



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** November 19, 2008

Approved

Date

11/23/08

**COUNCIL DISTRICT:** Citywide  
**SNI AREA:** All

**SUBJECT: CONSULTATION SELECTION FOR ENVIRONMENTAL SERVICES  
FOR ENVISION SAN JOSÉ 2040 GENERAL PLAN**

## RECOMMENDATION

Execute a consultant agreement with David J. Powers and Associates, Inc. for environmental consultant services for the Envision San José 2040 General Plan Update for a term through June 30, 2011 in an amount not-to-exceed \$1,683,201, including authorization for the Director of Planning, Building and Code Enforcement to execute amendments to the agreement to: a) add and delete environmental consultant services as required within the \$1,683,201 maximum compensation; b) authorize the expenditure of up to \$115,000 for additional global climate change analysis as required within the \$1,683,201 maximum compensation; and c) extend the term of the agreement for one 6 month period.

## OUTCOME

To provide consultant services required to prepare the Environmental Impact Report for the Envision San Jose 2040 General Plan Update.

## EXECUTIVE SUMMARY

This memorandum outlines the requirements for environmental consultant services for the Envision San José 2040 General Plan Update and reports on the selection process used to determine the most qualified consultant.

## **BACKGROUND**

The Environmental Impact Report (EIR) for the Envision San José 2040 General Plan Update is an extremely significant project, requiring extensive time and resources to ensure preparation of a complete, legally defensible, and useful document that provides environmental information necessary for use by the community, other public agencies, and decision-makers in the development and adoption of the updated General Plan, as well as future development decisions. The General Plan Update includes the potential addition of up to approximately 470,000 new residents and over 170,000 new jobs over the next 30 years. By comparison, the current San José 2020 General Plan proposed less than 1,000 new dwelling units in addition to that already accommodated in the Horizon 2000 General Plan.

The EIR will include substantial analysis of potential impacts in all required subject areas, including transportation, noise, water supply and quality, riparian habitat, cultural and historic resources, municipal service delivery, and air quality. The General Plan Update EIR requires extensive analysis beyond that required for most individual plans or development projects, including water supply analyses, global climate change, and greenhouse gas emission studies, all expected to receive significant scrutiny from interest groups and public agencies. In addition, the EIR for the updated General Plan will be designed to function as the foundation for subsequent environmental review for individual development projects, thus streamlining environmental review for future projects, resulting in time and cost savings for development applicants.

## **ANALYSIS**

### **Consultant Procurement Process**

On Tuesday, September 25, 2007 a Request for Qualifications (“RFQ”) was released through the City’s e-procurement system. Approximately a dozen firms were directly notified of the requirement and the RFQ was posted on the City’s website until the closing date of November 1, 2007.

A non-mandatory pre-proposal conference was held on October 5, 2007 and was attended by three companies. Proposals from three firms were received by the November 1, 2007 close date as follows:

- David J. Powers and Associates, Inc.
- Design Community and Environment (DCE)
- Pacific Municipal Consultants dba PMC

***Evaluation Team:*** A three member evaluation team was named with representatives from Planning, Building and Code Enforcement, the Office of Economic Development and the Envision San José 2040 Task Force.

**Minimum Qualifications (Pass/Fail):** The initial evaluation was a pass/fail assessment of each proposal to ensure that all required forms and documentation were completed and minimum qualifications were met. Staff determined that all proposals were responsive.

**Evaluation of Written Proposals:** The evaluation team evaluated and scored each proposal in critical areas such as the ability to provide services, prior experience, qualifications and experience of personnel assigned to the project, and quality of references.

**Oral Presentations:** The firms were invited to interview and make oral presentations in March 2008.

**Cost:** Cost proposals were not disclosed to the evaluation team prior to the completion of the written evaluation so as not to inadvertently influence technical scores. Cost proposals were evaluated subsequent to the completion of the written evaluation.

**Local and Small Business Preference:** Local Business Enterprise (“LBE”) and Small Business Enterprise (“SBE”) preference was a consideration in this RFQ and was weighted 5% for each preference.

