# CITY OF LONG BEACH

OFFICE OF THE CITY MANAGER

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R-10

December 9, 2014

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATIONS:

Related to the Public-Private-Partnership to Design-Build-Finance-Operate-Maintain a re-envisioned Civic Center, including City Hall, Main Library, Lincoln Park, Private Development and a possible new permanent headquarters for the Harbor Department (Project), the following actions are hereby requested:

Receive and file the Evaluation Summary Report, dated October 2, 2014, which summarizes the analyses and scores of the responses to Request for Proposals (RFP) Number CM14-040;

Confirm the findings in the Evaluation Summary Report that both Plenary Edgemoor Civic Partners (PECP) and Long Beach CiviCore Alliance (LBCCA) submitted proposals responsive to the RFP and are eligible to receive payment of the stipend;

Confirm the recommendation of staff to select PECP as the City's preferred Project Team for the Project;

For the Port-In alternative, authorize the City Manager to negotiate and execute an MOU with the Board of Harbor Commissioners (BHC) detailing rights and obligations of both parties during the Exclusive Negotiation Agreement period;

Authorize the City Manager to extend Agreement 33344 with Arup North America Limited (Arup) for an additional period of five years and increase authority by $2,900,000, plus a ten percent contingency of $290,000, for a total contract authority of $4,070,438;

Authorize the City Manager to enter into a contract with Sheppard Mullin Richter & Hampton, LLC, for legal services for a term of five years at a cost of $1.8 million, plus a ten percent contingency of $180,000, for a total contract authority of $1,980,000;

Authorize the City Manager to take all actions necessary to pursue enabling legislation in the event it is determined that such legislation would benefit the Project;

Authorize the City Manager to negotiate and execute, at a minimum, the following agreements with PECP, and, if negotiations with PECP come to an impasse, or otherwise terminate, then with LBCCA: Exclusive Negotiation Agreement, Term Sheet, Global Executory Agreement and any other document or agreement necessary to effectuate the terms of the Project;

Appropriate $4.6 million from the Civic Center Fund for the estimated City share of the cost of the ENA period;

Authorize the City Manager to conduct all activities, and sign and submit all documents or applications, necessary to proceed with the entitlement of the Project, including clearance under the California Environmental Quality Act; and

Approve the formation of one or more Non-Profit Special Purpose Entities for the purpose of issuance of bonds to fund the Project costs.
(District 2)

## BACKGROUND

In May 2007, the Department of Public Works presented findings of a study that identified the seismic deficiencies of the existing Long Beach City Hall and Main Library. This study, and a parallel report identifying the current physical condition of both facilities, concluded that substantial seismic renovations were required to protect lives during a significant seismic event. The required seismic retrofit would trigger building code upgrades, systems replacements and ADA improvements. When including design and engineering costs, and moving and lease expenses for temporary facilities during construction, retrofitting City Hall would cost an estimated $170 million in 2013 dollars. On October 22, 2013, further findings from a new seismic study were presented to City Council that identified additional seismic deficiencies and increased the cost to retrofit City Hall to an estimated $194 million in 2014 dollars, or $685 per square foot for the existing City Hall. An additional $70 million for maintenance and building systems replacement would be needed over the following 35-year life cycle of the facility. This cost does not include retrofitting the Main Library, which suffers from similar seismic and building deficiencies.

Even with this investment, after a significant seismic event, City Hall likely could not be occupied, and essential government operations would be sporadic and fragmented, at best, until undamaged and available facilities could be located, and funding identified, to lease such facilities.

The standard metric for determining the physical condition of a facility is known as the Facility Condition Index (FCI). The FCI represents the percent of a facility's replacement value that must be spent in order to restore the facility to a "like new" condition. The higher the FCI, the worse the condition of the facility. Industry standards establish that a municipal building or structure with an FCI above 50% should be replaced rather than repaired. The 2013 FCI for City Hall was 52% and 73% for the Main Library, indicating that both facilities should be replaced rather than repaired.

On February 12, 2013, City Council authorized the preparation and release of a Request for Qualifications (RFQ) for a Public-Private Partnership (P3) to Design-Build-Finance-Operate-Maintain (DBFOM) a new Civic Center, including a City Hall, a Main Library, a revitalized Lincoln Park, and possibly a permanent headquarters for the Harbor Department (Project). On April 1, 2013, the BHC agreed to participate in the RFQ process. On October 22, 2013, City Council selected the Short List of RFQ Respondents, authorized the payment of a stipend and directed staff to prepare and release an RFP to this Short

List. On January 27, 2014, the BHC agreed to participate in the RFP process, with no obligation to proceed with the Project. In order to ensure that proposals were viable should the BHC choose not to proceed, the RFP required two alternative proposals: one that assumes that the BHC chooses to participate (Port-In), and one that assumes that the BHC chooses not to participate (Port-Out).

On December 3, 2013, City Council selected Arup North America Limited (Arup) to assist the City in the preparation of the RFP and to review and evaluate the proposals. The RFP was released on February 28, 2014 and proposals were received on June 2, 2014 from Long Beach CiviCore Alliance (LBCCA) and Plenary Edgemoor Civic Partners (PECP). Since that time, City staff and Arup have continued to analyze, clarify, assess and score the proposals.

The Mayor and City Council requested a number of study sessions on various topics related to the Civic Center. In the first City Council study session on September 16, 2014, staff presented information related to the seismic integrity of City Hall and the Main Library, the results of a Facility Assessment Report on both facilities, a discussion of the retrofit, relocation and rebuild alternatives, and a summary of the benefits of a P3 DBFOM. On September 22, 2014, the BHC held a similar study session. At the second City Council study session on October 14, 2014, the Project Teams presented their models and proposals to City Council and the BHC. On October 27, 2014, The BHC held a study session regarding the financial aspects of the Project Teams' proposals related specifically to the proposed permanent headquarters for the Harbor Department. At the third City Council study session on November 11, 2014, staff again presented information on the P3 DBFOM procurement model, including a summary of the public and private development components of each Project Team's proposal, a description of construction and operations and maintenance costs for the public component of each Project Team's proposal, a discussion of the appropriate shifting of risk from the City to the Project Team, a discussion of the financing structure proposed by each Project Team, and a review of potential risks and costs associated with moving forward with the Project.

At this point in the process, the threshold decision for the City Council is to determine whether or not to proceed with the next step in a Public-Private-Partnership (P3) under the Design-Build-Finance-Operate-Maintain (DBFOM) procurement model. If City Council elects to proceed, City Council should then select the Project Team that they believe has best responded to the guidelines, goals and terms and conditions of the RFP, and has offered the best value to the City. After selection of the Project Team, there would then occur a six- to nine- month entitlement process that would include a public outreach and education program that would include meetings in every Council District. It is anticipated that, through this process, certain design elements will likely change as a result of feedback from residents, City Councilmembers and City staff.

If City Council elects to proceed, the following information is provided to assist the City Council in its selection of a Project Team.

Project Team Selection Committee

A Project Team Selection Committee (PTSC) was established at the time the RFQ was released. The PTSC includes the Directors of Financial Management, Development Services, Library Services and Economic and Property Development, together with the Chief Harbor Engineer and Managing Director of Finance from the Harbor Department. A representative from the Office of the City Attorney joined the PTSC as a non-voting participant. The PTSC was formed to assess the qualifications of the respondents to the RFQ and to recommend to City Council a Short List of RFQ Respondents. After City Council selected the Short List of RFQ Respondents and authorized the release of the RFP, the PTSC remained in place to lead the preparation of the RFP, assess the responses to the RFP, guide the preparation of the Evaluation Report and recommend to City Council a preferred Project Team.

