Case Study

REDEVELOPMENT OF CHANAKYAPURI CINEMA IN NEW DELHI

Urban Renewal

CASE OVERVIEW

Country: India

ULB**:** New Delhi Municipal Council (NDMC), Delhi

Sector: Other Urban Services ***Sub-Sector:*** Urban Renewal

Award Date: June 2008

Type and Period of concession: Design-Build-Finance-Operate-Transfer (DBFOT) contract for 30 years

Stakeholders:

Contracting Authority	New Delhi Municipal Council (NDMC)
Concessionaire	M/s DLF Commercial Developers Limited
Oversight Arrangement	Concessioning Authority

Present Status of Project: Project is under construction and is expected to be completed by August 2010.

PROJECT TIMELINE:

1960	*Development of the Chanakya Cinema Complex by NDMC*
2007	*Announcement by NDMC of its decision to redevelop the site into a commercial cum entertainment project*
2008	*Award of the 30 year DBFOT contract to* M/s DLF Commercial Developers Limited

1. PPP CONTEXT

1. NDMC had developed the Chanakya Cinema Complex as a revenue generating public utility in 1960. However over the years the single screen facility ceased to yield expected revenues. Considering that the site is located in a prime Central area of New Delhi there was a felt need for redevelopment and reuse of the site so as to optimize revenues.
2. NDMC announced its intention to redevelop the existing site into a highly remunerative commercial cum entertainment project in 2007. The proposal was expected to form a key infrastructure for the upcoming Commonwealth games in 2010 - as a prime tourist attraction and as a public utility for serving the diplomats and officials of the Commonwealth countries and the public at large.
3. The site was caught in legal proceedings on account of a petition filed by M/s Agarwal & Modi Enterprises Pvt. Ltd, the lessee in occupation of the site since 1970. The lease had expired in 1990 and the lessee continued to occupy the premises after expiration of the lease. This was contested by NDMC in the High Court and Supreme Court, which ruled in favour of the ULB, thereby clearing the site for redevelopment.

2. PROJECT DEVELOPMENT

2.1 PROJECT CONCEPTUALIZATION

The project envisaged redevelopment of the existing Chanakya Cinema Complex into a world-class commercial and entertainment facility for the public, which would also generate revenues for the NDMC. It was decided to adopt a PPP model wherein the private partner would be responsible for designing, end to end implementation and management of the facility for a limited duration, generating revenues from commercial activities and eventual transfer of the facility to the NDMC at the end of the concession period.

It should be noted that the NDMC did contemplate undertaking the project on its own so as to receive all possible revenues from the project. However, detailed financial analysis suggested that the PPP model would be more effective in terms of revenue generation, and would generate ample revenue for the ULB without any real investment or management liability for the ULB.

2.2 PROJECT DEVELOPMENT

1. NDMC appointed a Transaction Advisor[1] to advice on the suitable product mix for the proposed redevelopment (keeping in mind maximizing revenue possibilities and public utility), preparation of conceptual drawings and details, advising on the project structure, preparation of bid documents and bid process management.
2. Five options for product mix were proposed initially (i) Mall-cum-Multiplex with high end retail, (ii) Multiplex, leisure, entertainment and office tower, (iii) Five star Hotel, (iv) Aquarium and (v) Opera. Of these options (i) and (ii) were chosen eventually while the others were rejected due to technical and financial infeasibility.
3. Conceptual drawings were prepared and detailed financial analysis was conducted over the 30 year period (proposed period of the contract) for both options (i) and (ii)
4. Two possible project structures were evaluated for both the product mix options (A) a BOT model through a private developer and (B) funding and implementation by NDMC model. Of these the PPP model was chosen after detailed analysis of likely differences in project revenues and relative construction, marketing and management efficiencies of the private and public sector.

