Agenda Report

April 3, 2006

TO: City Council

FROM: Pasadena Center Operating Company (PCOC)

SUBJECT: Rejection of All Bids and Authorization of a Re-Bid for the Pasadena
            Conference Center Expansion Project

RECOMMENDATION OF THE PCOC BOARD OF DIRECTORS:

It is recommended that the City Council:

1. Reject all bids received on February 9, 2006, in response to the specifications for construction of the Pasadena Conference Center Expansion Project,
2. Authorize the PCOC to modify the project to reduce scope and construction duration and solicit new bids for the project.

BACKGROUND:

As previously reported to the City Council, bids for the Conference Center Expansion Project were opened on February 9, 2006 in the City Clerk's office. Two (2) qualified firms submitted bids. Clark Construction was the apparent low bidder at $131,855,000.00. Turner Construction bid $157,388,000.00. The final bid costs for the project were considerably higher than anticipated. The bid prices remain valid for 90 days so we have until May 10, 2006 to issue a notice to proceed.

In an effort to reduce the cost of the project, The City Council authorized the PCOC to negotiate a modified project scope with both bidders. The PCOC has had the opportunity to meet with both bidders and with their input have developed a project alternate that reduces the overall scope of the project, shortens the project duration and includes some creative value engineering options that should reduce cost without impacting the quality or design of the center. Although we have discussed the cost savings implications of these changes with the bidders, we have not received actual cost proposals from either bidder.

The specific project alternate would be to postpone construction of the new garage to a future phase and utilize the east plaza to erect a temporary structure to house our exhibit space for the duration of the project. This would place all continuing building operations on the east side of the project to ensure uninterrupted operation and would allow the new ballroom and exhibit space to be constructed in a single phase with no interruption reducing construction duration to less than the thirty-three (33) months originally anticipated. The conference building modifications with the new façade and office addition and the restoration of the original balustrade location in front of the Civic Auditorium would continue unchanged. At

the completion of the project, the temporary structure would be removed from the east plaza, and the area would be reconfigured as an additional parking level. This option protects the

vital program components of the project, allows the project to be completed more quickly so new economic impacts can be realized sooner and protects the viability of existing operations during the construction.

During our discussions with the bidders, we learned that there were concerns about the potential risks associated with the process of negotiating the bids. Primarily, whether the process could be challenged and if a challenge might affect the validity of a construction contract awarded through the process. If the contract were invalidated they felt that they would be at financial risk for all work performed on the project.

There were a number of alternatives discussed to reduce or eliminate the risks associated with the process including initiating a validation action or re-bidding the project.

The validation action option includes moving forward with the current negotiation process and then undertaking a validation action. The validation action would require a court proceeding to determine that the negotiation process used in awarding the contract was valid. This would require that the City Council approve the project and financing prior to an action being initiated. In addition to the uncertainty of the ruling, this would add substantial time to the process and would likely exceed the 90-day period during which the bids remain valid. While the bidders might individually agree to extend that time limit, their agreement would not bind their subcontractors. Absent voluntary time extensions from the subcontractors, the bidders could not be assured of their ultimate subcontract costs.

When the original negotiation process was conceived there appeared to be only one bidder interested in pursuing a contract. Ultimately, however, both bidders wanted to pursue value-engineering negotiations. With this change in circumstances, negotiating final prices with both bidders would place the PCOC and the City in an awkward position. Concerns could be raised concerning confidentiality of bid information or favoritism. Such concerns could easily taint the process in the eyes of the public as well as any court that might have to consider the matter.

The re-bidding option requires rejecting the current bids and re-bidding the project with a reduced scope. This option minimizes or eliminates any legal challenge to the process and would require less time than the validation action. It also eliminates concerns about the fairness and openness of the process. There are still risks that we may not receive multiple bids or that the bid costs may increase.
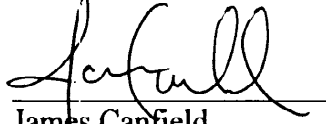
After carefully reviewing the options with legal counsel and considering the concerns voiced by the contractors about risk to the validity of their contract, the PCOC Board of Directors recommends that the City Council reject all bids and direct the PCOC to re-bid the project with the revised scope as noted above.

It is anticipated that the bid period will be from April 17 through May 4, 2006. Bids will be solicited from the list of pre-qualified bidders. The PCOC will conduct reviews of the bids and be prepared to make a recommendation on the project to the City Council within 45 days of bid opening. That final recommendation will include the final costs, schedule and financing plan for the project.

FISCAL IMPACT:
If the PCOC recommendation is adopted, a substantial reduction in the cost of the project is anticipated.

Respectfully Submitted,

James Canfield
Acting Chief Executive Officer