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Title: Recommendation to:

1. Receive supporting documentation into the record; conclude the public hearing;
2. Adopt resolution certifying Supplemental EIR 02-15, adopting a Statement of Overriding Considerations and approving a Mitigation Monitoring and Reporting Program for the Long Beach Civic Center Project (The Project) (State Clearinghouse No. 2015041054);
3. Approve a Site Plan Review and Conditions of Approval in conjunction with the Project, a four-block development consisting of a new City Hall Building, a new Port Headquarters Building, a new Main Library, a redeveloped Lincoln Park, and private residential and commercial mixed-use buildings, in addition to parking garages, public street extensions of Chestnut and Cedar Avenues, related infrastructure and landscaping, and the demolition of (i) the former Long Beach Courthouse at 415 West Ocean Boulevard, (ii) the existing City Hall building at 333 West Ocean Boulevard, and (iii) the existing Main Library at 101 Pacific Avenue in the Downtown Planned Development District (PD-30);

Sponsors:

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Attachments: 1. 121515-H-1sr&att.pdf, 2. 121515-H-1 Exhibit A.pdf, 3. 121515-H-1 Exhibit B.pdf, 4. 121515-H-1 Exhibit C.pdf, 5. 121515-H-1 Exhibit D.pdf, 6. 121515-H-1 Exhibit E_part 1 of 8.pdf, 7. 121515-H-1 Exhibit E_part 2 of 8.pdf, 8. 121515-H-1 Exhibit E_part 3 of 8.pdf, 9. 121515-H-1 Exhibit E_part 4 of 8.pdf, 10. 121515-H-1 Exhibit E_part 5 of 8.pdf, 11. 121515-H-1 Exhibit E_part 6 of 8.pdf, 12. 121515-H-1 Exhibit E_part 7of 8.pdf, 13. 121515-H-1 Exhibit E_part 8 of 8.pdf, 14. 121515-H-1 Exhibit F_part 1of 3.pdf, 15. 121515-H-1 Exhibit F_part 2 of 3.pdf, 16. 121515-H-1 Exhibit F_part 3 of 3.pdf, 17. 121515-H-1 PowerPoint.pdf, 18. 121515-H-1 Corresp.DLBA.pdf, 19. 121515-H-1 Corresp.Harris.pdf, 20. 121515-H-1 Corresp.Pearl.pdf, 21. 121515-H-1 Corresp.Denevan.pdf, 22. RES-15-0152.pdf

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| 12/15/2015 | 1 | City Council | approve recommendation and adopt | Pass |

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The need for a replacement Civic Center was first formally identified in 2007, when the Department of Public Works presented to the City Council a study identifying major seismic deficiencies of the existing City Hall building. The study concluded that extensive seismic renovations were needed to protect lives during a major seismic event, and that renovation, in conjunction with required building code upgrades, systems replacements, overall maintenance, and staff relocation during the retrofit period, would cost approximately \$170 million in 2013 dollars. The Main Library building was found to suffer from more debilitating seismic and building systems deficiencies. Findings of this original study were confirmed in a second study performed and presented to the City Council in 2013, at which point the City Council authorized staff to release a Request for Qualifications (RFQ) for the development, construction, and operation of a new Civic Center. The qualified development teams shortlisted in the RFQ process were then asked to respond to a Request for Proposals (RFP) to design, build, finance, operate, and maintain a new Civic Center (the "Project"). In December 2014, Plenary Edgemoor Civic Partners, LLC (PECP or Project Company) was selected unanimously by the City Council to develop the new Civic Center using a public-private partnership structure. Since that time, staff and PECP have been working diligently to pursue satisfactory terms and conditions that result in the delivery of the Project at a fixed cost, and including a 40-year operations and maintenance contract to maintain the Project facilities in good condition.

The Project area encompasses 15.87 acres and is comprised of two separate development sites: a large, three-block site that lies generally between Broadway to the north, Ocean Boulevard to the south, Pacific Avenue to the east, and Magnolia Avenue to the west, and a .9-acre parcel at 3rd Street and Pacific Avenue (Exhibit A - Location Map). The three-block core of the Civic Center Project consists of the Civic Block, Center Block, and the Library-Lincoln Park Block. The 3rd and Pacific Avenue site represents the fourth of the Civic Center Project development blocks.

The proposed Project would involve demolishing all existing buildings on the Project site, except the Broadway Garage, the Lincoln Garage, the Police Department administration building and Fire Station No. 1, and developing a new City Hall (City Hall), a new Port Headquarters Building for Harbor Department administration (Port Building) on the Civic Block, a new Main Library (New Main Library), a redeveloped Lincoln Park above the Lincoln Park Garage on the Library-Lincoln Park Block, and a residential and commercial mixed-use development on the Center Block. The Project also includes the site at 3rd and Pacific, which will be privately redeveloped with residential uses. In total, the Project includes six new buildings and three new parking garages, including a new subterranean garage below the Civic Block (Exhibit B - Plans). To date, over 100 meetings have been completed related to the Project occurring throughout the City, including three study sessions with the City Council,

twenty-six community meetings, nine Council District meetings, three special purpose meetings, sixty-seven individual stakeholder meetings, a scoping meeting, two meetings with the Parks & Recreation Commission, and two meetings with the Planning Commission.

SITE PLAN REVIEW

To support the new buildings and break up the super blocks to reestablish the small block grid of the historic downtown, the Project calls for the extension of Chestnut and Cedar Avenues between Broadway and Ocean Boulevard. Additionally, after completion of the Civic buildings, in Phase II of the Project, a section of 1st Street between Chestnut and Cedar Avenues would be developed and operated as a privately owned street. These new roadway segments would provide greater circulation and site accessibility, and feature pedestrian and bicycle-friendly amenities that facilitate visits to the Project site by means other than the automobile.

The Project Company's Civic Center proposal reflects an understanding of the PD-30 development standards and design criteria. All uses proposed for the Project are permitted by right. The three public buildings have been designed to meet the LEED Gold standard of building performance, and sustainable design principles played an integral part in shaping the architecture of these buildings and the design of open spaces on the Project site, including Lincoln Park and the civic plaza (Exhibit C - Findings).

The Civic Block is currently developed with the six-story, 277,000-square-foot Long Beach Courthouse and its surface parking lot. Since the opening of its replacement-the George Deukmejian Courthouse at 275 Magnolia Avenue- in September 2013, the Long Beach Courthouse has sat vacant and will be demolished as part of the Project. The Civic Block contains four major components: City Hall, Port Building, an open civic plaza, and a shared underground parking structure. The 11-story City Hall would stand approximately 165 feet tall and contain approximately 270,000 square feet of floor area. Like the current City Hall, it would house office space for elected officials and City staff, public service counters, meeting rooms, and a 250-seat Council Chamber. The Port Building would similarly contain 11 stories and stand approximately 163 feet tall. The Port Building's 240,000 square feet of floor area would primarily serve the administrative functions of the Harbor Department, which is currently headquartered at 4801 Airport Plaza Drive. The two buildings would be separated by a 73,000-square-foot civic plaza, which is designed as an outdoor gathering place for both formal and informal events. In addition to landscape and hardscape improvements, the plaza would feature a history loop, a spine connecting a variety of historic timeline markers that commemorate the rich history of the City and the Port. Elements to be included in the history loop within this block include the Police and Firefighter Memorial and the Patrick Vogel-designed bicycle sculpture, both of which would be relocated from their existing civic center locations. A parking structure containing approximately 509 parking stalls and shared infrastructure for the two buildings would be located beneath the site, accessible from Magnolia Avenue and Chestnut Avenue vehicle access points.

The City Hall and the Port Building would feature similar orientation, massing, and design.

The broad sides of both buildings would face north and south in order to enhance energy performance and maximize their views of the City, Port of Long Beach, and the ocean. City Hall would feature a two-story textured precast concrete and glass podium that would extend out from the main high-rise tower of the building, giving it a more human scale from a pedestrian vantage point. The vertical, high-rise towers of each building would feature a glass curtain wall and metal panel system. Whereas City Hall's curtain wall would be more transparent, the Port Building would feature solid, colored "shadow box" glass inserts that would pay homage to the rows of multi-colored shipping containers that have come to symbolize the port.

City Hall would be situated at the northern end of the Civic Block. A double-height, elliptical-shaped wing housing the Council Chamber would extend south, along Magnolia Avenue, from City Hall's tower. Along the broad side of the City Hall, adjacent to the plaza, the building features a two-story podium with a plaza level colonnade that would direct visitors to the building's main entry. Public entry into the Council Chamber would be provided through the main lobby. Situated on the southern end of the Civic Block, the Port Building would be located, symbolically and physically, closest to the ocean. It would feature entrances from both Ocean Boulevard and the civic plaza, and, like City Hall would be raised slightly off the adjacent street grade for an added sense of prominence.

The Center Block is currently developed with the 14-story, 283,000-square-foot Long Beach City Hall and the four-level Broadway parking structure. Development of the Center Block and its private uses represents Phase II of the Civic Center development, as the existing City Hall building will need to be in operation until the new City Hall is built. Once the new City Hall is operational, and existing staff have been relocated, the existing City Hall will be demolished and replaced with a two-building mixed-use development that could include up to 580 residential units, 32,000 square feet of retail space, and 8,000 square feet of restaurant space. A high-rise, 200-room hotel is also a potential Center Block component. An underground parking structure containing up to 725 parking stalls would service these uses, and the existing Broadway Garage would remain in place, for use by City employees and visitors of the Civic Center.

The Center Block's residential and commercial mixed-use developments would provide vibrancy and a continuous 24-hour presence to the overall Civic Center site, bringing a nighttime dynamic that is missing from the current Civic Center. Retail and restaurant spaces would line the ground floor of the two buildings, and the streetscape would feature wide sidewalks, decorative paving, street trees, and a curb-less street design. The specific developments on this block would come before the Planning Commission at a later date, with their own individual Site Plan Review once they are fully designed. It should be noted that the timing of development on this block is contingent upon favorable market conditions. It is possible that this site will remain vacant for some period of time should the real estate market soften.

The approximately 4.9 acre Library-Lincoln Park Block is currently developed with the two-story, 138,000-square-foot Main Library, Lincoln Park, and the subterranean, two-level

Lincoln Garage. This garage serves City employees only, and will continue to be used exclusively for employee parking after required structural renovations are completed. The proposal calls for the demolition of the existing Main Library and construction of a two-story, 92,500-square-foot New Main Library building at the north end of the block. After the New Main Library is built within Lincoln Park, the existing Main Library would be demolished and the site would be redeveloped as part of the newly designed Lincoln Park. The existing Lincoln Garage would be structurally renovated to support the New Main Library above, and would include library support components on its upper level.

The location of the New Main Library, at the northern edge of the block and within the boundaries of Lincoln Park, reinforces the Broadway street edge and maximizes the amount of parkland compared to current conditions. Lincoln Park remains the same size, at approximately 4.9 acres, after redevelopment, and the usable open space will increase by nearly an acre compared to existing conditions. The New Main Library is designed as an open and inviting building with two main entrances, one to the north, off of Broadway, and the other to the south, accessible from Lincoln Park. The New Main Library would be constructed largely of natural materials, and would feature a deep roof overhang with wood beamed ceilings that extends out over the north end of the park, creating a porch-like effect that would provide shade for visitors. Its visually permeable facades would showcase views in and out of the library and help contribute to the illumination and activation of the surrounding urban environment.

Programmatic uses within and around Lincoln Park have been introduced to encourage a high level of use by the general public and draw Long Beach residents and visitors to the Civic Center. New programmatic elements include a children's play area, an enclosed dog park, and an open, 30,000-square-foot lawn that would allow for a variety of activities ranging from concerts and public celebrations, to outdoor activities such as picnics and Frisbee. New public restrooms are located adjacent to the dog park and along the 1st Street pedestrian promenade. At the southeastern corner of the park, a new permanent trellis would provide shade and shelter for park goers and help frame the park's edge. To further enrich the area's bicycle-friendly urban environment, new bicycle racks would be provided at strategic locations to encourage usage of alternative modes of transportation.

