



COUNCIL AGENDA: 02-01-05  
ITEM: 3.4(a)

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Terry Roberts  
Katy Allen  
Larry D. Lisenbee

**SUBJECT:** NEW CITY HALL  
EMPLOYEE PARKING GARAGE

**DATE:** 01-28-05

Approved

Date

1-28-05

Council District: Citywide  
SNI: University

## EXECUTIVE SUMMARY

The PAC SJ lawsuit delayed construction of the off-site Parking Garage for one year. The direct cost impact of this delay to the City is estimated at \$3.2 million and includes increased construction costs, increased staff and professional service costs and increased costs for employee parking. The following is the breakdown of the estimated cost impacts:

• Increased Construction Costs	\$2.4 million
• Increased Staff and Professional Services	\$0.3 million
• Interim Parking Plan Costs	<u>\$0.5 million</u>
Total Costs	\$3.2 million

Staff has identified a financing strategy to address these cost increases. The proposed financing solution is to secure approximately \$15M in California Statewide Communities Development Authority Vehicle License Fee Gap Loan Receivable Financing Program funds that have recently become available.

The estimated \$15M in California Statewide Communities Development Authority Vehicle License Fee Gap Loan Receivable Financing Program funds are proposed to be used to reduce the overall debt on the garage project, including the \$2.7M of additional construction, staff and professional services costs. This results in debt service savings of approximately \$1M annually for twenty-seven (27) years. This savings will provide a funding source for the Interim Parking Plan costs in addition to providing savings to the general fund during that period.

In addition to the construction cost impacts, the delay also caused the need to develop an interim-parking plan for city staff to cover the period of time from move-in to the new City Hall (June – August 2005) through the completion of construction of the off-site Parking Garage in April-

May 2006. The interim-parking plan utilizes existing downtown parking spaces; thus removing these spaces from general circulation and downtown business parking opportunities. Implementing this plan will cost an estimated \$500,000.

Council is asked to take the following actions that include awarding the construction contract for the parking garage, increasing the delegation of authority to the City Manager consistent with the increased project construction budget, and approving the financing plan and related budget appropriations. The budget actions recommended as part of this report are a direct result of the PAC SJ lawsuit.

### **RECOMMENDATION**

1. Report on bids and award of contract for the New City Hall Parking Garage to the low bidder, Swinerton Builders. City Staff's recommendation is to accept the Base Bid, in the amount of \$21,378,000, Additive Alternate Number 7, in the amount of \$310,000 for a total of \$21,688,000, and approval of a contingency in the amount of \$1,084,400.
2. It is recommended that the City Council adopt a resolution increasing the City Manager's delegated authority for the Civic Center Project set forth in Resolution No. 71920 from the current amount of \$343,000,000 to 345,700,000.
3. It is recommended that the City Council adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Civic Center Parking Fund:
  - a. Increase the New City Hall Parking Garage appropriation by \$1,153,000.
  - b. Increase the estimate for Earned Revenue by \$1,153,000 to reflect Commercial Paper proceeds.
4. It is recommended that the City Council adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the Civic Center Construction Fund:
  - a. Increase the Construction appropriation by \$1,467,000.
  - b. Increase the estimate for Earned Revenue by \$1,467,000 to reflect Commercial Paper proceeds.

CEQA: EIR Resolution No. 68905, PP98-03-072, Civic Plaza Redevelopment Plan (completed in 1999) SEIR Resolution No. 71743, PP03-03-088 (completed in 2003), FRSEIR Resolutions 72230 and 72230.1 (adopted June 29, 2004).

## **BACKGROUND**

In June 2004, Council approved the construction of a parking garage between 4<sup>th</sup> and 5<sup>th</sup> Streets, approximately 138 feet south of St. John Street for City employees and visitors after normal business hours. Following resolution of a challenge by the Preservation Action Council of San José, Public Works staff solicited bids for the construction of the garage from a pool of pre-qualified bidders in December 2004.