Evaluation Matrix

The RFP describes the evaluation criteria and related scoring, which was designed, in part, to assess and score each Project Team's responsiveness to Guiding Principles and Project Goals as approved by City Council and as set forth in the RFQ and RFP. The requirements in the RFP were further clarified during four, full-day, one-on-one meetings, and subsequently, seven weekly conference calls with both Project Teams specifically focused on providing responsiveness feedback.

The evaluation matrix is aggregated into six categories, divided into 39 elements containing 84 criteria. For the Port-In alternative, the total potential score for all categories is 267 points. For the Port-Out alternative, the total potential score is 259 points. The six categories are:

- Administrative Responsiveness: there are ten elements and ten criteria, that are Pass/Fail, and have no numerical value;
- Technical Responsiveness: there are seven elements and 41 criteria, that are both Pass/Fail and scored and reflect a total potential score of 118 points for the Port-In alternative and 110 points for the Port-Out alternative;
- Facilities Management: there are five elements and five criteria, that are both Pass/Fail and scored and reflect a total potential score of 18 points for both alternatives;
- Private Development: there are five elements and 14 criteria, that are both Pass/Fail and scored and reflect a total potential score of 43 points for both alternatives;
- Financial Proposal – Civic Center: there are six elements and eight criteria, that are both Pass/Fail and scored and reflect a total potential score of 50 points for both alternatives; and
- Financial Proposal – Private Development: there are six elements and six criteria that are both Pass/Fail and scored and reflect a total potential score of 38 points for both alternatives.

Evaluation Results

The PTSC, together with Arup, spent considerable time reviewing the two proposals submitted in response to the RFP, clarifying matters of information, analyzing the merits of each proposal, conducting stress and sensitivity analyses on the financial models of each proposal, and scoring the various elements and categories of the evaluation criteria. The Executive Summary of the Proposal Evaluation Report is attached as Exhibit A. Of particular interest to the PTSC was aligning the Guiding Principles and Project Goals with the technical and financial components of each proposal. As it relates to each of the six categories, the following conclusions were reached on both the Port-In and Port-Out alternatives:

- **Administrative Responsiveness**

  Both Project Teams complied with all 10 elements and 10 criteria of Appendix E and Appendix H-1 of the RFP and were determined to be responsive for the purposes of qualifying for a stipend as described in the RFP.

- **Technical Responsiveness**

  This category contains seven elements and 41 criteria of evaluation including: Urban Form, containing seven criteria; Citywide Amenity, containing nine criteria; Access, containing six criteria; Programming, (including City Hall, Library, Port, Shared Space, Security, and Parking) containing 14 criteria; Quality, containing 3 criteria; Sustainability, including 1 criterion; and, Code and Regulatory Compliance (Pass/Fail). For the Port-In alternative, out of a potential 118 points, LBCCA received 83 points and PECP received 107 points. For the Port-Out alternative, out of a potential 110 points, LBCCA received 73 and PECP received 100. The primary elements that affected the scoring include the provision of a civic plaza for public gatherings; the placement of, and accessibility to, the Main Library; civic building architecture, layout, functionality and efficiency; building adjacencies, and integration of civic and private development.

- **Facilities Management**

  This category contains five elements and five criteria of evaluation including: General Facilities Management (Pass/Fail); Customer Service and Support, containing one criterion; Human Resources, containing one criterion; Building Systems, containing one criterion; and, Operational Services, containing one criterion. Both proposals fully satisfied the requirements of the RFP in this element. Out of a potential 18 points for both alternatives, both proposals received 18 points.

- **Private Development**

  This category contains five elements and 14 criteria of evaluation including: Citywide Amenity, containing three criteria; Quality, containing 1 criterion; Sustainability, containing one criterion; Urban Form, containing eight criteria; and Code and Regulatory Compliance (Pass/Fail). Out of a potential 43 points for the Port-In alternative, LBCCA received 30 points and PECP received 40 points. Out of a potential 43 points for the Port-Out alternative, LBCCA received 29 points and PECP received 40 points. The primary elements that affected the scoring include building massing and adjacencies, Lincoln Park vitality and programming, programming of public art, compliance with the Downtown Plan, and a well-structured urban fabric.

- **Financial Proposal – Civic Center**
  This category contains six elements and eight criteria of evaluation including: Financial Plan, containing two criteria; Financial Model, containing two criteria; Flow of Funds, containing one criterion; Financial Documents, containing one criterion; Timing/Phasing containing one criterion; and, Economic Impacts (Pass/Fail). Out of a potential 50 points for the Port-In alternative, LBCCA received 41 points and PECP received 38 points. Out of a potential 50 points for the Port-Out alternative, LBCCA received 37 points and PECP received 32 points. The primary elements that affected the scoring include the strength and clarity of the financial plan, strength and amount of equity, risk to the City, stress and sensitivity analyses, validity of assumptions, reasonableness of expectations and realistic timing.

- **Financial Proposal – Private Development**
  This category contains six elements and six criteria of evaluation including: Market Assessment, containing one criterion; Financial Plan, containing one criterion; Contingency Plan, containing one criterion; Financial Model, containing one criterion; Timing/Phasing, containing one criterion and Economic Impacts (Pass/Fail). Out of a potential 38 points for the Port-In alternative, LBCCA received 32 points and PECP received 32 points. Out of a potential 38 points for the Port-Out alternative, LBCCA received 31 points and PECP received 32 points. The primary elements that affected the scoring include the reasonableness of market assumptions, strength of the financial plan, strength of the contingency plan, and realistic timing.

A summary of the scoring results for both the Port-In and Port-Out alternatives are shown on the next page in Tables 1 and 2.

Table 1. Scoring Results for Port-In Alternative

| Criteria Category | Potential Score | LBCCA Score | PECP Score |
|---|---|---|---|
| **Administrative Proposal Scoring** | N/A | Pass | Pass |
| **Technical Proposal Scoring - Civic Center** | 118 | 83 | 107 |
| **Technical Proposal Scoring - Civic Center Facility Management** | 18 | 18 | 18 |
| **Technical Proposal Scoring - Private Development** | 43 | 30 | 40 |
| **Financial Proposal Scoring - Civic Center** | 50 | 41 | 38 |
| **Financial Proposal Scoring - Private Development** | 38 | 32 | 32 |
| **Total Proposal Score** | **267** | **204** | **235** |

Table 2. Scoring Results for Port-Out Alternative.

| Criteria Category | Potential Score | LBCCA Score | PECP Score |
|---|---|---|---|
| **Administrative Proposal Scoring** | N/A | Pass | Pass |
| **Technical Proposal Scoring - Civic Center** | 110 | 73 | 100 |
| **Technical Proposal Scoring - Civic Center Facility Management** | 18 | 18 | 18 |
| **Technical Proposal Scoring - Private Development** | 43 | 29 | 40 |
| **Financial Proposal Scoring - Civic Center** | 50 | 37 | 32 |
| **Financial Proposal Scoring - Private Development** | 38 | 31 | 32 |
| **Total Proposal Score** | **259** | **188** | **222** |

Consistent with the outcome of the evaluation, the PTSC unanimously selected PECP to be recommended to City Council as the City's preferred Project Team. It is important to underscore that this recommendation of a preferred Project Team is not reflective of the quality of the Project Team not selected. The selection of a preferred Project Team is based primarily on the Project Team's responsiveness to the Guiding Principles and Project Goals as set forth in the RFP. Both Project Teams are fully qualified and capable of successfully proceeding with the Project.

