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COUNTY OF SAN DIEGO

CHIEF ADMINISTRATIVE OFFICE
AGENDA ITEM

BOARD OF SUPERVISORS
BRIAN P. BILBRAY FIRST DISTRICT
GEORGE F. BAILEY SECOND DISTRICT
SUSAN GOLDING THIRD DISTRICT
LEON L. WILLIAMS FOURTH DISTRICT
JOHN MACDONALD FIFTH DISTRICT

DATE: November 5, 1991

TO: Board of Supervisors

SUBJECT: Downtown Court/Office Building

SUMMARY:

ISSUES

Should the Downtown Court/Office Building be expanded from ten to sixteen courtrooms?

Should new general fund revenue be committed to help finance the Downtown Court/Office Building in order to provide expansion space for the District Attorney and other court support functions?

Should the Request for Proposals include a specification of a courtroom module desired by the Courts?

Should the evaluation of responses to the Request for Proposals consider design elements for the new facility?

Should the County approve a Memorandum of Understanding with the City of San Diego Redevelopment Agency wherein the Agency would contribute $800,000 annually for twenty five years for the construction of sixteen courtrooms in Downtown San Diego.

Should the Downtown Court/Office Building be financed through the San Diego Regional Building Authority?

Should the Request for Proposals which has been forwarded to the Board be issued for the Downtown Court/Office Building?

Should the Board reconsider limiting the distance the Downtown Court/Office Building may be from the existing Courthouse?

Should the County owned property bounded by Front, B, First, and C be removed from consideration for accommodating the Downtown Court/Office Building?

SUBJECT: Downtown Court/Office Building

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER:

1. Plan for sixteen courtrooms in the Downtown Court/Office Building.

2. Direct the Chief Administrative Officer to return to the Board with a comprehensive financing plan after considering responses to the Request for Proposals.

3. Direct that the Request for Proposals include a courtroom module desired by the Superior Court.

4. Direct that the evaluation of the Request for Proposals include "block diagrams" showing a general space plan, but do not consider proposed schematic design and renderings of the Downtown Court/Office building.

5. Approve in principle the Memorandum of Understanding with the City of San Diego Redevelopment Agency regarding the funding for sixteen additional courtrooms in Downtown San Diego.

6. Direct that the financing of the Downtown Court/Office Building be provided through the San Diego Regional Building Authority.

7. Approve the issuance of the attached Request for Proposals for the Downtown Court/Office Building.

8. Limit the search area for the Downtown Court/Office Building to three blocks from the Courthouse.

9. Remove the County owned property bounded by Front, B, First, and C from consideration for accommodating the Downtown Court/Office Building.

Advisory Statement

N/A

Fiscal Impact

The addition of six more courtrooms to this project will increase the project cost by approximately $7-8 million. There is an estimated $3.0 million shortfall between existing available revenue and estimated costs (debt service and

operating expenses). To fully fund all projected space needs would require an additional annual general fund commitment of $5.6 million in the year 2000 and $7.4 million by the year 2010.

Alternatives

1. Consider design elements in the evaluation of the Request for Proposals; consider alternative financing mechanisms, and modify the RFP accordingly.

BACKGROUND

INTRODUCTION

On May 21, 1991 (71) and June 11, 1991 (60), the Board took a number of actions relative to a Downtown San Diego Court/Office building. Specifically the Board:

1. Approved in principle, subject to environmental review, the acquisition of a new Court/Office building(s) which would accommodate the District Attorney, 8-10 courtrooms, and other office functions as appropriate.

2. Directed that the following revenue sources be annually dedicated to the project: $2.0 million from the County Courthouse Temporary Facility Construction Fund, $1.0 million from the existing District Attorney lease, $1.0 million from the funds that had been appropriated for the El Cortez lease, and possibly $1.1 million from other County lease consolidation savings. (Note: It was indicated that the estimated amount of revenue could fund approximately 250,000 gross square feet of space.)

3. Authorized the Chief Administrative Officer to renegotiate the Cooperation Agreement with the City of San Diego Redevelopment Agency to fund additional courtrooms.