Lincoln Park would also feature a Cultural Loop that highlights public art, education, and local culture unique to Long Beach. Existing statues and art pieces, such as the eponymous statue of President Abraham Lincoln, the Bicentennial Clock Tower, and the Carnegie Library Cornerstone, will be repurposed and repositioned throughout the park. The Marlin Spike sculpture, on loan from Kilroy Industries, Inc., would be relocated from its existing location in Centennial Plaza to Lincoln Park. Staff will also work with the Project Company to relocate the historic civil war cannon, currently on loan to Shoreline Village, thereby returning the cannon to its traditional setting next to the Lincoln sculpture. The relocation of the cannon was discussed at both the Parks and Recreation Commission meeting on October 15, 2015 and the Planning Commission meeting on November 9, 2015. The Library-Lincoln Park Block's Cultural Loop would link with a History Loop that would run along 1st Street and through the plaza on the Civic Block. Accent lighting will highlight these and other unique

items within the Civic Center's open space network. The selected hardscape and plant palette would align to the Downtown Plan's vision for urban park design. A diverse range of flowering accent trees and large canopy trees would be complemented by native, drought tolerant plantings, creating a comfortable ambiance and providing clear, open views throughout the park. With a large portion of the site over the underground Lincoln Garage, planting areas would be built-up in a series of concrete seat walls and platforms that would provide the necessary soil depths, create gentle grade changes, and allow for a variety of outdoor seating options. The City's Parks and Recreation Commission formally recommended approval of the park and its amenities on October 15, 2015.

The 3rd and Pacific Block is currently used as a surface parking lot. The proposal calls for the construction of a mid-rise, multi-family residential complex containing up to 200 units. A multi-level parking structure containing up to 250 parking stalls would support the development. Similar to the Center Block's private development, this development will be processed under a separate Site Plan Review application and be subject to Planning Commission review.

As discussed above, and to achieve greater access to the Civic Block and Center Block, Chestnut Avenue would be extended from Broadway to Ocean Boulevard. This new roadway segment would feature an 80-foot right-of-way consisting of two traffic lanes (one in each direction), a single row of parallel parking stalls on the east side of the street, a Class II bicycle lane that would connect with the Broadway and 3rd Street bicycle boulevards north of the site and the Class II and Class III bicycle lanes south of the site, and 15-foot and 23-foot sidewalk/parkway areas on the east and west sides of the street, respectively. In addition to continuing to provide egress from the Broadway Garage, Chestnut Avenue would be used for service access to City Hall, the Port Building, and the Center Block's private developments. Permanent access to the Lincoln Garage may also come off Chestnut Avenue via a subterranean tunnel that would run beneath the Center Block to the Library-Lincoln Park Block. Alternatively, permanent access to the Lincoln Garage may be designed to come off Pacific Avenue. Final determination of the access routes will be made once additional structural studies are completed.

An extension of Cedar Avenue from Broadway to Ocean Boulevard would connect the Center Block and the Library-Lincoln Park Block and feature an 80-foot right-of-way consisting of two traffic lanes (one in each direction), one row of parallel parking in each direction, and 20-foot sidewalk/parkway areas. Until the Phase II commercial and residential developments are built, Cedar Avenue will be one of two vehicle access points to the Lincoln Garage, with the other access coming off Pacific Avenue.

Connecting the extended Chestnut and Cedar Avenues, a new extension of 1st Street would be constructed to provide greater east-west mobility and link the Civic Center area with the Metro Blue Line and Pacific Avenue and Pine Avenue commercial districts. This block would contain an 80-foot, curbsless, private roadway that would consist of two traffic lanes (one in each direction), one row of parallel parking in each direction, and identical 21-foot sidewalk/parkway areas north and south of the roadway. The street would be lined with active pedestrian-oriented commercial uses on the ground floor of these buildings. The 1st

Street connection would tie the three blocks together and reinforce the idea that the Civic Center is a communal public space. Its wider sidewalks and narrow streets would favor pedestrians, and the street could be easily closed for farmer's markets, street fairs, and other outdoor events.

The proposed uses, and the buildings which would house them, form a coherent campus that both establishes a sense of civic identity for the site and integrates visually and physically with the surrounding downtown neighborhoods. Conditions of approval have been attached to the Project to ensure the design goals for the Project will be met and the infrastructure to adequately serve the development is in place. The Planning Commission formally recommended approval of the Site Plan on November 9, 2015. The Planning Commission further recommended that a condition of approval be added which would relocate the historic civil war cannon currently at Shoreline Village to Lincoln Park. This action was supported by the Parks and Recreation Commission as well. (Exhibit D - Conditions of Approval).

Public hearing notices were distributed on November 30, 2015, in accordance with the requirements of Chapter 21.21 of the Long Beach Municipal Code.

ENVIRONMENTAL REVIEW

The City prepared a Program Environmental Impact Report (Final PEIR) for the Downtown Plan in accordance with the California Environmental Quality Act (CEQA). The PEIR was certified in January 2012. A Supplemental Environmental Impact Report (SEIR) has been prepared to examine the potential environmental effects of the proposed Civic Center Project (Exhibit E - SEIR). The SEIR tiers from the Final PEIR. In accordance with CEQA, the SEIR is a focused study of key issues that were not identified at a Project level as part of the Final PEIR.

The SEIR summarized the environmental impacts of the proposed Project, proposed mitigation measures, and residual impacts. These impacts are grouped by classes, with Class I impacts being defined as significant, unavoidable adverse impacts which require a statement of overriding considerations; Class II impacts being defined as significant adverse impacts that can be feasibly mitigated to levels less than significant; and Class III impacts, which are those found to be less than significant. Class I Project impacts associated with the proposed Project consist of Air Quality, Cultural Resources, and Noise and Vibration. Class II Project impacts were found in the areas of Aesthetics, Air Quality, and Noise and Vibration. Required mitigation, called for in the SEIR, includes:

- Demolition and construction site screening.
- Production of an Air Quality Safety Plan (in the event existing buildings are demolished by implosion).
- The use of low-VOC paint on all new building finishes.
- The creation of a Historic Artifact Collection Program.
- Archival documentation of historic artifacts, documents, and other objects of importance that is currently located in the existing City Hall and Library buildings.

- Noise and vibration measures for building demolition and new development.
- Fumigation of all buildings prior to their demolition.

The Draft SEIR was made available to the public on August 4, 2015, which started a CEQA-required 45-day EIR public comment period that ended on September 17, 2015. The City received a total of nine written comments submitted by public agencies, local interest groups, and a local citizen. Issues raised in these comment letters included possible landmark eligibility of the Old Courthouse and the City Hall-Main Library complex, establishing a historic preservation mitigation fund, Project vehicle trip generation, potential Project traffic impacts on I-710 intersections and interchanges, Project construction and operational air quality impacts, alternatives analysis, and possible shade/shadow effects on the new Library during winter months.

In addition, a Study Session was held at the August 20, 2015 Planning Commission meeting to offer an opportunity for public testimony on the Draft SEIR. Seven individuals, including two Planning Commissioners, provided verbal comments at this Study Session. Issues raised by the speakers involved status of existing mature trees, adequate funding for the New Main Library, location of residential uses with the Project site, availability of social services in the new Lincoln Park, building wind tunnel and glare effects, possible decorative water features, and Project compliance with Leadership in Energy and Environmental Design (LEED) certification requirements.

Written responses to all verbal testimony at the Study Session and to all written comments received during the Draft SEIR public comment period are provided in the Final SEIR. This Final SEIR also includes the Draft SEIR text with minor edits based on public comments, as well as the Mitigation Monitoring and Reporting Program. Text edits provided in the Final SEIR did not substantially alter the Draft SEIR environmental analysis or change the conclusions of the Draft SEIR regarding potential Project environmental impacts.

The Final SEIR determined that the Project, even after compliance with all recommended mitigation measures, would result in the following significant adverse environmental effects: long-term air pollutant emissions from Project operations, exposure of sensitive receptors to short- and long-term emissions of toxic air contaminants, demolition of potential historic structures (Old Courthouse and City Hall-Main Library complex), and construction-related noise and vibration impacts. All of these unavoidable adverse impacts were previously identified in the Downtown Plan Final EIR. Certification of the Final SEIR will require approval of a Statement of Overriding Considerations that provides facts in support of the finding that the Project's economic, social and other benefits outweigh the adverse environmental effects of the Project and, therefore, such environmental effects would be considered acceptable when compared to the Project benefits. The preparation and public availability of this Final SEIR have been done in compliance with the provisions of CEQA statutes and the CEQA Guidelines. The Planning Commission formally recommended approval of the Final SEIR on November 10, 2015.

THE PROJECT

Alternatives: Currently, the City faces significant liability associated with the seismic deficiencies of City Hall and the Main Library. These deficiencies have compelled City Council to consider a number of alternatives, including retrofitting and upgrading City Hall and the Main Library, purchasing or leasing office space in the Downtown to accommodate City Hall and Main Library functions, or building a new City Hall and Main Library. In any event, City Council did not support seeking funding from the residents through a bond or tax measure. Staff proceeded to analyze these alternatives within the constraints established by City Council.

The first alternative of retrofitting and upgrading City Hall was estimated to cost \$170 million in 2013 dollars. This did not include the Main Library. 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. Since there were no existing sources of funds to pay this cost, and since the resulting facility would still be functionally obsolete, energy inefficient, and likely not be available after a significant seismic event, City Council did not pursue this alternative further.

In analyzing the second alternative to lease or purchase office space in the Downtown, staff determined that only one office building in Downtown could accommodate the space needs of City Hall and Port Headquarters. This office building did not have sufficient vacancy at the time to enable the City to relocate promptly. Additionally, the scarcity of adequately sized buildings in the Downtown served to eliminate any negotiating leverage the City might otherwise enjoy in seeking favorable lease terms. Even if favorable lease terms were negotiated, this alternative did not address the seismic concerns related to the Main Library. Lastly, there were no identified funds to acquire an office building, and leasing an office building would not allow the public to fully own its seat of government or control its future development, and is not a desirable arrangement for City government. After further consideration, City Council did not pursue this alternative further.

The third alternative contemplated building a new City Hall and Main Library. As this alternative was being analyzed while the Deukmejian Courthouse was being completed, staff had the opportunity to review the Public-Private Partnership under which the Deukmejian Courthouse was built. Under a design, build, finance, operate and maintain public-private partnership procurement process (P3 DBFOM), the value for money analysis conducted for the Deukmejian Courthouse determined that this procurement process offered the least expensive alternative when analyzed over the entire lifecycle of the building including long-term operations and maintenance.

Public-Private Partnership (P3): It is important to understand that a building delivered using a traditional design-bid-build procurement process may be less expensive to construct than a P3 DBFOM, but what is often overlooked is that the building will be more expensive to maintain over its lifecycle. The traditional design-bid-build approach, providing no attention to life-cycle maintenance in the design, is essentially the history of the existing City Hall. It was

built approximately 40 years ago with materials and systems to achieve the lowest cost, and without an aggressive, ongoing operations, maintenance and lifecycle replacement program, the building has deteriorated faster than desired. Under the P3 DBFOM procurement model for the Deukmejian Courthouse, which focused on performance and quality in its design and construction, the value for money is realized over the life of the building, not just during its construction period.

Staff adopted this procurement model and modified it consistent with City Council's objectives not to burden the residents with any additional costs, and to provide a new City Hall, Main Library and revitalized Lincoln Park at the same, or nearly the same, cost as the City's current (2013) cost of occupancy and maintenance, indexed by inflation. Staff issued both an RFQ and RFP which included these restrictions and certain City Council enunciated Guiding Principles, which resulted in the proposed Project.

