



Memorandum

TO: HONORABLE MAYOR, CITY
COUNCIL AND AGENCY BOARD

FROM: Debra Figone
Harry S. Mavrogenes

SUBJECT: SEE BELOW

DATE: June 4, 2010

COUNCIL DISTRICT: Citywide

SUBJECT: MAKING CERTAIN FINDINGS FOR USE OF THE DESIGN BUILD PROJECT DELIVERY METHOD FOR THE CONVENTION CENTER EXPANSION AND RENOVATION PROJECT, APPROVAL OF A REQUEST FOR DESIGN BUILD PROPOSALS, AND DELEGATION OF AUTHORITY TO THE DIRECTOR OF PUBLIC WORKS TO ISSUE ADDENDA TO THE REQUEST FOR PROPOSALS

RECOMMENDATION

Adoption of a resolution by the City Council:

- (a) Finding that the cost of the proposed design-build contract for the Convention Center Expansion and Renovation Project (Project) is likely to exceed \$5,000,000, and the design-build procurement process is likely to save money or result in faster project completion than if the City used a procurement process involving its normal competitive bidding process;
- (b) Approving a Request for Proposals and the criteria and process by which the City shall select a design-build entity for the Project; and;
- (c) Authorizing the Public Works Director to issue addenda during the Request for Proposals process to make revisions to the Request for Proposals that are consistent with the scope and selection criteria as approved by Council.

OUTCOME

Approval will allow the advertisement of a Request for Proposals to solicit design-build entities to construct the Convention Center Expansion and Renovation Project.

BACKGROUND

The City, Agency and hotel property owners within the Convention Center Facilities District (CCFD), Convention-Visitors Bureau (CVB) and Team San José (TSJ) have been pursuing the expansion and renovation of the San Jose McEnery Convention Center since 2002. Most recently, the hotel community voted to create a Convention Center Financing District and to place a special 4% tax on hotel room rates within the District (the "CCFD Tax"). The CCFD Tax is to be devoted initially to the funding of the expansion and renovation of the Convention Center and to create an ongoing future funding resource for maintenance and capital improvements to the Convention Center. In December 2008, the City Council reviewed a schematic design concept that at the time was estimated to require a budget of \$350M. However, the global recession in 2008 and 2009 resulted in declining hotel revenues that are the basis for the special tax financing and negatively impacted the Agency's ability to fund the project at the earlier anticipated levels.

At the December 15, 2009, Joint City Council-Redevelopment Agency Board meeting, City and Agency staff were directed to prepare an analysis inclusive of financing options proposed by TSJ of the feasibility of initiating a modified Convention Center expansion and renovation during FY 2009-10.

On February 23, 2010, the City Council and Redevelopment Agency Board:

- Directed staff to move forward with a design-build solicitation to expand and renovate the Convention Center as expeditiously as possible.
- Directed the City Manager and Redevelopment Agency Executive Director to recommend a team that will manage the expansion and renovation of the Convention Center, utilizing the expertise of staff that is managing the Airport design-build project.
- Based on the design-build process and recommended proposal, directed staff to return to the City Council with the documents necessary to move forward with a financing plan.
- In the event that the design-build process results in a funding gap, directed staff to complete an analysis for utilizing Fund 536 and other non general fund sources to fill the potential gap, and to return to the City Council with funding options.

The City has had legal authority to utilize the negotiated design-build process since 2004 when San José voters passed Measure D. Design-build allows the owner to define the project based on available funds, select a contractor based on qualifications rather than low bid, and negotiate a contract structured around the project's priorities. The City has successfully used the design build project delivery method at the Airport.

ANALYSIS

Specific to the Convention Center, the design-build model lends itself to the build-out of new space and rehabilitation of existing space through managing the project's scope based on stakeholder priorities and available funds. Because the design-build model allows for the selection of a contractor to manage design development, maximizing scope within the approved budget creates savings through construction efficiency and reduced soft costs. Based on the current competitive market in the construction industry, procuring a design-build contractor at this time is very likely to result in more project for the funds available than other procurement methods.

Chapter 14.07 of the Municipal Code governs the process the City must follow to use the design-build project procurement process. To use this process, the code requires that the Council must find that (i) the project is likely to exceed \$5 million and (ii) the design-build process is likely to save money or result in faster project completion than if the City used its normal competitive bidding process.

In response to direction from the Council/Board, staff developed an integrated City/Redevelopment Agency team to develop the solicitation documents necessary to acquire the services of a design-build contractor. The documents developed are as follows:

- Request for Qualifications – A Request for Qualifications (RFQ) was developed to prequalify design-build contracting entities; the document was advertised on June 4, 2010 and is due on June 18, 2010. The results of this process will define the number of firms that are qualified to undertake the project.
- Request for Proposals – The Municipal Code requires City Council approval of the Request for Proposals (RFP) prior to advertisement. Attachment A shows the proposed scoring criteria to be used to rank the prequalified firms in order of most to least qualified. The advertisement is scheduled for 45 days starting upon Council approval.