**Recommendation:** There was unanimous consensus within the panel that David J. Powers and Associates, Inc. submitted the most advantageous proposal based on the evaluation process including written evaluation, cost proposals, and oral interviews. The scoring is summarized below:

Rating Category	Points	PMC	Design, Community Environment	David J. Powers & Associates
Ability to Provide Services	75	45	59	68
Prior Experience	45	35	31	39
Qualifications and Experience of Personnel	60	33	35	60
Quality of References	30	21	21	30
Oral Interview	30	28	13	11
Cost	30	21	30	18
Local Business Preference	15	0	15	15
Small Business Preference	15	0	0	15
<b>Total</b>	<b>300</b>	<b>183</b>	<b>204</b>	<b>256</b>
		61%	68%	85%

**Protest:** The City’s RFQ process provides for a procedure for an unsuccessful proposer to protest an award recommendation. A ten-day protest period commenced on April 14, 2008 with the issuance of a Notice of Intended Award. A protest was submitted to the Director of Planning, Building and Code Enforcement by Design, Community and Environment (DCE). After examining the review process it was concluded that the process was conducted in accordance

with the City of San José’s procedures and that there was no evidence of bias by the members of the selection panel. The selection panel evaluated each proposal according to pre-determined selection criteria giving all proposers equal opportunity to make both written and oral representations. Unsuccessful proposers may not suggest revisions to the scoring decisions of individual selection panel members. There were no grounds for the automatic disqualification of any of the proposers under the City’s *Process Integrity Guidelines* as there are no unresolved contractual claims. The City discussed these results with DCE and they were satisfied. DCE filed no appeal of the Director’s determination, so no further action is needed regarding this protest. The firm of David J. Powers and Associates, Inc. was confirmed as the selected firm.

**Description of Cost Estimate**

The development of the cost estimate for the EIR contract is summarized in Table 1, below. The original cost estimate included in the RFP response submitted by David J. Powers and Associates, Inc. in November 2007 was \$895,000. The cost estimates for the other two proposers were within approximately 5%. Selection of David J. Powers and Associates, Inc. (DJP) was completed in April, 2008. The cost estimate accompanying their contract scope proposal received in September 2008 was \$1,683,201. This figure reflected additions to the scope of services directed by Planning staff, as described below.

Table 1

ESJ 2040 EIR Scope/Cost Development Summary	
Topic	Total Cost
Budgeted Amount (original cost estimate submitted by consultant 11/07) (EIR Analysis of Single Preferred Scenario)	\$895,000
<b>Contract Cost Estimate (9/08)</b>	
Full analysis of up to 4 scenarios – requires additional analysis by DJP and sub-consultants	\$359,801
Expanded Principal consultant participation, City & sub-consultant coordination	\$98,400
Historic Context Statements	\$215,000
Climate Change Analysis Contingency (subject to prior City approval)	\$115,000
<b>Total Maximum Proposed Contract Cost</b>	<b>\$1,683,201</b>

The primary revision in the scope is the change from analyzing only one preferred land use/transportation scenario to analyzing up to four different scenarios, to be identified by the Envision San Jose (ESJ) 2040 Task Force. Analysis of multiple scenarios comparing the fiscal,

service delivery, transportation and environmental impacts of alternate growth scenarios provides flexibility to the Task Force and City Council in the composition of the final Land Use/Transportation Diagram for the ESJ 2040 General Plan. This scope change added approximately \$359,801 in increased costs for additional analysis by DJP and their eight sub-consultants.

The second scope enhancement is based on Planning's request for one of the Principals of the firm to participate directly in the project, particularly the critical initial efforts to formulate the project and ensure the project description is fully and clearly established. This is based on a similar scope element included in the North San Jose project EIR, also prepared by DJP, which resulted in a thorough, timely, and complete EIR for the North San José effort. This component, together with increased coordination time for DJP with both sub-consultants and with the City comprise an additional \$98,400.

The contract includes \$215,000 for development of historic context statements to supplement the City's existing Historic Inventory and provide the basis for historic analysis of proposed growth areas. This work is essential to ensure that the potential historic significance of properties in planned future growth areas is identified in advance and considered in the updated General Plan.

Finally, a \$115,000 contingency fund is established for unforeseen analysis or other aspects of the Global Climate Change component, the newest and one of the most controversial and rapidly changing environmental subject areas. The significant scrutiny anticipated in this area, at the local, regional and state level, including the State Attorney General's Office, requires a thorough and comprehensive effort and the ability to respond to unforeseen information and requirements. Use of the contingency fund will require advanced approval by the Planning Director.

The total cost for the EIR is \$1,683,201. By comparison, the 2005 North San Jose Development Policy EIR, which provided project-level analysis for the addition of 32,000 dwelling units and 85,000 new jobs cost approximately \$550,000.

