



# Casino Reinvestment Development Authority Department of Planning and Development

## **EXHIBIT "A" TO RESOLUTION 24- , ADOPTED 6/25/2024**

**TO:** Members of the Authority

**FROM:** Jane Fontana, Assistant General Counsel  
Planning and Development Department, Hearing Officer

**COPY:** Eric Scheffler, Executive Director

**SUBJECT:** Hearing Officer's Report and Recommendation  
Atlantic Avenue Road Diet Project

**DATE:** June 21, 2024

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### **EXECUTIVE SUMMARY**

On June 14, 2024, the Casino Reinvestment Development Authority's (the "Authority") Department of Planning and Development, with Jane Fontana, Assistant General Counsel, serving as Hearing Officer, heard testimony and public comment on the proposal of the City of Atlantic City (the "City") to construct roadway and traffic control improvements along Atlantic Avenue within the Atlantic City Tourism District known as the "Atlantic Avenue Road Diet (the "Project"). The Project is intended to implement safety improvements for motorists, pedestrians and bicyclists. The Project consists of asphalt repaving, roadway striping and pavement markings, ADA improvements, pedestrian lighting, overhead street signage and the installation of fiber optic cables to support state-of-the-art traffic signal timing improvements along portions of Atlantic Avenue. The Project also includes the reduction of traffic lanes from five to three (including a painted center lane with a left turn slot) and the installation of a bike lane along portions of Atlantic Avenue. Phase 1 and Phase 2(a) were completed in the second half of 2023. Phase 2(b) is proposed to be completed in the second half of 2024.

After the City's commencement of the Project, Boardwalk Regency, LLC d/b/a Caesars Atlantic City, Tropicana Atlantic City d/b/a Tropicana Casino and Resort, DGMB Casino, LLC d/b/a Resorts Casino Hotel, Premier Entertainment AC, LLC d/b/a Bally's AC, Boardwalk 1000, LLC d/b/a Hard Rock Hotel and Casino Atlantic City and Atlanticare Health Services, Inc. ( collectively "Boardwalk Regency") filed suit in the Superior Court of New Jersey, Law Division, captioned Boardwalk Regency et als. v. City of Atlantic City bearing Docket Number ATL-L-3257-23, seeking to enjoin the implementation of the



## Casino Reinvestment Development Authority Department of Planning and Development

Project. The Authority intervened in the litigation and filed an Order to Show Cause seeking to assert the Authority's exclusive jurisdiction with respect to the control and direction of traffic within the Atlantic City Tourism District pursuant to P.L. 2011, c. 18.

By Order dated May 14, 2024, the Honorable Michael J. Blee, A.J.S.C. agreed that the Authority had jurisdiction and enjoined the City from further work on the Project pending resolution of this matter. Judge Blee further directed the Authority to review the Project within 45 days from the date of the Order. In accordance with the Court's Order, the Authority conducted a public hearing to review the Project for consistency with the Tourism District Master Plan and the Tourism District Act, P.L. 2011, c. 18, as well as sound traffic engineering design standards.

### **EVIDENCE LIST**

- A-1 Traffic Analysis Methodology Report dated 6/16/2021 prepared by Remington & Vernick Engineers
- A-2 City of Atlantic City Grant Application dated 7/9/2021 prepared by James M. Rutala Associates, LLC
- A-3 Road Diet Project Drawing-Phase 1 dated 9/14/2021 prepared by Remington & Vernick Engineers
- A-4 Road Diet Project Drawings-Phase 2(a) dated 9/22/2022 prepared by Remington & Vernick Engineers
- A-5 Traffic Counts dated 8/3/2023 prepared by Remington & Vernick Engineers
- A-6 NJDOT Public Information Meeting Summary dated 4/8/2024 prepared by Uzoma Ahiarakwe
- A-7 Letter to Uzoma Ahiarakwe dated 4/9/2024 prepared by Remington & Vernick Engineers
- A-8 Preliminary Sheets-Phase 2(b) dated 5/20/2024 prepared by Remington & Vernick Engineers
- A-9 Road Diet CAD Drawings-Phase 2(b) dated 5/20/2024 prepared by Remington & Vernick Engineers
- A-10 Letter from City Council Vice President Kaleem Shabazz dated June 14, 2024
- A-11 Funding Budget Summary
- A-12 Email to Robert Reid dated 7/20/2022 prepared CME Associates
- A-13 PowerPoint presentation dated June 2024 prepared by Remington & Vernick Engineers
- B-1 Order of Assignment Judge Michael J. Blee dated May 14, 2024
- B-2 Notice of Public Hearing prepared by the Authority
- B-3 Letter dated June 11, 2024 prepared by Environmental Engineering, Inc.
- B-4 Letter dated June 11, 2024 prepared by Cofone Consulting Group, LLC



