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**TO:** Detroit City Council

**FROM:** David Whitaker, Director   
Legislative Policy Division Staff

**DATE:** September 29, 2021

**RE:** **Update on Commitments regarding the District Detroit Project**

The Legislative Policy Division (LPD) has been requested to provide a report pertaining to the status of the outstanding commitments of the District Detroit Development project.<sup>1</sup> LPD prepared a report on April 17, 2019, regarding the commitments made under the Master Development Agreement and the Concession Management Agreement entered into for the District Detroit Development project. The Detroit Downtown Development Authority (DDA) being a party to both agreements has been of assistance to LPD in obtaining status of the commitment compliance information from the Olympia Development of Michigan Events Center, LLC (ODMEC) and the Olympia Development of Michigan, LLC (ODM).

With regard to the outstanding commitments under the Master Development Agreement, LPD has obtained the following information:

Article II of the MDA provides under Section 2.01 that ODM or its affiliate shall make or cause other parties to make a financial investment in Projects in the EC Ancillary Development Area in an amount not less than \$200 million. The Commitment shall be satisfied if, on or before the Deadline Date, ODM its affiliates or other developers shall have submitted and the DDA shall have approved “Accepted Development Plans” with Aggregate Budgeted “Eligible Cost” of at least \$200 million. Section 2.02 provides that the DDA commits to reimburse ODM in the

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<sup>1</sup> LPD commends the City Council on setting this matter for discussion and believes similar discussions should be undertaken regarding major development projects to ascertain their compliance with the commitments made.

manner described in Section 6.03 for Eligible Costs incurred in connection with the Project in an amount not to exceed the “Maximum Reimbursement”.<sup>2</sup>

The commitment was to be completed on or before September 12, 2022. According to the DDA representative:

- Commitment has been fully satisfied by the following projects (subject to verification of actual costs):
- Little Caesars Global Resource Center (\$150 million)
- Parking deck with retail podium on Henry (\$24 million)
- Parking deck on Temple (\$17 million)
- Development of office space for Google (\$18 million)
- Office building at 2715 Woodward (\$64.5 million) [Note: ODM reserved the right to include this project in the \$200 million commitment only in the event it did not receive incentives for the project. No incentives were granted for this project; however, to date ODM has not requested its inclusion in the above commitment.

Pursuant to Section 2.04 *Eddystone Hotel*, ODM committed to redevelop or cause an affiliate or another developer to redevelop the Eddystone Hotel for commercial and residential use with a 20% affordable housing component. According to the DDA representative:

- Final milestone (issuance of Temporary Certificate of Occupancy) is due December 23, 2021.

Pursuant to Section 4.01 *Sale/Transfer*, that within thirty (30) days of the DDA securing fee simple title to any Ancillary Development Property<sup>3</sup>, the DDA shall convey the subject property to ODM or its affiliate by Quit-Claim Deed subject to a payment of fair market value. However, with respect to the “Woodward Properties”<sup>4</sup> each Woodward Property shall be conveyed to ODM or its affiliate for fair market value upon the execution by the DDA and a Developer of a Development Agreement<sup>5</sup> relating to such properties.

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<sup>2</sup> The Maximum Reimbursement under the MDA is defined as \$62 million (Subject to adjustment). Section 6.01 provides the Maximum Reimbursement may be increased to \$74 million provided that each of the following occurs: (i) the Michigan Strategic Fund shall have approved said increase; (ii) the DDA Plan shall have been amended to account for said increase; and (iii) the amended DDA Plan have been approved by the DDA Board of Directors and the City Council. Each of the conditions were met and the amount was modified to \$74 million in the First Amended and Restated Concession and Management Agreement dated July 11, 2016.

<sup>3</sup> The Ancillary Development Properties are defined as the properties identified in Exhibit A in the MDA, as amended from time to time pursuant to the Ancillary Land transfer Agreement (between the City and the DDA). The Ancillary Development Properties consist of 26 properties located on Woodward Ave, Third and Fourth streets.

<sup>4</sup> The Woodward Properties are identified in Schedule 1 of the MDR and consist of 15 properties located on Woodward Ave

<sup>5</sup> The Development Agreement shall provide, among other things, that if the Woodward Property is not subject to an Accepted Development Plan, within three (3) years after the Effective Date of this Agreement, the Woodward Property shall be reconveyed to the DDA in accordance with Section 4.06.

According to the DDA representative ODM was to:

Cause all previously publicly owned properties along Woodward that are now owned by Olympia to have a development plan approved by the DDA on or before December 11, 2017 (3 extensions granted, including current extension described below).

- Woodward parcels included those on which the WSU Business School and the Warner Norcross office buildings were built.
- Remaining parcel is vacant parcel immediately south of LCA, at 2473 Woodward at Henry and Woodward.
- Extension to September 12, 2022, in exchange for ODM's transfer of 3118 4th and 242 Watson to the City of Detroit.

