



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 09-16-10

Approved

Date

9/17/10

COUNCIL DISTRICT: Citywide

SUBJECT: APPROVE RANKINGS AND AUTHORIZATION TO NEGOTIATE THE DESIGN BUILD CONTRACT FOR THE SAN JOSE MCENERY CONVENTION CENTER EXPANSION AND RENOVATION PROJECT

RECOMMENDATION

Adoption of a resolution by the City Council:

- (a) Approving the final rankings of the five (5) design-build entities that responded to the RFP for the San José McEnery Convention Center Expansion and Renovation Project; and;
- (b) Authorizing the Public Works Director to negotiate a design-build contract for the Project as follows:
 1. Begin negotiating with the highest ranked contractor, Hunt Construction Group;
 2. Begin negotiating with the next highest ranked contractor, Turner Construction, if after having negotiated with Hunt, the Director determines that the City's interests are best served by beginning negotiations with the next highest ranked contractor; and
 3. Begin negotiating with each of the other contractors in order of their ranking as the Director determines is appropriate.

OUTCOME

Council approval of the final ranking and authorization to the Director of Public Works to negotiate with the design-build entities as described in this memorandum will allow the development of a design-build contract for the San José McEnery Convention Center.

EXECUTIVE SUMMARY

Five high-quality entities were prequalified to submit proposals for the Convention Center Expansion and Renovation Project. All five prequalified firms responded to the RFP and were evaluated by the criteria approved by Council on June 22, 2010. A selection panel comprised of diverse stakeholders evaluated the proposals and the following is the outcome of the ranking based on the aggregate of the panelist's scores.

Proposer	Ranking
Hunt / Populous	1
Turner / HNTB	2
Hensel Phelps / Fentress	3
Clark / TVS	4
Gilbane / URS	5

Upon Council approval of the final ranking, staff will enter into contract negotiations with Hunt Construction Group. This contract will specify the schedule, cost and scope of the improvement program. In the event that the Director of Public Works determines that the City and Hunt Construction Group are not making adequate progress on the negotiations of the contract, staff recommends that Council authorize the Director of Public Works to commence negotiations with the next ranked proposers in the order of their ranking.

The current schedule provides for staff to return to Council in December 2010, for approval of the contract and make a finding that the Design-Build procurement process will save money or result in faster project completion than if the City used a procurement process involving its normal competitive bidding procedures.

BACKGROUND

On June 22, 2010, Council approved preliminary findings that using design-build would save time over a traditional design-bid-build project and authorized advertisement of the RFP. Based on that action, staff has developed a more specific schedule to move through the RFP process. As of today, each milestone has been met and the procurement process is on schedule.

The following is a recap of the schedule:

- June 22 Approval of the RFP and Advertisement
- September 1 Due Date for RFP
- September 1 to 10 Evaluation of Proposals and Interviews
- October 5 Council Authorization to Negotiate
- October and November Contract Negotiations
- December 14 Council Award of Contract

Council's action is the second of three actions mandated under the Design-Build Ordinance. The final remaining mandate is scheduled for December 14 when Council will be asked to make a finding that the design-build construction process will save money or result in faster project completion than if the City used a procurement process involving its normal competitive bidding procedures.

In response to direction from the Council/Redevelopment Agency 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 were as follows:

REQUEST FOR PREQUALIFICATIONS:

All design-build entities were prequalified through a rigorous process designed to limit proposals to only the qualified firms who met the following criteria:

- 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 (or equivalent) over 250,000 square feet.
- A bonding capacity of at least \$120 million.
- An excellent safety record.

Eight design-build entities submitted requests for prequalification and five were determined to be prequalified.

REQUEST FOR PROPOSALS:

The next step was to evaluate the detailed proposals of how the design-build entities would approach the project. 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 submitted information relative to their experience and qualifications as well as other goals the City has relative to small and local contracts, labor peace, and local subcontracting.

The selection criteria approved by Council on June 22, 2010 is 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%)

ANALYSIS

Proposals were received by the City on September 1, 2010, and were evaluated by the selection panel with a ranking for each proposal as before mentioned, and the proposers were invited to present their proposals. The panel consisted of the following individuals representing diverse backgrounds and experience relevant to the Convention Center Project:

Name	Represents	Position
Katy Allen	City of San José	Director of Public Works
Cindy Chavez	South Bay Labor Council	Executive Director
Bill Ekern	San José Redevelopment Agency	Director of Project Management
Dan Fenton	Team San José	CEO
Randy Knox	Adobe / Chamber of Commerce	Senior Director
Paul Krutko	City of San José	Chief Development Officer
Bill Kuenhle	Freeman Companies	General Manager
Bill Sherry	City of San José	Director of Aviation

Upon completion of the interviews held on September 8 and 9, the panel deliberated and ranked the proposals in accordance with the scoring criteria with the following result:

Proposer	Ranking
Hunt / Populous	1
Turner / HNTB	2
Hensel Phelps / Fentress	3
Clark / TVS	4
Gilbane / URS	5

Hunt Construction Group teamed with Populous Architects was overwhelmingly ranked first among the panel members. While all firms were well qualified, the Hunt team distinguished itself from other proposers in the areas of Project Specific Approach, Quality Projects on Time and Within Budget, and Experience. In addition, Hunt brought a highly experienced team to the project. Their team consists of a Project Executive and Project Manager who have worked extensively on convention centers in Phoenix and San Francisco. In addition, they worked on the HP Pavilion and AT&T Park.

