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County of San Diego

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CHIEF ADMINISTRATIVE OFFICE

1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA 92101-2472

December 7, 1989

Mr. John Lockwood
City Manager
City of San Diego
202 "C" Street
San Diego, CA 92101

Dear Mr. Lockwood:

The County of San Diego issued a solicitation for the needed nine Superior Courtrooms to all owners, brokers and developers having property in the downtown San Diego area. In response, more than 20 proposals were received, but only 2 fully met the needs as advertised. These two, the El Cortez Convention Center and the Walker Scott building, were submitted to the County's professional real property negotiators to prepare final offers. The final offers from both developers are summarized for your information.

I. Economics:

Based on the final proposals of both buildings dated October 13, 1989 and one unsolicited revision from each building thereto, the base economics are as follows:

Five Year Proposal

	El Cortez	Walker Scott
Effective Base Rent* (No tenant improvements)**	.89 NNN per mo. (County pays all expenses)	2.54 NNN per mo. (County pays all expenses)
GFP fee	.028	included
Total	.918 NNN	2.54 NNN

* Normalized flat base rent months 1-60
** County will pay for all tenant improvements beyond "shell".

Ten Year Proposal

	El Cortez	Walker Scott
Effective Base Rent (No tenant improvements)	1.01 NNN per mo.	1.45 NNN per mo.
Profit Participation*	-0-	[.16]
GFP fee	.028 60 mos.	included in base rent
Total	1.024 NNN	1.29

* Assuming a sale at end of third year at an 8% cap rate and profit to the County of $1,175,000.

II. Economic Variance:

Based on the above economics, the total base rent economic variance, assuming 60,000 square feet is as follows:

Five Year:

The El Cortez project is approximately 5.8 million dollars less that than the Walker Scott project in base rent comparison.

Ten Year:

The El Cortez project is approximately 1.9 million dollars less that than the Walker Scott project in base rent comparison.

III. Other Important Considerations:

There are various other important variables in the selection process. The following is a summary of those points and how both projects differ.

Square Footage:

The El Cortez plans approved by the County call for the County to lease 71,000 rentable square feet as contrasted with the Walker Scott plans which call for 58,508 rentable square feet. However, El Cortez has represented that the County may choose to lower their square footage amount at the same economics.

Operating Expenses:

The El Cortez annual projection for triple net operating expenses is $5.78 compared to Walker Scott at $6.30. Both buildings will cap increases other than utilities at 5% annually. Both buildings also offer full protection against tax increases as a result of sale, although El Cortez has a unique proposal of paying the County the net present value of these increases that should be revised.

Tenant Improvements:

The El Cortez projection (which they claim is a firm bid) based on the September 18, 1989 plans and specs is $2,438,119 compared to Walker Scott's estimate at $3,080,000. This is a difference of $641,881. Both "bids" reflect prevailing wage pricing. El Cortez will amortize excess tenant improvements at 12.5% over the lease term. Walker Scott will amortize any excess at 10% over the term.

Our projections, however, assume that the County will fund the full cost of the tenant improvements from the City contribution of 3.1 million from the point at which the owner delivers the shell building.

Shell Contribution:

Both buildings have submitted a full clarification of items that are included in their cost in providing the County an asbestos free, fully sprinkled shell building. Both owners have agreed to fully bear this cost. The County Architect should approve this section of the proposals.

FF&E:

Both buildings have agreed to finance the cost of FF&E up to 2 million dollars and sell the FF&E to the County at lease conclusion for $1.00. El Cortez will finance this amount over 60 months at 12.5%. Walker Scott will finance over 120 months at approximately 20%.

We recommend, however, that the County fully investigate leasing the FF&E from another source due to the financial strength of the County.

Parking:

Both buildings will commit to parking. El Cortez can provide up to 386 reserved spaces at a monthly cost of $90.00 per

space increasing not more than 5% annually. In addition, they agree to provide 12 judicial spaces at no cost for the term. Walker Scott can provide only 42 spaces at a monthly cost of $100.00 increasing not more than 5% annually.

Refurbishment:

Walker Scott has agreed, at their cost, to provide a $5.00 per RSF refurbishment allowance in the 61st month. El Cortez will provide $7.00 per RSF but this amount will be amortized at 12.5% in addition to the base rent.