## Casino Reinvestment Development Authority Department of Planning and Development

- C-1 Traffic Engineering Evaluation dated 1/18/2024 prepared by Shropshire Associates, LLC
- C-2 Letter dated 2/14/2024 prepared by Nehmad Davis & Goldstein, P.C.
- C-3 Resolution of the City of Atlantic City No. 56

### **PROCEDURAL HISTORY AND PROCEDURAL DETERMINATIONS**

A hearing on this matter was noticed for June 5, 2024. Scheduling conflicts prevented the Authority from proceeding on that date and thus, after conferring with counsel for all interested parties, the Authority rescheduled the hearing for June 14, 2024.

Attorneys for both the City and Boardwalk Regency raised objections to various submissions based on timeliness. The hearing officer determined that it was appropriate to accept and consider all submissions in the interest of a fair review.

The public hearing was held on June 14, 2024 in CRDA's board room at 15 South Pennsylvania Avenue, Atlantic City, NJ 08401.

### **SUMMARY OF TESTIMONY**

The City seeks approval to construct roadway and traffic control improvements along Atlantic Avenue within the Atlantic City Tourism District. The Project is intended to implement safety improvements for motorists, pedestrians and bicyclists. The Project consists of asphalt repaving, roadway striping and pavement markings, ADA improvements, pedestrian lighting, overhead street signage and the installation of fiber optic cables to support state-of-the-art traffic signal timing improvements along portions of Atlantic Avenue. The Project also includes the reduction of traffic lanes from five to three (including a painted center lane with a left turn slot) and the installation of a bike lane along portions of Atlantic Avenue. Phase 1 and Phase 2(a) were completed in the second half of 2023. Phase 2(b) is proposed to be completed in the second half of 2024.

The attorney for the City, Richard Trenk, Esq., introduced the Project generally and provided background regarding the Project status.

City Council Vice President Kaleem Shabazz appeared and generally spoke in support of the Project.

The City presented the testimony of its Director of Engineering, Uzoma Ahirakwe, who was qualified as an expert in the field of professional engineering and professional



## Casino Reinvestment Development Authority Department of Planning and Development

planning. Mr. Ahiarakwe gave an overview of the Project timeline and history. He testified that a Roadway Safety Assessment prepared by Johnson, Mirmiran & Thompson in 2019 (the “RSA”) analyzed automobile and pedestrian safety along Atlantic Avenue.<sup>1</sup> In response to the RSA, he worked with Remington & Vernick Engineers to develop the Project, which is based on Alternate 5 of the RSA. He testified that the goals of the Project are to reduce the frequency of collisions and improve roadway safety for all users; prioritize pedestrian and bicycle improvements; implement traffic signal synchronization and management; and installation of fiber optics for traffic signalization and the future installation of cameras.

Mr. Ahiarakwe testified that the Project consists of three phases. Phase 1 consists of improvements along Atlantic Avenue from Tennessee Avenue to Maine Avenue, including asphalt repaving, roadway striping and pavement markings, ADA improvements, pedestrian lighting, overhead street signage and the installation of fiber optic cables to support state-of-the-art traffic signal timing improvements. It also includes the reduction of traffic lanes from five to three (including a painted center lane with left turn slot) and the installation of a bike lane along portions of Atlantic Avenue.

Mr. Ahiarakwe testified that Phase 2(a) consists of the installation of fiber optic cables to support state-of-the-art traffic signal timing improvements along Atlantic Avenue from Albany Avenue to Tennessee Avenue. Phase 2(b) consists of improvements along Atlantic Avenue from Albany Avenue to Tennessee Avenue, including asphalt repaving, roadway striping and pavement markings, ADA improvements, pedestrian lighting, traffic signal replacement at Ohio Avenue, overhead street signage, and the installation of fiber optic cables to support state-of-the-art traffic signal timing improvements. It also includes the reduction of traffic lanes from five to three (including a painted center lane with left turn slot) and the installation of a bike lane along portions of Atlantic Avenue.