In order to achieve a similar value for money for the City, (by receiving a building at the end of a 40-year term that is still in good condition), it is important that the City leverage the P3 DBFOM procurement model to capture the benefits of an integrated design and suite of services that take into account long-term operations, maintenance and capital replacement obligations under a fixed price. Capturing these benefits over the long term can occur only if the complete scope of services provided by the Project Company through its facilities manager, Johnson Controls, Inc. (JCI) is received over the term of the agreement. Failure to include any aspect of the full scope of services would result in a compromised Facilities Management contract, limiting the responsibilities of JCI, degrading the overall maintenance level, possibly affecting the condition of the buildings at the end of the term, and disrupting the lifecycle reinvestment program. As a result, if City Council chooses to proceed with the Project, it is important to ensure that the entire scope of the JCI contract is implemented.

Proposition L Analysis: To determine whether the City is benefitting from utilizing JCI to perform the Facilities Management services instead of City's internal employees, the City conducted a Proposition L (Prop L) analysis. The Prop L analysis indicates that JCI is able to provide the Facilities Management services at a lesser cost than the services that would be provided by the City at a similar level and scope of services.

While the Proposition L analysis supports the proposed scope and cost as submitted by JCI, the City Manager has clearly stated that no existing City employee would lose their job as a result of the Project. Any employee that might be affected by contracting out service related to the operations and maintenance of City Hall will be guaranteed a job with the City in a similar function, at a similar salary, including similar benefits.

Project Facilities: There are a number of benefits derived from co-locating the Port Building with City Hall in the new Civic Center, including a central point of government in the City, economies of scale in construction, operation and maintenance, increased activity resulting from increased density, and synergies related to the use of Shared Rooms, Shared Facilities and a shared Civic Plaza. The City and the Port have worked closely and cooperatively to accurately allocate Shared Space so as to isolate Tideland Funds. Included in these

allocation formulae are the Central Utility Plant, solar photovoltaic system and utility yard; use by the City of the Port's subterranean garage for a data center, reprographics room and VIP parking; shared use of the loading dock, ramps, and mail rooms; Port's use of fleet and staff parking spaces in the Broadway Garage; shared use of the shared chambers, meeting rooms and common areas in City Hall; and shared use of the Civic Plaza. Certain metrics were used to allocate each element, with the majority of the allocations shared equally. The Central Utility Plant and solar photovoltaic system were allocated according to anticipated energy generation and consumption, with 56% percent allocated to the City and 44% allocated to the Port. The use of VIP parking in the Port's subterranean garage resulted in an allocation metric of 8% for the City and 92% for the Port based on the number of parking spaces used by each party.

Seismic Resiliency: The City Hall, Main Library and Port Building have been designed to a performance specification equivalent to a Resilience-based Earthquake Design Initiative standard (REDI) Gold standard. This standard provides a 50% confidence level that, under a design level earthquake (10% probability of occurring in 50 years, or more conveniently translated into a 7.2 to 7.5 level earthquake on the Richter Scale), there will be a very low probability of injuries, re-occupancy within two weeks, full functionality within a month and the building should experience less than a 5% financial loss as compared to the replacement value of the building. This performance standard is a significant enhancement to structural resiliency and makes it highly likely that all facilities will be operational shortly after a design level seismic event, so that governance can continue and City staff can provide for public safety and assist in re-building the City as necessary.

The existing Broadway Garage and Lincoln Garage will not enjoy this same resiliency as they have been built under much older building standards. The City will continue to bear the risks related to earthquakes, much as it currently does.

Solar Photo-Voltaic System: The Project will include a campus-wide solar photo-voltaic renewable energy system (PV System) that is intended to provide up to 25 percent of the energy required for the campus. The PV System will be jointly owned by the City and Port and the costs therefore, and the energy generated therefrom, will be allocated consistent with the energy consumption model for the Central Utility Plant which generally allocates 56 percent to the City and 44 percent to the Port.

Affordability: As proposed, and discussed in detail earlier in this Council Letter, the Project provides the City with a new City Hall, New Main Library, revitalized Lincoln Park, a new Port Headquarters and substantial private development on land surplus to the civic needs. As a result of an appropriately extended outreach and education program, and development of the design performance requirements, the fixed price proposal that establishes the Project's cost and the City's Service Fee was updated and resubmitted more than one year after the initial response to the RFP. That extension in the time period resulted in an increase of construction costs related to escalation, including labor and materials. Additionally, the advancement of a basis of design and program development after the RFP was issued, the inclusion of community recommended design changes, and staff recommended enhancements to improve customer service, served to increase the cost of the Project. Lastly, re-allocation of

ongoing Operations & Maintenance costs between the City and the Port was necessary to more accurately reflect the percentage participation of the Port occupancy within the entire Civic Center. While the various increases are well justified, staff and City Council have focused considerable attention on value engineering, and efficient office design and layout, to the extent that the Project now is reasonably affordable, particularly when compared not only to the alternatives, but also when compared to the “do nothing” alternative and the resultant exposure to seismic liability.

While City Council and staff's goal was to achieve an annual cost of \$12.6 million in 2013 dollars, the Project, with all its enhancements, escalations and reallocations, is anticipated to cost \$14.48 million in an annual Service Fee in 2013 dollars. This increase is not unreasonable considering the many changes to scope, reallocation of costs, and escalation costs, and will be manageable through future budget processes.

There should also be some consideration of the proper level of annual cost to operate and maintain existing City Hall. The 2013 update of the Facilities Condition Assessment Report by Parson for the Civic Center indicates a funding need of \$224 million over 35 years to bring the existing Civic Center into excellent condition. This reflects, on average, an additional annual investment of \$6.4 million over the next thirty five years, bringing the current \$12.6 budget to \$19 million in 2013 dollars. This compares favorably to the proposed \$14.48 million.

Additionally, staff is recommending that City Council authorize a City controlled design and construction contingency of \$4.5 million to fund necessary and prudent changes in a timely manner, so as to avoid any delay charges during construction. Including this contingency, the City's annual Service Fee would be \$14.71 million in 2013 dollars.

The Private Development proposed to be constructed in Phase II, will generate property taxes, retail sales taxes and possibly transient occupancy taxes. The estimated annual total of new taxes generated for the General Fund is \$940,000 per year (in 2013 dollars). As a result, the long term net cost to the City will be reduced to \$13.77 million in 2013 dollars including the contingency.

Offsite Leases: Separate from the direct Project costs, there are other annual costs that will continue after occupancy of the new Civic Center. These costs include offsite lease costs for those leases that were not absorbed within the new City Hall, and allocated costs that will continue regardless if the Project went forward or not.

Offsite leases represent the preponderance of the other annual costs and result primarily from two leases: Housing Authority and Workforce Development. Through analysis, staff determined that it would be more expensive to include the needed square footage into the new City Hall than it would be to simply lease space. Also, the parking demand for these two uses was too large to accommodate in the existing parking structures. Lastly, staff believes that these two services are more appropriately located in the community where they can be more convenient to their target population. For these reasons, staff determined that these

leases should remain offsite.

Impact Fees: The Project Company is required to pay a Transportation Improvement Fee (TIF) of \$1,798,713. The Project Company is expected to expend approximately \$4,127,867.56 in transportation improvements. Section 18.17.110 of Long Beach Municipal Code permits applicants to apply for a TIF credit, not to exceed 100 percent of the amount due. Since the value of the improvements being provided by the Project Company exceeds the amount of the TIF, the entire amount of the TIF will be credited. This determination is supported by the Department of Public Works. An ordinance is required to allow for this credit to be granted.

Temporary Parking Needs: During Project construction, there will be a period of time when new footings will be required to be constructed in the Lincoln Garage to support the New Main Library. This period of time will be approximately ten months. During this ten-month period, City staff utilizing the Lincoln Garage for daily parking will need to use alternate facilities. These alternate facilities include the Broadway Garage, but will also include offsite locations, which may include the Convention Center and the County's Magnolia Avenue parking structure. For offsite locations, shuttles will be available for transport to and from City Hall and the Main Library. More information will be forthcoming as alternatives are vetted. The VIP parking area will not be affected, including parking for elected officials.

PROJECT AGREEMENT

General Background: On December 9, 2014, City Council authorized the City Manager, among other things, to:

- Take all actions necessary to pursue enabling legislation in the event it is determined that such legislation would benefit the Project;
- Negotiate and execute an Exclusive Negotiation Agreement, Terms Sheet, Global Executory Agreement (now Project Agreement) and any other document or agreement necessary to effectuate the terms of the Project.
- During City Council deliberations on that date, City Council requested that the Global Executory Agreement (now Project Agreement) be brought back to City Council for consideration prior to execution.

Since that date, the City has submitted and supported, and the Governor has signed SB562, effective January 4, 2016, providing authority for the City to procure a new Civic Center through a public-private partnership that offers the best value to the City rather than lowest cost.

Additionally, many staff have invested hundreds hours with the Project Company in negotiating a Terms Sheet and, ultimately, a Project Agreement that provides the best value to the City for the delivery of a new Civic Center. City Council action this evening would

authorize the City Manager to execute the Project Agreement and related documents.

The Project Agreement sets forth the terms and conditions of a P3 DBFOM that achieves the City Council's objectives. While the goal was to construct these facilities and provide for a life-cycle operations and maintenance contract all within the current (2013) annual costs of \$12.6 million to occupy and maintain the existing facilities, staff is pleased to present a Project that provides for the required facilities and life-cycle maintenance contract at a relatively small increase now totaling \$14.48 million in 2013 dollars. Including the recommended contingency, the annual Service Fee would be \$14.71 million in 2013 dollars. Considering the escalation costs resulting from the extended outreach period, the re-allocation of Operations and Maintenance costs between the City and the Port, the cost of community requested design changes and costs of staff recommended service-related enhancements including a specialized permit center, the Project delivers on City Council's objectives at a reasonable cost.

The City and the Port have negotiated a Project Agreement that sets forth, for the City and Port, jointly in some cases and separately in other cases, the Project. The Project Agreement is the document that will control this Public-Private Partnership through the 3.5-year design-build-finance period, which are similar for the City and the Port, and the 40-year operation, maintenance and life-cycle replacement period, which differs somewhat between the City and the Port. The Project Agreement controls the allocation of risk, the financing mechanisms, payment obligations, the terms, termination rights, termination payments, releases and indemnities, and defaults of each respective party. The Project Agreement sets forth the obligations and general responsibilities of the City, the Port and the Project Company and establishes certain terms, conditions and actions, the compliance with which is an obligation of the respective party.

Memorandum of Understanding (MOU): The City and the Port have spent considerable time refining language in the Project Agreement that appropriately allocates risks, payment obligations, one-time cost of improvements, ongoing costs of Operations and Maintenance, cost allocation and ownership of Shared Rooms and Shared Facilities. It is critical to the success of this Project to isolate and protect the unique requirements of the Tidelands Fund and to ensure that no City assets are funded through Tidelands sources when not appropriate, and that no Port assets are funded through City general fund sources. In that regard, the City and the Port have agreed upon certain percentage allocations of costs as they relate to one-time construction costs for the Shared Facilities and Shared Rooms, the ongoing costs for Operations and Maintenance of the Shared Facilities and Shared Rooms, the City's occupancy of certain portions of the Port's New Parking Facility and the pass-through of costs of Operations and Maintenance for certain elements of the Port Facility. The details of these allocations and sharing arrangements will be documented in the MOU between the City and the Port.

The Board of Harbor Commissioners and the staff of the Harbor Department have been particularly good partners and effective stewards as each party's unique interests have resulted in bi-lateral cooperation, coordination and agreement. Without such forthright and

straightforward participation, this Project might not have been successful, and clearly would not have happened in such a condensed time frame.

Risk Allocation: The Project Agreement not only addresses the operative elements of the Project, but also the risk allocation of unlikely events as well. While the parties expect the Project to proceed as contemplated, extreme events of low risk are addressed in detail in the Project Agreement. In this regard, the Project Agreement considers risks related to Differing Site Conditions, Regulated Site Conditions, Possessory Interest Tax, Insurable and Uninsurable Force Majeure Events, Relief Events, Other Relief Events and Extended Relief Events. In these various low risk / high cost events, City staff carefully considered the likelihood of a risk to be realized, the cost associated with the realized risk, and the cost to the City for the Project Company to carry a substantial contingency to protect the Project Company from that risk.