Options:

To Renew: El Cortez will provide 1 five-year option at fixed base rent increases capped at 5% over the existing base rent for either a five or ten-year term.

Walker Scott will provide 2 five-year options at fixed base rent increases capped at 3% for either a five or ten-year term.

To Expand:

The El Cortez project has a total square footage of 77,685 RSF while Walker Scott can provide a total of 74,087 RSF. Both buildings agree to provide any space not taken initially as expansion space at the same rents as then are being paid under the existing lease.

Lease Cancellation:

El Cortez will provide a lease cancellation at any time after the 36th month of the term with the payment of all free rent and any unamortized tenant improvements, FF&E and leasing commissions. This also applies to a ten-year term in the event the County has paid for all tenant improvements.

Walker Scott's cancellation provision is contained in their proposal but is basically so onerous to the County as to be not feasible.

Liquidated Damages:

Neither project has responded in a meaningful way to our request for significant liquidated damages in the event of non-performance. Both responses are contained in the proposals.

IV. Conclusion:

Based on the above information and analysis, it is clear that economically the best alternative is the El Cortez project. The important criteria and savings are as follows:

1. Base Rent - 5.8 million over five years compared to Walker Scott.

   - 2.1 million over ten years compared to Walker Scott.

2. Tenant Improvements - approximately $641,881 less when compared to Walker Scott.

3. Parking - 386 spaces in El Cortez versus 42 in Walker Scott.

4. Lease Cancellation - available after 36 months in El Cortez versus extremely limited in Walker Scott.

The best alternative of the two projects is for the County to proceed with El Cortez, on a five year lease because of the flexibility of the lease cancellation and the ability to renew for an additional five years at the same rates as under the ten year lease.

Respectfully,

NORMAN W. HICKEY
Chief Administrative Officer

NWH:RG:ko

GROSVENOR INDUSTRIES

11/22/89

Final plan

November 20, 1989

Mr. Robert Maxwell, Deputy Director
Real Property Management Division
County of San Diego
5555 Overland drive
San Diego, CA 92123-1294

Dear Mr. Maxwell,

Pursuant to the proposal dated October 13, 1989, and negotiated revisions through November 18, 1989, the following outlines the terms and conditions upon which the County of San Diego would lease space for the Superior Courts in the El Cortez Convention Center and Office Complex:

1. Term

Sixty (60) months commencing upon occupancy after completion of all tenant improvements, building shell and parking areas per paragraph eight, not later than six (6) months after issuance of all permits. Punch list to be provided one (1) week prior to occupancy and discrepancies will be corrected prior to commencement/occupancy for the judges chambers. Administrative space, punch list discrepancies will be corrected within two (2) weeks of occupancy.

2. Location and Size

Core factor 1.046 % use BOMA standards

Minimum of 60,000 rentable square feet (RSF), per plans approved by the County. County reserves the right to increase initial square footage under the same terms and conditions herein up to an additional 11,000 RSF by giving landlord 120 days written notice prior to occupancy. Landlord shall use best efforts to complete any expansion build out at same time as original space, however, delay for expansion area shall not be subject to liquidated damages until the 180th day after County's ~~delivery of plans to Landlord~~.

approval of Landlord prepared plans (i.e. signoff on a mutual set)

3145 Sports Arena Boulevard San Diego, California 92110 (619) 226-1212 FAX 619-225-0958

3. Base Rent

Months 1-3 free

Months 4-12 at $.85 Net, Net, Net which shall include all items listed in item 5A of the proposal dated November 6, 1989, as operating expenses per square foot per month (based on a completed shell and reimbursement by the County of landlord constructed tenant improvements). Annual increases thereafter shall be at five percent (5%) through the initial term as follows:

Year 2:	$ .89
Year 3:	$ .94
Year 4:	$ .98
Year 5:	$1.03

4. Operating Expenses

The following shall apply to operating expenses:

A. First year Net, Net, Net, operating expenses less utilities, shall not exceed $.28 per square foot per month per the proposed budget in paragrpah 5 of the proposal dated November 6, 1989. The operating expenses above have been calculated to include the recent sale of the property to Minami.