Mr. Ahiarakwe testified that the original proposal was to implement the reduction of lanes along the entire length of Atlantic Avenue between Maine Avenue and Albany Avenue. This proposal was modified and the reduction of lanes abandoned in certain sections, he testified, to accommodate traffic volumes. Mr. Ahiarakwe acknowledged that the RSA indicates that pedestrians do not use cross-walks along Atlantic Avenue.

Mr. Ahiarakwe testified that funds for the Project obtained from the following sources:

- United States Department of Transportation (“USDOT”) Rebuild American Infrastructure with Sustainability & Equity (“RAISE”) grant.
- USDOT Congestion Mitigation and Air Quality (“CMAQ”) grants.
- New Jersey Department of Transportation grants.
- Atlantic City Capital Funds.

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<sup>1</sup> Portions of the RSA are excerpted in A-2.



## Casino Reinvestment Development Authority Department of Planning and Development

Mr. Ahiarakwe testified that at least a portion of the funding is contingent upon a reduction of traffic lanes along Atlantic Avenue, and that other components of the Project could not be implemented without the reduction of traffic lanes.

Mr. Ahiarakwe's testimony was supplemented by Derrick Kennedy and Frank Seney of Remington & Vernick Engineers, who were involved in the design of the Project. Both Mr. Kennedy and Mr. Seney were qualified as experts in the fields of professional engineering and professional planning however, it was noted that Mr. Kennedy is not licensed in the State of New Jersey. Both witnesses offered testimony in support of the Project.

Mr. Kennedy testified that the installation of fiber optic infrastructure will greatly improve control and flexibility in traffic signal synchronization. In response to questioning, Mr. Kennedy acknowledged that the Traffic Analysis Methodology Report dated 6/16/2021 prepared by Remington & Vernick Engineers (Exhibit A-1) (the "Traffic Report") is based on the original design of a reduction of lanes along the entire length of Atlantic Avenue between Maine Avenue and Albany Avenue rather than the plan as modified to provide for a reduction of lanes along certain section of Atlantic Avenue. Moreover, he conceded that the Traffic Report did not contain updated data on the impacts of the Project at each particular intersection within the Project area or on roadways other than Atlantic Avenue. In response to questioning, Mr. Kennedy acknowledged that the traffic analysis was based on limited traffic counts, NJDOT-published growth rates and "traditional peaks" and did not take into account the unique traffic conditions affecting Atlantic Avenue or the Atlantic City Tourism District resulting from the area's focus on the tourism and entertainment industries, including, for example, the frequency and scale of various events, concerts and conventions. Mr. Kennedy further acknowledged that a motorist traveling along Atlantic Avenue will experience a transition between five lanes and three lanes a total of four times.

Mr. Seney testified that the synchronization alone will greatly improve the level of service at intersections along Atlantic Avenue and provided other operation detail of the Project.

Next, the City presented the testimony of the Atlantic City Police Chief, James Sarkos, who testified in support of the Project. Chief Sarkos testified that he has patrolled Atlantic Avenue for 24 years and is familiar with the problems with traffic, accidents and pedestrians being struck. He further testified that lighting is a serious issue along Atlantic Avenue and that he receives frequent complaints from residents, merchants and visitors about the lack of lighting. He noted that lighting deters crime and promotes safety.

With respect to traffic signalization, Chief Sarkos testified that traffic signals along Atlantic Avenue and Pacific Avenue are not synchronized and create frequent traffic back-ups. He testified that the state-of-the-art traffic signal improvements that are proposed as part of the



## Casino Reinvestment Development Authority Department of Planning and Development

Project will improve traffic flow and promote safety for pedestrians and bicyclists. Chief Sarkos also testified that he reviewed accident reports along the completed portion of Project between Tennessee Avenue and Maine Avenue where lanes have been reduced from December 22, 2023 to May 23, 2024 and noted that “there was not a substantial increase in accidents” during that period. In response to questioning, Chief Sarkos testified that there were 36 accidents during the relevant time period compared to 32 accidents during the same period a year prior.

Chief Sarkos testified that the Police Department does not frequently issue citations to pedestrians crossing outside of the designated cross-walks, and opined that issuance of citations could reduce jaywalking. Finally, Chief Sarkos testified that he believes improved lighting and signage under the Project would promote pedestrian safety and noted that reducing the number of travel lanes necessarily means that pedestrians would have to cross less lanes. On cross-examination, Chief Sarkos admitted that pedestrian safety could also be improved with law enforcement efforts to curtail jaywalking along Atlantic Avenue.

