

HONORABLE MAYOR, CITY  
COUNCIL, AND  
REDEVELOPMENT AGENCY

DEL D. BORGS DORF  
HARRY S. MAVROGENES

SEE BELOW

DECEMBER 14, 2004

SUBJECT: SAN JOSE McENERY CONVENTION CENTER INTERIM  
EXPANSION PROJECT.

RECOMMENDATION

- (a) It is recommended that the City Council adopt a resolution making certain determinations related to the Agency's funding of a public improvement, the McEnergy Convention Center Interim Expansion Project.
- (b) It is recommended that the Agency Board adopt a resolution:
  - (1) Authorizing the Executive Director to make findings needed for use of a proprietary specification for the San Jose McEnergy Convention Center Interim Expansion Project at the completion of the competitive selection of a rigid frame fabric system; and,
  - (2) Authorizing the Executive Director to negotiate and execute the first amendment to the agreement with Patri-Merker Architects for design of the San Jose McEnergy Convention Center Interim Expansion Project, revising the scope of work and increasing the compensation by \$325,000 for a total amount not to exceed \$500,000; and,
  - (3) Delegating authority to the Executive Director to award a construction contract to the lowest responsive bidder, in an amount not to exceed \$5,000,000, and establishing a contract contingency not to exceed 10% of the contract amount.

BACKGROUND

The Mayor's 2004 State of the City Address identified a need to expand the San Jose McEnergy Convention Center using a cost-effective building method until a permanent expansion can be achieved. The original goal of the San Jose Convention and Visitors Bureau (CVB) was to make 80,000 square feet of interim

space available by January 2005. To meet the budget and schedule, a performance-based bid package for a fabric tensile structure was prepared. However, on June 22, 2004, due to a large disparity between the bids received, the Redevelopment Agency Board rejected all bids. The CVB then sought to have the expansion space available for June 2005.

On July 15, 2004 the Redevelopment Agency issued a Request For Qualifications for professional design and engineering services for tensile structures. After receiving nine proposals, the Redevelopment Agency entered into an agreement with Patri-Merker Architects in the amount of \$175,000. The scope of work included preparing a minimum of three schematic designs and cost estimates for the Agency's consideration on or before September 30, 2004, and has been completed. This agreement expires on December 31, 2005.

### ANALYSIS

Patri-Merker Architects confirmed CVB program requirements and in September 2004 completed six schematic designs with multiple cost estimates. The result of this effort indicated that the budget estimate for a tensile structure meeting all the CVB program elements and the Building and Life Safety Codes could be as much as \$15,000,000, exceeding the project budget of \$6,000,000. In the intervening weeks, City staff, consultants, and Redevelopment Agency staff have worked with CVB to re-evaluate the program, code issues, and alternative solutions. This report identifies key program and code issues, their likely costs, and alternative solutions.

The project team determined that use of a rigid frame fabric structure would be the most efficient means of meeting the expansion requirements, given the June 2005 schedule and budget constraints. This type of structure is considered a temporary structure under the Building Code and widely used for short-term or one-time events. To be used for the long-term uses envisioned for the convention center, the design and installation relies extensively on alternate means and methods requests to satisfy the Building and Life Safety Codes required for the specific use and occupancy. These structures use a standard width structural frame "off-the-shelf" and thereby reduce the amount of time required to design, engineer, and produce the structure. There are only a small number of manufacturers of these structures worldwide and each product has unique and proprietary structural and fabric systems. The unique elements include the method of attachment between the structural frame and the fabric, as well as differences on how the fabric is manufactured.

For the Redevelopment Agency to fully design code and site requirements given the specific program needs of CVB, the Redevelopment Agency must first determine which proprietary system should be used. A two-step procurement method is required. First, a rigid frame structure vendor must be selected through a competitive process. Second, if the Redevelopment Agency determines that the selected system can only be purchased from one source, a proprietary specification for the particular system can be authorized. Once authorized, the architect can prepare the remaining site preparation and code compliant elements of the project for the construction bid package, based on the unique requirements of the selected system.