Next Steps

As part of City Council's third study session on November 11, 2014, staff discussed next steps, should City Council elect to move forward with a P3 DBFOM and select a preferred Project Team. These next steps are discussed below and include:

- Executing an Exclusive Negotiation Agreement (ENA), Term Sheet and Global Executory Agreement with the preferred Project Team, and, in the Port-In alternative, with the BHC. If such efforts come to an impasse or otherwise terminate, the City will proceed with the back-up preferred Project Team. These Agreements regulate the entitlement process, risk allocation, land conveyance and lease details, commercial and financial closing documents, and various rights and obligations of both parties;
- For the Port-In alternative, entering into a Memorandum of Understanding (MOU) with the BHC setting forth the objectives and obligations of both parties during the ENA period;
- Extending the contract and increasing the budget with Arup North America Ltd to provide P3 DBFOM advisory and consultation expertise;
- Entering into a contract with Sheppard Mullin Richter & Hampton, LLC for P3 DBFOM legal counsel;
- Entering into a contract for P3 DBFOM financial advisory and consultation expertise, at an estimated cost of $450,000, which will be brought to City Council at a later date;

- Forming one or more non-profit, special purpose entities as the legal corporations that will issue the bonds;
- Pursuing enabling legislation in the event it is determined that such legislation would benefit the Project;
- Appropriating funds for the $4.6 million estimated City share of the ENA costs; and
- Paying the stipend to the non-selected Project Team.

**ENA, Term Sheet and Global Executory Agreement**

The ENA sets forth a framework of terms and conditions within which the City, and in the Port-In alternative, the BHC, agrees to negotiate solely with the preferred Project Team within broadly scoped parameters that will lead to the preparation of a Term Sheet. The Term Sheet will more specifically detail the rights and obligations of the parties within the scope of the Project, until more fully detailed in a Global Executory Agreement which will include lease/leaseback, conveyance, concession, development rights, and commercial and financial closing documents.

The ENA requires the City to pay a Termination Fee in the event the City, and in the Port-In alternative, the BHC, unilaterally terminates the ENA and the preferred Project Team is not then in default. While there is no expectation of unilateral termination, future issues may arise that may compel the City to choose to terminate the process. The Termination Fee amount is determined using a sliding scale, based on milestones being achieved by the preferred Project Team, with the highest possible Termination Fee amount of $3.5 million, which would accrue at the point of approved entitlements. Any recommendation to terminate the ENA would be brought to the City Council and the BHC for consideration and approval.

**MOU with the Harbor Department**

In the Port-In alternative, the City and the Harbor Department will partner in the development of the Project. Therefore, the City and the Harbor Department would require an MOU that provides certain rights for the Harbor Department to access the services of the City's consultants, conduct value engineering, maintain design oversight, and reserve the right to consider and choose alternatives from a financial and maintenance perspective. Additionally, the MOU will detail the rights and obligations of both parties to fund the consultant costs and Termination Fee, if any. For the Port-In alternative, a draft MOU has been prepared that sets forth these rights and obligations of the City and the Harbor Department.

**Arup North America Ltd**

In addition to the ENA, Term Sheet and Global Executory Agreement there will be other related documents that will need to be prepared, negotiated and executed, requiring considerable expert consultation in the P3 DBFOM arena, including economics, architecture, engineering, development, entitlement, and operations and maintenance. Estimates of costs associated with this "Phase III" for Arup North America Ltd (Arup) is $2.9 million. The contract is proposed to be extended for an additional five years, to bring the City to the point of occupancy of a new City Hall and Main Library. The budget is proposed to be increased by $2.9 million, plus a ten percent contingency of $290,000, in addition to the existing authority of $848,438, for a total contract authority of $4,070,438.

### Legal and Financial Advisors

Since the P3 DBFOM procurement model is currently a unique model for municipalities, the Office of the City Attorney and the Department of Financial Management require expert legal and financial consultation. This consultation would include the expertise necessary to form one or more non-profit special purpose entities for the issuance of bonds. It is anticipated that legal consultation will cost approximately $1.8 million and financial consultation will cost $450,000. It is further recommended that a contingency be authorized, totaling ten percent of the cost for each of the legal and financial consultants at an amount not to exceed $225,000. These contracts are anticipated to bring the City (and in the Port-In alternative, the Harbor Department) to the point of occupancy.

### Non-Profit Special Purpose Entity

During the ENA period, the City will need to create one or more special purpose non-profit entities, whose purpose will be to issue the bonds, the proceeds from which will be used to fund the Project costs. The City will have a significant role in forming these special purpose entities and appointing its Board of Directors.

### Special Legislation

City staff, in consultation with the City Attorney, considers the preferred Project Team's lease/lease-back structure to be appropriate under current statutory and case law. Nevertheless, should City staff consider that there are potential benefits for the City from other possible Project structures, for example, such as reducing the bond interest rates and thereby increasing the net proceeds from a bond issuance and increasing the dollars available for the Project, then they may consider pursuing special legislation for this purpose.

<u>Timeline</u>

Should City Council elect to proceed, certain Performance Milestones have been established that work to bring the Project back to City Council for Project approval in Spring or Summer 2016. Please see the attached Exhibit B. If City Council grants Project approval at that time, anticipated occupancy of City Hall, the Main Library, and in the Port-In alternative, the permanent headquarters for the Harbor Department, would occur in late 2019.

## Summary

The City is confronted with the task of addressing the liability of ongoing use by City employees and visitors of municipal facilities that have been determined to be seismically deficient. The City is also faced with severe budget constraints that started eight years ago and are expected to continue for the foreseeable future. As a result, one-time funds to address a retrofit or relocation option are not available. Even if available, a retrofitted City Hall likely could not be occupied after a significant event, further burdening the City with costs associated with leasing temporary facilities, if any, and again retrofitting City Hall. Similarly, while there is a limited supply of appropriate buildings Downtown that could be acquired for use as a City Hall, and possibly a permanent headquarters for the Harbor Department, these buildings have been constructed to earlier building codes and may suffer similar damage during a significant seismic event. Additionally, there has not been identified a building in the Downtown area that would be appropriate for use as a Main Library. In all of these alternatives, funding is not available without asking our residents to bear the cost of an assessment bond.

The P3 DBFOM procurement model offers an opportunity for the City to receive a new City Hall and Main Library, built to seismic standards more rigorous than current building codes, offering a 21st Century alternative to the current inefficient and functionally obsolete buildings, at a cost that mirrors the City's current cost, adjusted for inflation. Additionally, this model offers the City a levelized payment, adjusted for inflation, for Operations and Maintenance expenses for 40 years, to be included in the City's annual payment of $12.6 million adjusted for inflation. The City will ensure that any affected employees from engineering, maintenance or custodial services, will be accommodated through attrition and vacancies, redeployment to other City facilities which currently contract-out for such services, or will be offered employment by the Project Team. At the end of the contract term, the facilities will be conveyed back to the City at no cost, at a Facilities Condition Index of 15% or less. Additionally, private development near the new Civic Center will serve to invigorate the area, adding residential density, retail opportunities, hotel supply and activation of Lincoln Park. Rather than locking the door on three blocks of Downtown at 5:30 PM, the Civic Center could be a thriving gathering place for activities other than municipal, creating a new catalyst for future managed growth offering ongoing benefits to the entire City.

This matter was reviewed by Deputy City Attorney Richard F. Anthony and by Director of Financial Management John Gross on November 26, 2014.

## TIMING CONSIDERATION

City Council consideration at its meeting of December 9, 2014 is essential to maintaining the aggressive timeline established in February 2013, enabling occupancy by late 2019.