Regulated Site Conditions: As an example, and as detailed in the Project Agreement, City staff proposes that the City bear the risk of Regulated Site Conditions at the Old Courthouse Site. A Regulated Site Condition is any unknown condition that is discovered during construction that requires oversight by a regulatory agency. This would include conditions such as an unknown Underground Storage Tank or the discovery of human remains or Native American artifacts. By assuming this risk, the City would bear the cost of addressing the Regulated Site Condition and the cost associated with any related delay to the Project. As the Old Courthouse Site has been fully developed since the mid-twentieth century and has been carefully and thoroughly analyzed and characterized by the Project Company, the risk level related to a Regulated Site Condition is quite small and would best be managed by the owner of the property. If the Project Company assumed this risk, the Project Company would need to carry a contingency to protect itself from this small risk, the cost of which to the City would be significant, as it would need to be financed and would be paid every year for 40 years, indexed by inflation. From both a risk perspective and a cost perspective, the City assuming this risk seems the most prudent approach.

Differing Site Conditions: Similarly, the risk associated with Differing Site Conditions is relatively small, but the potential costs are relatively high. The Project Company has spent considerable time and funds characterizing the geotechnical soils condition of the Old Courthouse Site. The Project Company is satisfied that the Old Courthouse Site can accommodate and support the Project as proposed. However, because there were limitations to site investigation due to the existing old courthouse building covering a portion of the Old Courthouse Site, there is a small likelihood that there could be differing site conditions under the old courthouse building in comparison to the vacant portions of the Old Courthouse Site. Geotechnical engineers believe that the soils conditions in the vacant portion of the Old Courthouse Site are highly likely to reflect the soils conditions under the old courthouse building, but this cannot be guaranteed. In this regard, staff believes it is prudent for the City to assume some level of risk rather than fund a large contingency over the term of the Project Agreement.

To prudently allocate risk relative to exposure to cost, staff have further negotiated with the

Project Company to require that the Project Company fund the first \$1 million in additional cost related to Differing Site Conditions. After the first \$1 million in Project Company funded contingency is expended, the City and the Port will share equally the next \$1 million in additional cost. If there are costs above \$2 million, the City and Port shall meet to discuss whether to proceed to cover additional costs, or to terminate the Project Agreement and pay a Termination Fee.

Differing Site Conditions also apply to that portion of the Lincoln Park Garage that will support the New Main Library. Because the Project Company is unable to characterize the soil beneath the Lincoln Garage, which will need to be exposed in order to pour new concrete footings to support the New Main Library, staff is again recommending that the City assume a certain level of risk rather than fund a large and ongoing contingency.

Specifically as it relates to the New Main Library, the construction of this facility is not intended to start until after the excavation is complete at the Old Courthouse Site and any risk related to Differing Site Conditions at the Old Courthouse Site has been quantified and closed. Any remaining Project Company contingency for Differing Site Conditions will then be applied to the Lincoln Garage. Costs above the remaining contingency, if any, will be borne by the City without participation by the Port. The City may, instead, choose to terminate the Project Agreement and pay a Termination Fee.

In contrast, the City is not retaining any risk related to the Private Development Sites, including Differing Site Conditions and Regulated Site Conditions. Therefore, any soils conditions, both environmental and geotechnical, will be the responsibility of the Project Company and the City will bear no risk for this aspect of the Project.

Latent Structural Defects: The Project Company has determined that the limited destructive testing that was completed as part of its due diligence, indicates that the Lincoln Garage was constructed consistent with approved plans, so there is little risk of latent structural defects in the Lincoln Garage. However, the investigations of the existing concrete structures were not sufficiently exhaustive to confirm that there are no latent structural defects. Staff is again recommending to City Council to assume this reasonable level of risk rather than fund a large and ongoing contingency.

Possessory Interest Tax: City staff and outside legal counsel have investigated the potential for the County of Los Angeles to apply a possessory interest in the Project to the Project Company, which then requires the Project Company to pay a form of property tax. Outside legal counsel is of the opinion that the likelihood of a successful application of possessory interest in the Project to the Project Company is low. As a result, staff recommends that the City assume the risk of possessory interest tax, thereby reducing the contingency that the Project Company would need to carry to cover the low probability of assessment of possessory interest tax.

Financing: The Project Company shall be responsible for financing the cost of the City facilities, including City Hall, the New Main Library and the City's portion of the Shared

Rooms and Shared Facilities. The financing will be comprised of debt and equity at a ratio of 92:8, respectively. The Developer equity, while more expensive than debt, is at-risk capital to ensure performance under the Project Agreement both during construction and long-term through the Operations and Maintenance period. The City's annual Service Fee payment will be used by the Developer to pay all operating and maintenance costs, debt service, Project Company overhead, insurance, and remunerate equity.

Contingency: Staff is proposing that the City fund a contingency totaling \$4.5 million in order to quickly approve change orders that may be required to complete or improve the facility, in order not to delay the Project and expose the City to related delay charges. This contingency is proposed to be financed, which will increase the City's annual Service Fee from \$14.48 million to \$14.71 million in 2013 dollars.

Independent Building Expert: The parties to the Project Agreement shall contract with an Independent Building Expert (IBE), whose function includes ensuring that the facilities are constructed consistent with the approved plans and that the Project Company meets all requirements related to achieving Substantial Completion, Occupancy Readiness and Final Completion. The IBE's scope will include the dual role of Commissioning Agent. This provides overlapping and consistent oversight from the construction period through the commissioning period to ensure that the buildings, as constructed, are functioning as designed. The cost of the IBE is included in Project costs.

Design and Construction Standards: The design efforts by the Project Company, City, and Port during the negotiations process refined the original design submitted in response to the RFP, and resulted in standards for the design, construction and performance of the Project (D&C Standards). The contents of the D&C Standards will be the basis by which all subsequent design approvals are measured for compliance and intent as set forth by the review procedures contained in Project Agreement. The D&C Standards include a Basis of Design, conceptual designs, schematic designs, design and construction specifications, and comment logs capturing not only City and Port comments on the designs and specifications as they progressed, but also Project Company responses with commitments to address comments further during the Design Development Phase and Construction Drawings Phase of the Design-Build Work.

The Project Company shall have full responsibility for quality assurance and quality control for the Design-Build Work, including compliance with a Quality Management Plan, which shall be developed by a qualified quality management expert retained by the Project Company. Each of the City and the Port may, at its discretion, perform its own audits of the Quality Management Plan. For that purpose, the Project Company shall make available for review, upon request, all records relating to the Quality Management Plan. Additionally, the IBE shall conduct planned and systematic actions necessary to provide assurance to the City, the Port, and the Project Company that the quality of the their respective facilities shall conform with the requirements of the D&C Standards, Best Design-Build Practice, and Applicable Law.

Project Labor Agreement: The Project Company will be required to execute a Project

Labor Agreement with the general contractor, who shall then require all sub-contractors to execute a similar agreement which will apply to all of the civic elements of the Project, including City Hall, the Main Library, the Port Building and Lincoln Park. The Private Development Sites will not be required to include a Project Labor Agreement.

Union Hotel: Any hotel/hospitality uses developed on the Private Development Sites shall require the execution of a labor peace agreement between the Project Company (or operator of the hotel) and a union in the Long Beach area representing hospitality industry employees.

Leadership in Energy and Environmental Design (LEED): The City and Port have established a minimum requirement of LEED NC Gold certification for the City Hall, the Port Headquarters and New Main Library. As a campus, the Project, along with Private Development on the 3rd and Pacific Site and Mid-Block Site, is anticipated to achieve LEED ND Gold due to the positive attributes and sound sustainable design of the proposed urban form and its relation to the surrounding downtown. If the Project Company takes all reasonable steps (as detailed in the Project Agreement) and LEED NC Gold certification is not obtained as a result of issues beyond its control, the Project Company shall pay established liquidated damages for City Hall at \$1 million and the New Main Library at \$500,000. The Port has established a similar liquidated damage amount of \$1 million for the Port Building.

If the Project Company fails to perform all reasonable steps, and LEED NC Gold Certification is not obtained, such failure shall constitute a Project Company event of default. Staff believe this is a reasonable compromise for a very small risk, given the track record of the design-build team in obtaining LEED certification.

Commissioning: Commissioning Requirements: The Project Company shall comply with all Commissioning requirements and shall prepare a detailed Commissioning Plan, include criteria for achieving LEED NC Gold certification, conduct Commissioning activities during design and construction, perform Commissioning tests sufficient to demonstrate Occupancy Readiness, and permit the City to observe Commissioning activities.

Furniture, Fixtures and Equipment: The Project Company is acquiring, furnishing and installing furniture, fixtures and equipment (FFE) for the City and the Port. The Project Company shall arrange and pay for the cost of acquisition, delivery and installation, however, JCI shall not maintain or replace FFE.

Occupancy Readiness Conditions for City Facilities: City Service Fee payments begin when the Initial Occupancy Date is achieved, which is the date on which Occupancy Readiness Conditions have been met for the first City Facility. City Payments will be prorated until all City Facilities achieve Occupancy Readiness. The initial project schedule contemplates achieving Occupancy Readiness for the City Hall, Port Headquarters and New Main Library at the same time in June 2019. The Project Company's failure to satisfy the Occupancy Readiness Conditions in respect of a City Facility by or before the Scheduled

Occupancy Date for such City Facility, shall result in the loss of the Service Fee payment scheduled to be paid by the City during the period of delay. The current schedule is for City Hall and the New Main Library to be completed at the same time, avoiding prorating the City's Service Fee.

Occupancy Readiness Conditions for a facility includes the achievement of the following conditions:

- (1) Substantial Completion of construction has occurred;
- (2) The Facility in its entirety is ready for use for its intended purpose, except for Punch List Items;
- (3) The Architect has issued a letter of confirmation to the IBE indicating that all buildings and systems forming part of such Facility are ready for use, except for Punch List Items, and, to the best of its knowledge, have been designed and built in accordance with this Project Agreement;
- (4) There are no encumbrances registered or recorded on the City Site (in the case of a City Facility or the Shared Rooms) or Port Site (in the case of a Port Facility or a Shared Facility) other than Permitted Encumbrances;
- (5) The Project Company has completed Commissioning the Facility in accordance with the Commissioning Plan, and the Commissioning Tests have been successfully performed and satisfied (subject to such Commissioning which is identified in the Commissioning Plan to be conducted after the Occupancy Date with respect to such Facility);
- (6) A temporary or final certificate of occupancy has been issued for the Facility by the Superintendent of Building and Safety for the City's Department of Development Services, Building and Safety Bureau or a duly authorized representative in accordance with Applicable Law;
- (7) All other Governmental Bodies having jurisdiction have confirmed (and issued all pertinent Governmental Approvals or other documents in respect thereof) that all buildings and structures forming part of the Facility are ready for occupancy;
- (8) The Project Company has delivered a reasonable Master Maintenance Plan;
- (9) The Project Company has delivered a reasonable Relocation Plan;

The Project Company shall give the City or Port at least 60 days' prior written notice of the expected date upon which the Project Company expects to achieve Occupancy Readiness of a Facility.

Operations and Maintenance (O&M): O&M Generally: Commencing on the respective Occupancy Dates of each Facility, the Project Company, through its sub-contractor Johnson Controls, Incorporated (JCI), shall conduct all ordinary maintenance and repairs (except for Furniture, Fixtures and Equipment, and Chambers Audio-Visual systems) of all equipment, structures, improvements and grounds, keeping everything in good working order,

condition and repair, in a neat and orderly condition, all in accordance with the Project Agreement, and the Key Performance Indicators. JCI shall operate, maintain, repair, replace and manage the City Facilities on a 24-hour per day, 7-day per week basis during the Term in accordance with the Facilities Management requirements. JCI shall furnish all labor, materials, equipment, supplies, tools, storage, transportation, insurance, sales, delivery, accounting, record-keeping and other things and kinds of services whatsoever necessary for the full performance of JCI's operation, maintenance, repair, replacement, management, obtaining and maintaining Governmental Approvals and related obligations under the Project Agreement. JCI shall maintain the City Facilities, Shared Facilities, and Shared Rooms, and certain Port facilities.

