December 14, 2011

For Immediate Release

Prime Lodging, LLC Response to Passage of ERC Resolution 11-ERC-99

Prime Lodging, LLC has withheld comment regarding passage of this resolution while awaiting distribution of the Hunden findings which served as the basis of this decision by the ERC. We have now received and reviewed a memorandum from Hunden to the ERC dated 12/5/11, referred to as the Hunden report. This memorandum is a recap of decisions already made and actions already taken in advance of the 12/6/11 resolution.

The report was focused on a single directive by the ERC: "*did the proposer have a funding plan that was realistic, feasible, and timely*." Below are a few excerpts from this report with our response:

- *"Having determined that the financing of a prior proposal was not feasible or timely, the ERC was focused on the issues surrounding timing and feasibility of financing."*

  It is a misconception that the prior developer's failure was tied to EB-5 financing. Instead, it was directly attributable to the developer not having the equity to move forward with the project. The equity of that developer was, in large part, to have come from refinancing of other assets. When that fell through, the developer did not have cash equity to replace it. We find it odd that no contact has been made with the group handling the EB-5 funding nor has any update regarding that process been requested. If the ERC has summarily dismissed this funding mechanism because of their experience with a prior developer, their focus is misguided. The EB-5 funding mechanism is certainly feasible and has been proven over a 20-year history to be especially viable for hospitality development projects.

- *"Deal terms were similar although with some material differences. Kunkel willing to consider $3.5 million incentive as a loan paying 5%. Prime not."*

  We disagree with this finding in that during our session with Hunden we told him this was a negotiable item. Therefore, we contend our position is no different than Kunkel's willingness to consider it. Our reasoning behind the request in the first place was to eliminate a complicated debt structure. In addition, the repayment terms of this loan would have likely resulted in the debt being forgiven in any event. Removing this repayment obligation also served to reduce the City and developer time and costs to annually produce and review the specific financial data necessary to determine the repayment or forgivable amounts.

- *"Kunkel financing likely met the desires of the ERC, with caveats and if certain protections could be put in place to minimize the ERC's financial risk."*

  This does not sound like a ringing endorsement of the Kunkel financing plan and no description of the caveats or protections was provided. Why are caveats and protections being considered for Kunkel with no discussion on what, if any, of these would be required for our proposal?

- *"HSP suggested the ERC direct Kunkel to proceed with their lender's appraisal to determine the value of the project, which would then determine the equity needed and any adjustment to the funding gap."*

  We question the endorsement of a plan where the equity needed must still be determined and with an anticipated funding gap. Has that funding gap been completely identified, and if so, why was it not provided as support for passing of the resolution to move forward with the selected developer?

- *"The Kunkel funding plan passed the threshold test, but still needed additional vetting to determine if a development agreement should be negotiated."*

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"The Prime proposal, while acceptable on the non-financial terms, presented too many unknowns in terms of timing and funding certainty to be moved to the next step of the process."

The ERC continues to ignore material factors related to the ability, knowledge, experience, and capacity of the developer to successfully execute and operate this project. Financing is certainly one of those elements but is only one aspect of the project that could be considered interchangeable between respondents. On the other hand, experience and ability as it relates to hotel design, construction, and operation are not commodities – your team either has them or they don't.

The ERC seems to prefer the longer and riskier path by endorsement of a proposal that requires additional vetting and mitigation on a number of elements over one that is "acceptable" on all but one criterion.

- *"Prime's third-party management company provided more confidence than Kunkel's proposed use of the in-house Hyatt management company. However, either would run the hotel professionally. The upside to a non-brand management company is its heightened focus on bottom line profit to the owner."*

  "Neither developer has built a hotel before and this presented concerns. However, many of these could be mitigated by the partners included in the team, including the brand and management company."

  We completely agree that hospitality experience and knowledge is a key element to the success of this development. As investors, we put together a team to address these areas that goes far beyond reliance on a brand to assist in the development. That team consists of an award-winning national development firm, which has built, purchased, and managed over 30 hotels as well as over 18 million square feet of Class A office and industrial space along with an independent operating firm with a portfolio of over 40 hotels across 16 states under its management. We flatly disagree with the finding that our team does not have the requisite experience to successfully execute and operate this project.

- *"The review found that neither team is perfect, but many items could be mitigated through negotiation."*

  Negotiations are an expected part of a process such as this. However, no attempt has been made by the ERC or Hunden to negotiate with us. Frankly, we feel that no real effort has even been made to understand our proposal in its entirety. The flat dismissal of our proposal because of an uninformed, pre-conceived bias against our funding mechanism is lazy and short-sighted. There are several concerns that should be addressed related to equity and financing of both proposals. It is for many of these reasons we have selected the EB-5 funding mechanism and contend that it is the best financing solution for this particular project *at the incentive levels set forth in the RFP*.

Though not provided to us we have also reviewed the PowerPoint presentation by Hunden to the ERC dated 11/17/11 that was published in a local media outlet. Despite the apparent vetting and negotiating efforts that have been underway long before the 12/6 resolution, it is easy to discern that significant risks remain unmitigated in the selected proposal. Below are just a few of the red flags that should be addressed with the Kunkel proposal as it relates to sources of funds, financing, and other very key items of concern:

- Sources of Funds
  - Maximum available developer equity of $2.5MM not sufficient by their own appraisal ($3.175MM required) and with multiple contingences (unencumbered cash, refinancing, tax credit deals).
  - Are the tax credit deals referenced in the Kunkel proposal tax credits which have been or will be created by virtue of this development?
    - If so, when were they negotiated? If before the RFP response, why not offer these additional incentives to all respondents? If after the RFP response, how could these have been considered equity at the time of the proposal?
    - If not, what other development(s) are these funds being borrowed from and is it a prudent business model to borrow from one development to prop up another?