FISCAL IMPACT

**Project Costs and Risks**

Both P3 DBFOM proposals for the new Civic Center (the Project) provide for a total annual City Lease Payment amount of no more than $12.6 million, adjusted for inflation. The $12.6 million is the 2013 budget for the current City Hall, Main Library, Broadway and Lincoln Park garages and inclusive of rent for City off-site operations originally considered for moving into City Hall. As a result, the Lease Payments are budget-neutral and, based on the estimates, will not impact the City budget. There are some potential continuing costs of approximately $1.1 to $3.4 million that may add to the annual City costs in addition to the Lease Payment. These costs include lease payments for City offsite facilities that may not move into City Hall, building services that may not be provided by the Project Team and other City cost allocations. The potential continuing costs may be negotiated down during the ENA process with the Project Team and/or be offset by future tax revenue from the private development components of the Project. The ongoing costs of the Project through the P3 DBFOM proposals are anticipated to be less than other options available to the City for a similar Project.

There are several risks once the Project is constructed, but the risks are less than the City would have faced if it owned the Civic Center instead of leasing it. (The City will own the Civic Center after 40 years.) The most notable risks are that the private development does not occur either how or when anticipated, that there is a catastrophic seismic event beyond that for which the building is designed, or that inflation is much higher than anticipated. These are not unusual risks. Most other risks have been transferred to the Project Team (private sector).

**ENA Costs and Risks**

The total City cost through the ENA process is expected to be approximately $5.6 million, not including any Termination Fee. If the City terminates the ENA without the Project Team being in default of the ENA, the cost to the City could be as much as $9.2 million due to a possible required Termination Fee of up to $3.5 million. If the Harbor Department participates in the project and its fair share of the cost during this ENA phase is 50 percent, the City's cost for a successful ENA completion would be approximately $2.9 million, or $4.6 million if a Termination Fee is required. The Civic Center Fund has an estimated minimum of $4.8 million available to fund the ENA process, so if the Harbor Department participates, and its fair share of the cost is 50 percent, there is enough money to fund the entire ENA process, even if it a Termination Fee is paid. If the Harbor Department's fair share is less than 50 percent, more City funding may be needed to keep the ENA process moving forward to avoid stopping the Project due to lack of funding.

There are risks associated with the ENA process. The most significant risk is that Project costs rise for a variety of reasons, including environmental issues, design problems, and increasing interest rates, beyond that already built into the Project Teams' financial models. Another risk is that the City, the BHC in the Port-In alternative, or the Project Team could terminate the ENA, or that the agreements developed during the ENA process do not protect the City as much as desired. These risks are reasonable risks.

Exhibit C provides detailed information on the financing of the Project, the Project costs and risks, and the costs and risks associated with the ENA process.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

MICHAEL P. CONWAY
DIRECTOR OF ECONOMIC AND PROPERTY DEVELOPMENT

JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

AMY BODEK
DIRECTOR OF DEVELOPMENT SERVICES

Glenda Williams

GLENDA WILLIAMS
DIRECTOR OF LIBRARY SERVICES

APPROVED:

PATRICK H. WEST
CITY MANAGER

Attachments:
Exhibit A – Executive Summary of the Proposal Evaluation Report
Exhibit B – Timeline
Exhibit C – Fiscal Impact Detail

# Exhibit A

City of Long Beach

# New Long Beach Civic Center Proposal Evaluation Report EXECUTIVE SUMMARY

Evaluation of Submitted Responses to RFP# CM-14-040

Final | October 2, 2014



Job number 234257-00

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# 1 Summary of Evaluation Results

## 1.1 Preamble

The City of Long Beach (City) issued *Request for Proposals Number CM-14-040 to Develop, Design, Build, Finance, Operate, and Maintain the New Long Beach Civic Center, Port Headquarters, and Potential Related Downtown Development* (RFP) on February 28, 2014. Per RFP Sections 2.3 and 3.5, one-on-one meetings between the City and each Proposer were held in person on March 18 and 19, April 24, and May 9, 2014. Weekly one-on-one phone conferences between the City and each Proposer were held each Tuesday between April 2 and May 14, 2014. Per RFP Section 3.4, the City issued 18 addenda to the RFP. The Proposal due date was June 2, 2014, at 11:00am PDT. Two Project Teams,[1] Long Beach CiviCore Alliance (LBCCA) and Plenary-Edgemoor Civic Partners (PECP), submitted proposals.

The City formed a Project Team Selection Committee (PTSC) comprising City staff from Economic and Property Development, Finance, Development Services, Library Services, and Harbor Departments to evaluate submitted proposals and recommend a Preferred Project Team to the Long Beach City Council. This same PTSC selected the Shortlisted Proposers in the earlier Request for Qualifications (RFQ) stage.

The City contracted with Arup North America Ltd. (Arup) and its team of subconsultants (collectively Advisor Team) to advise the City on the development and management of the procurement process, including an evaluation of the proposals submitted in relation to the requirements of the RFP and to the City's goals and objectives as expressed in the RFP.

This report documents the Proposal evaluation and recommendation by the Advisor Team to the PTSC.

The RFP required Project Teams to address two project variants: one with the Port Headquarters (referred to as the Civic Center with Port) and one without the Port Headquarters (Civic Center without Port). Both proposal variants were evaluated.

This report uses capitalized terms as defined in the RFP.

Please refer to the New Long Beach Civic Center Proposal Evaluation Report for the complete analysis supporting the findings presented in this Executive Summary.

## 1.2 Responsive Proposal Determination (Pass/Fail)

### 1.2.1 Completeness and Clarifications

Following receipt of the Proposals on June 2, 2014, the City of Long Beach Purchasing Office reviewed both Proposals for completeness. Per RFP Section 5.4, the City requested clarifications and additional information from both Proposers to ensure all proposed concepts were understood by the Advisor Team. Proposal clarifications and additional information were factored into the evaluation.

[1] The capitalized term Project Team in this document is synonymous with the term Proposer as defined in the RFP.

The Civic Center with Port and Civic Center without Port Proposals from each Project Team were deemed to be complete in this regard.

### 1.2.2 Responsiveness Determination

Once a Proposal was deemed complete, the Proposal was then evaluated against Pass/Fail criteria (reflected as Minimum Requirements in Appendix H) to determine responsiveness. Each Proposal that provided all the information required for each Pass/Fail criteria received a pass rating. A Proposal that received all pass ratings was deemed a Responsive Proposal.

Potential deviations in the original Proposals from the RFP pass/fail requirements are as follows:

- Both Project Teams suggested amendments to the ENA. Upon clarification, both Project Teams have indicated in writing that they would sign the ENA as included in the RFP.
- LBCCA's financial plans for Civic Center with Port and Civic Center without Port rely on the City sharing tax revenue from the Private Development. Upon clarification, LBCCA demonstrated a logical and reasonable financial plan without tax revenue sharing for the Civic Center with Port variant.
- PECP submitted its financial plan for Civic Center without Port variant acknowledging the financial plan could not support subordinated debt. Stress testing by the Advisor Team confirmed this is the case. Upon clarification, PECP suggested that because the proceeds from purchasing the land for Private Development was treated as a source of funds during construction and would bare construction risk it could therefore be considered an equity contribution. However, this solution does not meet the RFP requirements because it does not accomplish the City's desired risk transfer and level of equity oversight in the operating period.