Hunt and Populous together have teamed on over \$1.1 billion of work in the past five years. Most recently they completed a state-of-the-art convention center in Phoenix. They have also worked together to deliver almost six million square feet of LEED Certified buildings. The design and construction teams have worked together individually and together on previous projects.

Convention Centers successfully designed and constructed by Hunt and Populous include:

- Phoenix Convention Center
- McCormick Place, Chicago
- Connecticut Convention Center, Hartford
- DeVos Place, Grand Rapids, Michigan
- Orange County Convention Center, Orlando
- Moscone West expansion
- Salt Palace Convention Center, Salt Lake City
- Dallas Convention Center
- Duke Energy Center, Cincinnati
- Indiana Convention Center, Indianapolis
- Anaheim Convention Center
- Iowa Events Center, Des Moines

The Turner and HNTB team was ranked second by the panel and also has extensive experience in the design and construction of convention centers. Several of the successful projects completed by the Turner team are listed below:

- San Diego Convention Center Renovation and Expansion
- Las Vegas Convention Center Renovation and Expansion
- Palm Springs Convention Center
- Kansas City Convention & Entertainment Center
- Albany Convention Center
- Boston Convention and Exhibition Center

The Design-Build Ordinance and the RFP allow proposers an opportunity to object to this recommendation. The Director of Public Works has notified all proposers in writing of this recommendation by providing them a copy of this memorandum. Pursuant to the procedure described in the RFP, any proposer may submit to the Director of Public Works a written statement setting forth any objections to this recommendation on or before five working days following the date of the notice to the proposers. Should any objections to this recommendation be submitted to the Director of Public Works prior to September 24, 2010, a supplemental staff report will be prepared describing our findings for the Council's consideration.

Compliance with Local Preference Ordinance

The City's Local Preference Ordinance for professional service contracts where price is not the determinative factor allows proposers to receive a five point credit if they are local. Local business enterprises that also qualify as small business enterprises are given an additional credit equal to five points. The Local Preference Ordinance applies to the RFP, because the Convention Center Design-Build Project includes professional design services.

All of the proposers qualified for the local business preference. None of the proposers qualified as small. Consequently, five points were added to the scores of the local proposers. In this case, the five points did not change the outcome of the evaluation process.

PROCESS INTEGRITY

Representatives from Public Works, Redevelopment Agency, and City Attorney's Office worked to develop a process that was fair and transparent. The RFP was prepared in conformance with the Design Build Ordinance. In addition, the RFP process followed integrity guidelines set forth by the Finance Department. All participants in the preparing, reviewing, and scoring of the RFP have signed conflict of interest statements.

The City employed a single point of contact strategy to ensure communication was consistent with all potential proposers. In addition, a web-based procurement tool (Bid Sync) was employed to answer questions and provide clarifications. Prospective proposers were also afforded the opportunity to review and comment on the draft RFP prior to advertisement.

CONTRACT NEGOTIATIONS

The basis for the design-build contract is the exemplar agreement that was included in the RFP. Staff will negotiate the price for the design of the Convention Center using Basis of Design documents circulated with the RFP. In December, Council will consider approval of the \$120 million project based on the negotiated terms and a not-to-exceed agreement. It is likely to include fixed or lump sum price for profit and overhead. After contract approval, staff and the design-build entity will engage in an on-going design effort with design documents to be delivered at 30 percent, 60 percent and possibly 100 percent completion. The City will have the option at each design submittal to accept and negotiate a lump sum cost or a guaranteed maximum price (GMP) to be proposed by the design-build entity for completion of design and construction of each project element.

Included in this contract will be performance bonds, payment bonds, warranty bonds and project insurance as deemed required or mandated by Municipal Code. If the City and contractor cannot reach agreement on price for any project component at any stage, the City can complete the remaining portion of the design for that project component and publicly bid and manage the project. Contract terms are subject to negotiation so it is possible the final contract is different from what is described in this report.

Contract provisions setting out the schedule for design development and sequencing of projects will also be negotiated during this period, and information regarding these contract provisions will be presented to Council in the memorandum for the contract approval in December.

PROGRAM VALIDATION

The contractor, designer, and City will jointly perform a construction program validation during the negotiations period. The results of the validation will provide clarity to how much each

element of the program will cost. The goal will be to validate the cost of the expansion, central utility plant replacement, building maintenance system, and fire alarm upgrades. Once these costs are validated we can then determine the scope of the cosmetic enhancements to the existing building. The results of this exercise will be presented to the Council prior to award of the construction project.

EVALUATION AND FOLLOW-UP

A design-build construction contract will be presented to Council for approval in December.

PUBLIC OUTREACH/INTEREST

- Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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. **(Required: E-mail and Website Posting)**
- Criterion 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. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

While this action does not meet the \$1 million threshold under Criterion 1, this memorandum will be posted on the City's website for the October 5, 2010 Council agenda. If approved by the City Council, staff will begin negotiations with the design-build entity and work to validate the program within the \$120 million budget.

COORDINATION

This staff report has been prepared in coordination with the City Attorney's Office, the Redevelopment Agency, and the Finance Department.

COST SUMMARY/IMPLICATIONS

Ranking and Authority to Negotiate 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.

HONORABLE MAYOR AND CITY COUNCIL

09-16-10

Subject: San José McEnery Convention Center Expansion and Renovation

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CEQA

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

/s/

KATY ALLEN

Director, Public Works Department

For questions please contact HARRY FREITAS, DEPUTY DIRECTOR, PUBLIC WORKS DEPARTMENT, at 408-535-8300.