REQUEST FOR QUALIFICATIONS:

There are several key qualification elements that are critical and are intended to establish a viable pool of Design-Build contractors that have the resources, experience and technical capabilities to undertake the project. These elements are reflected in the RFQ and are consistent with the City's Municipal Code. Key elements include the following but the RFQ provides detailed requirements for these qualifications:

- A project team of contractor and designer that have worked on a comparable project
- Completion of a design-build project within the last five years.
- Completion of a public building construction project over \$75 million.
- Completion of a convention center project over 250,000 square feet.
- A bonding capacity of at least \$120 million.

- An excellent safety record.

A draft of the RFQ was made available in advance of an outreach meeting for interested parties on May 19, 2010. Approximately 200 people attended the meeting. Input on the draft was received by the City's single point of contact and forwarded to the technical team. Changes were made to the RFQ based on industry input.

RFQs are due to the City on June 18, 2010. When the short list has been established, an informational memo for the Council will be prepared. Staff anticipates up to seven design-build entities being shortlisted.

REQUEST FOR PROPOSALS:

In general, the RFP follows standard City of San José format and requirements. The design-build process and the corresponding RFP being utilized to solicit proposals allow the use of "qualification" based selection criteria rather than best value or lowest cost. The RFP describes the selection process that will be used, the information required of proposers, a description of the program, and the necessary forms for submitting a proposal. Proposers will submit information relative to their financial ability to complete the project, safety record, experience with design-build and working at a convention center, and their approach to this particular project.

The selection criteria that will be evaluated is included in Attachment B and summarized as follows:

- Project Specific Approach (20%)
- Delivery of Quality Projects on Time and within Budget (20%)
- Experience (20%)
- Strategy for Stakeholder Participation (10%)
- Strategy for Local Subcontracting (10%)
- Adherence to and Commitment to City's Organizational Goals, Policies, and Codes (5%)
- Labor Peace Plan (5%)
- Small and Local Business Preference (10%)

It is anticipated that the selection process will result in the City acquiring the services of a highly qualified firm and that this will ultimately lead to improved project delivery. In doing so, the City will be able to bring facilities on line sooner, creating economic benefit to the community and increased revenue opportunities for the Convention Center.

A selection committee comprised of staff from the City, Redevelopment Agency, the hotel group, Team San Jose, the Chamber of Commerce, and labor representative will evaluate the written proposals and conduct interviews with the most qualified firms.

Based on the outreach effort, and upon incorporation of any Council directives, staff believes that the RFP is complete and ready for advertising. However, as with any such document, there

may be minor revisions necessary to the document prior to the proposals being submitted, and staff is requesting that Council delegate the authority to the Public Works Director to issue addenda as necessary and consistent with the provisions of the RFP during the advertising period.

FINDINGS:

At its February 23, 2010, meeting, the Council identified a series of projects (program) at the Convention Center that included four elements: demolition, new construction, systems improvements and cosmetic renovation. Staff has estimated the cost of the program and has determined that the minimum project budget would be \$120 million. The actual cost of construction will not be known until it is negotiated with the Design Build Entity, but it is clearly in excess of \$5M.

In addition, staff has performed a schedule analysis for the project comparing design-build to the traditional design-bid-build method of project delivery. The table below summarizes the comparison of the delivery methods. A more complete comparison of the delivery methods is contained in Attachment B.

Comparison of Delivery Methods by Time in Months		
Process	Design-Bid-Build	Design-Build
Acquire Designer	8	10
Design	12	24
Acquire Contractor	3	
Construct	20	
Totals	43 months	34 months

EVALUATION AND FOLLOW-UP

The list of ranked contractors will be presented for council approval in August and award of the contract is scheduled as early as November and as late as January dependant on funding availability.

PUBLIC OUTREACH/INTEREST

If approved by the City Council, staff will continue to work with stakeholders to solicit input on the process.

This memorandum will be posted on the City's Internet website for the June 22, 2010 Council agenda.

COORDINATION

This staff report has been prepared by the City Manager's Office in coordination with the City Manager's Budget Office, the City Attorney's Office, the Redevelopment Agency, the departments of Finance, General Services, Public Works, and the Capital Facilities Advisory Committee.

COST SUMMARY/IMPLICATIONS

Advertisement of the project does not commit the City to fund or construct. The award of the project is contingent upon development of a financing plan suitable to deliver the construction program.

CEQA

CEQA: Resolution No. 72767 and Addenda thereto. File No. PP08-002.