4. Authorized a two step process for acquiring additional court/office space with the issuance of a Request for Qualifications (RFQ) followed by a Request for Proposals (RFP).

SUBJECT: Downtown Court/Office Building

ACTIONS TO DATE.

Since the Board actions on May 21 and June 11, there have been the following accomplishments:

1. A Request for Qualifications was issued on June 25, 1991 and twenty responses were received. Nine developers proposals were originally deemed qualified to submit responses to a Request for Proposals. (Note: If the recommendations are adopted five development teams would be eliminated.)

2. The architectural firm of McGraw/Baldwin has prepared a draft program statement for the new Court/Office building. The program statement identifies space requirements by function, building specifications, and adjacency requirements. The estimated space requirements are as follows:

YEAR	TOTAL GROSS SQUARE FEET [1]
CURRENT	355,341
2000	447,162
2010	512,616

[1] This is the preliminary estimated space requirements for sixteen courtrooms and other office functions.

The following functions were assumed to be in the building: Superior Court (sixteen courtrooms), District Attorney, Marshal, Probation (Adult Supervision from lease space at Ohio Street), the Law Enforcement Review Board, and the Grand Jury.

3. Centre City Development Corporation staff have offered to dedicate $800,000 annually for twenty five years for the construction of sixteen courtrooms, in lieu of the $3.0 million that had been dedicated for nine courtrooms at El Cortez.

4. The RFP has been finalized after receiving input from the District Attorney, Superior Court, the County's real estate consultant, and the evaluation committee that reviewed the responses to the Request for Qualifications.

5. Additional revenue has been identified for this project including $1.3 million in lease consolidation savings and $.35 million in reimbursement from the Federal Government for the District Attorney's Family Support Division, however the

annual facility operating costs (utilities etc.) are projected to be $1.5 million.

POLICY ISSUES.

The following policy issues have surfaced in the course of achieving the project:

1. Should the Downtown Court/Office Building be expanded from ten to sixteen courtrooms? The Board originally was presented a project consisting of 8-10 courtrooms and 250,000 gross square feet of court/office space for the District Attorney and other court support programs. Subsequently, the Centre City Development Corporation offered to pay $800,000 a year, in lieu of $3.0 million which had been set aside for the El Cortez project. In exchange, the County would agree to a downtown court expansion plan which would reflect growth in proportion to the projections which are currently being used by the County. The proposed $800,000 annually from the City of San Diego Redevelopment Agency would fund approximately $8,000,000 in capital improvements. If Proposition A funds become available, the additional courtrooms would provide for expansion while a criminal courts annex is constructed adjacent to the Downtown Courthouse.

2. Should new general fund revenue be committed to finance the Downtown Court/Office Building so that additional expansion space can be provided for the District Attorney and other court support functions? The County has identified enough revenue to fund approximately 250,000 gross square feet of development, without impacting general fund revenue. There is a projected need for 447,162 gross square feet of space by the year 2000. There is an estimated $3.0 million shortfall between existing revenue and the costs of meeting existing space requirements and providing for annual facility operating costs. Financing year 2000 space requirements will require an additional annual general fund commitment of $5.6 million. There is a projected need for 512,616 gross square feet of space in the year 2010. Funding of year space needs in 2010 will require an additional commitment of $7.4 million a year. Respondents to the RFP will be asked to present a projected budget based upon available County funding. Developers will also be asked for the financial requirements for year 2010 space needs (512,616 sq. ft.).

SUBJECT: Downtown Court/Office Building

The following table presents a summary of the available annual revenue and estimated costs for accommodating existing space requirements identified in the McGraw/Baldwin program Statement:

TABLE I

ESTIMATED REVENUE/EXPENDITURES ASSOCIATED WITH ACCOMMODATING EXISTING SPACE REQUIREMENTS OF THE DOWNTOWN COURT/OFFICE BUILDING

