

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Resolution No. 266 authorizing a City Hall/Civic Center Development Agreement with OPUS Northwest LLC, and Associated Leases
DEPARTMENT:	City Manager's Office
PRESENTED BY:	Robert L. Olander, City Manager Jesus Sanchez, Civic Center Project Manager

In July 2007, the Council authorized the City Manager to enter into a Predevelopment Agreement with OPUS Northwest, L.L.C. (Developer) for the design of the Civic Center Project.

The Predevelopment Agreement authorized Opus to proceed with certain predevelopment activities required for the Civic Center Project to meet the project development schedule. Predevelopment activities for the Civic Center included four community public workshops on March 20, July 30, August 21, and October 25 inviting public comment and participation in each phase of the building design framework to include functional layout; massing and composition; materials; features; sustainability; architectural strategies; full schematics and design concepts with landscape renderings; and design options associated with alternate costs. Opus has also conducted meetings with city staff and made presentations before Council to review various site, building design, and sustainability options.

On November 5, 2007, staff presented to Council three design options for the Civic Center Building with associated cost projections. Design Option I was considered as the base option with a footprint of 77,000 sq. ft. Design Option II was similar in design, but was designed with a higher level of architectural detail and a footprint of 70,000 sq. ft. Design Option III had yet a higher level of design detail, more glass features, and a footprint of 77, 000 sq. ft. Design Option III was highly supported by the community in the feedback we received at the community public forums. Council was generally agreeable to proceed with Design Option III, requesting that a final design and associated costs be brought back to Council for final review and approval.

30% design development of the building meeting the space requirements and design parameters of the City, has now been completed. Design documents have been delivered to the City (architectural drawings, structural drawings, mechanical-HVAC drawings, plumbing drawings, fire protection drawings, fire alarm drawings, electrical drawings, landscape & irrigation/hardscape drawings, civic drawings and other drawings as required). A master schedule has been developed through construction identifying each milestone on the schedule.

The Predevelopment Agreement has now been completed and through a collaborative effort, the City of Shoreline and the Developer have negotiated a lease/leaseback development agreement (Development Agreement) for the Civic Center Project which includes a "guaranteed maximum price" and a detailed budget. The Development Agreement for the new Shoreline Civic Center is now being presented to Council for approval. Staff has analyzed and assessed the value and cost benefits of Certificates of Participation (COP) or 63/20 financing options for tax exempt financing. Each method was evaluated for minimizing risk to the City, inclusion of inherent cost controls, and minimizing financing costs. The proposed Development Agreement proposes a Certificates of Participation financing.

FINANCIAL IMPACT:

Staff is recommending that Council authorize a total project budget of \$30.55 million for the City Hall building. This would include all costs related to the building including construction, developer costs, construction financing, contingencies, and furnishings. The current CIP had a cost of \$19.3 million. The change in project cost is primarily related to the desire to include a parking garage instead of on-grade parking, the increased size in building, and increased civic design elements. To fund the total project staff has currently identified \$9.5 million in cash and anticipates issuing up to \$21.5 million in debt (to net \$21.05 for the project). The debt will be repaid over a period of 30 years. Staff is continuing to look for opportunities to allocate more cash towards the project to reduce the amount of debt that will need to be issued, but at this time our financial assumptions assume the previous funding scenario.

The annual occupational costs (debt service, operations & maintenance), net of anticipated lease revenues, are projected to average \$1.630 million for years 2010 through 2013, \$375,000 greater than was previously estimated. In large part, this is attributable to changes in the project scope initiated, authorized, or approved by the City Council, such as additional land acquisition, a parking garage, additional building space, added landscaping and environmental features. Staff recommends that Council increase the authorized annual allocation of Real Estate Excise Tax towards the debt service of City Hall from \$400,000 annually to \$775,000. The six year CIP projects annual REET at approximately \$900,000 annually. The remaining \$854,000 in occupational costs will be funded with the monies currently allocated for lease payments and facility maintenance within the General Fund.

If additional cash is identified to allocate towards the project or if the actual project costs are less than the projected \$30.55 million then the level of debt issued will be reduced, thus reducing the annual debt service payments and the amount of REET allocated towards the repayment.