Exceptions to service: JCI will be responsible for only certain Facilities Management services for the Port Headquarters and will only provide routine operations and maintenance services for the Broadway Garage. JCI is not responsible for ordinary maintenance or major maintenance, repair or replacement of Furniture, Fixtures and Equipment or Owner Furnished Equipment.

Utilities: The Project Company shall arrange for and establish the supply of electric, gas, water, sewer and other utility service required for the Project. Any utility agreements shall be entered into by the City or the Port, as the case may be. The City shall timely pay all utility bills for the City Facilities, Shared Rooms, and Shared Facilities. Each month, JCI shall perform a reconciliation in respect of the City and Port utility bills for the Facilities to reflect the allocable energy consumption for the City and the Port in respect of the Shared Facilities and the Shared Rooms and other shared space. JCI shall provide such reconciliation to the City and the Port for their use in settling their respective energy costs. JCI shall also perform an annual reconciliation in respect of the City and Port energy bills for the given year to reflect the allocable energy production of the Facilities' PV System.

Ordinary Maintenance and Repair: JCI shall perform all normal and ordinary maintenance of the mechanical equipment, structures, improvements, grounds and all other property constituting the City Facilities, and shall keep each City Facility in good working order, condition and repair and in a neat and orderly condition, all in accordance with the Facilities Management requirements, and shall maintain the aesthetic quality of the City Facilities as originally constructed and in accordance with the design requirements. JCI shall provide or make provisions for all labor, materials, supplies, equipment, spare parts, consumables and services which are necessary for the normal and ordinary maintenance of the City Facilities, and shall conduct predictive, preventive and corrective maintenance of each City Facility as required by the Project Agreement.

Major Maintenance, Repair, and Replacements: JCI, in addition to its Ordinary Maintenance and Repair obligations, shall prepare, maintain and comply with its obligations under the Master Maintenance Plan required in the Project Agreement and shall perform all major maintenance, repair and replacement of the equipment, systems, structures, improvements and all other property constituting the City Facilities during the Term, including all maintenance, repair and replacement which may be characterized as "major" or "capital" in

nature. The obligations of JCI are intended to assure that the City Facilities are fully, properly and regularly maintained, repaired and replaced in order to preserve their long-term reliability, durability, functionality and efficiency, and that in any event, the City Facilities are returned to the City at the end of the Term in a condition which fully complies with the Handback Requirements.

Facility Condition Index: JCI shall handback facilities with a Facility Condition Index (FCI) score of 0.20, or better, meaning that the condition of the facility will be 80% or better of replacement value which reflects a facility that is in good or better condition for each of the following over the Term and at Handback:

- a) City Hall, Shared Rooms, Shared Facilities, and the Port FM Facilities as a combined unit; and
- b) Library and Lincoln Park as a combined unit.

Further, JCI's Facilities Management program of maintenance, management, capital investment and lifecycle replacement over the entire 40-year maintenance period shall conform to that required to achieve an FCI score of 0.20 or better. This is a reduction from the RFP requirement of 0.15 or better; however, in lowering this performance threshold slightly, Staff have been able to reduce the annual risk contingency needed to guarantee the 0.15 FCI at Handback without noticeably changing the ongoing and final condition of the facilities.

Vandalism: If any maintenance, repair or replacement of the Facilities is required due to vandalism, the Project Company shall perform such maintenance, repair or replacement, provided that, to the extent the cost of maintenance, repairs or replacement required due to vandalism exceeds an annual threshold allowance of \$10,000, the City shall pay the Project Company, as an extraordinary item in the Service Fee calculations, an amount equal to the amount by which such cost exceeds such threshold allowance. While \$10,000 annually might seem like a low threshold allowance, increasing the threshold simply increases the City's annual cost. Rather than fund an ongoing cost at a higher level, staff believes using a smaller allowance and funding any additional costs separately is the more prudent approach. As a comparison, the Deukmejian Courthouse uses a \$10,000 annual allowance.

Handback: Five years prior to the Expiration Date, JCI, the City and Port shall conduct a joint inspection and survey of the Facilities. If the survey indicates that any element of the covered Facilities, on the Expiration Date, shall not be in a condition consistent with the Handback Requirements, even after JCI implements the existing plans and programs required over the remainder of the Term, then within 60 days of completion of the survey, JCI shall deliver to the City and Port JCI's plan to perform the additional work necessary to meet the Handback Requirements, together with the cost estimated for the work. The City and Port shall then determine in good faith the amount (the "Handback Reserve") they reasonably believe necessary to complete the additional work required to meet the Handback Requirements and establish a reserve account that will be funded by reducing Service Fee payments in amounts equal to the Handback Reserve. At least 180 days prior to the Expiration Date, JCI, the City and the Port shall conduct a further joint inspection and survey of the condition of the covered Facilities and the progress of the handback work. On, or within

five Business Days after the Expiration Date, the City and Port shall either:

- (1) Issue to JCI a handback certificate confirming compliance with the Handback Requirements, upon which the City and Port shall return any remaining Handback Reserve to JCI; or
- (2) Notify JCI of its joint decision not to issue the handback certificate, setting forth each element in which the covered facilities do not comply with the Handback Requirements and stating the City's and Port's joint estimate of the cost of completing all work required for the covered Facilities to comply with the Handback Requirements.

JCI may, within 30 days after receipt of the notice of non-compliance with the Handback Requirements, object to any matter set forth in the notice giving details of the grounds of each such objection and setting out JCI's proposals in respect of such matters. If any of the covered Facilities did not, at the Termination Date, comply in all respects with the Handback Requirements, JCI shall complete any work necessary to cause such compliance within 60 days of the Expiration Date so that the covered Facilities are in a condition which complies with the Handback Requirements. Alternatively, the Project Company may pay the City and the Port, no later than 60 days after the Expiration Date, an amount equal to the reasonable estimate of the cost of completing any outstanding handback work.

Facilities Management (FM) Security Package: JCI will provide the following security no later than six (6) months prior to the Scheduled Initial Occupancy Date:

- A Letter of Credit equal to six months of the average of the annual FM Service Fee and the average annual Life Cycle Payments;
- Limitation of liability not to exceed three times the sum of (i) the average of the annual FM Service Fee for the then current and remaining Calendar Years and (ii) the average of the annual Life Cycle Payments for the then current and remaining Calendar Years, up to a maximum of \$20,000,000 (Index Linked); and
- No Parent Company Guarantee is necessary, as the proposed Facilities Management Contractor (Johnson Controls Inc.) will be the counterparty to the Facilities Management Services Agreement.

Key Performance Indicators: JCI's performance shall be measured according to Key Performance Indicators (KPIs) provided for in the Project Agreement, including, but not limited to, preventative maintenance, elevator operations, customer satisfaction surveys, Service Work Order response and completion times, documentation, facility condition assessment, space temperature management, asset management, system availability, security staffing, and quality control inspection. Failure to meet KPIs will result in performance deductions to the Service Fee and Port Facilities Management Fee.

Service Work Orders: JCI shall respond to and complete all Service Work Orders (SWOs) within the times indicated in Table 1 below based on the following prioritization scheme:

- Priority 1 - Emergency, immediate response required - Situations requiring immediate action to return the City Facilities, Shared Facilities, and Shared Rooms, and covered Port FM facilities to normal operations, stopping accelerated deterioration, or correcting a safety hazard that imminently threatens life or serious injury to the public, and/or City and/or Port employees.
- Priority 2 - Urgent, necessary but not yet critical - Situations that will imminently become critical, if not corrected expeditiously, includes intermittent interruptions and/or potential safety hazards.
- Priority 3 - Routine - Conditions requiring appropriate attention to preclude deterioration or potential downtime and associated damage or higher costs if deferred further. Items representing a practical improvement to existing conditions. These items are not required for the most basic functions of the City Facilities, Shared Facilities, and Shared Rooms, and covered Port FM facilities but will improve the overall usability, accessibility, and/or reduce long-term maintenance.

Table 1: Service Work Order Response and Completion Times

| Severity | Emergency | Urgent | Routine |
|----------------------------|------------|--|-------------------|
| Priority | 1 | 2 | 3 |
| During Hours of Operation | | | |
| Response Time | 10 minutes | 2 hours | 24 hours |
| Completion Time | 2 hours | 8 hours | 5 Business Days |
| Outside Hours of Operation | | | |
| Response Time | 1 hour | Within 2 hours of start of next period of Hours of Operation | Next Business Day |
| Completion Time | 2 hours | End of next Business Day | 5 Business Days |

Unavailability: JCI is responsible for ensuring that all and any spaces or rooms and normal access routes are in a state or condition that allow safe and convenient access to all persons who are entitled to enter, leave, occupy or use them, and are substantially complete, operational, safe, functional and fit for intended use, and meet all other requirements of this Project Agreement. When these conditions are not met an Unavailability Event has occurred and the Service Fee is reduced by a prescribed amount.

Facilities Maintenance Service Failure: means any failure by JCI, other than an Unavailability Event, to provide the FM Services in accordance with the Project Agreement and includes a failure to satisfy any Key Performance Indicator.

Deductions: If at any time after the Initial Occupancy Date an Unavailability Event or an FM Service Failure occurs, the City, and to a limited degree the Port, will be entitled to take Deductions from Service Fees for the relevant Billing Period, except that:

- c) the maximum aggregate of all Deductions that the City and Port can take from the Service Fee is the aggregate amount of the fees associated with FM Services for that Billing Period; and
- d) to the extent that an Unavailability Event or an FM Service Failure is the result of an Uninsurable Force Majeure Event, a Change in Law Event, or an Other Relief Event, the City and Port will not be entitled to make Deductions.

Of particular concern to the City is the availability of elevators, the timeframes for response and repair and the deduction related to unavailability. As it relates specifically to elevators, the following deductions apply if a certain number of elevators remain unavailable after the set response time expires for each day:

| | During Operating Hours | After 12:00pm on days City Council or Board of Harbor Commissioner meet |
|-------------------------|--|--|
| One elevator | \$1,000 | \$2,000 |
| Two elevators | \$3,000 | \$3,500 |
| Three or four elevators | \$10,000 | \$15,000 |
| All elevators | 75% of Total Unavailability for every room made inaccessible until such time service comes back for two or more elevators. | |

If deductions total \$1.4 million or more occur during any consecutive twelve-month period, then an event of default is triggered and the City may terminate the Project Agreement.

Punchlist Holdback: If the Project Company fails to complete and rectify punch list items specified within 120 days of the Occupancy Date of a given Facility, the City or Port, as the case may be, may withhold from its respective payment, a holdback amount that is 200% of the amount estimated by the Independent Building Expert to complete and rectify the punch list items.

Relocation Plan: Six months in advance of the expected date upon which the Project Company expects to achieve Occupancy Readiness in respect of a Facility, the Project Company shall deliver a draft Relocation Plan in respect of such Facility to the City or the Port. The Project Company shall not be required to move the City or Port on a date certain, but shall assist with the relocation when the City and Port are ready in accordance with the Relocation Plan. Failure to provide evidence of a binding contract with a moving contractor by the later of (1) 30 days prior to the Scheduled Occupancy Date in respect of a Facility (other

than Lincoln Park), or (2) 30 days after approval of the Relocation Plan by the City or the Port, as the case may be, then the Project Company shall make a single payment in the amount of \$500,000 to the City and the Port, and the City and the Port may unilaterally make alternate relocation arrangements. If the Project Company otherwise fails to comply with its material obligations under the Relocation Plan and such noncompliance is not corrected within 90 days of the date set forth for the satisfaction of such obligation in the Relocation Plan or the applicable Scheduled Occupancy Date, whichever first occurs, then the Project Company shall make a single payment of \$250,000 to the City and the Port, in which case the Project Company shall no longer have any obligation to or responsibility for relocating either of the City or the Port.

