Revised Statutes, Chapter 271*.

8 – *Economic and Fiscal Impact Analysis, Las Vegas Arena, Exhibit 19*, Applied Analysis, April 3, 2009.

9 – See Section IV.F on page 6 of this report.

Background:

A. History of this item:

On April 6, 2010, the Board of County Commissioners directed staff to issue a request for information (RFI) for event center/arena project proposals within Clark County.

There were five respondents to the RFI:

- 1. City of Las Vegas
- 2. University of Nevada Las Vegas
- 3. Las Vegas Arena Foundation (LVAF)
- 4. I-15 Events Center (Olympia Development)
- 5. Silver State Arena (International Development Management or IDM)

The proposals are available online at:

http://www.accessclarkcounty.com/depts/clark_county/Pages/arenaproposals.aspx.

The Board received a presentation on May 18, 2010, on the various arena proposals. The Board also heard from MGM Mirage staff, the owner of two existing arena / event centers. The Board directed staff to answer several questions from the meeting and to report back at a future meeting. Those questions and answers are included as Attachment A.

B. Proponent requests:

- 1. **International Development Management** - IDM has revised their request of the County from the original RFI response. Their current request is to utilize the tax increment property tax revenue available to the Clark County Redevelopment Agency to privately finance the facility. The tax increment money would be made available to the Silver State Arena after completion of the facility and no public

bonds would be issued. The amount of the contribution would be limited to twenty years, or \$125 million in contribution on a net present value basis, discounted at 6.5 percent.

2. **Las Vegas Arena Foundation** – The LVAF has asked the County to place an advisory question on the November 2010 ballot seeking to impose 0.8% sales and use tax within a specific district along the Strip for the purposes of funding an arena. The proposed ballot language prepared by the LVAF is specific to their arena site. The LVAF RFI response also requests the issuance of governmental revenue bonds backed by the newly imposed sales and use tax.
3. **Olympia Development** – Olympia has also asked the County to place an advisory question on the November 2010 ballot. Their request is for a taxing district that is larger than the one proposed by the LVAF (a southern boundary of St. Rose Parkway instead of Russell Road), and with a different sales tax rate (0.6 percent instead of 0.8 percent) also for the purpose of funding an arena. The proposed ballot language prepared by Olympia is not specific to any arena site. The Olympia RFI response also requests the issuance of governmental revenue bonds backed by the newly imposed sales and use tax.

C. Proposed level of public support:

The table below summarizes the requests for public subsidy for the arena proposals:

	<u>IDM</u>	<u>LVAF</u>	<u>Olympia</u>
Governmental bonds	No	Yes	Yes
Costs, without land	\$405 million	\$610 million ¹	\$429 million
Present value subsidy	\$125 million	\$360 million	\$325 million
Estimated gross subsidy	\$205 million	\$628 million	\$689 million
Type of support	Existing property tax increment	New sales tax rate of 0.8%	New sales tax rate of 0.6%
Timing of revenue support	After completion of arena	Prior to building arena	Prior to building arena
Proposed ownership	Private	Non-profit/private	Public or private

1 – Includes \$103 million for a parking garage.
Source: RFI responses, May 3, 2010

D. Facility comparison

	<u>IDM</u>	<u>LVAF</u>	<u>Olympia</u>	<u>Thomas and Mack</u>
Acreage	27 acres	16 acres	50 acres	45 acres
Parking	4,963	5,000	8,300	4,400
Square footage	840,000	690,000	800,000	350,000
Capacity	20,000	20,000	20,000	19,354
Suites	1,112 seats	96	61	30
Club seats	-	5,400	600	-
Loge boxes	516 seats	-	40	-
Event days	180	170	125	126

Source: RFI responses, May 3, 2010

E. Existing facilities

The following table presents an overview of major sport and entertainment venues in Clark County, with a minimum seating capacity of 5,000.

<u>Venue</u>	<u>Capacity</u>	<u>Event Focus</u>
Sam Boyd Stadium	40,000	Football, Motorsports
Thomas and Mack Center	19,354	Sports, Concerts, Family Shows
MGM Grand Garden Arena	15,520	Concerts, boxing
Mandalay Bay Events Center	12,200	Concerts, boxing
Cashman Field	9,300	Minor League Baseball
Orleans Arena	9,000	Minor League Hockey, Concerts, Family Shows
Aladdin Theatre	7,019	Concerts

Source: *Analysis of a Las Vegas Events Center*, CSL International, November 27, 2006

F. Existing venue concert levels

The following table presents concert levels (annual averages) at major Clark County venues.