While these deviations do not fully meet the City's requirements as defined by the RFP, it is recommended the PTSC find both Project Teams Responsive for both Project variants. The only potential for a Non-Responsive finding is for PECP for its Civic Center without Port variant Proposal. However, Section 5.2.1 of the RFP gives the City latitude to determine responsiveness. In this case PECP provided a complete and thoughtful proposal that is forthcoming about the lack of room for subordinated debt in the structure proposed. Considering the benefit to be gained by ensuring continued competition between proposers, the Advisor Team believes it is in the City's best interest to find such proposal responsive. Therefore the Advisor Team moved forward with its detailed evaluation of the Proposal and has scored it accordingly.

## 1.3 Scoring Results

In accordance with Section 5 of the RFP, Proposals were evaluated by applying the Scoring Criteria to select the Project Team using a Best Value analysis and judging the Proposals on a comparative basis. In accordance with Appendix H of the RFP, each Scoring Criterion was assigned a score between zero and the maximum number of points.

The points from all evaluated Scoring Criteria were summed to determine a Total Proposal Score for each Responsive Proposal. The Total Proposal Scores for each Project Team for the Civic Center with Port variant are summarized in Table 1 and the same for the Civic Center without Port variant are summarized in Table 2 below. See Appendices C-G for the complete scoring sheets.

### 1.3.1 Civic Center with Port Scoring Results

Table 1 Proposers' Total Proposal Scores, Civic Center with Port

| Criteria Category | Potential Score | LBCCA Score | PECP Score |
|---|---|---|---|
| Administrative Proposal Scoring | N/A | Pass | Pass |
| Technical Proposal Scoring - Civic Center | 118 | 83 | 107 |
| Technical Proposal Scoring - Civic Center Facility Management | 18 | 18 | 18 |
| Technical Proposal Scoring - Private Development | 43 | 30 | 40 |
| Financial Proposal Scoring - Civic Center | 50 | 41 | 38 |
| Financial Proposal Scoring - Private Development | 38 | 32 | 32 |
| **Total Proposal Score** | **267** | **204** | **235** |

### 1.3.2 Civic Center without Port Scoring Results

Table 2 Proposers' Total Proposal Scores, Civic Center without Port

| Criteria Category | Potential Score | LBCCA Score | PECP Score |
|---|---|---|---|
| Administrative Proposal Scoring | N/A | Pass | Pass |
| Technical Proposal Scoring - Civic Center | 110 | 73 | 100 |
| Technical Proposal Scoring - Civic Center Facility Management | 18 | 18 | 18 |
| Technical Proposal Scoring - Private Development | 43 | 29 | 40 |
| Financial Proposal Scoring - Civic Center | 50 | 37 | 32 |
| Financial Proposal Scoring - Private Development | 38 | 31 | 32 |
| **Total Proposal Score** | **259** | **188** | **222** |

## 1.4 Evaluation Summary – Civic Center with Port

### 1.4.1 Technical Evaluation Summary

The planning and design strategy developed by PECP is based on a cohesive and attractive design that achieves the City's and the Port's goals for the Civic Center and is consistent with City standards. It creates well-proportioned, vital public spaces that result in a unique sense of place. The plan is integrated with and responds to its urban surroundings, both in terms of transportation and pedestrian/bicycle connections as well as its massing and urban form.

The proposal developed by LBCCA has a similar functional layout; however, it lacks cohesion and its treatment of 1st Street as the civic plaza of the project is inconsistent with the City's expectations for this important component. The location and relationship of some of the buildings and entrances, such as the Main Library, limit the engagement with the project's urban surroundings.

In PECP's plan, the civic buildings, which accommodate the required program, are architecturally sophisticated and dignified, each one reflecting its function. The buildings have been designed to make efficient use of floor space, and the project is designed to meet or exceed the required sustainability standards. Their siting and orientation in the overall site plan are appropriate and support their expressed urban design concepts.

The civic buildings designed by LBCCA are generally appropriate and aesthetically pleasing, and they accommodate the required program. However, in the City Hall building the sizes of the floor plates and the offset central core and asymmetrical floor plan limit its efficiency and flexibility. The project is also designed to meet or exceed the required sustainability standards. The siting and orientation of the buildings in the overall site plan are generally appropriate, with some notable exceptions, such as the location of a new parking garage on Magnolia Avenue.

PECP addresses the design of Lincoln Park in a very comprehensive manner. The planning and design provide thoughtful solutions to proposed placement of public art, activity venues, and special events. The Park and Main Library have a strong and cohesive relationship using elevation concepts and the placement of the Main Library as an anchor and terminus of the Park from Ocean Boulevard. There is a strong continuity in design expression and materials that emanates from this design of Lincoln Park, unifying the site from Pacific Avenue through the private development areas and civic block to Magnolia Avenue.

LBCCA has created an interesting design and plan for Lincoln Park, but one that seems to stand on its own without much integration across the civic complex. The Library also creates an anchor and an elevated "porch" for Lincoln Park but its position creates challenging space between it and the garage ramps on Broadway while reducing the flexible open space toward Ocean. While the planting design and layout of hardscaped areas are interesting, it also seems to lack cohesion and therefore does not give the Park a desired identity as a whole.

### 1.4.2 Financial Evaluation Summary

Both Proposers' financial plans meet the needs of financial structuring, funding, constructing, operating, and maintaining the Project, barring drastic changes in market conditions and/or material changes in the Project design during the ENA Negotiating Period before Financial Close.

Both Proposers' financial plans comply with the requirement for the City to pay no more than $12.6 million per year, plus annual indexation, per the RFP. With some differences in their respective approaches, the Proposers achieve this through a combination of (i) cost-effective solutions for the construction, operations, and life-cycle maintenance of the Civic Center program; (ii) a financing structure that permits the City to benefit from low-cost, tax-exempt debt for a majority of the financing; and (iii) utilizing revenue generated by land sales for the Private Development to cross-subsidize the Civic Center program.

In both cases the financial assumptions are reasonable with respect to current and forecast market conditions. The respective Proposers' financial models and cash flow projections are logical and well structured. Stress testing the financial capacity of each proposal demonstrated either should be able to weather, although within limits, the manifestation of potential risks that could occur during the Negotiating Period before Financial Close, whether they be project cost increases, increase in interest rates, or changes to operational assumptions.

In addition to the similarities noted above, the evaluation indicated that LBCCA submitted a financial proposal that was more well-defined and conservative than PECP. As a result, LBCCA's financial plan, as proposed, received a higher score than PECP's financial plan. However, once the

City adjusted the financial proposals,[2] PECP's financial plan showed a greater ability to absorb cost increases during the ENA Negotiating Period prior to Financial Close.

## 1.5 Evaluation Summary – Civic Center without Port

### 1.5.1 Technical Evaluation Summary

LBCCA proposes to develop a 125 room limited service hotel on the corner of Ocean and Magnolia should the Port not move forward with their headquarters (HQ) project as part of the Civic Center. As presented, the use of a hotel appears inappropriate as a 'neighboring' building to City Hall. Further, the quality level of the hotel seems to fall short of the expectations the general public might have for a location that is adjoined to the Civic Complex. Upon clarification, LBCCA suggested it could move the limited service hotel to Cedar and Ocean and co-brand it with the boutique hotel proposed there. While this would solve the perceived inappropriateness of the hotel adjacent to City Hall, LBCCA's current overall civic block design would not respond well to an empty corner at Magnolia and Ocean.

PECP proposes to expand the civic plaza to Ocean between Magnolia and Chestnut should the Port not move forward with their HQ project as part of the Civic Center. They suggest the plaza expansion area be reserved as a future building site for a project deemed by the City as appropriate for inclusion to the Civic Center. PECP suggests that until such time a suitable project is identified that the space be used to host a variety of civic, public-oriented uses such as Farmer's Market, Art Fairs, appropriate street entertainment acts, etc. In contrast to LBCCA, PECP's civic block design responds much more appropriately to the absence of the Port HQ.

