



Agenda Report

19-187

Agenda Date: 2/5/2019

REPORT TO COUNCIL

SUPPLEMENTAL MEMORANDUM

SUBJECT

Action on Approval of Award of Agreement for the Management and Operation of the Santa Clara Convention Center

REASON FOR SUPPLEMENTAL

The reason for this Supplemental Memorandum is to:

1. Update Council on a bid protest that was received from the law offices of Rutan & Tucker LLP, on behalf of SMG, protesting the City's recommendation of award of contract to Spectra Venue Management (Spectra) for the management and operations of the Santa Clara Convention Center, and
2. Advise Council on the City's response to deny the bid protest, and
3. Revise Staff's original recommendation authorizing the City Manager to negotiate and execute a final agreement with Spectra

BACKGROUND

As described in the Report to Council (RTC) for the Management and Operation of the Santa Clara Convention Center and Convention Visitor Services (Item 6 #19-159), staff conducted a Request for Proposal (RFP) that concluded on January 22, 2019. A Notice of Intended Award was sent to proposers Spectra Venue Management (Spectra) and SMG on January 23, 2019, recommending award of contract to Spectra. The RFP procedures allowed any unsuccessful proposer to submit a protest within ten days after the issue of the Notice of Intended Award. The deadline for filing a protest to the City Auditor serving as protest hearing officer was Saturday, February 2, 2019 at 11:59 PM.

A protest was filed on Friday, February 1 prior the public release of the report. As a result, Staff's recommendation was for Council to approve a resolution authorizing the City Manager to negotiate an agreement with Spectra, and return to Council at a later date (i.e., March 5, 2019) to report on the outcome of the protest, and request approval of the final agreement with Spectra, provided any protest from SMG was not successful.

DISCUSSION

On February 1, 2019, the law firm of Rutan & Tucker, acting on behalf of SMG, submitted a timely protest. From February 1, 2019, through February 4, 2019, the City Auditor reviewed the merits of the protest, and rendered her written decision to deny SMG's protest on February 4, 2019. The protest, as well as the City Auditor's determination to deny the protest, is included in this memorandum as Attachments 1 and 2, respectively.

The protest raised a number of issues as summarized below:

- Flawed evaluation and weighting criteria
- Ignoring relevant considerations
- Failing to act transparently
- All of the above leading to arbitrarily and capriciously awarding to Spectra

Throughout the protest, claims are made that the evaluation criteria and their respective weights as well as the vendor selection process were flawed; that the seven member evaluation failed to recognize or consider relevant information primarily relating to SMG's convention center client base in California; the City failed to provide relevant evaluation criteria, and SMG was not provided equal treatment during the evaluation process.

The City's RFP included language that specifically allowed proposers the ability to raise objections as to the structure, content, or distribution of the RFP. Any such objections had to be submitted by November 7, 2018, which was prior to submission of proposals, to allow staff time to consider the objection, and issue addenda addressing any changes to the RFP. The reason for this provision is to not only provide bidders with an avenue for raising objections, but to avoid situations where a bidder "goes along" with the process, and then raises objections at the conclusion of a very lengthy and costly process, after they learn that they are not the winning proposal.

While the RFP does have a protest provision that provides unsuccessful proposers the opportunity to file a protest, the provision specifically states that a protest cannot be submitted that contests the structure, content, or distribution of the RFP. Throughout their protest, SMG contends that there were "flaws" in the RFP evaluation process, including "arbitrary" evaluation criteria and weights, all of which were published and communicated to the proposers in the RFP document, the mandatory pre-proposal conference, as well as other forums over a three month period. SMG failed to raise any concerns about the process at any time during the RFP process; therefore, their protest is invalid. Regardless of this condition, the City Auditor provides an explanation for each condition that is being contested in her protest response letter (Attachment 2).

Further concerns raised in the protest include:

The seven member evaluation team did not recognize key factors related to SMG's client base in California. In response, the Auditor determined that these factors were recognized by the evaluation team and evaluated in both the written proposal and oral presentation phases of the evaluation process.

The City failed to act transparently during the Phase 2 process because the evaluation criteria for the oral presentation and financial proposals each weighted at 50%, were not disclosed to the proposers. In fact, all these factors were scored were presented to the proposers at the time they were notified of their advancement to Phase 2 (see attachments to City Auditor's response letter).

The protest contends that greater scoring emphasis should have been placed on the transition plan, marketing, and financial plan. The scoring matrix demonstrates that these criteria accounted for 80% of the final scoring.

Finally, the protest suggests that the City did not adequately review the Best and Final Offers

(BAFO), because the Notice of Intended Award recommending the award of contract to Spectra was published within 24 hours of receiving the BAFO. In fact, 24 hours was more than sufficient time to establish that Spectra's response was more advantageous than SMG's, and that re-scoring the financial proposals would have only increased Spectra's score relative to SMG's.

As stated above, the City's original recommendation was to negotiate an agreement with Spectra and review any protest in parallel during February, and return to Council with the protest outcome and the final agreement. With the denial of the protest presented to Council at the February 5 Council meeting, staff recommends that Council authorize the City Manager to negotiate and execute an agreement with Global Spectrum L.P. dba Spectra Venue Management with the following policy alternatives without returning to Council for contract approval. This approach will provide more flexibility in transitioning the management of the Convention Center from the current operator to Spectra.

COORDINATION

This item was coordinated with the Finance Department and the City Attorney's Office.