REVENUE	
- El Cortez Lease	$1,139,600
- Lease Consolidating Savings (Existing)	$2,298,763
- City of San Diego Redevelopment Agency Contribution	$800,000
- District Attorney Family Support Space Reimbursement Estimate	$350,000
- Cost of Living Increases Existing Leases (1)	$287,033
- SB 668 (Courthouse Construction Fund)	$2,000,000
TOTAL ANNUAL REVENUE	$6,875,396
COSTS	
- Building (2)	$78,211,194
- Parking (3)	5,780,000
TOTAL PROJECT COSTS	$83,991,194
Estimated Annual Debt Service (4)	$8,400,385
Estimated Annual Operational Expenses (5)	1,503,365
ESTIMATED ANNUAL SHORTFALL (6) (7)	($3,028,327)

(1) Existing leases were escalated at 4% a year for three years.

(2) The following are the key assumptions regarding project costs: Shell Building-Office (104.55 GSF), Shell Building-Courts ($125.46 GSF), Tenant Improvements-Office ($40 NSF), Tenant Improvements-Courts ($75 NSF), Furniture/Fixtures/Equipment ($20 NSF), soft costs (11% of construction/tenant improvements) administration (5% of hard and soft costs), contingency (10%), inflation-mid point of construction (6.4%-September 1993).

(3) 289 parking spaces at $20,000 a space (underground).

(4) This includes a one year's debt service reserve and interest during construction. Financing is at 7% for 25 years. It was assumed that $4,000,000 of the estimated FFE expenses would be paid for in cash.

(5) This is assumed to be at $5.50 per NSF (exclusive of property taxes). This includes utilities, janitorial, security, landscape maintenance and common area maintenance.

(6) This is the difference between total annual revenue and estimated operating expenses/debt service.

(7) Shortfall does not include any possible retail/parking revenue that may be generated as requested of the developers.

3. Should the Request for Proposals contain the courtroom module developed and desired by the Courts? The courtroom module, which is attached to this letter, is approximately 4,239 net square feet. It consists of a 1,530 foot courtroom, public waiting area, soundlock entry, interview rooms, 300 square foot Judge's chambers, Judge's toilet room, research attorney office, court reporter office, court clerk/Independent Calendar secretary office, secured corridor, deliberation room (six for every ten courtrooms), shared library (one for every six courtrooms), Pro-Tem Judge's chambers (two for every ten courtrooms), courtrooms storage, copy and supply area, and children's waiting room. The Superior Court has indicated that this size and configuration of space is conducive to efficient operations. The size of the requested courtroom is approximately 300 square feet larger than the average typical current jury courtroom. The amount of space OMNI had programmed for their standard jury courtroom module was 3,590 square feet. At this time it is recommended that the RFP include the courtroom module as a basis for responding the County's space requirements, however budget considerations may dictate downsizing the size of the module.

4. Should the evaluation of responses to the Request for Proposals consider design elements for of the new facility? In many Request for Proposal "competitions" it is common to require building design (renderings and detailed schematics) as one of the factors to consider in the evaluation of the submittals. **This RFP however is different.** There is only a 45 day period for the submission of responses to the RFP. This is an insufficient amount of time to develop design schematics and renderings which are specifically responsive to the County's space/functional requirements and building specifications. It is believed that the details on how the building would layout, its exterior treatments/landscaping, etc. should occur with the selected developer during the actual design of the building. The submission of renderings at this point could turn the evaluation of proposals into a "beauty contest". The County would have no way of knowing that the design would be functionally appropriate or acceptable to the City of San Diego and its Redevelopment Agency. It is expected that the selected development team will have an architectural firm(s)/programmers that are qualified to design a building

which will meet the functional requirements of the County and also be aesthetically pleasing.

It is however proposed that the responses to the RFP include block diagrams to show how the proposed structure and site could accommodate the general space, circulation, and adjacency requirements identified in the McGraw Baldwin Program Statement. Such responses would indicate the number of courtrooms that would be provided per floor and the proposed location adjacencies, and circulation for each one of the functions identified for the building.

5. Should the County approve a Memorandum of Understanding with the City of San Diego Redevelopment Agency which would result in a contribution of $ 800,000 annually for twenty five years for the construction of sixteen courtrooms in Downtown San Diego.