The garage site was selected from a number of sites studied by the Civic Plaza Redevelopment Project Area Committee (PAC) and the Civic Plaza Parking & Traffic Committee (PTC). This site selection was originally presented to and approved by Council on April 17, 2001. The initial location placed the garage in close proximity to the Donner-Houghten House and would have required both the demolition of Apostolic Church building and relocation of the congregation. On January 14, 2003, Council directed staff to explore options and alternatives to this location. The site was shifted approximately 52 feet southward, necessitating the demolition of the Fox Building. Staff prepared a Supplemental EIR (SEIR) with the assistance of David J Powers and Associates. It was approved by the Planning Commission on August 13, 2003. An appeal was filed and Council re-certified it on September 2, 2003.

The site location and the garage design were approved on September 9, 2003. Construction documents were issued on November 24, 2003, and bids opened on January 15, 2004. In the interim, the Preservation Action Council of San José (PAC SJ) filed a lawsuit in Santa Clara County Superior Court asserting that the SEIR was flawed. The Court ruled on March 9, 2004 that the project be held in abeyance until the City met the requirements of the California Environmental Quality Act .

Staff prepared a Recirculated SEIR (RSEIR), again with the assistance of David J Powers and Associates, addressing the Court's concerns. It documented an extensive investigation into the feasibility of an expanded number of potential sites, including but not limited only to those studied by the PAC and PTC. The Planning Commission re-certified the Final RSEIR on June 23, 2004. A protest was filed by PAC SJ, and Council upheld the Planning Commission's recommendations on June 29, 2004.

Due to pending litigation, Council rejected bids originally solicited in December 2003 on July 26, 2004. By agreement of the parties, a Court hearing date scheduled for August 30, 2004 was deferred while both sides participated in a one-day facilitated mediation session on September 24, 2004. The mediation was not successful, and following a December 1 and December 3, 2004 hearing, the Court issued an order ruling in the City's favor, allowing staff to resume the project by soliciting bids for the project in December 2004.

### **Impact of the PAC SJ Lawsuit**

The PAC SJ Lawsuit has resulted in an estimated \$3.2 million in cost impacts to the City of San Jose. Those impacts are summarized below:

- Escalation: Since the last bid construction costs have increased radically due to an unprecedented run-up in pricing on the world markets for concrete and steel reinforcing. This, in turn, has further impacted local pricing levels throughout the construction industry. While the original bid was below the budgeted estimate by \$1.3M, the revised bid exceeds the amount budgeted. Cost escalation as compared to previous bid - \$2.4M.
- Professional Services: In order to support activities required by the lawsuit, additional City Staff and Consultant services were expended for the development of the revised SEIR. City staff costs were \$72,850 and consultant services costs were \$180,000. Total - \$252,850.
- Interim Parking Plan: With the completion of the garage now being delayed up to ten months beyond completion of the New City Hall, alternate means of parking will need to be developed for the employees. An Interim Parking Plan using a combination of existing downtown and off site parking facilities has been developed. Any costs associated with this plan will be considered during the development of the 2006-2010 Five-Year Forecast and annual budget. The current preliminary estimate for the potential impact for the 10-month interim period is \$500,000. The plan will be presented to Council in more detail in February 2005.

**ANALYSIS**

Bids were opened on January 18, 2005. Three of the six contractors that were pre-qualified by Public Works submitted bids for this project. The low bid represents an increase of \$2.4 million (12%) over the low bid price of \$19.3 million submitted last January that were rejected due to the delay encountered from the PAC SJ lawsuit.

Listed below are the bid results.

<b>Contractor</b>	<b>Base Bid</b>	<b>Alternate #7</b>	<b>Total Bid Amount</b>	<b>Variance Amount</b>	<b>Over / (Under) Percent</b>
McCarthy	\$24,977,764	\$312,000	\$25,289,764	\$5,039,764	25
Devcon	\$22,636,508	\$291,169	\$22,927,677	\$2,677,677	13
Swinerton	\$21,378,000	\$310,000	\$21,688,000	\$1,438,000	7
<b>Budget Estimate</b>	<b>\$20,250,000</b>	<b>\$ 0</b>	<b>\$20,250,000</b>	<b>---</b>	<b>---</b>

There are eight alternates to the bid. The base bid includes all essential items necessary for complete garage construction including security and operations equipment. These add alternates represent design modifications to that package. They include the following items:

1. Painting ceilings and beams in the Basement and Ground Levels and walls and columns at Levels 2 – 6 (Walls and columns in Basement and Ground Levels are painted in base bid),
2. Painting ceilings and beams on Levels 2 - 6,
3. Rolling grilles at all pedestrian and auto entries,
4. Decreased height of concrete stem walls at upper level and addition of guardrails,
5. Plant cables and planting at South Elevation,
6. Decorative tile at North Elevation,
7. Costs for DOT's tenant improvements along the 4<sup>th</sup> Street frontage,
8. Wire mesh infill at east and west street frontages.