Parking Garages:Lincoln Garage: The Project Company will make certain structural improvements to Lincoln Garage in order to support the new Main Library that will be built above it. The City will not be able to use Lincoln Garage or the existing Main Library loading ramp for approximately ten months (August 2016 to June 2017) while the work is being performed. When the Lincoln Garage reopens, access will be from the existing access ramps off of Broadway at Cedar Street into level B2 and internal ramping will be restriped to enable proper circulation. In addition, the Project Company will reserve an allowance of \$500,000 to cover the cost of any upgrades to the mechanical, electrical, plumbing, or fire protection systems in the Lincoln Garage, or any upgrades to the B1 and B2 parking areas of the Lincoln Garage required to comply with Applicable Law, and not for any other purpose. The Project Company will not be liable for latent structural defects in the existing Lincoln Garage, other than a latent structural defect that arises from the Project Company's improvements to the Lincoln Garage to support the Main Library.

Broadway Garage: The Project Company will not make improvements to the Broadway Garage. Access to this garage will remain unchanged as a result of the Project. The Project Company will not be liable for latent structural defects in the existing Broadway Garage.

Private Development: The Private Development Sites include the 3rd and Pacific Site and the Center Block Site. The 3rd and Pacific Site is proposed to be conveyed earlier than the Center Block Site and will be developed earlier as well. It is expected that the 3rd and Pacific Site will be conveyed at Financial Close of the Project.

Funds generated from the sale of the Pacific Site, up to \$8 million, shall be deposited into an escrow account to be used for Project costs. Any funds in excess of \$8 million may be held in an excess escrow account which can be used for Project costs at the discretion of the Project Company. If proceeds from the sale are less than \$8 million, the Project Company shall deposit any shortfall up to \$8 million into the escrow account to be used for Project costs.

The Center Block Site Conveyance Document will include the following obligations:

- A demolition permit for the old City Hall has been issued, with demolition of City Hall to be completed within nine months, unless mutually agreed to extend, and a bond is posted at the full cost of demolition;

- The redevelopment of Cedar Avenue between Broadway and Ocean Boulevard will be completed;
- Construction of a new access ramp structure off Chestnut Avenue or Cedar Avenue to service the loading docks for the Main Library will be completed; and

A portion of the funds generated from the sale of the Center Block Site, which are necessary to complete Lincoln Park, shall be deposited into an escrow account to be used for the completion of Lincoln Park.

Private Development Sites shall be conveyed in an As-Is condition and the Project Company, successors and assigns, shall release the City from any and all liability related to the condition of the property, including environmental and geotechnical conditions, Differing Site Conditions, and Regulated Site Conditions. Any residential development located on the Private Development Sites must provide a minimum of ten percent of the total number of units as moderate income units restricted for a period of 45 years for for-sale units, and a period of 55 years for rental units. An Affordable Housing Regulatory Agreement will be recorded as part of the conveyance of the Private Development Sites to ensure this obligation is met. Additionally, the income affordability component is subject to annual monitoring and compliance by the City to ensure this obligation is continuously met. As part of today's actions, the City Council is requested to authorize the execution of Conveyance Documents for the Private Development Sites.

Attached as Exhibit F is the substantially final draft of the Project Agreement, and such final draft will not change in any material respects between the date of this Council Letter and execution of the Project Agreement, but may be amended to address changed factual circumstances, mistakes and comments from the City and Port lenders. The Exhibit F will not include Appendix 5, which contains full size plans and is too large to include but can be reviewed upon request, and Appendix 16 which is a confidential financial model.

PROJECT SCHEDULE

The Project has been actively pursued since February 2013 when the City issued a Request for Qualifications to identify development consortiums sufficiently qualified to deliver a new Civic Center through a Public-Private Partnership. Since that time, the City issued a Request for Proposals, and, in December of 2014, selected the Project Company to partner with the City in delivery of the Civic Center. Since December 2014, the partners have moved diligently forward, anticipating today's public hearing on, among other things, entering a Project Agreement to design, build, finance, operate and maintain a new Civic Center. Should City Council choose to proceed and authorize the City Manager to execute the Project Agreement, the following milestones are anticipated to be achieved on the following dates:

- Courthouse abatement start date*: November 23, 2015
- Financial Close: January 28, 2016
- Courthouse demolition start date*: March 1, 2016
- Courthouse demolition completion date*: June 1, 2016

- Construction start date: July 1, 2016
- Lincoln Park Demo start date: Mid-July, 2016
- Demo of Amphitheater start date: Mid-September, 2016
- Start Civic Center Foundations start date: May 2017
- Below-Grade Structures Complete: End of 2017
- Structures Complete: Early Summer, 2018
- Building Envelopes Completed: Early Fall 2018
- City Hall Scheduled Occupancy Date: June 30, 2019
- Library Scheduled Occupancy Date: June 30, 2019
- Port Building Scheduled Occupancy Date: June 30, 2019
- Start Demolition of Existing Library: July 29, 2019
- Lincoln Park Scheduled Occupancy Date: November 27, 2020
- Project Scheduled Occupancy Date: November 27, 2020
- Finish Demolition of Old City Hall: 9 months after relocation
- City and Port Long Stop Date: November 27, 2021

* Not a part of the Project, but important to timely progress of the Project

CONSTRUCTION PERIOD

The overall construction period is anticipated to be approximately 54 months, beginning June 2016, with occupancy of City Hall, Port Headquarters and the new Main Library scheduled to occur in July 2019. After this date, demolition activities at the old Main Library should begin with the completion of Lincoln Park by November 2020. This period of time will require intense oversight and involvement to ensure timely delivery of the Project, built to the specifications detailed in the Design and Construction Services. This oversight is necessary in conjunction with, and in addition to, the Independent Building Expert involvement.

In order to ensure adequate oversight and management through the period to Financial Close, to provide Project and contract management services, and to achieve the expected cost limitations, quality outcomes and performance objectives, to establish clear protocols, regularly monitor progress and performance and proactively manage design changes and change orders during the construction period, and to provide overall Project and contract management, change management and commissioning and relocation assistance, staff recommends entering a Phase IV contract with Arup North America Limited (Arup) at a cost of \$3,376,299 to provide these services over the upcoming five year period. Additionally, authority is requested to increase the contract by an additional \$652,996 for Port related services during the construction period, should the Port decide to proceed and agree to reimburse the City. Total requested increase in the contract with Arup is \$4,029,295.

The Project is anticipated to generate the following jobs:

Civic Center:

| | |
|---------------------------------|--------------|
| Direct Temporary (construction) | 2,428 |
| Direct Permanent | 162 |
| Indirect | 917 |
| Induced | <u>1,256</u> |
| Total Civic Center | 4,764 |
| Private Development: | |
| Direct Temporary (construction) | 1,042 |
| Direct Permanent | 803 |
| Indirect | 721 |
| Induced | <u>701</u> |
| Total Private Development | 3,268 |

FINANCIAL STRUCTURE

Overall Financial Structure

The Project uses a Public-Private Partnership (P3) structure in which a private for-profit entity (PECP or “The Project Company”) Designs, Builds, Finances, Operates and Maintains (DBFOM) the Civic Center. The project also has a significant real estate component.

The City and the Port will enter into a Project Agreement (contract) with PECP. The Project Agreement will require PECP to finance the Civic Center Project which will be done through privately placed taxable debt and equity. The Project Agreement will also require PECP to design, build, operate, and maintain the Civic Center, which it will do through sub-contractors. The City will own the Civic Center, except for the Port Headquarters building wholly owned by the Port and common areas jointly owned by the City and the Port. The City’s responsibilities in the Project Agreement include: conveying land to the Port for the Port building, providing upfront cash funding, conveying a City-owned site at 3rd and Pacific (expected to occur in the near future), conveying the Center Block site to PECP or its designee, after the new City Hall is constructed and other conditions met, and making monthly “Service Fee” payments to PECP over approximately 40 years of occupancy. The Service Fee will cover debt service on the debt, return on the equity put into the Project, and operating and maintenance costs on the City Hall and Library buildings. In addition to the monthly Service Fee, the City will have other on-going annual costs associated with the Civic Center. There are also one-time costs associated with the Civic Center construction; these will primarily occur before occupancy.

A new common Central Utility Plant and associated Utility Yard will be built for the City Hall, Library and Port buildings to provide heating and cooling, and the Port and the City will share public space, some facilities, and conference rooms. Capital and operating costs have been allocated to the City and Port based on a number of agreed upon allocation factors.

The Port is financing the Port Headquarters building differently from how the City is financing the rest of the Civic Center, because the Port’s financial structures are different from the

City’s. The Port building construction will be initially financed with short-term debt borrowed by PECP. PECP will design and construct the Port Headquarters building through the same sub-contractors as for the Civic Center. Then, in a turn-key transaction after construction is complete, the Port will purchase the completed building using cash, revenue bonds, selling non-revenue generating assets, or some combination. PECP will provide long-term operations and maintenance and lifecycle operations (replacement of equipment, etc., as it wears out) to fully maintain the City’s portion of the Civic Center. The Port will use PECP for more limited operations and maintenance functions.

Sources and Uses of Funds

The sources of funds to construct the Civic Center Project (not including the Port Headquarters building) come from privately placed taxable debt borrowed by PECP, from equity put into PECP by Plenary Group Concessions USA, Ltd. or its affiliates, from City cash and other City borrowing, and from the sale of City-owned land. The uses of funds (total construction related costs) include design and construction, pre-payment of the existing debt on the old City Hall and Library, transaction and financing costs, and pre-occupancy costs. Table 1 summarizes the estimated sources and uses of funds for the Project. The Port portion of the Project is financed by the Port, and is not included in the sources and uses in Table 1.

Table 1: Civic Center Sources and Uses (not including the Port)

| In FY 16 \$ millions | | % |
|---|-----------------|-------------|
| Sources | | |
| Private Placement Debt Borrowed By PECP | (236.66) | 79% |
| Equity Funding by PECP Investors | (21.02) | 7% |
| City Cash/Other borrowing | (10.78) | 4% |
| Land Sales by the City | (29.70) | 10% |
| Total Sources | (298.17) | 100% |

| In FY 16 \$ millions | | % |
|-----------------------------------|---------------|-------------|
| Uses | | |
| Design, Construction, Contingency | 218.09 | 73% |
| Prepayment of Existing Debt | 17.60 | 6% |
| Transaction Costs and Fees | 18.73 | 6% |
| Financing Costs and Fees | 37.72 | 13% |
| Pre-Occupancy Costs | 6.04 | 2% |
| Total Uses | 298.17 | 100% |

The design, construction, contingency line in Table 1 includes \$213.6 million for design and construction managed directly by PECP, as well as a \$4.5 million design contingency. The next section on “Partial Funding...” provides more detail on the City cash funding and land sales.

In addition to the City cash provided for construction as described in Table 1, there are also

some additional one-time costs for the Project that the City will pay. The section after the next on “One-Time Costs...” provides more detail on that topic.

All costs are estimates, and will, to some degree, change. There is more discussion about the nature of the estimates in the Fiscal Impact section.

Partial Funding from Funds Available, a Ten-Year Bond Issue, and Land Sales

The Civic Center is partially funded as a result of the City directly contributing \$10.78 million in cash to fund construction costs. The sources of these funds include permit fees paid by PECP, previously collected park impact fees, other funds available from various funds, and partial proceeds from a ten-year bond anticipated to be issued in January 2016.

Table 2 summarizes all the cash funding for construction costs.