Per D. Eng. Clearly Describe Separately Metered Utilities

B. Thereafter, all operating expenses, less utilities, shall not exceed five percent (5%) over the previous year on a non-cumulative and non-recapture basis.

C. No real estate tax increases due to existing future sale(s) or transfer of partnership interests shall be passed through in any manner to tenant during the term, renewal or extensions.

D. County shall pay full costs of all separately metered utilities during the term of the lease.

5. Tenant Improvements

Changes made prior to construction not to be charged as supervision Cap. Supervision

Landlord to provide at Landlord's expense all the tenant improvements pursuant to County's approved plans and subject to the following:

A. Tenant Improvements to be constructed based on prevailing wage per Labor Code Section 1720.2 as stated in Exhibit A of your proposal dated October 13, 1989.

B. Within forty-five (45) days after occupancy by County, County shall reimburse landlord the actual cost of the tenant improvements less unused contingencies not to exceed the stated bid price of $2,438,119 for 65,897 RSF per the letter of clarification dated October 17, 1989, which shall be reduced or increased accordingly if the square footage changes.

C. Landlord agrees to amortize over the term of the lease excess tenant improvements not reimbursed by County up to an additional One Million Dollars $1,000,000) at a rate of 12.5%. County reserves the right to pay off any principal balance due during the term without penalty which will reduce the rent accordingly.

D. The owner will provide the County for County's approval with the detailed line item bids for the tenant improvements as per the September 18 plans and specifications which have been bid by at least three sub-contractors. The Owner has retained Brodwolf Construction to be the General Contractor for this project and is in complete compliance with the County's stated conditions.

Bid sum this in

E. General contractor profit and overhead shall not exceed ten percent (10%) per submitted bids dated october 13, 1989. Owner shall not charge or be paid a supervision fee.

6. Shell/Base Building

Add Shell Exhibit →

A. The Owner agrees to provide, at its expense, a building that is in conformance with all zoning, building codes and governmental regulations including handicapped, fire, structural and seismic requirements based upon the plans and specifications as approved by the County September 13, 1989.

B. The buildings shall contain no asbestos.

C. The complex will comply with the required db rating for sound proofing as per the County specifications dated September 18, 1989.

D. Any additional exits that are occasioned by court use will be a requirement specific to the courts and be excess tenant improvements.

E. Any requirement by the County for sprinklers in the Office complex which are over and above present codes, will be an excess expense and treated as excess tenant improvements (estimated $40,000).

F. A detailed line item breakdown of the shell items is in attached Exhibit "A" of the October 13 proposal (as listed by Brodwolf Construction) will be at the sole expense of owner.

G. There are three elevators planned in the El Cortez complex. One in the office building and two new elevators in the convention center building per the County Addendum #1 dated August 31, 1989, Item #25. It is contemplated that Dover, Otis or U.S. Elevators or equal will provide the systems.

H. Items 2 and 3 in the County Intra-Department Memo dated October 31, 1989, as they relate to the approved plans and specifications dated September 18, 1989, will be included in the shell cost and be paid for by Landlord.

7. FF&E

A. Landlord shall, at County option, pay for furniture, fixtures and equipment as specified by the County in an amount not to exceed Two Million Dollars ($2,000,000). Landlord shall own and finance the FF&E. The cost shall be amortized for up to sixty (60) months at a rate of twelve and one-half (12.5%) percent per year.

B. Upon full amortization, the FF&E will become property of the County for consideration of One Dollar ($1.00).

8. Parking

A. Landlord will provide the County with 113 parking spaces reserved for Superior Court use at the rate of $75 per space per month for the first year; the second year, the parking rate will be $90 per space per month. The spaces will be reserved for the term of the lease and shall increase at the rate of not more than five (5%) percent annually after the second year or market whichever is less.

state the direct access to secure corridor

B. At no cost to the County, twelve (12) secure additional spaces will be provided for judicial use for the term of the lease or any extensions.

C. Additional parking shall be made available for County use on a monthly basis and public parking use on an "as available basis".