The Memorandum of Understanding provides that if the County constructs sixteen additional courtrooms in the Downtown San Diego (Centre City Community Planning Area) that the County would receive $ 800,000 annually for twenty five years once the courtrooms were operational. These payments would be in lieu of the one time $ 3.0 million dollar cash contribution that had been previously approved for the El Cortez Project. As a condition of receiving these funds the County would agree to maintain a major presence of courtrooms in the Downtown San Diego Area. This would occur by agreeing that existing and future proportion of courtrooms in the region would occur as developed in the OMNI Group Master Plans for court facilities. These master plans had assumed the establishment of full service branches of the Superior Court as the region grows and assignment of all Superior and San Diego Municipal Court matters (except for traffic/small claims filings) whose venue was in the San Diego Judicial District to the Downtown Courthouse. This results in a substantial growth of in courts in all areas of the region. In fact by the year 2010 it is projected that there will be proportionately more Courts at the outlying Regional Centers.

6. Should the financing of the Downtown Court/Office be provided through the San Diego Regional Building Authority ?

The San Diego Regional Building Authority is a Joint Powers Authority between the County of San Diego and the San Diego Metropolitan Transit Development Board. This JPA can finance projects which stand to benefit from public transit such as the Downtown Courthouse. It was used to finance the James R.

Mills Building. There are several advantages to the use of this financing vehicle:

- The Authority can use tax exempt financing whose interest rate is approximately 2 to 3% lower than loans that could be secured by the private developer.

- It is easier to borrow in the tax exempt market than in the private market. The Savings and Loan crises and generally depressed real estate market has made it very difficult for developers to secure loans. However tax exempt financings which are secured by the full faith and credit of a public agency are generally considered relatively risk free.

- The Joint Powers Authority may utilize the design build approach. County projects financed with a non profit corporation (eg. the San Diego Capital Assets Leasing Corporation) must conform to the California Public Contract Code which precluded the use of the design build approach (eg. all construction documents must be approved by the Board prior to the commencement of construction). The JPA is not subject to the Public Contract Code.

There is one significant disadvantage associated with the JPA. Federal tax regulations limits the amount of space that may be occupied by private tenants if that space is financed by tax exempt bonds. No more than 10 % of the building may be occupied by related uses (ie. private sector offices). No more than 5% of the building may be occupied by non-related uses (eg. retail). This would therefore limit the amount of expansion space that could be provided through this financing vehicle. Private sector financing would not have such a constraint.

7. <u>Should the Request for Proposals be issued for the Downtown Court/Office Building ?</u> The draft Request for Proposal has had received the input from the following individuals/ organization: Centre City Development Corporation, County's Real Estate Consultant (Peat Marwick), the evaluation committee that reviewed the Request for Qualifications for the Downtown Court/Office Building, the Superior Court, and the District Attorney.

All proposers must meet the following criteria:

- Payment and completion bonding capability.

- The ability to construct 519,000 gross square feet with 362,000 gross square feet of initial occupancy.

- Commitment to the use of minority and women owned business enterprises or a good faith effort to do so.

- Documented control over the proposed development site.

The remaining evaluation criteria are proposed in descending order of relative importance as follows:

1. The Useability, Quality, Efficiency, and Amount of Space that is proposed to be Provided by the Developer within the County's identified budget of million annually for this project and one time cash contributions of $ 2.0 million annually in FY 92/93 and FY 93/94.

2. Proximity to the Downtown Courthouse.

3. Experience and Capability of the Development Team.

4. Payment and Completion Bonding Capability.

5. Proximity to Public Transit.

6. Existence of Development Approvals.

In addition at the recommendation of the County's real estate consultant the method of collecting deposits has been changed. Originally it was recommended that the County would collect a $ 10,000 non-refundable deposit which would be used to defray staff/consultant expenses relative to the selection of a developer. It is now recommended that all developers be required to submit a $ 10,000 deposit which would be refunded to all but the successful developer. The selected developer would then be required to submit an additional $ 90,000 non-refundable deposit that would be used to defray expenses. This latter approach results in the County receiving the same amount of funds without penalizing all of the unsuccessful developers.