Table 2: One-time Cash Funding for Construction Costs (Reduces Annual Costs)

| In FY 16 \$ millions | All Funds |
|---|---------------|
| Building Permit Fees paid by PECP | (3.0) |
| Park Impact fees for Lincoln Park | (0.8) |
| Partial Proceeds from a Ten-Year Bond | (2.3) |
| FY 15 Expenditure Savings from Departmental | (2.7) |
| Use of SAP funds Available for Out-of-City | (2.0) |
| Use of PEG Funds Available for In-City | (0.5) |
| Total One-Time City Funding for Construction | (14.3) |

The bond issue will include funding of an estimated \$8 million for the Civic Center. Part of that Civic Center bond funding will be used to pay for construction costs, and part will be used to pay for one-time costs related to the new Civic Center. Separately, the bond issue will also include funding for the courthouse demolition and the Pacific and 3rd Streets storm drain relocation projects. Neither of those projects are considered part of the Project. The debt service on the Civic Center portion of the bond issue (\$8 million) is estimated to be about \$965,000 a year for ten-years and paid from the General Fund. That debt service will be paid from additional property tax expected from the dissolution of the former Redevelopment Agency. The cost of the debt service is not included in the cost totals for the Civic Center.

The cash funding also includes funds available from General Fund FY 15 year-end departmental savings, from the Special Advertising and Promotion (SAP) Fund, and from the Public, Educational, Government Access (PEG) portion of Cable TV funds.

Construction funding is also provided by an expected \$29.7 million in partial proceeds from the sale of City land. The sale of the land will also spur development and economic growth.

The detail of the proceeds used to help fund the Project from the land sales is shown in Table 3.

Table 3: Land Sale Proceeds Used to Fund Construction Costs (Reduces Annual Costs)

In FY 16 \$ millions

| Category | Amount (\$ millions) |
|---------------------------------|----------------------|
| Sale of Land to Port for Port | 1.0 |
| Sale of Land at 3rd and Pacific | 1.0 |
| Sale of Mid-Block (old City) | 1.0 |
| Total City Proceeds | 3.0 |

One-Time Costs and Their Funding Sources

The Project is projected to have one-time costs of \$9.71 million. These costs are in addition to the construction costs (uses) described above, and in addition to the costs funded in FY 15 for basic environmental and due diligence studies, design, and negotiations. The one-time costs and their funding sources are shown in Table 4.

Table 4: One-Time Costs and Their Funding Sources

In FY 16 \$ millions

| Category | Amount (\$ millions) | Fund |
|---------------------------------------|----------------------|------------|
| One-Time Costs | | All |
| Transition Costs Between Old and New | 1.7 | |
| TI Wireless/Distribution/AV, Temp | 3.6 | |
| Advisor/Consultant Costs to Financial | 0.2 | |
| Project Oversight During Construction | 4.2 | |
| Total - One-Time Costs | 9.7 | |

In FY 16 \$ millions

| Category | Amount (\$ millions) | Fund |
|---|----------------------|------------|
| Funding for One-Time Costs | | All |
| Civic Center Fund Funds Available | 3.0 | |
| Sales/Use Tax from Civic Center Con | 1.0 | |
| Partial Proceeds from a Ten Year | 5.7 | |
| Total Funding for One-Time Costs | 9.7 | |

These one-time costs include: transition costs as the City shuts down operations in the Old City Hall/Library and moves to the new Civic Center, technology equipment for the new Civic Center, advisor costs (bond counsel and financial advisors), and Project oversight costs during construction.

The one-time costs are proposed to be funded from a combination of funds available from the Civic Center fund, from future use tax to be received from the Project construction materials, and from partial proceeds of the ten-year bond expected to be issued in January 2016. Total

City one-time funding, either for a direct contribution to construction costs or to pay for one-time costs, is \$20.49 million.

Service Fee Payments to PECP

The City will make monthly Service Fee payments to PECP for the cost of designing, building, financing, operating and maintaining the City Hall, Library, and various shared and public spaces. Lincoln Park will be maintained by the Parks, Recreation and Marine Department. The annual Service Fee is expected to be first paid in FY 19 (July 2019) and then continue until FY 61 (40 years plus some partial occupancy). The Service Fee increases annually using an index that is based 65% on a fixed growth rate of 2.18% and 35% on the Consumer Price Index (CPI), assumed for projection purposes to be at 2.4% annually (These numbers may change slightly at financial close due to adjustments in final financing terms and interest rates, but they will be substantially the same). There is also a separate component for energy costs. Energy costs are paid based on actual usage and rates. For cost projection purposes, energy costs are projected to increase at 4.5% annually. Although utility costs are paid directly by the City, for comparison purposes in this analysis, electricity and gas, as the major utility costs, is shown as part of the Service Fee payment.

Table 5 shows the hypothetical Service Fee for FY 13 and FY 16 of \$14.71 million and \$15.76 million, respectively. The Service Fees in FY 13 and FY 16 are “hypothetical” because there are no Service Fees due in either year. The FY 13 year is shown for comparison with the original budget and that comparison is made in the Fiscal Impact Section below. The FY 16 year is shown because, the Project Agreement specifies the FY 16 Service Fee as the base Service Fee from which all inflation and growth assumptions begin. (The Project Agreement references two of the three components of the Service Fee: \$9,918,291 for the fixed growth fee, and \$5,340,618 for the variable growth component. There is also \$499,730 energy component.) Table 5 also shows the expected actual Service Fee payments in FY 20, FY 21, and FY 22. (The color coding of a column indicates the numbers will be used in a future table.)

Table 5: Civic Center Service Fee by Year

| \$ in millions | Service Fee | Future Net Service Fee |
|------------------------------|-------------|------------------------|
| FY 13 hypothetical | 14.71 | 13.77 |
| FY 16 Project Agreement base | 15.76 | 14.75 |
| FY 20 | 17.28 | 16.17 |
| FY 21 | 17.69 | 16.55 |
| FY 22 | 18.10 | 16.93 |

Once development occurs on the Center Block Site (where the old City Hall is now), additional tax revenue will be received and the net cost to the City is anticipated to decline by about \$1 million a year (in FY 16 \$). The “Future Net Service Fee” for each year is also

shown. It is called “Future Net Service Fee” because development revenue will not be received until after FY 22. The “Future Net” column demonstrates the significant impact that development revenue will have in lowering the net Service Fee in the future.

Other Annual Costs

In addition to the Service Fee, the City will incur Other Annual Costs associated with the new Civic Center. The costs are detailed in Table 6.

Table 6: Other Annual Costs

| In \$ millions | Hypothetical FY 13 |
|------------------------------------|-----------------------|
| Lease Costs That Continue | 1.32 |
| Allocated Costs That Continue | 1.49 |
| Services & Parking Costs | 0.46 |
| Total - Other Related Costs | 3.27 |

The Other Annual Costs originate primarily from two areas. There will be continuing lease costs for City functions that were originally contemplated to move into the new Civic Center; and there will also be continuing general costs for City functions that were allocated to the old City Hall and Library and will continue to be incurred with the new Civic Center. There are also some relatively small direct service and parking costs. In total, these other annual costs are about \$3.27 million in FY 13 dollars. This is slightly below the \$3.4 million maximum estimate mentioned to City Council at the November 2014 Study Session on the Project. There are also new ongoing costs such as the increased cost for Police parking due to the loss of the old Courthouse parking lot, some maintenance of Lincoln Park, recycling services in the new City Hall and Library, minor garage maintenance, and ongoing management of the Project Agreement. As described earlier in this report, the City and the Port will have a Memorandum of Understanding (MOU) describing the operational and financial relationships between them with respect to the Civic Center. There is not expected to be any significant ongoing payment between the City and the Port, other than the flow through of the Port’s maintenance costs, which will be reimbursed by the Port.

Table 7 shows the Other Annual Costs in the early years of actual occupancy of the Civic Center. FY 13 is hypothetical and is shown for comparison purposes only. The increase in other annual costs over time is due to inflation.

Table 7: Other Annual Costs by Year

| \$ in millions | Other |
|--------------------|-------|
| FY 13 hypothetical | 3.2 |
| FY 20 | 3.7 |
| FY 21 | 3.7 |
| FY 22 | 3.6 |

The Service Fee and Other Annual Costs, will be funded and paid for through the normal annual budget process. These costs will generally be allocated to the various funds whose operations utilize the Civic Center. The General Fund is expected to pay about 74% of the costs. The projected budget impact is described below in the Fiscal Impact section.

This matter was reviewed by Deputy City Attorney Rich Anthony and Finance Director John Gross on December 4, 2015.

City Council action on December 15, 2015 is requested in order to ensure that the Project proceeds expeditiously and with the least risk of additional costs.

Budget Impact

An objective for the P3 Civic Center project was that a new Civic Center be built for the annual cost (in FY 13 dollars) being spent to maintain the existing Civic Center. That cost became the base line budget for the new Civic Center and was estimated at \$12.6 million. That base line budget included space lease costs for City functions that were anticipated to move into the new Civic Center. In FY 13, the annual cost of maintaining old City Hall and the Library was the same as it was in 2005. Funding levels for operation and maintenance had not changed in eight years. The lack of an increase in cost is because the maintenance level of the old City Hall and Library is minimal and well below what it is required to maintain the building in reasonable condition. Because no other base cost projection is available, and because the City Hall and Library buildings are seismically at risk, this fiscal impact analysis assumes that the City would not attempt to maintain the buildings in good or even fair condition, but rather would just maintain them in habitable condition. While this substantially understates what would be a “normal” budget, it does represent the current status. The base line budget was adjusted from \$12.60 million to \$12.44 million to reflect a minor adjustment in parking garage revenue management. The base line budget over time is shown in Table 8. It increases the base line budget annually assuming no significant maintenance. These annual base line budget amounts form the basis of the budget impacts shown in this analysis.

Table 8: Base Line Budget to Continue Occupying the Old City Hall and Library (Nothing but essential repairs - continued deterioration)

| \$ in millions | Base Lin Budget |
|--------------------------------|-----------------|
| FY 13 (actual adjusted budget) | 12.4 |
| FY 20 | 13.9 |
| FY 21 | 14.3 |
| FY 22 | 14.7 |

The base line budget is the minimal spendi
existing City Hall and Library operational n

Based on the above budget assumption (no significant maintenance), the budgetary impact of the Service Fee is shown in Table 9.

Table 9: Budget Impact of the Service Fee

| \$ in millions | Service Fee | Anticipated Revenue | Anticipated Service Fee | Variance Between Service Fee and All Funds |
|--|-------------|---------------------|-------------------------|--|
| FY 13 (actual adjusted budget) | 14.71 | 12.44 | 2.27 | |
| FY 19 - Partial Occupancy Year 4 (approx. 3.48 months) | 17.28 | 13.92 | 3.36 | |
| FY 20 | 17.69 | 14.31 | 3.38 | |
| FY 21 | 18.10 | 14.71 | 3.39 | |
| FY 22 | | | | |

After development occurs, budget impact is about \$1 million.

The FY 13 Service Fee is hypothetical and is shown for comparison purposes. In FY 13, the projected Civic Center Service Fee would have a \$2.27 million budget impact. The budget impact in FY 22 is \$3.38 million. The budget impact is not expected to change much after FY 22. If development revenue was received in these early years, the hypothetical budget impact would be reduced to \$1.33 million in FY 13 and \$2.21 million in FY 22. The reduction would be about \$1 million in FY 16 dollars, and is adjusted for inflation.

The Service Fee does not reflect the total ongoing cost of the Civic Center Project. As previously discussed, there are also other annual costs which need to be included as part of the total cost. When the other annual costs are added to the Service Fee, the budget impact increases. Table 10 shows the total budget impact for All Funds and for the General Fund.

Table 10: Budget Impact of the Total Cost (Service Fee plus Other Annual Costs)

| \$ in millions | Service Fee and All Funds | Other Annual Costs | All Funds Anticipated Budget Total | General Fund Anticipated Budget Total |
|--|---------------------------|--------------------|------------------------------------|---------------------------------------|
| FY 13 (actual adjusted budget) | 2.27 | 3.27 | 5.53 | 4.0 |
| FY 19 - Partial Occupancy Year 4 (approx. 3.48 months) | 3.36 | 3.70 | 7.06 | 5.2 |
| FY 20 | 3.37 | 3.79 | 7.17 | 5.2 |
| FY 21 | 3.38 | 3.88 | 7.27 | 5.3 |
| FY 22 | | | | |

After development occurs, budget impact is about \$1 million.