The Development Agreement includes a "Lease Transfer Amount". The Lease Transfer Amount differs slightly from the total project budget because it does not include financing related costs, owner's contingency, or the furnishings and fixtures allowance. These costs are estimated at \$2.55 million. Based on a project budget of \$30.55 million and deducting the estimated financing related costs of \$2.55 million we arrive at a Lease Transfer Amount of \$28 million. The financing costs are estimated at this time based on assumed construction draw down schedules and estimated construction loan

interest rates. The development agreement does not require that the developer assume risk related to possible changes in the financing costs as changes in the interest rate market, which could go up or down, are beyond the control of the developer. This is the reason why these costs are not included in the Lease Transfer within the development agreement.

RECOMMENDATION

Staff recommends that Council pass Resolution No. 266 authorizing the City Manager to enter into a Ground Lease, Building Lease and Development Agreement with Opus Northwest, L.L.C. for the construction of the new Shoreline Civic Center Building with a "lease transfer amount" of \$28 million; and authorizing the City Manager to incur other expenses up to \$2.55 million to finance this development cost and complete the project.

Approved By: City Manager ____ City Attorney ____

INTRODUCTION

The Predevelopment Agreement between the City of Shoreline and OPUS Northwest, L.L.C. has now been satisfied and through a collaborative effort, the City of Shoreline and the Developer have now agreed to a lease/leaseback development agreement for the Civic Center Project at a “guaranteed maximum price” or Lease Transfer Payment. This negotiation and 30% design are the final tasks under the Predevelopment Agreement.

The Lease/Leaseback Development Agreement at the “Guaranteed Maximum Price” for the construction of the new Shoreline Civic Center Building is now being presented to Council for approval. We are also seeking Council authorization for the City Manager to pursue Certificates of Participation as the financing approach that will give the City optimal value.

BACKGROUND

Council approval for the Civic Center Project began with the acquisition of the Highland Plaza property and the Kimm property in 2006. In January 2007, authorization was given to move forward with a design-build, build-to-suite/lease-to-own delivery method to develop the Civic Center and OPUS Northwest, L.L.C. was selected through the RFQ and RFP processes as the developer of the project in June 2007. A Predevelopment Agreement was executed with OPUS in July 2007.

In September 2007, the Council adopted Civic Center/City Hall Guiding Principles to provide direction for the Civic Center Project design, with a strong emphasis on securing the corner of N. 175th and Midvale Ave. North as the prominent location of the civic center with a city hall, council chambers and a two-story structure parking garage. Total floor area was to be planned to accommodate future growth. Option III was authorization for 30% design in November 2007. These milestones all represent the significant support and direction Council has provided throughout the Civic Center Project process.

The proposed final Development Agreement is an important milestone of the Project and culminates years of effort.

DISCUSSION

DEVELOPMENT AGREEMENT: State law allows the City to have a building erected on land owned by the City through the lease of the land with a leaseback of the building for the same term (RCW ch. 35.42). This leaseback must include terms that do not allow the cost of construction of the building to become an obligation of the city, provide the city with the right to occupy upon payment of rent not exceeding prevailing rates, the right to lease unneeded portions to tenants approved by the city and the right to own the building upon termination of the lease.

The proposed Development Agreement with OPUS Northwest, L.L.C. is a 45 page document with nine attachments. The agreement is available in the Council Office and has been assigned Clerk's Receiving # 4617 for reference. The key terms are summarized here.

- Ground Lease. The proposed development approach under RCW ch 35.42 calls for the City to execute a thirty- year Ground Lease of most of the property acquired for the civic center for the sole purpose of demolishing existing structures and designing and constructing the new civic center according to the 30% design plans. Some land and offices in the southeast corner of the City property that will not be used for the civic center are excluded from the ground lease. The Ground Lease is attached to Resolution No. 266 (Attachment A, Exhibit A).
- Building Lease. The Development Agreement calls for a lease back of the completed center to the City for the same 30-year term as the Ground Lease. This Building Lease includes an exclusive irrevocable option to purchase the civic center (and remaining term of the Ground Lease) for the total construction cost less a credit for principal components of lease payments made during the lease. The lease is terminable by prepayment of the principal component of the remaining lease payments. The City assumes all responsibility for operation and maintenance except for rights under the two-year construction warranties. Upon completion of the project Opus will transfer its rights as lessor to a trustee for payment of a guaranteed maximum lease transfer amount negotiated at \$28 million. Opus warrants completion of the civic center by June 30, 2009. The form of the Building Lease is attached to the Development Agreement.
- Development Agreement. The Development Agreement requires OPUS to guarantee delivery of the civic center project for the lease transfer amount. This amount includes all design services, permits, project management, developer fees, developer overhead, construction costs, a project contingency and a tenant improvement allowance not to exceed \$28 million. Project costs exceeding the transfer amount shall be paid by Opus. The Development Agreement provides an incentive to Opus for cost savings equal to one third of the final contingency balance not to exceed \$200,000.