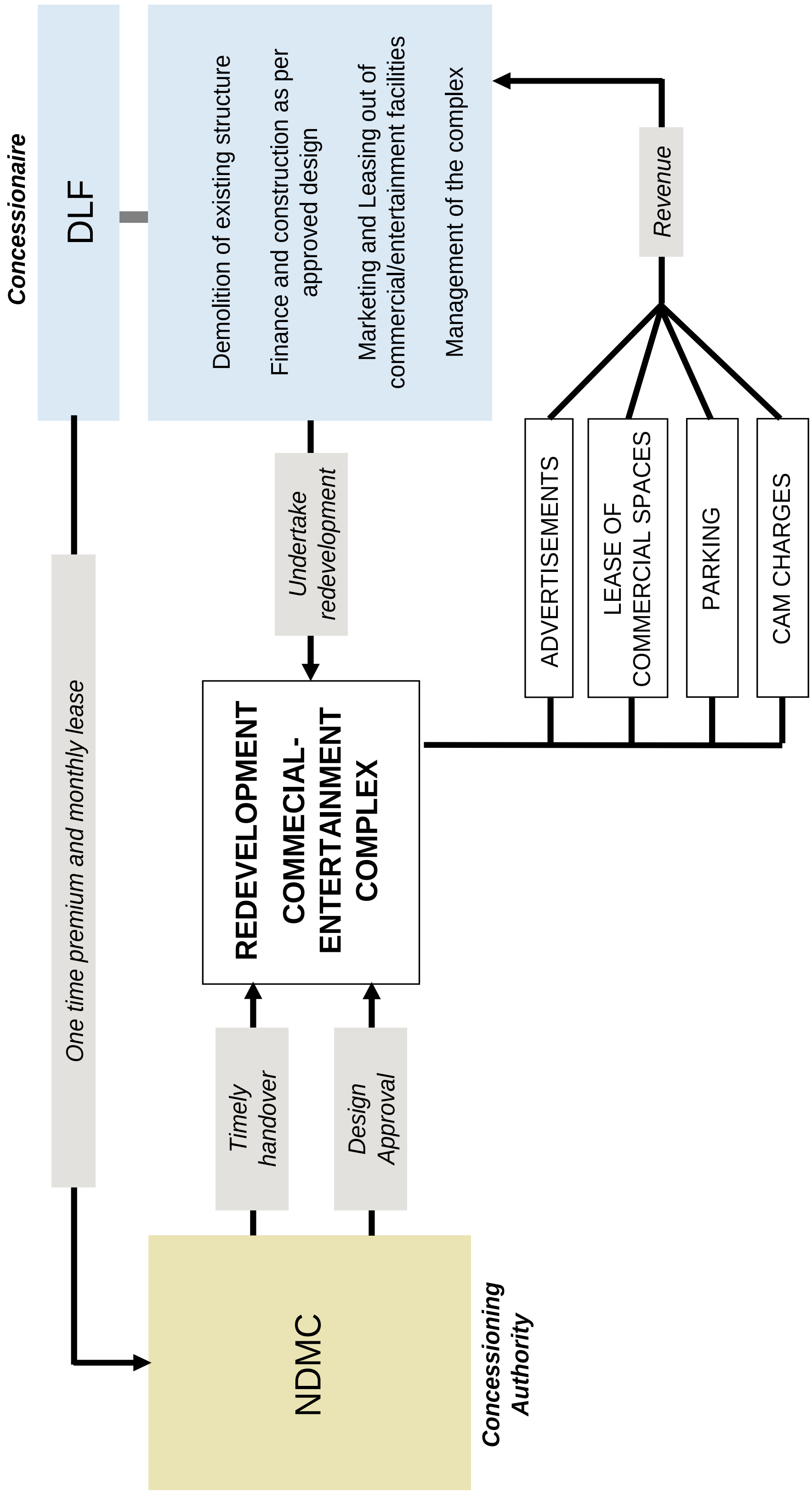
2.3 PROCUREMENT PROCEDURE

Procurement of the Concessionaire was based on a two stage – Request for Qualification (RfQ) followed by Request for Proposal (RfP) - competitive bidding process. The successful bidder was expected to form a Special Purpose Company (SPC) for the period of the project within 30 days of issue of Letter of Intent by NDMC (this was not mandatory in case of sole bidders). The award of the 30 year DBFOT concession was made to M/s DLF Commercial Developers Limited based on their highest quote for concession fees to be paid to NDMC. The Concessionaire floated an SPC in the allotted time period and the final contract was signed between NDMC, the SPC and the Original Bidding Company (as was required as per the RfP).

[1] M/s IL&FS Infrastructure Development Corporation

3. CONTRACTUAL ARRANGEMENTS

3.1 PROPOSED CONTRACTUAL STRUCTURE



3.2 OPERATOR OUTPUT OBLIGATIONS

The Concessionaire was responsible for design, finance, construction, commercial marketing and optimum utilization of built-up space, operation and comprehensive management of the project utility for the period of the concession. Key obligations of the Concessionaire included:

1. Demolition of the existing building and redevelopment of the proposed facility as per design.
2. Entering into commercial arrangements with third parties for allotment of spaces within the multiplex, commercial and entertainment facilities. However the entire land could not be disposed off to a third party
3. Provision of various facilities, utilities and services and undertaking overall facility and building management
4. Obtaining and maintaining all requisite clearances from competent authorities
5. Handing over peaceful and vacant possession of the facility free of cost at the end of the contract period.