- City incentives not reduced for “Direct Expenditures” already paid by City for demo costs of $720,000. Is this being considered an increase of incentive money, or is this coming in as additional required equity from the developer?
- Hotel Franchise Key Money of $600,000 still counted as a source of funds during construction when it is not available until the hotel is operating and, therefore, should be considered operating capital. At a minimum, the capital stack shown in the Hunden materials suggests a wholesale change from what was outlined in the initial RFP response, not to mention “key money” should never be considered equity for purposes of financing. The main reason for not counting “key money” as equity is that it is earned by virtue of meeting goals outlined in the franchise agreement and not guaranteed until hotel is operational and the goals have been met.
- In total, a minimum shortfall of $1,995,000 exists in sources of funds. Is this the reason for Section 4 of the ERC resolution which authorizes financial incentives “to help ensure the successful development and operation of the Hotel”? If so, surely there has been a final number calculated that the city is authorizing as an additional subsidy for this developer? If no number exists, how can John Kish state to the ERC that the proposal was selected for being the “low cost” solution and one that can be moved forward in the most expedited manner? What is the total cost to the City of Evansville for the selected developer? This surely should be an easy question to answer if there truly does exist enough information for a vote from the ERC to move forward with this selected developer.

❖ Financing
- The Kunkel proposal does not provide for conventional financing but instead a construction/mini perm loan to be converted into an SBA loan in the future. Is there even an SBA program that can support the size of this project? What certainty can there be of a permanent financing solution that is 2-3 years out? What certainty is there that the developer will have 10% equity to contribute to the permanent financing in 2-3 years?
- No less than six (6) financial deals (refinance existing portfolio for equity contribution, construction/mini-perm, tax credit deal #1 and #2, first mortgage lender, and proposed SBA lender) to be successfully closed to fund this project.
- The structure of this financing package obviously indicates a consolidation of assets and repayment ability under an entity that is beyond the specific entity created for this project.

❖ Other Key Items of Concern
- As John Kish stated to the ERC, the developer will be acting as general contractor and plans on self-performing all scopes of work on this project to reduce expense created through subcontractor markup. John Kish also stated that comes with added risk and the City may need to step in and mitigate this risk to keep the project expenses in check.
- We believe this creates an unfair and blatant competitive imbalance in this RFP process. First and foremost, Kunkel has every right to self-perform the work as they deem fiscally appropriate. However, the payment and performance bond should still be required of all prime contracts, should they not? If so, can Kunkel produce a P&P Bond in excess of $25 Million? If not required by Kunkel because they are acting as owner/developer, shouldn’t a Developer Bond be required for the overall project cost? Our proposal factored in that all prime contracts would require Payment and Performance Bonds as required by the RFP. Reputable Lenders will surely require this anyway.
- By virtue of the ERC passing a resolution that contemplates providing financial stability for our competitor to be able to self-perform work in lieu of contracting work out to other local firms via multi-prime bid and award process, the ERC has most definitely put our group at a competitive disadvantage. While the local union halls probably see this as the ultimate “win”, since it will help empty the hall’s bench and will get their people back to work directly for Kunkel, it ultimately hurts all the other local and loyal firms that employ union workers. The coup de tat for Kunkel is that with the City’s backing, he will get this work at no markup from other local firms that we would have to pay if awarded the contract. The City support in this effort is a clear undermining of fair bid practices. The move damages the legitimate local union prime and sub-contractors that are forced to compete with non-bonded work. The precedence this sets should be contemplated very thoroughly.

- Summary Opinions
  - The Hunden report clearly points out that the ERC has never looked favorably at the EB-5 funding solution presented by our group. While we certainly understand and appreciate the concerns as they pertain to the uncertainty of timing with this solution, the report suggests that the ERC summarily dismissed our proposal early in favor of a more conventional financing solution provided by our competitor. The Hunden report correctly states that when asked what it would take for our team to provide a more traditional funding source that we would require an additional $4 - $6 million subsidy. We would argue that the research done vetting the financial requirements of our competitor's proposal corroborates this conclusion. While we believe Kunkel's funding source is far from conventional financing, the evaluation process is clearly indicating a need for an additional subsidy by the ERC of an undisclosed amount that in all likelihood is substantially the same amount as we suggested.
  - Given the probable increase in the incentives and subsidies that are being contemplated by the ERC, we question why similar ongoing negotiations were never considered with our group. Our group clearly has far more experience in this construction type, hospitality development and operations, and substantially more equity. If additional funds are being allocated to this project to ensure more timely and conventional funding, then we believe the ERC should identify those amounts and determine if the most prudent move isn't to consider other developer options, a revised or new RFP, or even a reduced project scope to keep City incentives at more current levels while encouraging more conventional financing solutions. According to the Hunden report, these options aren't being considered.
  - Prime Lodging, LLC stands behind its proposal as it demonstrates the availability of liquid, unencumbered, and non-contingent developer equity funds, a single proven and viable permanent financing solution, and a team comprised of national hospitality industry leaders in finance, development, construction, and operations. If and when the decision makers regarding this project choose to review and attempt to understand our proposal we stand ready and willing to negotiate a deal to move this project forward.

The passing of resolution 11-ERC-99 by the Evansville Redevelopment Commission on 12/6/11 is ill-advised at best, and suspect at worst. The only prudent and responsible course of action for the ERC is to stand down on this project in the final days of their term. The incoming administration should be given the opportunity and responsibility to contemplate and act on a comprehensive view of downtown redevelopment which considers the now-failed McCurdy project, the Convention Hotel site, and other properties downtown.

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Managing Member