Financial Impact

Staff is recommending that Council authorize a total project cost of \$30.55 million for the City Hall building. This cost includes estimated financing costs, owner's contingency, and furnishings and fixtures of \$2.55 million, and therefore the gross maximum price (GMP) staff is recommending that Council authorize within the development agreement be \$28 million. The majority of the \$2.55 million represents the construction and other financing costs. At this level of funding the project includes a building with 67,000 square feet, parking garage, and some enhanced civic design elements for the building and landscaping. Staff will continue to work with OPUS to finalize the design of the project, which may result in some modifications, but the cost of the building could not exceed the GMP but, could ultimately be lower. Based on these assumptions staff is assuming that the City would lease approximately 4,000 square feet of space.

The annual City Hall occupational costs (debt service, operations & maintenance), net of anticipated lease revenues, are projected to average \$1.630 million for years 2010 through 2013, approximately \$375,000 greater than was previously estimated. In large part, this is attributable to changes in the project scope initiated, authorized, or approved by the City Council, such as additional land acquisition, a parking garage, additional building space added landscaping and environmental features.

The Council has the following options available to address the difference in annual costs:

- Reduce the overall project budget and in turn the "Gross Maximum Price": The City Council could choose to reduce the GMP to a lower number than \$28 million. This could require elimination of the parking garage, a smaller building, or reduced civic design, all of which the Council has stated that they desire. Staff is continuing to work with OPUS to refine the design and evaluate the cost of the building. There is a possibility that the final cost will be less than the projected \$28 million, but staff does not anticipate that it will be significantly lower without the elimination of one of these elements.
- Increase the amount of cash allocated towards the project to reduce the long-term debt service payments: Staff has identified \$9.5 million in cash to allocate towards the City Hall building. At this time Staff is continuing to look for opportunities to increase the cash allocation, but at this time has not identified specific sources. Once we close the books for 2007 we will see if there are additional savings from the current year budget that could be allocated. Also as certain contracts are finalized for 2008 we may have an opportunity to have one-time savings that can be allocated towards City Hall.
- Reduce the amount of the general fund transfer made to the Roads Capital Fund annually. Currently this transfer is made as part of the Council's policy on gambling tax collections that are in excess to a 7% tax rate. In 2008 the amount budgeted to be transferred is \$637,500. These funds are currently used to help provide funding for the City's pavement management program. In 2007 the State Legislature approved an optional funding source, a \$20 per vehicle license fee that can be adopted to use for transportation/road improvements. If this revenue source were implemented staff projects that it would generate approximately

\$600,000 annually that could be used to back-fill a reduction to the general fund transfer.

- Council could increase the annual amount of Real Estate Excise Tax (REET) allocated towards the annual debt service payments for City Hall. Council has authorized the allocation of \$400,000 annually for this purpose starting in 2009. The adopted 2008-2013 CIP includes this allocation. Annual REET collections are estimated at approximately \$900,000, therefore, there is still \$500,000 that is programmed for future park and facility projects. Council could authorize an increase in the annual amount allocated for City Hall debt service to cover the additional \$375,000 in projected annual cost. This option does not affect transportation/road related projects.

Staff recommends that the Council authorize an increase in the allocation of REET to \$775,000 in order to meet the anticipated financing needs to complete the City Hall project. As staff finalizes the design and cost of the project the actual annual occupational costs (debt service, operations & maintenance) will be determined. If the project costs are lower than \$30.55 million, then the annual occupational costs are anticipated to be lower and the amount of additional REET may be less than is currently projected.

RECOMMENDATION

Staff recommends that Council pass Resolution No. 266 authorizing the City Manager to enter into a Ground Lease, Building Lease and Development Agreement with Opus Northwest, L.L.C. for the construction of the new Shoreline Civic Center Building with a "lease transfer amount" of \$28 million; and authorizing the City Manager to incur other expenses up to \$2.55 million to finance this development cost and complete the project.

ATTACHMENTS

- Attachment A – Proposed Resolution 266
- Exhibit A- Ground Lease
- Exhibit B- Development Agreement