DEBRA FIGONE
City Manager



HARRY S. MAVROGENES
Executive Director

For questions please contact Harry Freitas, Deputy Director of Public Works,
at 408-535-8488

Attachment A

1. SELECTION PROCESS and SELECTION CRITERIA

1.1 The selection process will consist of four (4) steps as outlined below:

1.1.1 Step 1—Minimum Qualifications: Requests for Qualifications (RFQ) will be reviewed to ensure that all minimum qualifications are met. RFQ will also be reviewed to determine if all required documentation has been submitted. If an RFQ does not meet the minimum qualifications or is incomplete, no further evaluation will be conducted and the proposer will be removed from further consideration.

1.1.2 Step 2—Short listing: The City reserves the right to perform a review of RFQ in order to formulate a shorter list for further consideration. The City expects to perform Step 2 if more than seven (7) RFQ pass Step 1. Regardless of the number of RFQ passing Step 1, the City may determine that it is in the best interest of the City to forego Step 2. Ranking of proposals in Step 2 will be done numerically based on the scoring achieved in Step 1. The primary goal of Step 2 is to screen proposals to only those proposers that can reasonably achieve award of contract.

1.1.3 Step 3—Proposal Evaluation: The proposal review will consist of two activities. They are as follows:

1.1.3.1 Review and Scoring of Proposals—scoring of proposals will be in accordance with the Selection Criteria.

1.1.3.2 Oral Interviews—proposers will be invited to present oral presentations for the purpose of introducing key members of the proposed implementation team, and allowing the City to fully understand the proposer's ability to meet the selection criteria.

With the exception of points assigned to local and small business preference, proposers must score at least one-half, or 50%, of the total available points for each category that is being scored. Failure to do so will result in disqualification of that proposal from further consideration.

1.1.4 Step 4—Total Scoring: The written proposals will be independently evaluated by each member of the selection panel prior to the interview. Upon completion of the interview the panel may discuss the written proposal and the interview amongst themselves and panelists may adjust their own scoring sheets at their own discretion. The adjusted final scores will be numerically added to achieve a total sum score for each proposal. The proposals will be ranked from highest to lowest by total sum score. The staff will recommend to the City Council that negotiations commence with the highest ranked firm.

1.2 Selection Criteria and Scoring

The proposers will be scored according to the following criteria:

<u>Selection Criteria</u>	<u>Maximum Possible Points</u>	<u>Points Earned</u>
<p>1. Project Specific Approach</p> <ul style="list-style-type: none"> A. Proposed Project Team Organization, Experience & Abilities B. Schedule Approach for the Project Elements C. Cost Management Approach for the Project Elements D. Design Approach for the Project Elements E. Approach to Staging and Phasing of Project Elements F. Initial Costs and Life Cycle Costs G. Safety Plan & Procedures H. Managing Projects to Minimize Impact to Convention Center Operations I. Demonstrated Financial Capabilities to Carry Out the Project J. Bonding Capacity K. Use of Qualified Subcontractors and Subconsultants L. Labor Force Utilization in Support of Schedule & Budget M. Complying with City Policies for Green and Environmentally Sustainable Buildings N. Innovative Methods for Project Delivery Proposed <ul style="list-style-type: none"> i) Design, Construction, & Cost Saving Innovations ii) Warranty, Bonding, & Insurance Coverage Proposals 	20	
<p>2. Deliver Quality Projects On Time and Within Budget</p> <ul style="list-style-type: none"> A. Demonstrated Success in Budget Control / Budget Techniques & Procedures B. Demonstrated Success in Schedule Control / Scheduling Techniques & Procedures C. Demonstrated Success in Scope Control Within Established Budget & Schedule / Scope Management Techniques & Procedures D. Demonstrated Success in Quality Assurance / Quality Assurance & Quality Control Plan(s) 	20	

<u>Selection Criteria</u>	<u>Maximum Possible Points</u>	<u>Points Earned</u>
3. Previous Project Experience <ul style="list-style-type: none"> A. Relevant Design Build Project Experience History B. Relevant Convention Center Project Experience History C. Relevant Large Project Experience History D. Design & Construction Management Techniques E. Project Team Organization, Experience & Abilities F. Innovative Methods for Project Delivery History <ul style="list-style-type: none"> i) Design, Construction, & Cost Saving Innovations ii) Warranty, Bonding, & Insurance Coverage Proposals G. Dispute and Litigation History 	20	
4. Strategy for Stakeholder Participation <ul style="list-style-type: none"> A. Managing Owner Input to the Design and Construction Process B. Effective Communications with All Stakeholders During All Aspects of the Project C. Mitigate Construction Impacts on Convention Center Operations, Businesses, Residents and Users 	10	
5. Strategy for Local Subcontracting <ul style="list-style-type: none"> A. Named subcontractors B. Local outreach plan C. Packaging strategy for local contractors 	10	
6. Labor Peace Plan <ul style="list-style-type: none"> A. Strategy to limit work stoppages 	5	