8. <u>Should the Board reconsider limiting the distance the Downtown Court/Office Building may be from the existing Courthouse ?</u>

At the May 28, 1991 Board meeting the Board recommended that preference be given to proposals that provided space within three blocks of the Courthouse but that proposals beyond three blocks would be accepted. Of the nine development teams which

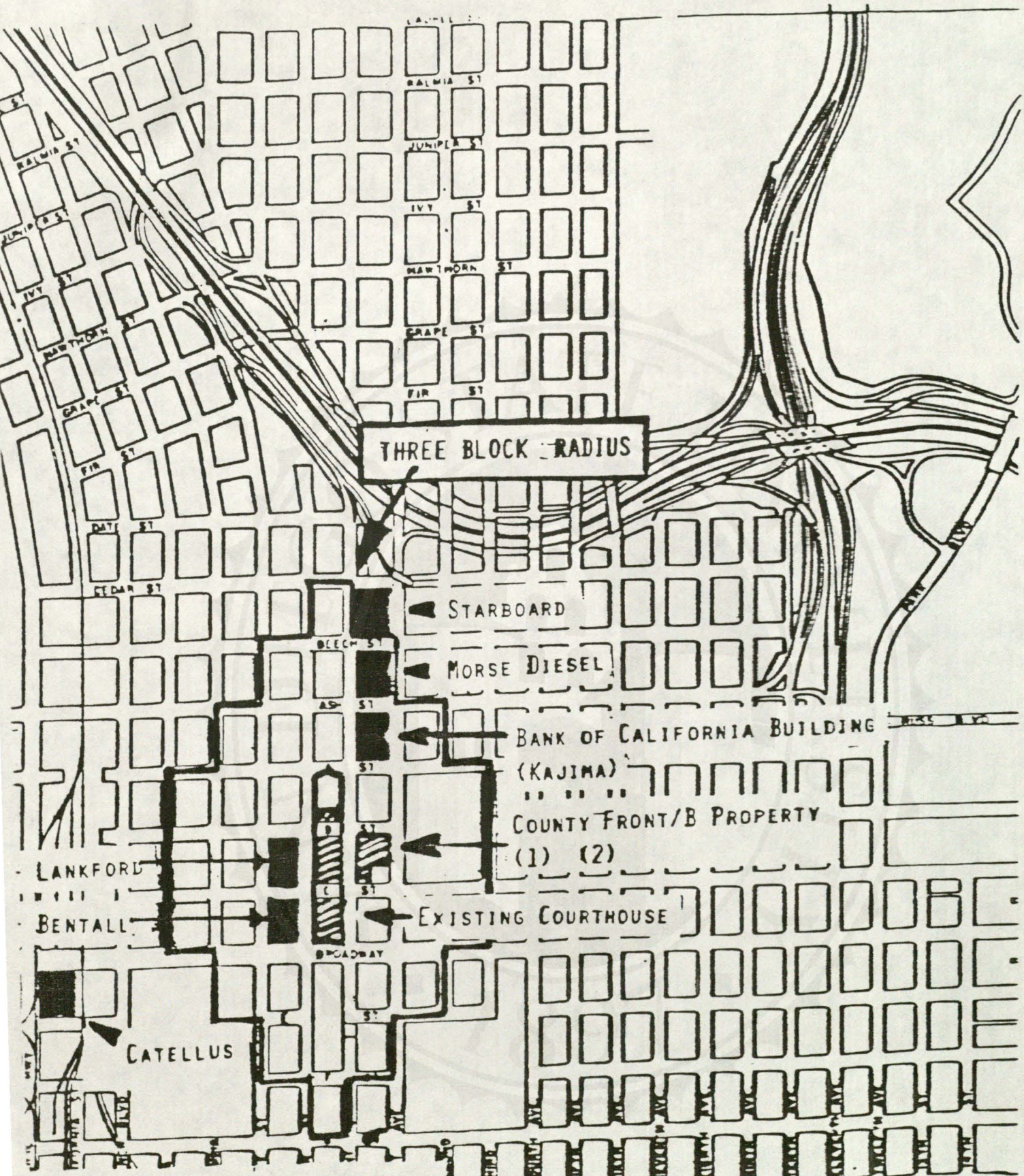
have been deemed qualified to submit responses to the RFP one has a site which is more than three blocks from the Courthouse. There would be significant operational problems associated with being too far from the Courthouse and it would take significant capital cost saving associated with a proposal to offset these operational concerns. In addition, a decision to locate a facility at one of these remote sites would speak for attempting to locate future facilities adjacent to the Court/Office building. **In summary if the intent is to keep courthouse functions at the present downtown sites and be compatible with the Centre City Community Plan, then it is best to limit the search area to three blocks from the Courthouse.**

