

Mr. Miranda;

On November 7th, the County Administrator (CA) sent to you a 12 page document relative to funding for the City/County Courthouse building. In it, he says the City needs to let him know if and how we wish to proceed on funding for that project by November 15th in order to accommodate commitments made by the CM@R, Sundt Construction Company, to it's subcontractors and thereby honor the Guaranteed Maximum Price for the project.

The letter raises some issues that I need your help in resolving before I can make an informed decision on a matter that involves such a significant amount of taxpayer money.

First, the original 2004 Bond project was advertised to the voters as a 337,000 sq/ft facility and priced at \$91M. The Bonding capacity was for \$76M. In the Bond package approved by the voters it stated that \$4M of the difference would be made up by the sale of residual assets in the Municipal Court, and that "if additional funding cannot be realized, either the project will need to be re-scoped to fit available bond funding or completed in phases as additional funding becomes available."

In April, 2011 the Board of Supervisors amended the 2004 Bond package and made two changes to the 2004 voter approved Bond package:

- a) The size of the facility was reduced to 257,000 sq/ft
- b) The project was split into two separate and distinctly phased projects; first, the shell of the building, and as a second phase the Tenant Improvements to the facility. Significantly, it is stated in the Amendment "Phase II will not be a part of the 2004 GO Bond Project and is dependent on future funding sources."

It would appear that we're getting less for more and that it's going to take longer.

Please include whichever of your staff is appropriate and answer these questions that come from the combined documents noted above.

a) The 2004 Bond package was for \$76M. On page 4 of the CA letter it states Expenditures to Date are \$34.6M. On page 5 of that letter it states "Project Fund Balance" is \$17M for construction. If we began at \$76M, spent \$34.6M, why is there only \$17M remaining for construction? On page 6 there is a reference to the need to pay for permits, utility fees, construction testing - to the extent that we're charging/paying ourselves, why charge the project with those costs and not simply waive them and allow the money to be used for construction? That same section mentions "courtroom furnishings and A/V." Those are TI's, not Phase I construction of the shell.

b) The CA letter reflects the April, 2011 Amendment to the 2004 voter approved Bond package when it states "Phase I" includes only the Tower Shell, Central Plant and limited sitework." If the originally approved Bond package envisioned both the structure and build-out of the interior, what accounts for the reduction in scope and the increase in costs associated with the project? The letter correctly states that we are in the midst of a 'down' construction market. That would indicate efficiencies should be realized, not the reverse.

c) On page 1 the comment is made that the work will begin if "the GMP (is) acceptable to the County." These are City of Tucson resident tax dollars. The City certainly should be afforded a voice in the decision as to whether or not the GMP is acceptable.

d) Who authorized the spending down of the \$76M, and what was it spent on? The voters approved those dollars to build the project, including TI's (until the BOS amended the project in April of this year.) Now the money is spent and construction has not begun. It sounds very Rio Nuevo-esque.

e) On page 2 of the letter it is stated that the design team planned for a "ballooned" 470,000 sq/ft facility. Upon realizing that that was unaffordable, they scaled it back to approximately 295,000 sq/ft. The voters approved a 337K sq/ft facility, that was amended in April to 257K sq/ft, and the letter states the design team went from 470K sq/ft to 295K sq/ft. The letter (page 4) indicates that \$11.6M in taxpayers money was spent on "planning and design." That money is now gone, and if any portion of it was spent on designing a facility that was 140K sq/ft larger than what the voters approved, and ends up at one that is 40K sq/ft less than what was approved, the design team needs to answer for those wasted dollars. How will you follow up on that, and is the project 295K sq/ft or the Amended 257K sq/ft?

f) The CA letter on page 4 states that the GMP was received on September 8th, 2011. That was over 2 months ago. We are now faced with a decision time frame that is unacceptable, especially in light of the fact that funding information has been available for over 60 days.

g) On page 5 of the letter it states that the "current design, inclusive of all interior build-out, has been estimated by an outside cost estimating firm at \$77M." This is particularly confusing since the April, 2011 Amendment to the voter approved Bond package broke the project into two Phases, the first of which was only to include the shell, and the second (Tenant Improvements) of which was both unfunded, and without costs associated with it. On page 4, the GMP is based on "95% Construction Documents for Tower Shell and Central Plant." With such a significant amount of taxpayer money involved, there has got to be clarity with respect to how this project is, and has been designed, what specific TI's are included in this new \$77M design, whether the GMP includes those TI's or if further funding will in fact be needed.