### **Proposed EIR Schedule**

The proposed schedule for preparation of the EIR includes the following key milestones:

- Identification of the land use/transportation scenarios by the Envision San Jose 2040 Task Force - April 2009
- Review of three Water Supply Assessments (one from each water retailer) - September 2009
- Completion of the Transportation Analysis - January 2010
- Submittal of the Administrative Draft EIR - July 2010
- Public Circulation of the Draft EIR - December 2010
- Certification of the Final EIR by the Planning Commission - May 2011
- City Council adoption of the Envision San Jose 2040 General Plan - June 2011

Staff recommends that the City Council execute an agreement with David J. Powers and Associates, Inc. in an amount not to exceed \$1,683,201 for a term through June 30, 2011 and to delegate to the Planning Director the authority to: (1) Add/delete services as required within the \$1,683,201 budget; (2) Authorize the expenditure of up to \$115,000 for additional global climate change analysis included in the total contract amount but requiring separate, advance approval by the Director, and (3) Extend the term of the contract for one additional 6 month period.

The scope of work for the David J. Powers, Inc. agreement includes the following tasks:

1. Prepare Existing Conditions Analyses
2. Review Three Water Supply Assessments (one for each water retailer)
3. Prepare Notice of Preparation (NOP)
4. Prepare Draft EIR
5. Prepare the Final EIR and Mitigation Monitoring and Reporting Program

The proposed total budget of \$1,683,201 will allow David J. Powers and Associates, Inc. to complete the above scope of work.

### **EVALUATION AND FOLLOW-UP**

Periodic progress reports on the ESJ 2040 General Plan Update are provided to the Community and Economic Development Committee. Study Sessions with the City Council will be held at key milestones in the process.

### **POLICY ALTERNATIVES**

The change in scope from analyzing one preferred scenario to up to four alternate scenarios provides flexibility for the Task Force and City Council to determine the composition of the final Land Use/Transportation Diagram for the ESJ 2040 General Plan at the end of the update process. Multiple scenarios enable the Task Force and City Council to compare the relative environmental impacts of each. Consultant services have already been contracted to compare the relative fiscal effects of multiple scenarios.

A policy alternative of retaining the original scope approach of analyzing one, preferred alternative could reduce the cost by approximately \$185,000. However, this alternative would potentially extend the project and EIR schedule by several months due to the need for additional time for the Task Force and City Council to deliberate and select a preferred scenario earlier in the update process as the basis for the EIR.

### **PUBLIC OUTREACH/INTEREST**

- ✓ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

This memorandum and consultant agreement will be distributed early per San José Sunshine and Open Government rules.

### **COORDINATION**

The preparation of this memorandum and the consultant agreement have been completed in coordination with the City Attorney's Office. Coordination also occurred with the City Manager's Budget Office.

### **FISCAL/POLICY ALIGNMENT**

The consultant services covered under this Agreement provide for the preparation of the Environmental Impact Report, in conformance with the California Environmental Quality Act and Title 21 of the Municipal Code, in support the Envision San Jose 2040 General Plan Update, initiated by the City Council in June, 2007.

### **COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION  

<b>Not to Exceed Amount of Contract</b>	<b>\$1,683,201</b>
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2. COST \$1,683,201
3. SOURCE OF FUNDING: 001 – General Fund A 1.25% fee surcharge has been placed on development permits to fund contractual expenses associated with the update of the existing San Jose 2020 General Plan.
4. FISCAL IMPACT: As noted above, the proposed schedule for the EIR results in an extension of the project schedule. The original project schedule provided a project end date of February, 2010. Based on the proposed EIR schedule, however, completion of the General Plan Update process is now proposed for June, 2011, extending the project by sixteen months. Due to this time extension, a budget proposal for the General Plan Update

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beyond the FY 2009-10 Operating Budget will be brought forward for City Council consideration as a part of the annual budget process to support the project through the extended schedule. Planning Staff will be presenting a complete project status report to the City Council in January, 2009.

**BUDGET REFERENCE**

Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contract	Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
001	3427	Comprehensive General Plan Update	051254	\$2,438,961	\$1,683,201	IX-10	10/21/08, 28422

**CEQA**

Not a project.

  
Joseph Horwedel, Director  
Planning, Building and Code Enforcement

For questions regarding this information, please contact Laurel Prevetti, Assistant Director, at 535-7901.