Venue	Capacity	Annual Concerts (1)	Average Attendance
Sam Boyd Stadium	40,000	2	15,700
MGM Grand Garden Arena	15,520	16	10,600
Thomas and Mack Center	19,354	11	7,600
Mandalay Bay Events Center	12,200	28	6,300
Orleans Arena	9,000	7	4,600
Coliseum at Caesar's Palace	4,098	196	3,900
Aladdin Theatre	7,019	14	3,300

Source: Pollstar, Reproduced in part from *Analysis of a Las Vegas Events Center*, CSL International, November 27, 2006

(1) Represents average annual concert performances over three years as reported to Pollstar.

Additional information requested by the Board at the May 18, 2010 meeting is contained in Attachment A.

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Attachment A – Questions and answers from the May 18, 2010 Board Meeting

Section 1 – Legality:

1. **Is the resort corridor tax district legal as proposed?** – Both the LVAF and Olympia proposals contain requests for the County to support an advisory question regarding the creation of a new arena sales tax district and an increase in the sales and use tax rate within that district. Such a district does not exist under current state law.

The legality of the creation of such a district would ultimately be opined on by the Legislative Counsel Bureau. As with any such action, the possibility exists for subsequent litigation. Staff believes it is likely legal.

2. **Can small businesses be excluded from the new taxing district boundary?**
If an arena tax district were created, the exclusion of any specifically named businesses from the district boundaries, or the exclusion of business locations within the district boundaries, from payment of the additional tax would likely provide basis for challenges as to the legality of the district and the taxation mechanism. The courts would ultimately decide this if it was challenged.

Section 2 – Legislation:

3. **Who would approve the tax district?** – The law is not yet written, so the answer to that is not completely clear. However, such a district could be created legislatively without the vote or approval of residents or businesses within the district.
4. **Is the County's placement of an advisory question on the ballot the only way to get such a question on the ballot?** – Yes, it is.
5. **Can we structure the ballot question such that the Nevada legislature would be precluded from appropriating the arena sales tax funds?** - The ballot question is advisory only and does not bind the legislature to any action, or prevent them from taking any action. Monies that are obligated under debt service or other contractual arrangements are described in question six below.
6. **What is to prevent the legislature from appropriating these dollars in a manner similar to the action taken with the Clean Water Coalition (CWC) during the special legislative session?** – If the County were to finance or contract using the arena district tax revenues, the legislature would be prohibited under State law from appropriating those monies to the extent they are necessary for such obligations. The legislature explicitly provided that the CWC debt and contractual obligations were to be paid prior to the State use of their additional monies.
7. **If the legislature creates an arena tax district, could the new tax funds go into the State's general fund?** - The sales and use taxes would probably not go into the State's general fund. This is due to legal nuances of sales taxes increases for state purposes compared to sales tax increases for local purposes.

Section 3 – Finances:

8. **What would the proposed district sales tax rate be if the additional More Cops tax is enacted, as well as the proposed arena district rate?** – The sales and use tax rate within the proposed district would be 9.15 percent in that scenario. In a comparison to the largest cities in each of the 50 states, this would rank 7th highest, and approximately 2.5 percent above average (see Table A.1. at the end of this attachment). The current 8.10 percent Clark County sales and use tax rate ranks 13th in the same comparison, about 1.5 percent above average. As mentioned in the previous Board meeting, local tax structures vary in composition, including income, property, sales, and other taxes.
9. **What would the proposed tax increase be if it were applied to the entire county?** – Assuming interest rates, coverage ratios, and other financing terms, it would require an approximately 0.18 percent County-wide sales and use tax rate increase to fund the LVAF's request and a 0.16 percent tax rate to fund the Olympia proposal. These are at next year's projected collection rates, which may vary from estimates.
10. **Can the proponents build the arena without public financing?** – The proponents claim that they cannot. As discussed in body of the report above, this may be because of the current economic climate, as one of the proponents announced that they could build an arena without public financing as recently as two years ago.
11. **If sales and use tax revenues were insufficient to pay the debt service, who would be responsible for payment of the bonds?** – The County, if it were the issuer of sales tax revenue bonds, would likely feel compelled to make up the difference to complete debt service payments if revenues were insufficient. The County would not be legally obligated to do so, but would likely suffer impairment of its credit ratings if it did not.
12. **What will Clark County constituents be obligated for with respect to the proposed taxes?** County residents would be obligated to pay the taxes on any taxable transactions within the district. They would have no further obligations if tax revenues were sufficient to fund any County debt issued. If the County issued debt, the answer to question 11 would be applicable.
13. **Considering the current economic downturn, how do we know that the future sales tax funds will be sufficient to pay down the bonds?** – There is no certainly as to the sufficiency of future sales and use tax revenues. The County would require, as would the credit markets and rating agencies, reasonable debt service coverage ratios to issue sales and use tax revenue bonds. These coverage ratios would be a minimum of 1.5 times coverage (revenue in a current amount of 1.5 times the maximum debt service requirement).
14. **What happens if a public financing occurs, but the project is not completed, or the arena is not successful?** - The County would still be obligated to make the debt service payments. If there were unused project funds those amounts could be used to make debt service payments.