Staff has analyzed the bid proposals and developed the following conclusions:

Swinerton Builders base bid plus alternates came in higher than the Budget Estimate. The recommended contract award will cover the Base Bid plus add alternate #7. Funding for three (3) items will come from other sources: The parking control and access equipment in the amount of \$250,000, will be funded by the DOT. The completion of the underground connectivity linkage providing pathways for computer fiber with the New City Hall continuing northward from the intersection of Santa Clara to the Garage in the amount of \$20,000 will be funded by the City Hall Technology, Furniture, and Equipment budget. Scope of work for a portion of the North 5<sup>th</sup> Street Improvements along the frontage of the Garage is included in the contract award. The amount of this work is \$100,000 and will be funded by the Redevelopment Agency. This scope of work is part of the Agency Project. Coordination between the two projects determined that the timing of this work would best be performed within the garage contract. A Project Services Memorandum (PSM) is in process and will be agendized at a future date for Council approval.

The new bids for the project exceed the amount budgeted for the construction of the garage. The total project cost is now estimated at \$26.52 million. As discussed above, a portion of this cost (\$370,000) will be addressed by other funding sources. It is recommended that commercial paper be issued to cover the remaining \$1.15 million shortfall as an interim source of financing. In addition, a budget action is recommended to increase the City Hall construction appropriation by \$1.47 million as a result of the PAC SJ lawsuit. The original bids for the Off-Site Garage project came in below budget and the savings were redirected to the City Hall project. When the Off-Site Garage project was re-bid, it no longer generated these savings and actually exceeded the budgeted estimate. As a result, both the Parking Garage and City Hall projects were impacted. Commercial paper would also provide the interim funding for the increase in the City Hall Construction budget.

On a long-term basis, a recommendation is being brought for Council consideration as a separate item on this agenda to direct staff to take the necessary actions for the City to participate in the

California Statewide Communities Development Authority Vehicle License Fee Gap Loan Receivable Financing Program and to return to the City Council on February 15, 2005 for approval of the documents required for participation in the program. Staff recommends that the one-time funds of approximately \$14.4 to \$15.0 million from the VLF Receivable program fund a portion of the garage project cost in order to reduce future debt service costs. This proposal would cover the overage in the garage budget along with a large portion of the total garage cost. If this proposal is not approved, the overage would need to be covered by lease-revenue bonds that would be issued to provide the long-term financing for the garage.

### **PUBLIC OUTREACH**

Public outreach for this contract required contractors to participate in a pre-qualification process. Contractors interested in bidding responded to an advertised request for pre-qualification. Public Works Civic Center Program Management evaluated the materials these firms submitted. Plans and specifications were made available to all pre-qualified bidders, and they were invited to submit a bid to complete the work described therein.

### **COORDINATION**

This project has been coordinated with the Offices of the City Manager, City Attorney and Budget Office, and the Departments of Information Technology, Transportation and Finance.

### **PROJECT LABOR AGREEMENT**

The City has become a partner with labor by jointly approving a Project Labor Agreement. This agreement will facilitate enforceable, effective performance by the labor force in a peaceful and open work environment and an absence of delays resulting from labor disruption and disputes.

### **COST IMPLICATIONS**

- |    |                                     |                     |
|----|-------------------------------------|---------------------|
| 1. | AMOUNT OF RECOMMENDATION:           | <b>\$21,688,000</b> |
| 2. | COST OF PROJECT:                    |                     |
|    | Project Delivery                    | \$ 3,750,000        |
|    | Construction                        | 21,688,000          |
|    | Contingency (5% of Award Value)     | <u>1,084,400</u>    |
|    | TOTAL                               | <b>\$26,522,400</b> |
| 3. | SOURCE OF FUNDING:                  |                     |
|    | 433 - Civic Center Parking Fund     |                     |
|    | 533 - General Purpose Parking Fund  |                     |
|    | 473 - Civic Center Improvement Fund |                     |