9. Appointment of Agent by County

Landlord acknowledges Goldman Ferguson Partners as exclusive agents representing the County and that the County requires that Goldman Ferguson Partners be paid a $90,000 consulting fee. Landlord agrees to pay Goldman Ferguson Partners the approved sum of Ninety Thousand ($90,000) Dollars which shall be paid directly to Goldman Ferguson Partners following execution and approval of a lease by the Board of Supervisors as follows: Forty-five Thousand ($45,000) Dollars on March 16, 1990; Forty-five Thousand ($45,000) Dollars on April 17, 1990, provided that the County of San Diego has an effective and enforceable lease with Minami of California, Inc. for the El Cortez Convention Center Complex. This consulting fee shall be added to the base rent provided in paragraph three herein and amortized over the 60 month lease term at twelve and one-half (12.5%) percent.

10. Options

A. Expansion

(1) County shall have right to expand into all remaining space within the court building and office building not initially leased by he County at any time up to the 37th month on the same terms and conditions under the lease.

(2) Base rent shall be the same as the County is then paying per paragrpah 3 above at the time of expansion.

(3) Tenant Improvements shall be amortized at a rate of 12.5% over the remaining term.

(4) County shall provide written notice to expand 120 days prior to desired occupancy date.

B. Renewal

(1) County shall have one (1) five year option to renew under the same terms and conditions of the lease after the 61st month continuing at the same base rent per paragraph 3 above which would be as follows:

Year 6	$1.08
Year 7	$1.13
Year 8	$1.19
Year 9	$1.25
Year 10	$1.31

(2) The County will have one (1) additional five (5) year option to renew after the 120th month at the prevailing market rates or as agreed to by the County and Landlord.

Be sure terms are [illegible]

(3) All fully amortized costs for tenant improvements, FF&E and consulting fees shall be deducted from the previous rent.

(4) Landlord at County's election shall provide a refurbishment allowance, at each option period not to exceed $7.00 per usable square feet which shall be amortized over the renewal term at a rate of 12.5%.

(5) County shall provide twelve (12) months prior written notice of intent to renew.

11. Lease Cancellation

The County may cancel the lease upon twelve (12) month's written notice at any time after the 36th month of the lease for the payment of any unamortized cost of tenant improvements, FF&E's and leasing fees.

12. Liquidated Damages

If the Contractor is delayed at any time in progress for the work by changes ordered in the work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions, unavoidable casualties or any causes beyond the contractor's control, or by other causes which justify delay, then the contract time shall be extended by change order for such reasonable time. Liquidated damages shall be $1,000.00 per day.

13. Shuttle Service

A. Landlord agrees to provide a shuttle service throughout the term including any renewals or extensions.

B. Landlord agrees that the total cost of the shuttle service shall not exceed $60,000 per year which shall escalate at five (5%) percent per year throughout the term of the lease and any extensions. County shall pay the lesser of one-half of the guaranteed maximum cost or one-half of the actual cost whichever is less.

C. The shuttle service shall operate from the property, the Broadway Courthouse and public transportation systems on a schedule, frequency and format approved by the County and Grosvenor.

14. Ownership Entity

A. The ownership entity is Minami California, Inc., a California Corporation.

B. Financial information of Minami of California will be provided in a meeting with the Chief Administrative Officer following a discussion to assure the confidential aspects of the statements are preserved.

C. As Master Developer, Grosvenor Industries has the authority to negotiate a lease with the County on behalf of the Owner, Minami California, Inc. Written documentation of such authority will be provided to the County prior to the Board of Supervisors' approval of the final lease document.

D. Lease will be signed by Minami of California, Inc.

15. Building Management

The property will be maintained by an on-site property manager. The cost of which is included in the operating expenses in Item 5 of the proposal dated November 6, 1989.

16. Contingencies

A. Mutual execution of a definitive lease document.

B. Final approval by County Board of Supervisors.

C. Acceptance must be executed by County no later than noon on November 22, 1989.

ACCEPTED AND AGREED:

Grosvenor Industies/Minami California, Inc.

By: J. Mark Grosvenor Dated: 11-20-89
J. Mark Grosvenor

ACCEPTED AND AGREED:

County of San Diego

By: Robert M. Maxwell Dated: 11-22-89
Robert M. Maxwell

JMG:MH:se