The City also presented the testimony of the Atlantic City Fire Department and Emergency Management Coordinator, Scott Evans, who testified in support of the Project. He testified that he has been a firefighter in Atlantic Avenue for more than 25 years and is familiar with the streets and traffic within the City. Chief Evans testified that he supports the Project because the reduction of lanes creates a clear center lane for emergency service vehicles to navigate Atlantic Avenue, while the bike lanes provide space for vehicles to pull to the side of the road and give way to the emergency service vehicles.

Finally, the City presented the testimony of Drew Pavlick of CME Associates, who was qualified as a professional engineer. Mr. Pavlick described the Project implementation offered testimony in support of the Project.

Kieth A. Davis, Esq., the attorney representing Boardwalk Regency, provided an overview of Boardwalk Regency’s opposition to the Project. Mr. Davis presented the testimony of David R. Shropshire, P.E., P.P., who was qualified as a professional engineer and planner in the fields of traffic engineering and transportation planning.

Mr. Shropshire summarized his report dated January 18, 2024 (C-1). He opined that the reduction in traffic lanes along Atlantic Avenue will not serve the stated goals of the Project but instead will cause a deterioration of traffic flow and level of service and negatively impact bicycle and pedestrian safety. He further opined that many of the Project’s safety components, including street lighting and new traffic signals, could be implemented without a reduction of traffic lanes.



## Casino Reinvestment Development Authority Department of Planning and Development

Mr. Shopshire questioned the methodology of the RSA that formed the basis for the Project, and testified that the assessment only recorded traffic counts at 8 of 33 intersections, was based on projected pedestrian crossing data rather than raw data. He further testified that traffic counts for cars, bicycles and pedestrians should have been conducted at all intersections within the Project area to properly anticipate the Project impacts.

Mr. Shropshire testified that the RSA analyzes a number of “crash-reduction countermeasures”, including prohibition of left and U-turns, curb extensions at intersections, bike lanes, raised medians and traffic lane reductions. He testified that the RSA indicates that traffic lane reductions are the least effective countermeasure analyzed in the RSA, and that the same or better result could be accomplished through the alternative measures offered in the RSA. He also indicated that the “accordion” style traffic reduction with multiple transitions along Atlantic Avenue, the main arterial road through the Tourism District, presents traffic safety issues and results in an inefficient flow of traffic.

Mr. Shropshire also testified that the traffic lane reduction along Atlantic Avenue would reduce the east-west roadway capacity in the City by 16 percent and will push traffic to other roadways. He indicated that the impacts of such a reduction on Pacific Avenue, Arctic Avenue and Baltic Avenue should be studied. He noted that Traffic Report concluded that the Project will result in the degradation of the level of service at 28 of the 33 intersections, including 6 intersections experiencing a degradation in level of service for bicycles and pedestrians.

Finally, Mr. Shropshire testified that he inspected Phase 1 of the Project and observed a bicycle driving on the sidewalk, three cars parked in the bicycle lane and numerous jaywalkers. He testified that frequent changes in the number of lanes along Atlantic Avenue would inhibit drive expectancy and compromise roadway safety. He further opined that the Project is inconsistent with the Tourism District Master Plan because it does not promote the free flow of traffic, but rather would force traffic to other streets that may not have capacity to hand traffic flow. Finally, Mr. Shropshire testified that the beneficial components of the Project could be implemented without the reduction of traffic lanes.

Christine Cofone, P.P., was qualified as an expert in professional planning and her report dated June 11, 2024 (B-3) was entered in the record. Ms. Cofone noted that one of the goals of the Tourism District Master Plan is to reinvigorate the Atlantic City experience through extensive entertainment and event programming. In addition, the Tourism District Master Plan encourages the location and design of transportation routes which promote the free flow of traffic while discouraging the location and design of such routes that will result in congestion and blight. The Tourism District Master Plan specifically recognizes Atlantic Avenue as a major roadway artery through the Tourism District and notes that the Tourism District does not have sufficient roadway capacity to accommodate the anticipated increase