The General Fund impact is about 74% of the All Funds impact. The budget impact is

projected to be stable and minimal after FY 20. In FY 22, the budget impact is estimated at \$5.37 million for the General Fund and at \$4.20 million if development revenue had been received.

Required New Annual Funding

The effect of these costs on the actual budget in any year is generally less than the amounts shown above. This is because the operating budget in any year is only impacted by incremental costs, i.e., new costs. Once a budget impact is addressed in one year, it does not have to be funded with new budget additions in any future year. Table 11 reflects the actual impact on the budgeting process and how much new funding the City will require in any given year.

Table 11: Required New Annual Funding

| \$ in millions | <u>Required New Annual Funding</u> | |
|--|------------------------------------|-----|
| FY 19 - Partial Occupancy Year - (Approx 3 months) | 1.29 | 0.0 |
| FY 20 | 5.30 | 3.9 |
| FY 21 | 0.10 | 0.0 |
| FY 22 | 0.10 | 0.0 |

In the first (partial) occupancy year of FY 19, a projected \$1.29 million will need to be added to the General Fund budget. In FY 20, a projected \$3.93 million will need to be added. After that, little new funding is necessary. The total impact is slightly over 1% of the General Fund budget. In addition, once development revenue is received, there will be a reduction in the net budget requirement of about \$1 million a year (in FY 16 dollars). This funding requirement will be incorporated into the normal budget projections and process.

Council Specified Limit on any Service Fee Increase Due To Interest Rate Changes After City Council Approval of the Project Agreement

The interest rate on the debt issued by PECP impacts the amount of the Service Fee, but the interest rate will not be fixed until near or at Financial Close, currently scheduled in January 2016. Financial Close is the event where the debt transaction is finalized and money changes hands. The Service Fee could increase by the time of Financial Close because of interest rates or for other reasons. Staff recommends up to a \$500,000 annual increase as a reasonable limit on the Service Fee increase (about one-quarter of a percent in interest rate change) to allow the Project Agreement to move forward. Based on that Staff recommendation, the proposed City Council motion to authorize execution of the Project Agreement allows Staff to execute the Project Agreement at Financial Close as long as the FY 16 Service Fee is no more than \$500,000 above the Service Fee described in this Council Letter. Specifically, the amount may increase from \$15,758,639 to as much as \$16,258,639.

City Council can change this allowed increase amount in the motion that approves execution of the Project Agreement. If the Service Fee is above that maximum, then Financial Close will not occur and the unexecuted Project Agreement will return to City Council for additional consideration. During the time of Council reconsideration, interest rates could go up or down. Delays could expose the Project to construction cost increases. As interest rates and other factors change and are reviewed between now and Financial Close, the various cost numbers in the Project Agreement may change slightly, but the Service Fee at Financial Close will not be more than the limit set by the City Council.

General Risks and Uncertainties

The P3 DBFOM mechanism serves to reduce construction and operating risks, such as risks during construction and uncertainties in the cost of maintenance over the long-term. However, all major projects have risk and uncertainty. The Civic Center is a large project and will have uncertainty, regardless of the method by which it is financed and constructed. This section identifies some of the larger risks and uncertainties, and those that may be unique to the financing and operating mechanism for the Project.

- Other annual costs and one-time costs could vary from estimates. Most of the other annual costs identified in this report are estimates, as are all the one-time costs. The accuracy of those estimates varies. A few examples (not an inclusive list) of these costs include:
 - o Permanent parking for employees. Permanent parking has not been fully resolved, but is assumed to have minor ongoing cost impact.
 - o Temporary parking for employees during construction. This cost has been roughly estimated and is included as a one-time cost.
 - o Possessory Interest Tax (a form of property tax) on the Civic Center. The tax is assumed to be zero, as that is, by far, the most likely result; but there is some uncertainty as to the position of the Country Tax Assessor because of the P3 structure of the Project and the unwillingness of the Assessor to provide a tax assessment opinion prior to the execution of the Project Agreement.
 - o There is a \$500,000 allowance for any costs that may be required to bring the Lincoln Garage up to Code should that be required. Any costs above that are City costs.
 - o Construction costs may increase after financial close if there is a delay in making the site available for construction.
- Service level and utility costs could impact the Service Fee. The annual Service Fee will be impacted by any higher than projected electricity and gas usage, higher utility rates, and by any services used (such as security services) above that contracted with

PECP.

- The \$4.5 million design contingency could be inadequate. The construction cost is guaranteed, as long as the Project starts on time and relief events (such as surprise environmental findings) do not occur. However, both the rapid process for the design of the building, which helped to lower construction costs by minimizing the impact of inflation, and the fact that the building is not yet fully designed, may increase the risk that the City will decide to make design changes after the Project Agreement has been approved. There is a \$4.5 million contingency built into the Project, specifically for design changes by the City. However, it is possible that this will not be enough. If that is the case, the City Council would then need to consider additional appropriations from one-time funds to cover additional City-directed change orders.
- There is uncertainty with regard to Center Block development timing, what the development will consist of, and the associated tax revenue. The development revenue that will result from development will help offset Civic Center costs and is expected to be significant, about \$1 million a year (FY 16 \$), inflation adjusted. The actual amount received could be more or less, depending on what type of development occurs.
- The City is responsible for any major improvements to existing garages. The Broadway and Lincoln Park garages are over 30 years old and will need significant improvements over time. This would be a cost even without a new Civic Center.
- The City has earthquake damage responsibility. However, the new Civic Center buildings are designed to be earthquake resilient and to allow quick restoration of operations after an earthquake.
- Completion of Lincoln Park and Demolition of the old City Hall are highly likely to occur. Technically, these projects rely on the assumption of the sale of the Center Block Site. However, the sale is very likely to occur and there are severe penalties to PECP for failure to complete Lincoln Park, as well as strong protections for the demolition of the Old City hall. As a result, the risk is felt to be low.
- Inflationary increases. The Service Fee the City pays to PECP increases annually. The increase is only 35% based on the actual annual inflation rate with the remaining 65% based on a fixed rate of 2.18% annually. This means that the Service Fee payments (exclusive of the energy portion) have more protection from higher inflation, but they do not increase as slowly as might be expected in a lower inflation environment. All of the financial models, including the numbers in this analysis, assume an annual CPI rate of 2.4%. While inflation is currently lower than that, the 2.4% represents a general

expectation of the inflation rate in the future.

- Risk for termination, default, and relief events appear reasonable. The City Attorney's Office has determined that the risks and costs associated with termination, default, and relief events and the private financing are reasonable and will not place the City in undue hardship should these events occur.
- City is responsible for unusual losses and costs. PECP is responsible for all normal losses and costs, but if the issues are particularly unusual or costly, the City may have responsibility.
- Environmental Risks. The City has some environmental risk with regard to regulated site conditions and differing site conditions whereby it is possible that, after construction commences, issues will be found that will be the City's responsibility. The likelihood of this happening and being a material cost are considered to be low.
- Termination Payment. If the City does not execute the Project Agreement (i.e., Financial Close does not occur), PECP will be owed \$4 million. This is the same amount previously anticipated (inclusive of the stipend for submitting a compliant proposal) under the ENA currently in effect. Once Financial Close occurs, termination by the City may not be financially viable.

Appropriations

To support the funding for this Project in the manner described in this Council Letter, a number of FY 16 appropriations are needed for construction costs and one-time costs. There is also an appropriation necessary for the present Exclusive Negotiation Agreement (ENA) period because of a change in accounting for the Port's share of costs during this negotiations period. Instead of the Port paying directly for its share of costs during the negotiations period, the City is now paying for the Port's share of costs and the Port is then reimbursing the City.

Appropriations are necessary to authorize the transfer of funds from various original sources to the Civic Center Fund. Appropriations are also needed to expend those funds once they have been collected in Civic Center Fund for the Project. The details of the appropriation follows and they are consistent with details provided in this Fiscal Impact Section.

An appropriation increase in the amount of \$28.49 million is requested in the Civic Center Fund (IS 380) in the Public Works Department (PW) to support Project construction costs (\$18.78 million) and one-time Project costs (\$9.71 million). The \$18.78 funding comes from \$8.39 million in various funds available, \$2.39 million from bond funds, and \$8 million from

the proceeds of the sale of land to the Port. The \$9.71 million for one-time costs is supported by \$3.00 million from Civic Center funds available, \$1.1 million from the sales and use tax generated from the project, and \$5.61 million from bond funds, all as described below. The bond issuance is planned for January 2016. If funds are needed before the bond funds, the construction sales and use tax, or the Project Permit fees are available, it will be provided by General Fund Operating Reserves or the Development Services Fund funds available (as appropriate) and will be replenished from the proceeds of the bonds, the sales and use tax revenues, and building permit fees, as received.

An additional \$2.42 million in appropriation is needed because of an accounting change for City and Port legal and financial advisors during the ENA period. The Port was previously intended to pay its own costs, but instead, the City is paying for those costs and will be reimbursed by the Port. The appropriation is needed for the Port's estimated share of the costs.

The specific appropriations are as follows:

1. Increase appropriations in the Civic Center Fund (IS 380) in the Public Works Department (PW) by \$28,490,000 for Civic Center construction and one-time costs; \$6,100,000 of which is offset by Civic Center funds available and projected sales and use tax revenue from the new Civic Center Project construction. The remaining \$22,390,000 in appropriation is offset by revenue transfers from other funds including bond proceeds and revenue for the sale of land to the Port.
2. Increase appropriations in the Civic Center Fund (IS 380) in the Public Works Department (PW) by \$3,143,205 to cover the Port's legal and financial advisors expenses during the ENA period; and increase appropriations in the Civic Center Fund (IS 380) in the Public Works Department (PW) by \$662,996 for Port contract management during construction, both of which are offset by Port reimbursements.
3. Increase appropriations in the Development Services Fund (EF 337) in the Development Services Department (DV) by \$3,000,000 for transfer to the Civic Center Fund (IS 380), offset by funds received for development fees associated with the Project;
4. Increase appropriations in the Capital Projects Fund (CP 201) in the Parks, Recreation and Marine Department (PR) by \$890,000 for transfer to the Civic Center Fund (IS 380) for Lincoln Park facility improvements, offset by Parks and Recreation Facilities Impact Fee;
5. Increase appropriations in the General Services Fund (IS 385) in the Technology and Innovation Department (TI) by \$500,000 for transfer to the Civic Center Fund (IS 380),

offset by the Public, Education and Government Access (PEG) portion of Cable TV Franchise Fee;

6. Increase appropriations in the Special Advertising and Promotions Fund (SR 133) in the City Manager Department (CM) by \$2,000,000 for transfer to the Civic Center Fund (IS 380), offset by funds available.

7. Increase appropriations in the General Fund (GF) in the Citywide Activities Department (XC) by \$16,000,000 (adjusted for the exact amount available from bond proceeds) for transfer to the Civic Center Fund (IS 380). Of this amount, \$8,000,000 is offset by revenue from the sale of land to the Port for its headquarters and \$8,000,000 (or the amount available) is offset by the amount available from bond proceeds.

An appropriation in the amount of \$8.0 million for the purchase of the land for the Port headquarters has been included in the Port's FY 16 Capital Budget. The annual appropriations needed for the annual Service Fee and the Other Annual Costs will be placed into the appropriate fiscal year budget when needed, anticipated to begin with FY 19. An appropriation in the amount of \$1.1 million for Civic Center construction materials from the General Fund to the Civic Center Fund will be made in the years the transfer of sales and use tax proceeds occur.

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MICHAEL P. CONWAY
DIRECTOR OF ECONOMIC
AND PROPERTY DEVELOPMENT

AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

JOHN GROSS
CFO/DIRECTOR OF
FINANCIAL MANAGEMENT

GLEND A WILLIAMS
DIRECTOR OF LIBRARY SERVICES

STEPHEN SCOTT
INTERIM DIRECTOR OF
PARKS, RECREATION AND MARINE

ARA MALOYAN
DIRECTOR OF PUBLIC WORKS

APPROVED:

PATRICK H. WEST
CITY MANAGER