To select a vendor, a Request For Information that outlines the basic requirements of the structure will be prepared by Patri-Merker Architects. The architect will also assist in reviewing the responses and recommending a vendor. Key criteria of the responses will be price and delivery time. If the Board approves the recommendation to authorize the Executive Director to take this action, then, based on the responses and the recommendation, the Executive Director can determine under Public Contract Code section 3400 if this unique system is only available from one source. If that is the case, and an appropriate finding can be made to that effect, the Executive Director can approve a proprietary specification for the construction bid package.

To meet the June 2005 schedule, the plans and specifications must be complete and issued on January 18, 2005. Bids will be opened on February 1, 2005. Because the CVB requires the project to be completed by June 1, 2005, it is also recommended the Executive Director be authorized to award the contract as well, if it is within the authorized amount. This schedule allows three months for engineering, manufacture and delivery of the structure and one month for the erection and installation of the electrical and life safety systems. Even though there is close coordination between the client, the design team, and the permitting authority, this schedule is necessarily aggressive. Delegating authority to award the construction contract will save critical days between bid opening and bid award.

A structure that meets all of the program parameters of convention space for exhibition and meetings requires the same systems for a permanent or an interim use. As previously stated, the cumulative cost of all these systems exceeds available funds. Consequently, the initial project will consist of only the basic structure with limited improvements. The only system to be fully built will be life safety. To provide a fully permitted and outfitted expansion structure, the remaining program and Building Code compliance elements would include high

intensity exhibit lighting, electrical distribution, theatrical audio/visual equipment, restrooms, conditioned air (HVAC), multiple side loading bays, and exterior signage.

The Redevelopment Agency's budget allocates \$6,000,000 for this project. This is a program level estimate, based solely on early schematic plans and discussions with consultants familiar with the industry. Based on information and insight provided by our consultants familiar with these structures, the estimate for acquisition and installation of a basic structure is approximately \$40 per square foot. There is limited site preparation work that must be done to enable the use of the parking lot for a building. The minimal site preparation costs are estimated at \$700,000. Life safety components include fire sprinklers, booster pump for the fire sprinklers, alarms, public address system, additional exits and signage. These elements are estimated at \$500,000. For budgeting purposes at this stage of design, permit fees, design fees, and contingency add a final \$1,600,000 to the total cost. For a project of 80,000 square feet, the budget estimate is \$6,000,000.

Item	Program budget estimate
Basic 80,000 sf Tent	\$3,200,000
Site Preparation/infrastructure	\$700,000
Life Safety	\$500,000
Contingency	\$600,000
Soft Costs (fees, permits, design)	\$1,000,000
Total	\$6,000,000

The \$6,000,000 budget identified above does not provide the other convention center program and permit elements noted earlier. For example, convenient bathrooms are necessary. However, constructing permanent restroom facilities, a capital expense, may not be. Options to constructing permanent restrooms could include the purchase of portable modular facilities that can be plumbed and connected to the sanitary sewer system, then re-used at another city site when the permanent convention center expansion proceeds. Similarly, the City can lease these units for substantially less than a purchase price thereby making them a convention center operating cost. If they were to be purchased and installed as a capital cost by the Redevelopment Agency, then additional funds must be budgeted.

Item	Program budget estimate
Restrooms	\$1,000,000
HVAC w/distribution	\$1,300,000
Contingency	\$250,000
Soft costs (permits, fees, & design)	\$650,000
Total	\$3,200,000

If increasing the project for capital costs is not feasible at this time, phasing installation or acquisition of the elements may be a practical solution. This could be accomplished by leasing, with a purchase option, some of the elements such as modular restrooms and HVAC units. Preliminary discussions with providers of temporary facilities indicate that modular restrooms could be leased for approximately \$100,000 per year, or approximately \$2,000 per week. Discussions with consultants also indicate that temporary HVAC units could also be leased to lower initial capital expenses. However, this approach, as well as renting them on a per-event basis, would be an operating cost. Neither the City nor CVB has funds budgeted for the rental or leasing of these elements. The CVB indicates that it would not be customary to charge a user for these beyond the standard user fees, but their analysis indicates that the lease costs appear within a reasonable range to be charged to the facility users.