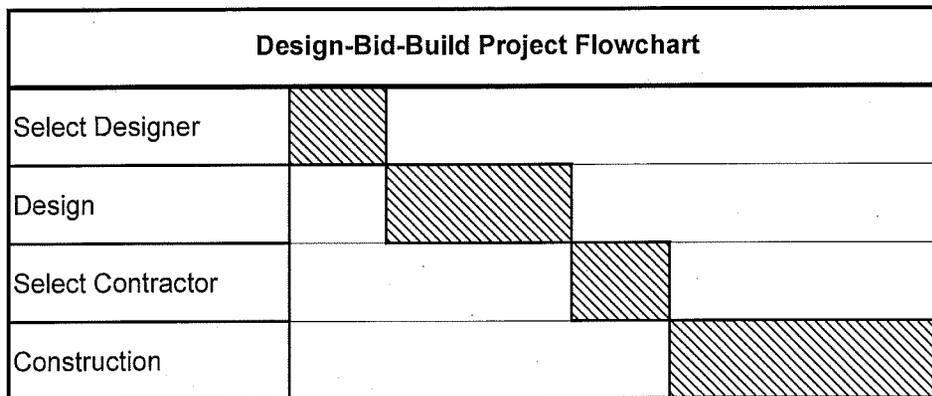
<u>Selection Criteria</u>	<u>Maximum Possible Points</u>	<u>Points Earned</u>
5. Commitment to City's Organizational Goals, Policies and Codes A. Past History of Compliance & Project Proposal for Complying with all Applicable Laws, Regulations, Codes and Requirements B. Past History & Project Proposal for Providing a Safe & Harassment Free Work Environment C. Past History & Project Proposal for Assuring Nondiscrimination and Nonpreferential Treatment D. Past History & Project Proposal for Complying with Prevailing Wage and Contract Compliance Requirements	5	
6. Local Business Preference	5	
7. Small Business Preference	5	

Attachment B – Schedule Analysis

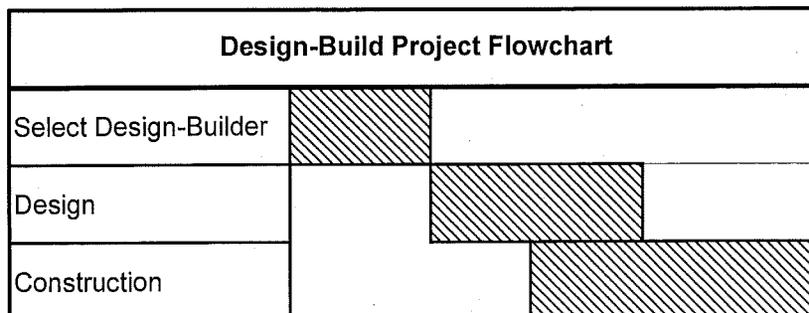
General Discussion of Project Delivery Systems

The Municipal Code requires that the City Council make a finding that the use of Design-Build (DB) will save time and/or money prior to employing DB as a project delivery mechanism.

Design-Bid-Build (DBB) is traditionally used by the City to construct Public Works. DBB is a series of separate steps to deliver a project. In the typical DBB process the City acquires a designer based on qualifications and acquires a contractor based on low bid. As shown in the table, each step proceeds individually. This is a conservative process that yields a low price but is generally slower than more aggressive project delivery techniques. A typical DBB project timeline is shown below.



The DB process allows for the procurement of designer and builder in one step. Time is saved in two areas. The process allows design and preconstruction and in some cases construction to occur simultaneously. In addition, only one procurement process is needed. The DB process eliminates the potential for conflict between Designer and Contractor since they are one entity. In addition, DB allows the Contractor to provide input into the design, which may save money. The typical DB process is shown below.



Design Build Ordinance Findings

In order to use DB for the TAIP the City Council is required to make findings that the use of DB will save time or money. At this stage of the project it is not possible to determine with accuracy how much money using DB would save. However, the schedules for the different delivery methods are fairly straightforward. It is estimated that the Convention Center can be delivered in 34 months using DB procurement. It is estimated that the project will take 43 months using DBB. The time savings can be attributed to concurrent design and construction activities and elimination of one procurement process. The tables show that in a direct comparison DB will deliver the TAIP 9 months faster than DBB. A comparison of the two delivery models is shown below.

Schedule Comparison of Design-Bid-Build vs. Design-Build		
Process	Design-Bid-Build	Design-Build
Acquire Designer	8	10
Design	12	24
Acquire Contractor	3	
Construct	20	
Total	43	34

Conclusion

Analysis shows that the Convention Center can be delivered faster using DB versus DBB project delivery. DB yields a 9 months savings over Design-Bid-Build. This analysis may be used by the City Council to make findings that the Convention Center may be delivered by Design-Build in conformance with the Municipal Code.