3.3 OBLIGATIONS OF THE CONCESSIONING AUTHORITY

NDMC was responsible for peaceful and timely handover of the site/land to the Concessionaire and approving the final design for the scheme.

3.4 REGULATORY AND MONITORING ARRANGEMENTS

Monitoring of the project progress as per contractual provisions was through the NDMC.

3.5 PROJECT FINANCIALS

1. The Concessionaire was responsible for all investments including for demolition, design, construction and O&M for the project. Revenues for the Concessionaire were envisaged through lease of commercial facilities, and revenues from all entertainment, multiplex and other facilities. Allied revenues through parking facilities and advertisements also accrued entirely to the Concessionaire. The Concessionaire could also levy Common Area Maintenance (CAM) charges from all lessees for conducting O&M.
2. The Consortium was to maintain continued equity as per the stipulated equity lock in the contractual provisions. Thus the Concessionaire had to maintain a minimum of 51% equity (in case of sole bidders) for the five years and 26% for the lead member in case of a consortium. Thereafter, both in case of sole bidders and lead members of consortia, a minimum 26% equity had to be maintained up to the end of the concession.
3. In lieu of grant of site, the Concessionaire was to pay NDMC an upfront premium of Rs.85.32 Crore and a monthly lease of Rs.1 Crore (to be escalated by 15% every 3 years).

3.6 PROJECT RISKS AND ALLOCATION

Construction Risk	Borne by the operator in terms of time and cost overruns which would have affected the overall revenues of the Concessionaire. Delays in handover of the site were borne by NDMC.

Operating risk	Borne by the Concessionaire for the entire concession period
Investment risk	Borne by the Concessionaire for both capital and O&M expenditure
Revenue risk	Borne by the Concessionaire since revenue entirely depended on demand for commercial spaces and use of project facilities etc. Setting of optimum lease rates etc. was also the responsibility of the Concessionaire. Notwithstanding the actual revenues from the project, the Concessionaire was liable to pay a fixed remuneration to the NDMC

3.7 DISPUTES RESOLUTION MECHANISM

All disputes were to be resolved amicably through direct discussion between the parties involved. In the event of non resolution the dispute was to be settled through arbitration processes as prescribed under the Arbitration and Conciliation Act, 1996.

4. PARTNERSHIP IN PRACTICE

4.1 PROJECT OUTCOMES

The project is presently under construction and is expected to be completed by August 2010 as per the contract. The facility when complete is expected to be a key entertainment facility for the Commonwealth Games 2010 and a major revenue generator for the ULB.

4.2 LEGAL/CONTRACTUAL ISSUES

1. The concession agreement provided for finalization of design (based on 3 alternatives shortlisted at the end of an International Design Competition) with only a single iteration. However, the first iteration was not found suitable and the design was approved after the second iteration leading to delay in commencement of the project
2. Further there were delays in handover of the site by NDMC due to:
    - 2.1. Existence of utilities (including underground) such as sewer lines, storm water drains, electrical and telephone cables, electrical substation etc. and the time taken to shift them.
    - 2.2. Delay in shifting an existing Central Industrial Security Force (CISF) security camp
3. The project has also been delayed due to:
    - 3.1. Conduct of renewed soil surveys before construction due to rocky nature of the land
    - 3.2. Delays in obtaining certain clearances – Delhi Pollution Control Committee (DPCC) and the Airports Authority of India (AAI). AAI delayed clearance of permissible height even though higher buildings (than proposed as part of this project) existed in the immediate vicinity of the site.

5. LESSONS LEARNT

1. Need for detailed financial and value-for-money analysis before deciding on the final structure of projects. In this case the analysis demonstrated the relative benefits of both NDMC led redevelopment and a PPP option. The final choice of the PPP option was far more profitable for the NDMC considering it could generate revenue without taking any risks in the project.

2. The need to ensure timely handover of land to the Concessionaire so as to derive maximum project benefits cannot be understated. In this case delays both in commencement (design delays) as well as in handing over the land for the project have led to cost overruns both for the Concessionaire (changes in revenue forecasts) as well as for the NDMC who bears the risk for such delays.