h) That issue is further complicated when on page 6 it states that in May, 2010 the Bond Advisory Committee "authorized an additional initial allocation of \$50M to essentially complete the project, supplementing the 2004 authorization." However, on page 10, the letter states "the additional \$50M allocation now authorized by the BAC for the project in a future bond election." If it was an additional authorization that supplemented the 2004 authorization, that does not seem to imply the need for a future bond election, but implies the BAC was moving funds to "supplement" the 2004 vote.

I) Further confusing the data, on page 10 there is a discussion of cost analyses made by Sundt during the GMP process. The initial estimate for project costs from Sundt was \$48M. It is later stated that through negotiation, that amount was reduced to \$38M, which included a \$5M contingency. If the original Sundt project cost estimate included a 20% buffer (\$48M vs \$38M,)

including an additional \$5M contingency, that does not strike me as reflecting a CM@R who was operating in good faith during the initial cost estimating exercise. In addition, page 10 goes on to describe Tenant Improvement costs projected by Sundt to be \$27M, which includes \$1.4M in contingency. The following statements are then made on page 10 - "the GMP, including all subcontractor and material competitive pricing and all indirect costs listed above, has been established by Sundt at \$48M, which could be as low as \$43M should the contingency not be required." Which is it - \$48M or \$38M? Later on that page the CA describes the potential high and low end costs as "as high as \$63M" if all contingency is used, or "as low as \$56M" if none of the contingency is used. My math paints a different picture; $\$48M + \$27M = \$75M$ as the high, and $\$43M + \$25.6M = \$68.6M$ as the potential low. Re the "low @ \$56M" the comment is made that that 'is fairly close to the additional \$50M allocation now authorized by the BAC for the project in a future bond election.' Refer back to point 'h' above, but also consider that it is offensive to taxpayers to refer to \$6M of their money as being 'fairly close.' Furthermore, \$75M and \$68.6M are significantly higher than the CA \$56M figure. These numbers need to be reconciled.

J) Page 7 - Tenant improvements are stated to be \$28M - page 10 they're \$27M, with the potential for a \$1.4M deduction based on unused contingency. Which is it? One million plus dollars is worth clarifying.

K) It should be noted that the first option shown on page 7 is exactly the Board of Supervisors' April, 2011 Amended Bond Project proposal. This is what they chose back in April. Why are we just now engaging in this discussion? Why were we not included back in April?

L) Page 8 contains a table that shows "Phase One Cost" to be \$30M. I can find no place in the document that would indicate where that figure comes from. If it is accurate though, subtracting the "expenditures to date" @ \$34M from the Bond voter approved \$76M, there should be enough money to complete the Tower Shell and Central Plant. However, on page 9, Sundt's GMP for the Tower Shell is shown to be \$48M. The dialogue in the letter needs some significant clarification as the numbers from one page to the next do not reconcile with one another.

As an aside - the statement is made on page 10 that "given the detailed plans and cost analyses conducted during the GMP process, it is unlikely any significant portion of the contingency will be needed for construction." In my experience, that statement bears no relationship to reality - and if Sundt is willing to stand by it, they're of course free to remove the contingency money (\$6.4M) from their GMP.

M) On page 11 the statement is made that any payments made by the City towards bridge financing would more than likely not be reimbursed through a subsequent Bond authorization - and then another statement referencing the need for the BAC \$50M authorization to be voter approved (re: item h, above.) In as much as Sundt is holding their GMP until December 16th (page 12) we need to have these, and any other questions raised by M&C relative to this issue answered as soon as your finance people can reconcile the data, the letter from the CA and the original voter approved Bond material with the BOS Amended plan from April of this year.

I know this is a lot of material, but it's also a lot of taxpayer money and we have a responsibility to understand how it was spent, what options we have for re-scoping the project to

get it within the original budget, and how the other options presented will impact property taxes and our credibility with the voters.

Thanks for your attention to this.

Steve Kozachik