15. **Can the proposers avail themselves of Tourism Improvement District funds (NRS 271A) to fund their arena projects?** – The IDM project cannot do so, as Tourism Improvement Districts are prohibited from existing within redevelopment areas. The other two projects possibly could with proper approvals, but this would likely generate significantly less money than their current requests.

Section 4 – Ownership:

16. **Who would own the arena, as they are both privately and publicly funded?**
Each of the proposals contains private and public financing components. The IDM proposal contemplates private ownership. The LVAF proposal contemplates ownership by the not-for-profit arena foundation, but allows for other consideration. The Olympia proposal contemplates either public or private ownership. Each scenario is feasible, but could impact the federal tax status of (and consequently the interest rate on) any governmental bonds.
17. **If it is not owned publicly, could the private or not-for-profit owner sell it?** –
The County could likely contractually arrange for conditions of sale, including County approval, if it participated in the funding of an arena.

Section 5 – Other:

18. **Is there a need for another 20,000 seat arena in Clark County?** - That is questionable. The proponents feel that there is. Other owners of arena facilities in Clark County do not agree. This is discussed on page three of the report.
19. **Has any other arena developer previously sought public financing via ballot question in Las Vegas or Clark County?** - County staff is not aware of any previous efforts.
20. **What will be the dollar impact to UNLV if a new arena opens?** -UNLV reports that “the loss of major events held at the Thomas and Mack could have a direct negative financial impact on the University of up to eight or nine million dollars per year.” Each of the proponents has offered to allow the UNLV athletic programs the use of the arena with financial consideration given to the university. These terms have not yet been specified or agreed upon.

Table A.1. Sales and use tax rates in largest US Cities:

<u>State</u>	<u>City</u>	<u>Sales Tax Rate</u>
Virginia	Virginia Beach	10.500%
Illinois	Chicago	10.250%
Alabama	Birmingham	10.000%
California	Los Angeles	9.750%
Washington	Seattle	9.500%
Tennessee	Memphis	9.250%
Nevada	Las Vegas (Proposed)	9.150%
New York	New York City	8.875%
Louisiana	New Orleans	8.750%
Oklahoma	Oklahoma City	8.375%
Arizona	Phoenix	8.300%
North Carolina	Charlotte	8.250%
Texas	Dallas	8.250%
Nevada	Las Vegas	8.100%
Georgia	Atlanta	8.000%
Pennsylvania	Philadelphia	8.000%
Minnesota	Minneapolis	7.775%
Colorado	Denver	7.720%
Missouri	Kansas City	7.550%
Arkansas	Little Rock	7.500%
Indiana	Indianapolis	7.000%
Mississippi	Jackson	7.000%
Nebraska	Omaha	7.000%
New Jersey	Newark	7.000%
North Dakota	Fargo	7.000%
Rhode Island	Providence	7.000%
South Dakota	Sioux Falls	7.000%
South Carolina	Columbia	7.000%
Vermont	Burlington	7.000%
Utah	Salt Lake City	6.850%
Ohio	Columbus	6.750%
New Mexico	Albuquerque	6.625%
Florida	Orlando	6.500%
Kansas	Wichita	6.300%
Massachusetts	Boston	6.250%
Connecticut	Bridgeport	6.000%
Idaho	Boise	6.000%
Iowa	Des Moines	6.000%
Kentucky	Louisville	6.000%
Maryland	Baltimore	6.000%
Michigan	Detroit	6.000%
West Virginia	Charleston	6.000%
Wyoming	Cheyenne	6.000%
Wisconsin	Milwaukee	5.600%
Maine	Portland	5.000%
Hawaii	Honolulu	4.500%
Alaska	Anchorage	0.000%
Delaware	Wilmington	0.000%
Montana	Billings	0.000%
New Hampshire	Manchester	0.000%
Oregon	Portland	0.000%