In conclusion, we find that PECP offers a more compatible view for the area designated for the Port HQ building that has less of a diminishing impact of the overall planning and design intent for the Civic Complex than LBCCA.

### 1.5.2 Financial Evaluation Summary

Both financial plans comply with the requirement for the City to pay no more than $12.6 million per year, plus annual indexation, per the RFP. For the same reasons as the Civic Center with Port analysis, LBCCA has a more detailed and efficient financial proposal, including subordinated debt, than PECP. Given the project's smaller overall size, the amounts of financing required for both Proposers is less.

Importantly, both Proposers include an increase in their relative construction costs mainly due to loss of economies of scale and the inability to share the cost of the shared spaces with the Port. Relative City Hall construction cost increases are approximately 18% for LBCCA and 11% for PECP. For similar reasons LBCCA has about 5% higher operating costs. In contrast, PECP has

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[2] For purposes of the evaluation, the City used a shadow financial model to normalize the comparison and to stress test the financial plans. The following adjustments were made:

- subordinated debt to be equal to 15% of the sum of construction costs, development fees and transaction costs at closing, bond defeasance, reserve fund deposits, and all interest and financing fees on senior debt;
- remove assumptions that the City had not made explicit in the RFP (i.e. Port payment for land, sharing of tax increment revenues);
- re-optimize to more conservative lender requirements, e.g. adjusting debt financing amounts so as to achieve a 1.20x level / average DSCR, longer debt service reserve account period; and
- other changes that place each proposal on a more comparable funding and risk assessment platform, e.g. removing parking revenue, offsetting City costs for garage operations.

about 21% lower operating cost, which, although is still within benchmark levels, raises concerns about its long term viability since it is lower than the with Port variant, despite the possible loss of economies of scale.

Given the fixed project revenues per the RFP, to adjust for the higher relative construction costs, LBCCA increases the tax revenue generated by the Private Development by adding a 125-room limited service hotel and PECP eliminates the contribution of subordinated debt. As proposed, LBCCA appears to have a financeable proposal whereas the lack of subdebt and suggested debt service coverages in PECP's financial plan call into question its 'financeability.'

Adjusting each of the Project Team's financial plans to reflect more conservative financing requirements[3] has the effect of reducing subordinated debt yields to:

- the low end of what a DBFOM developer or institutional investor would require for a project with a similar risk profile for LBCCA; and
- below what a DBFOM developer or institutional investor would require for a project with a similar risk profile for PECP.

Thus, neither is likely to have room to weather potential financial risks that could occur during the Negotiating Period before Financial Close.

In conclusion, within the constraints of the RFP, the City adjusted financing plans for the Civic Center without Port variant do not accomplish the City's desired risk transfer unless changes are made to the project to reduce project costs, increase payments from the City, and/or market conditions for financing, construction and operating costs do not increase as forecast.

## 1.6 Recommendations

### 1.6.1 Civic Center with Port

PECP has a stronger technical design and approach to the project with a financial proposal that is sufficient to meet the financing needs of the project within the financial limits set by the RFP.

With the highest Total Proposal Score and the Best Value proposal, the Advisor Team recommends selecting PECP as the Preferred Project Team for the new Long Beach Civic Center Project.

### 1.6.2 Civic Center without Port

As in the case of the Civic Center with Port variant, PECP has a much stronger technical design and approach to the Project.

While LBCCA has a stronger financial proposal for the without Port variant that can withstand some potential future risks as proposed, it relies heavily on tax revenue sharing.[4] When adjusted,[5]

[3] See Footnote 2

[4] In clarifications LBCCA has stated that it can remove the tax revenue sharing and still meet the affordability limit of $12.6 million (2013$) annual payment, but that tax revenue sharing it its preference and is willing to work with the City to find a solution.

[5] See footnote 1.

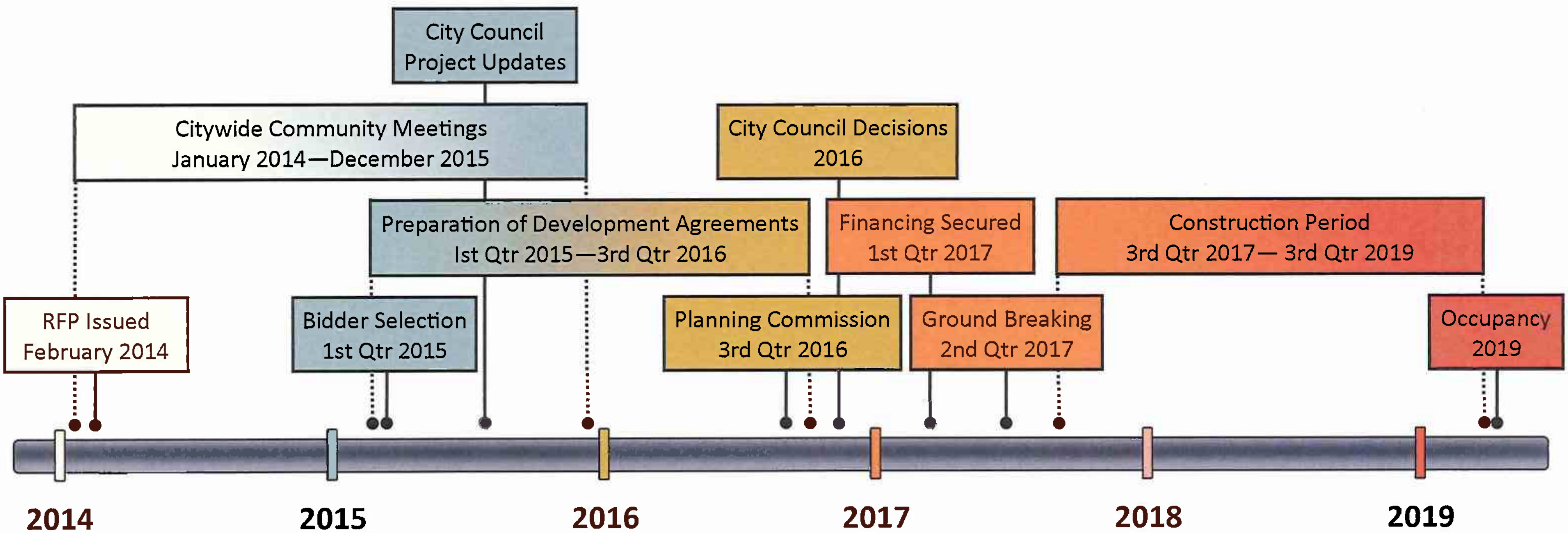
neither financial proposal is likely able to absorb potential risks that may manifest during the ENA Negotiating Period before Financial Close.

With the highest Total Proposal Score and the Best Value proposal for the Civic Center without Port variant, the Advisor Team recommends selecting PECP as the Preferred Project Team for the new Long Beach Civic Center Project. This recommendation is conditioned upon the City using the early stage of the ENA Negotiating Period to resolve the financing issues before the Term Sheet (an early milestone in the Negotiations) is executed. In particular, the City may need to consider cost reductions by making value engineering and re-scoping decisions or possibly even increase its affordability limit from $12.6 million (2013$) annual payment. Likewise, PECP would be expected to demonstrate a more efficient financial plan with sufficient at-risk capital to accomplish the risk transfer desired by the City. It should be noted that no one can predict the future changes in market conditions that impact financing, construction and operating costs, so this will remain a potential risk regardless of actions the City takes.

