



## Memorandum

**TO:** City Council

**FROM:** Mayor Ron Gonzales  
Councilmember Reed

**SUBJECT:** Design-Build Procurement  
Process Implementation Ordinance

**DATE:** March 4, 2004

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Approved

Date

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### RECOMMENDATION

Direct the City Attorney to:

1. Draft an implementation ordinance for Council consideration to implement the voters will as expressed in the passage of the Charter Amendment known as Measure D;
2. Include provisions for competitive selection per Council direction in December 2003 when the matter was placed before voters. Those provisions shall reflect our current standards and practices for open and competitive selection for professional services, including:
  - a. Requests For Proposals shall be approved by the Mayor and City Council.
  - b. Criteria for contractor selection shall be approved by the Mayor and City Council.
  - c. Scores of the competitors against the criteria shall be made public.
  - d. The selection of a contractor to negotiate with shall be approved by the Mayor and City Council.
  - e. The award of a contract shall be approved by the Mayor and City Council.
3. Ensure that the implementation of the Design-Build Procurement Process complies with all City and state labor laws and provisions.

## **BACKGROUND**

Completing City construction projects on time and on budget has always been a top priority for this City Council. With the passage of Measure D this month, the voters of San Jose have clearly stated their concurrence with this goal and provided the City with greater flexibility to achieve it.

When looking at new public works projects, we must always evaluate how we can use taxpayer resources most efficiently to deliver the best public benefits from a project. By completing them in a timely fashion, for the best price possible, at the required quality standards with full public accountability, we earn the public confidence that we are serving our community well and that our future construction projects will meet the same high standards.

The recently passed Charter amendment provides the City Council with an optional method for developing and delivering public projects. It is not a mandated approach, and it should be used only when we can clearly save money or deliver projects in a more efficient manner. Because tax dollars are limited, it is important that the City Council have every responsible option available to design and build public works projects.

Measure D stated the following:

*To create taxpayer savings, prevent cost overruns and improve efficiency, may the Charter be amended to allow the design build procurement process as an exemption to public bidding, wherein the design and construction of a public works project is provided by the same entity, be utilized for public works contracts that cost over \$5,000,000, when the City Council finds doing so would save money or result in faster project completion?*

“Design-Build” is a public works procurement method for a contract where a single entity providing construction services for the project also provides design services in connection with the project. The design-build procurement process is a method used for large-scale construction projects in the private sector, but also by many public agencies in California.

As stated in the memorandum to Council dated December 1, 2003:

“in terms of process, the design-build approach allows us the opportunity to have a competitive selection process by issuing a Request for Proposal (RFP)... For each design-build contract, the City shall establish a competitive prequalification and selection process for the Design-Build Entity that specifies the prequalification criteria, as well as recommends the manner in which the winning entity will be selected.

“At the City’s option, the manner in which the winning entity will be selected may include a process based on proposals submitted in response to a Request for Proposals to which the City may select one or more Design-Build Entities with which to negotiate the Design-Build Contract.”

We are committed to following this previous direction in the implementation of the voter approval of this Charter amendment and the implementation ordinance must clearly stated the requirement for a competitive selection process.

**COORDINATION**

City Attorney