According to the DDA representative ODM is to further:

Cause all previously publicly owned properties in the Catalyst Development Area that are now owned by Olympia to have a development plan approved by the DDA on or before September 12, 2022.

- Obligation outstanding on parcels located primarily west of Third Street.

In addition to the commitments made under the Master Development Agreement, there were additional ongoing commitments under the Concession Management Agreement. LPD sought to obtain an update with regard to the following commitment provisions. While LPD has not received a response at this time, City Council may wish to inquire during the upcoming discussion, the status under the following provisions.

### **CMA (Amended and Restated Concession and Management Agreement) Applicable Provisions**

- (1) Under Section 11.3(b) ODMEC also commits to allow the DDA (subject to unavailability due to use reserved to ODMEC or the Red Wings) the use of the Events Center for a civic, charitable, or cultural purpose which does not compete with any business of OEDC or the Red Wings or related person. The use by the DDA for the allowed events shall be pursuant to the requirements set forth in the subsection including but not limited to providing written notice ninety (90) days in advance of the DDA Event. ODMEC shall provide the DDA a good faith estimate of managerial, operational, maintenance, utility and any other costs which will be incurred as a result of the DDA Event.

#### **Has ODMEC met its commitment to the DDA under this provision?**

- (2) Section 11.3(c) provides that the DDA shall have the right to retain the net revenues (all revenues realized from ticket sales or the equivalent, less the cost of preparation, operation staffing, security, clean up, playing field protection, utilities and restoration, if required) for each DDA Event and that percentage agreed to by ODMEC and the DDA of

the revenues from parking related to the DDA Event and sales of food and beverages at the Events Center other than the “Stadium Club”. Section 11.3(d) indicate the rights under this Section is conditioned upon there being an Agreement between the DDA and ODMEC that would require the DDA to either prepay subject to final accounting and reconciliation, or, within thirty (30) days after receipt of an itemized statement of the actual costs from ODMEC, reimburse all reasonable costs anticipated to be incurred as a result of a proposed DDA Event.

**Has ODMEC met its commitment to the DDA under this provision?**

- (3) Section 12.2(d) indicates that ODMEC commits to pay reasonable cost that are related to and germane to security both outside and inside the Events Center.

**Has ODMEC met its commitment regarding security under this provision?**

- (4) Section 22.1 Construction Contract indicates that ODMEC will incorporate provisions requiring the Construction Contractor to implement and administer business and workforce participation and outreach plan for involving Detroit Headquartered and Detroit-based businesses, and bona-fide City residents in the work to be performed and materials to be supplied in connection with the construction of the Events Center Project. Also included is the Apprentice Program under which ODMEC committed to utilizing commercially reasonable efforts to develop a robust apprenticeship program by utilizing Greater Detroit unionized construction apprentice schools and other apprentice training groups to accomplish that end.

**Has ODMEC met its commitment under this provision?**

- (5) Section 22.2 Post Construction Inclusion Plan and Employment Objectives, this provision indicates that ODMEC seeks to maximize the opportunities to hire and promote Detroit residents and the purchase of goods, supplies and services from business located in Detroit or owned by Detroit residents in connection with ongoing operations of the Events Center. The provision estimates that there will be approximately 1,100 jobs at the Events Center. ODMEC anticipated that the proportion of jobs filled by Detroit residents at the Events Center will be consistent with or greater than the number of jobs at the Joe Louis Arena. ODMEC committed to use commercially reasonable efforts to recruit qualified Detroit residents to fill employee vacancies at the Event Center, provide internal and external development and training opportunities to prepare Detroit resident employees to qualify for promotional opportunities and ensure that Detroit-based and Detroit resident-owned businesses are given ample opportunities to bid on contracts for goods, supplies and services at the Event Center. ODMEC also committed to using commercially reasonable efforts to recruit qualified Detroit residents or workforce programs such as Clean Detroit for ongoing maintenance activities at the Event Center as well as encourage its vendors to hire and use Detroit residents and businesses and provide special consideration to those who do so.

**Has ODMEC met its hiring and employment commitments under this provision?**

- (6) Section 23.1 Community Development and Youth Programs, indicates that ODMEC will engage in community development and youth programs and outreach efforts within the city of Detroit designed to introduce Detroit youth to the game of hockey and/or sports and entertainment business or otherwise foster positive local change throughout the community. ODMEC will provide to the DDA not more than one (1) time per calendar year a report summarizing such program undertaken in the previous calendar year and a description of the program anticipated to be undertaken in the current calendar year.

**Has ODMEC met its youth programs and outreach commitments under this provision?**

- (7) Finally, with regard to the Master Development Agreement, what is the status of the requirement that:

“ODM representative shall meet regularly with NAC on at least a quarterly basis for a minimum of two (2) years after the Commencement Date or five years from the NAC’s formation, with the option to extend this period by mutual agreement of the City, the NAC and ODM”?