EXHIBIT B

# Civic Center Project Timeline

The Civic Center Request for Proposals (RFP) was released on February 28, 2014. While the selection of the Project Team is estimated to occur in late 2014 or early 2015, this complex project will have multiple steps occurring after the Project Team is selected, including a robust public outreach process and public hearings by the Planning Commission and City Council. Below is a tentative timeline of the Civic Center Project.




www.lbciviccenter.com

## Exhibit C
## Fiscal Impact Detail

### Financial Structure

The P3 DBFOM Project Team will be Designing, Building, Financing, Operating and Maintaining (DBFOM) the Civic Center (the Project) using a complex private-public partnership (P3) financial and operational structure. A for-profit company (created by the Project Team) will be responsible for constructing the buildings and for their operations and maintenance. However, the P3 structure is wrapped around conventional tax-exempt financing. The primary financing will be provided by a City-created non-profit company that will issue debt through conventional tax-exempt bonds. This will provide the bulk of the financing, approximately $373 million (81 percent) of the main funding sources (an average between the two proposals). The second financing component will also originate from the same non-profit company. The company will issue a special type of debt called *subordinate* bonds. The subordinate bonds will be purchased by the Project Team as the Team's "equity" in the Project. This type of "equity" funding provides approximately $50 million (11 percent) of the main funding sources. The subordinate bonds do *not* require that either principal or interest be paid if cash is not available from the Project for that purpose. In that situation, the bonds will *not* be in default if interest or principal is not paid. The third and final component of the funding for the Project is cash from the sale of land in the Civic Center and at 3rd Street and Cedar. The sale of land (including to the Port) provides an average of $37 million (8 percent) of the required funding. The table below summarizes the source of funds.

**Source of Funds - Civic Center and Port Headquarters**
(Average of the two Proposals)

| **Source of Funds** | **$ (millions)** | **%** |
|---|---|---|
| Traditional Tax-Exempt Bonds | 373 | 81 |
| Subordinate Bonds (Project Team "Equity") | 49 | 11 |
| Cash from Sale of Land | 37 | 8 |
| Sub-total – Main Sources | 459 | 100 |
| Other Sources | 13 | |
| Total – Sources of Funds | 472 | |

In addition to the proceeds from bonds and the sale of land, there are other minor sources of funding for the Project, such as interest income and some operating payments from the City as occupancy begins before the overall construction period is over.

The main uses of funds for the Project are construction costs. The table below summarizes the use of funds.

**Use of Funds - Civic Center and Port Headquarters**
(Average of the two Proposals)

| **Construction Costs** | **$ (millions)** |
|---|---|
| City Hall | 119 |
| Main Library | 42 |
| Lincoln Park | 13 |
| Total – Civic Center, n/i Port | 174 |
| Port Headquarters | 162 |
| Sub-Total – Construction Cost | 336 |
| Bond Defeasance | 20 |
| Development and Other Fees/Costs | 47 |
| Interest during Construction | 65 |
| Set aside of Reserves | 4 |
| Total – Uses of Funds | 472 |

In addition to construction costs, there are also other significant uses of funds during construction, such as interest payments on the debt, some operating costs during initial occupancy, etc.

The main source of income to both pay the debt service on the bonds and for operations and maintenance will be a Lease Payment required to be made by the City (and from the Port, if the Port chooses to use the same financing structure). The Lease Payment by the City is to be no more than $12.6 million, adjusted for inflation. The City is only required to make the Lease Payment if the building can be occupied and it meets performance standards specified by the City. If it does not meet standards, the required Lease Payment is proportionally reduced. Other than the Lease Payment, the City has no other financial requirements and no obligations to pay debt service on the bonds issued to finance the Project.

After 40 years, the Lease Payments will end and the City will own City Hall and the Main Library. These buildings will be in good condition even after 40 years due to the requirement of quality operations, capital investment and maintenance.

Both Project Teams have viable and acceptable financial proposals for the Project when the Project includes a new Port Headquarters. Both proposals have significant financial capacity to allow flexibility in negotiations with the City and to help address future financial challenges that may arise.

This fiscal impact analysis is based on those proposals that include a Port Headquarters. In general, while the proposals without the Port Headquarters are similar in structure to those with the Port Headquarters, the proposals without a Port Headquarters are not nearly as strong from a financial perspective. The Port may choose DBFOM or may choose to finance its headquarters itself and/or operate it and maintain it themselves. It is possible that the decisions the Port makes on financing and operations could impact the City's costs. That would be reviewed and finalized during the ENA period discussed below.

**Costs and Risks of the Exclusive Negotiation Agreement (ENA)**

Costs

If the City Council wishes to proceed to the next step for the Project, that step is to enter into an ENA. A draft ENA was released as part of the RFP for the Project and has been subsequently updated by the City's consultants and the City Attorney's Office. The ENA specifies the process, terms, conditions, and timelines for an exclusive negotiation period intended to result in a series of agreements that would allow the Project to be constructed. The activities that would be conducted during the ENA period include due diligence, environmental studies, design, entitlements, and development and negotiation of agreements. This process is estimated to take 17 months.

The agreements to be negotiated will be extensive and complex. They will include the specification, legal, financial, and commercial requirements of the City and the Project Team. The City will use a P3 experienced lead advisor and legal and financial consultants to ensure that the agreements meet City needs. The total cost for the advisor and consultant specialists is estimated at $5.7 million. If the Port pays its fair share of the costs, and that fair share was one-half of the total cost, the City share would be approximately $2.9 million.

The ENA provides for a Termination Fee to be paid under certain circumstances. The Fee, which increases as performance milestones are met, would be required if the City terminates the ENA and the Project Team is not in default. The Termination Fee is intended to partially compensate the Project Team for the costs it incurs during the ENA period. The City would not have to pay a Termination Fee if the City terminates the ENA because the cost is above the Lease Payment ($12.6 million, adjusted for inflation). If the City terminates early in the ENA period, there is no Termination Fee. If the City terminates near the end of the ENA period, the Termination Fee is $3.5 million (the maximum).

The maximum cost for the ENA period is $9.2 million, which includes the lead advisor, consultant specialists and Termination Fee. If the Port's fair share is one-half of the potential maximum total cost, the City's share would be $4.6 million. The Civic Center Fund is estimated to have a minimum funding available of $4.8 million. The Fund has been setting aside funds in order to provide funding for the Project. As a result, there are monies available to proceed with, and complete, the ENA process at the estimated costs, if the Port's fair share of the costs is one-half of the total cost. If the Port's fair share of costs is less than one-half, the ENA process can still proceed without funding certainty because the associated contracts can be terminated at any time. Staff would be responsible for reporting to the City Council of any need for additional funding or stopping work if available funding is depleted.

The table below shows the projected maximum costs during the ENA period with one-half of the funding from the Civic Center Fund and the balance of the costs during the ENA period anticipated to come from the Port.

**Potential ENA Costs**
**if the City and Port Share ENA Costs**
($ in millions)

| Cost Item | City | Total |
|---|---|---|
| Lead Advisor | 1.5 | 2.9 |
| Legal & Financial Consultants | 1.1 | 2.3 |
| Contingency | 0.3 | 0.5 |
| **Total Potential Direct Cost** | **2.9** | **5.7** |
| Potential Termination Costs | 1.7 | 3.5 |
| **Total Potential Costs** | **4.6** | **9.2** |
| Available from Civic Center Fund | 4.8 | |

If the City Council determines to move forward by executing the ENA, both the City and the selected Project Team will be incentivized to reach agreement due to the cost of the ENA process to both the City and the Project Team. However, there is no guarantee that the ENA process will be successfully concluded.