Another cost saving option is to decrease the size of the structure to 60,000 square feet. This is considered a last resort, as it appears that one of the alternate construction methods that will be used to resolve occupancy issues will be a wider aisle between exhibits. The effect of this will be to reduce the number of exhibits that can be placed in the space.

To date, no facility of this size has ever been constructed for this specific occupancy type. Based on the experience of other cities in constructing these facilities on a smaller scale and for more limited uses, there will likely be an operating cost associated with fire safety. Certain events will require a manned fire watch, in addition to the constructed fire suppression, alarm systems, and exiting enhancements. This increased operating cost should be recoverable from the user.

To accommodate the power requirements for HVAC, even temporary units, or other power distribution within the structure, a new PG&E service is required. To meet the June delivery schedule, the architect's electrical engineer will be directed

to immediately begin design of a system, which must be approved by PG&E, for installation as a portion of the contractor's basic site work.

To complete the design work necessary to bid and build this project, the Redevelopment Agency's existing agreement with Patri-Merker Architects needs to be amended. The current agreement provided professional architectural and engineering services through the schematic design phase. The recommended amendment will increase the scope of work to prepare the Request For Information to select the structural system, assist the Redevelopment Agency in determining the preferred system, and then complete the full construction plans and specifications required for public bidding. The total amount of compensation will not exceed \$500,000.

Cirque du Soleil used this site two years ago and has approached the City about its availability for use in 2006. Construction of this structure will preclude future cultural events, such as Cirque du Soleil, from being located at this venue. The San Jose Water Company site, which was previously used by Cirque du Soleil, does not appear available for the 2006 performance series. Redevelopment Agency and City staff will continue to work with Cirque du Soleil to identify a downtown site.

#### PUBLIC IMPROVEMENT DETERMINATIONS:

Redevelopment law requires the Agency to obtain the consent of the City Council in making these improvements, and that certain determinations be made as follows:

1. No other reasonable means of financing the building, facilities, or other improvements are available to the community.

The City of San Jose and the Convention and Visitor's Bureau lack capital funding for this project in the FY 2004-05 Adopted Budget.

2. The buildings, facilities, or other improvements are of benefit to a redevelopment project area.

The area was previously cleared for future development. This project will replace the interim parking use with an 80,000 square foot structure bringing visitors to frequent the surrounding business and retail establishments. The project will provide a link between the existing San Jose McEnery Convention Center and the businesses to the south of Balbach Street.

3. The payment of funds for the cost of buildings, facilities or other improvements will assist in the elimination of one or more blighting conditions inside the project area.

Currently 1/3 of the site is operated as a City parking lot with 309 parking spaces fronting Market Street. The remaining 2/3 of the site is vacant. The Redevelopment Agency has previously cleared the site of blighted buildings to make way for future development. The proposed project will activate the entire site and bring visitors and businesses to the area. A primary goal for the area was identified in the adopted Downtown Strategy 2000 Plan. Expansion of the McEnery Convention Center with orientation toward Market Street will infill and connect the urban environment between San Carlos Street and Balbach Street.

4. The project is consistent with the Implementation Plan for the Redevelopment Area.

Development of convention center and other public facilities is consistent with the adopted Implementation Plan for the Redevelopment Agency.

#### COORDINATION

This action has been coordinated with the Department of Planning, Building, and Code Enforcement, Fire Department, and the Agency's General Counsel.

#### FISCAL IMPACT

Funding in the amount of \$6,000,000 is available in the Agency's adopted Fiscal Year 2004-05 Capital Budget (Merged Area Impact, Proposed Convention Center Expansion).

#### CEQA

Mitigated Negative Declaration, CP04-028

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