9. Should the County owned property bounded by Front, B., First, and C be removed from consideration for housing the Downtown Court/Office Building?

The RFQ had indicated that the County owned property bounded by Front, B, First, and C would be available for development. Six qualified developers have proposed development of this site. At the time of the issuance of the RFQ it was anticipated that the ultimate space requirements would not exceed 450,000 gross square feet.

The projected space requirements for the year 2010 are now 512,616 gross square feet. The Front/B site, including the property which houses the Law Library has a maximum of 492,679 gross square feet of development if the building complies with the Centre City Community Plan. Given the size of the current projected needs logical development of the site should occur all in one phase which would entail demolition of the Law Library. Finding replacement space for the Law Library will add to the time and expense for completion of this project.

If the search area is limited to three blocks and the County owned property is removed from consideration there would be the following impact on those developers which have been deemed qualified:



)R DEVELOPERS (BENTALL, KAJIMA,
NKSFORD, MORSE DIESEL) SUBMITTED
AL PROPOSALS

EE DEVELOPERS (BETAWEST,
TINENTAL, LONDON TRUST)
MITTED PROPOSALS ON THIS
E ONLY.

SUBJECT: Downtown Court/Office Building

DEVELOPER	PRIVATELY OWNED SITE	COUNTY OWNED SITE	STATUS
Bentall	300 W. Broadway (one block)	X	In competition
Betawest	N/A	X	No longer could compete
Catellus	Pacific Highway/ Broadway (4 blocks)	N/A	No longer could compete
Continental	N/A	X	No longer could compete
Kajima	Existing building 110 West A (2 blocks)	X	In competition
Lankford	State, Union, B, and C (1 block)	X	In competition
London Trust	N/A	X	No longer could compete
Morse Diesel	Front, First, Ash, Beech (2 blocks)	X	In competition
Starboard	Cedar, Beech, Front, First (4 blocks)	N/A	No longer could compete

In summary, there would be five development teams eliminated from competition.

Respectfully submitted,

NORMAN W. HICKEY
Chief Administrative Officer

BOARD OF SUPERVISORS
AGENDA ITEM
INFORMATION SHEET

SUBJECT: Downtown Court/Office Building

SUPV. DIST.: 4

COUNTY COUNSEL APPROVAL: Form and Legality ( ) Yes (x) N/A
( ) Standard Form ( ) Ordinance ( ) Resolution

AUDITOR APPROVAL: (x) N/A ( ) Yes 4 VOTES: ( ) Yes ( ) No

FINANCIAL MANAGEMENT REVIEW: ( ) Yes (x) No

CONTRACT REVIEW PANEL: ( ) Approved _____ (x) N/A

CONTRACT NUMBER(S): N/A

PREVIOUS RELEVANT BOARD ACTION: On May 21, 1991 (71), the Board approved going forward with the acquisition of a downtown Court/Office building. On June 11, 1991 the Board approved going forward with issuing an RFQ followed by an RFP.

BOARD POLICIES APPLICABLE: N/A

CITIZEN COMMITTEE STATEMENT: N/A

CONCURRENCE(S):

CONTACT PERSON: Rich Robinson (Loc. - 730) 531-4850 A-227

ORIGINATING DEPARTMENT: Chief Administrative Office

_____ November 5, 1991
DEPARTMENT AUTHORIZED REPRESENTATIVE MEETING DATE

BHEALY - 101DTDB