## Casino Reinvestment Development Authority Department of Planning and Development

in traffic volumes expected as the Tourism District approaches build-out. Accordingly, Ms. Cofone offered that the Master Plan recognizes the need for additional roadway capacity to support the tourism and entertainment industries in Atlantic City, not a road diet along the District's main road. Ms. Cofone also noted that the Tourism District Master Plan identifies the existing bicycle route along the Boardwalk and states the need to investigate connections to other portion of the Tourism District and the City. While the Master Plan identifies proposed bicycle routes along certain local roads, it does not recommend Atlantic Avenue as a proposed bicycle route. In conclusion, while Ms. Cofone acknowledged that the Master Plan calls for streetscape, sidewalk and lighting improvements along Atlantic Avenue, Ms. Cofone stated that these improvements could be accomplished without the proposed road diet. Accordingly, she concluded that the Project is inconsistent with the goals and objectives of Tourism District Master Plan as it will inhibit the free flow of traffic and negatively impact ongoing economic development throughout the Tourism District.

Bernard T. Tetreault, P.E. PTOE, was qualified as an expert in traffic engineering and his report dated June 11, 2024 (B-4) was entered in the record. Mr. Tetreault opined that the methodology of the RSA is flawed as it does not include sufficient data to adequately assess the impact of the Project. In addition, traffic counts and crash analyses contained in the traffic report are outdated and incomplete. Mr. Tetreault also noted that the materials do not address impacts of the Project to any adjacent roadways.

### **RECOMMENDATION**

#### A. Standard of Review

The Authority reviewed the Project for consistency with the Tourism District Master Plan, the Tourism District Act, and sound traffic engineering design standards.

The Authority has exclusive jurisdiction with respect to the control and direction of traffic within the Atlantic City Tourism District under P.L. 2011, c. 18. The City proposes to construct roadway and traffic control improvements along Atlantic Avenue to increase safety for motorists, pedestrians and bicyclists. The improvements include asphalt repaving, roadway striping and pavement markings, ADA improvements, pedestrian lighting, overhead street signage and the installation of fiber optic cables to support state-of-the-art traffic signal timing improvements. They also include the reduction of traffic lanes from five to three (including a painted center lane with left turn slot) and the installation of a bike lane along portions of Atlantic Avenue.

#### B. Summary of Findings





## Casino Reinvestment Development Authority Department of Planning and Development

Based on the testimony and evidence presented at hearing, the Hearing Officer finds that the City has not met its burden to demonstrate that the Project, and specifically the reduction of traffic lanes along Atlantic Avenue, is consistent with the Tourism District Master Plan or the Tourism District Act.

### C. Specific Findings

The Hearing Officer accepts the uncontroverted professional planning opinion offered by its planning consultant, Ms. Cofone, that the Project is inconsistent with the goals and objectives of Tourism District Master Plan. Specifically, the Project's road diet of Atlantic Avenue will inhibit the free flow of traffic and exacerbate existing traffic conditions, thus negatively impacting ongoing economic development throughout the Tourism District.

The Hearing Officer also finds that the Project will directly conflict with the Master Plan's design and improvement guidelines for Atlantic Avenue, which specifically include that Atlantic Avenue should be maintained and further developed as "the City's main circulation artery".

In addition, the Hearing Officer also finds that the City failed to demonstrate that the Project is consistent with sound traffic engineering design standards. The Hearing Officer accepts the opinion of its traffic expert, Mr. Tetreault, that the traffic counts, crash analysis and other information relied on by the City in support of the Project are incomplete and outdated. In addition, the Hearing Officer agrees that the information provided by the City does not adequately assess the impacts of the Project on Atlantic Avenue and adjacent roadways. Of particular concern, the Authority notes that the City's own Traffic Report concluded that the Project will result in the degradation of the level of service at 28 of the 33 intersections, including 6 intersections experiencing a degradation in level of service for bicycles and pedestrians. The Hearing Officer further shares the concerns raised by Mr. Shropshire, Boardwalk Regency's traffic expert, regarding the traffic safety issues and negative impact to traffic flow that will result from the estimated 16 percent reduction in east-west roadway capacity and multiple transitions along Atlantic Avenue that result from the road diet proposed under the Project.

While the City provided testimony regarding how certain improvements proposed under the Project, including for example, traffic signal synchronization and street lighting, may benefit public safety, the Hearing Officer finds the testimony provided by its experts and Mr. Shropshire compelling that these measures can be implemented without the reduction of traffic lanes to Atlantic Avenue, the main artery through the Tourism District.

For all of the foregoing reasons, the Hearing Officer recommends that the proposal of the City to construct the Project be rejected.