Risks

There are also risks during the ENA period. The primary risks are:

- The risk of Project costs increasing during the ENA period and design process. This is the biggest risk for the Project. Cost can increase due to environmental issues, design issues, increasing interest rates, reallocation of costs between the City and the Port, the Project Team not absorbing all the cost it is expected to absorb, or due to other factors. It is also possible that cost will be reduced through negotiations or other events.
- Either the City or the Project Team could decide to terminate the ENA.
- There are risks as to the degree to which the agreements will protect the City if there are unexpected problems in the future. Some of those risks are due to limits on available staff time during the negotiations and development of the agreements. However, the use of consultant support will minimize those risks.

There is no practical way to monetarily quantify the risks. Generally, these risks, while real, seem reasonable. For example, the risk of Project costs increasing is no greater, and perhaps less, than if the City pursued the Project using a traditional building and financing approach.

## Costs and Risk of the Project

### Costs

The budgeted annual cost of the current City Hall was $12.6 million in 2013. This amount includes the rent payments for the offsite City operations that were intended to be moved into the new City Hall, but are currently in outlying facilities for which rent is paid. The annual Lease Payment for the Civic Center is no more than that same amount – $12.6 million, adjusted for inflation. As a result, the Lease Payments for the new Civic Center are intended to be "budget neutral" and not impact the City budget.

The inflation component of the Lease Payment utilizes four different inflation rates intended to mimic the type of cost increases the current City Hall would have if it continued in operation. The first rate is fixed at 0 percent inflation increase for 20 percent of the Lease Payment. It represents debt service – a cost that does not change with inflation. The second rate is for offsite leasing costs at a fixed 2 percent inflation increase on about 17 percent of the Lease Payment. The third rate is for electricity at the actual rate of increase in the electric rate on about 8 percent of the Lease Payment. The fourth and final rate is the actual cost of living (CPI) adjustment that is capped and cannot exceed 6 percent per year on about 55 percent of the Lease Payment. This reflects the expected growth rate for all costs other than debt service, leases, or electricity. There are no other payments the City would need to make. All operations and maintenance are covered within the $12.6 million payment, adjusted for inflation. If the City wants to realign the space within the building or do major remodeling at some point in the future, that would likely be an extra cost above the normal Lease Payment, just as it would be an extra cost if the City owned the building.

The budget for the current City Hall, plus current lease payments on other facilities, is shown in the chart below along with the expected Lease Payment for the new Civic Center and Library if inflation is at 2.5 percent and the cost of electricity increases at 6 percent per year.

**Projected Annual City Payments for Existing City Hall and for Civic Center**

($ in millions)

| | **2013** | **2014** | **2019 Occ.** | **2025** | **2030** | **2040** |
|---|---|---|---|---|---|---|
| Budget – Existing Bldg., including leases | 12.6 | 13.1 | | | | |
| Per RFP – New Bldg. | | | 13.8 | 16.5 | 18.8 | 24.7 |

If the Port participates in the Project, the Port may also have annual payments depending on the financing structure the Port chooses.

In addition to the annual Lease Payment, there are also some potential continuing costs identified in analysis subsequent to release of the RFP that may increase the effective cost of the Project above the cost of the Lease Payment. Some of these continuing costs will be General Fund costs. The potential additional costs are in the following three areas:

- Some rent savings may not occur in the final building configuration.
  At present, the RFP and the proposals from the Project Teams do not have all the originally anticipated functions in the new City Hall. This will be reviewed during the ENA period.
- Not all desired building services may be provided by the Project Team.
  At present, some security services, the information desk on the ground level, and space for the data center and traffic control center are not provided by the Project Team and may be extra cost items. This will be reviewed during the ENA period.
- Some allocated City costs will continue.
  Some overhead costs for Technology & Innovation and other general City costs were assigned to the Civic Center and will continue, notwithstanding a new City Hall. These costs are not related to the costs that will be absorbed by the Project Team as part of operations and maintenance. It has been assumed that there will not be any continuing cost as a result of ensuring that no current employee assigned to building maintenance or custodial functions loses a job as a result of the Project. If there is a short-term cost to ensuring job continuation, that cost may be able to be offset by one-time sales tax revenue from construction materials purchased during construction.

The potential continuing costs total between $1.1 million to $3.4 million annually and have a potential General Fund impact of $0.7 million to $2.6 million annually. Offsetting these General Fund costs will be future tax revenue from the private development that will occur on the Civic Center land. Based on the type of development anticipated by the Project Teams, future tax revenue is projected to be up to a net of $2.5 million annually. However, the timing of the private development is uncertain and the exact nature of the development and level of tax generation is also uncertain.

The impact of the continuing costs on funds other than the General Fund is estimated to be between $0.4 million and $0.8 million annually.

**Continuing Costs Above $12.6 million, Adjusted for Inflation**
**With Potential Revenue Offset**
(in $ millions)

| Item | Cost Range |
|---|---|
| Rent for City Operations not in new City Hall | 0 to 1.4 |
| Building services not paid by Project Team | 0.5 to 1.4 |
| City cost allocations that will continue | 0.6 |
| Total – continuing costs (all funds) | 1.1 to 3.4 |
| | |
| General Fund Only – continuing costs | 0.7 to 2.6 |
| General Fund potential future tax revenue offset | (0) to (2.5) |

Risks

Although many of the project risks are transferred to the Project Team, there are some risks that the City will retain and that will be negotiated during the ENA period. However, there is no assurance that the level of risk to the City will change during negotiation. Following is a listing of the key risks:

- Private Development Risk – Although the Project Team will be purchasing the land for what is expected to be a guaranteed price, the actual private development may not occur as expected or in the timeframe expected. As a result, it is unpredictable when the tax revenue from the private development will be realized.
- Seismic Event Risk – Although much risk for seismic events will be eliminated through constructing buildings to modern standards and the additional requirements built into the P3 DBFOM contract, some seismic risks may remain for the City. The parking garage or garages that remain will not be retrofitted to the new seismic standards and there is no significant structural enhancement anticipated for these facilities. The City will likely remain the owner of the existing garages and will likely have seismic and other structural risks. Although the City Hall and Main Library will be well protected from any reasonably likely earthquake, it will not be protected from a catastrophic event. Negotiations during the ENA period may address some of these risks.
- Inflation Risk – The City has inflation risk for electricity and for increases in operating and maintenance costs due to general inflation. In general, these are similar to the risks the City would have without the P3 aspect to the Project.
- Limited Ability of the Project Team to Absorb Risk – While it is anticipated that the Project Team and financial structure of the P3 private side of the Project will be adequate to achieve a successful Project, the ability of the P3 private side to absorb costs associated with risk events is not unlimited. In the unlikely event that the P3 private side runs out of money at any point due to unexpected issues, the equity investors are likely to step in, but there will also be limits to what they will be willing to do. If the equity investors do not step in enough to solve any major issues,

a bond workout (potentially resulting in reduced payments to bond holders) will probably occur, but, in that event, the bondholders will likely ask the City to financially participate. This may include extending the term and/or increasing the City lease payment amounts or their timing. The City's participation and agreement to any such changes would not be required, but lack of participation could, in theory, impact the completion of construction or the operation and maintenance of the City Hall at that point. Under these unusual and unlikely circumstances, the City could be adversely impacted if the Project Team is not willing to make changes or provide additional funding necessary to cure the issues. However, under no circumstances would the City be legally required to participate and there is no reason to believe the City's credit rating would be impacted as long as the City continued to pay the required Lease Payment, after any performance deductions.

These risks are not necessarily large risks or risks that impact the viability of the Project, but they do indicate that not all risks are being fully transferred. The overall risks are significantly less with the P3 than if the City used other financing methods.