ALTERNATIVES

1. Adopt a Resolution authorizing the City Manager to negotiate and execute a Management Agreement, including two 5-year options to extend the agreement, with Global Spectrum L.P. dba Spectra Venue Management (Spectra) for the management and operation of the Santa Clara Convention Center consistent with the proposal submitted, including the Best and Final Offer, and Report to Council as well as an Interim Management Agreement, if necessary, to allow for transition of management and operation of the Santa Clara Convention Center by March 18, 2019 (Attachment 3).
2. Authorize the City Manager to negotiate an agreement with Global Spectrum L.P. dba Spectra Venue Management, including options to extend the agreement, with an initial five year term ending on or about March 20, 2024 and a maximum annual compensation amount not to exceed \$400,000, and subject to the annual appropriation of funds and return to Council for contract approval on March 5.
3. Any other action the Council deems appropriate.

RECOMMENDATION

Alternative 1.:

1. Adopt a Resolution authorizing the City Manager to negotiate and execute a Management Agreement, including two 5-year options to extend the agreement, with Global Spectrum L.P. dba Spectra Venue Management (Spectra) for the management and operation of the Santa Clara Convention Center consistent with the proposal submitted, including the Best and Final Offer, and Report to Council as well as an Interim Management Agreement, if necessary, to allow for transition of management and operation of the Santa Clara Convention Center by March 18, 2019.

Reviewed by: Ruth Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. February 1, 2019 Protest Letter
2. February 4, 2019 Response to Protest

3. Resolution

February 1, 2019

VIA MESSENGER AND E-MAIL [Llam@santaclaraca.gov]

Ms. Linh Lam
Assistant Director of Finance/City Auditor
City of Santa Clara
1500 Warburton Ave.
Santa Clara, CA 95050

Re: Bid Protest, Request for Proposal: Management and Operation of the Santa Clara Convention Center and Convention/Visitor Services (RFP CMO-001)

Dear Ms. Lam:

The purpose of this letter is to protest the City of Santa Clara's (the "City") Notice of Intended Award for the Request for Proposal for the Management and Operation of the Santa Clara Convention Center (the "Convention Center" or "SCCC") and Convention/Visitor Services (RFP CMO-001) (the "RFP" and the "Project", respectively) on behalf of unsuccessful Proposer SMG ("SMG").¹ By the Notice of Intended Award, dated January 23, 2019, the City indicated that it will award the Project to Global Spectrum LP, dba Spectra Venue Management (hereinafter "Spectra") under the reasoning that Spectra's proposal scored more favorably based on the evaluation and weighting criteria specified in Section 16 of the RFP.

In evaluating RFP CMO-001, the City relied on flawed evaluation and weighing criteria, ignored relevant considerations, failed to act transparently, and ultimately, arbitrarily and capriciously awarded the Project to Spectra. As a result, and as further detailed below, the City's decision to award the Project to Spectra, and not to SMG, is not well-reasoned and should be reconsidered. SMG respectfully requests that the City take either one of two actions:

1. Overturn the Notice of Intended Award to Spectra and reopen the RFP to the public for the submission of proposals, using the corrected evaluation criteria recommended herein; or
2. Overturn the Notice of Intended Award to Spectra and continue negotiations with the final two Proposers in consideration, SMG and Spectra, to ultimately renegotiate the best and final offer for the City in a transparent and fair manner.

¹ The RFP and all related City documents are incorporated by reference herein, but are not attached in the interest of brevity.

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I. The Flawed RFP Procedure and Evaluation Criteria.

A. Arbitrary Weighing of Phase 1 vs. Phase 2 Evaluation Criteria.

Perhaps the most egregious error in the City’s RFP procedure is the arbitrary and inequitable weights assigned to the stated evaluation criteria. Section 16 of the RFP provides that the City will conduct a two-phase evaluation and selection process. In Phase 1, the RFP provided that “the City will evaluate all responsive proposals per the evaluation criteria and weights” listed in Section 16.3, reproduced in Table 1, below. In Phase 2, the RFP provided that the City will evaluate Proposers on the basis of a Financial Proposal and Oral Presentation.

Table 1

Description	Weight	
	Phase 1	Phase 2
Quality of proposal	5%	
Experience of firm	25%	
Expertise of team assigned to project	25%	
Technical / Project Approach	25%	
Value added products/capabilities	20%	
Financial Proposal incl. Management Fee, Capital Investments, and City Subsidy, if any		50%
Oral Presentations		50%
TOTAL	100%	100%

The facial problem with this Phase 1/Phase 2 approach is the fact that it artificially inflates the importance of the Financial Proposal and Oral Presentation, while it negates the importance of the other evaluation criteria. By dividing the RFP into two “100% weights,” the evaluation of Proposers at Phase 2, and ultimately the Project award, is limited *solely* to consideration of the Financial Proposal and Oral Presentation. The City confirms this reading of Table 1 in its Notice of Intended Award:

Phase 2: In this phase of the evaluation process, *scores were reset and 100% of the final award recommendation was based on the Phase 2 scores* which consisted of an Oral Presentation (50% weight) and Financial Proposal (50% weight).

(Emphasis added.)

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By *resetting* the scores, the criteria relied upon to *get* a Proposer to Phase 2 (i.e., quality of the proposal, experience of the firm, expertise of the team, technical/project approach, and value added) *are not even considered* in making the final Project award. Given the significance of the Phase 1 criteria, it is illogical, and arguably absurd, that none of these criteria would contribute to the City's comparison of the final two (2) Proposers against each other. The weighing methodology applied by the City ignores half of the relevant criteria and risks awarding the Project on an arbitrary and capricious basis. This result is surely not what the City intended as it does not further the City's goal of selecting the best overall proposal.

These flaws are well illustrated by comparing the City's evaluation criteria to those used by other jurisdictions in awarding similar projects. For example, in August of 2018, the City of Sacramento issued an RFP for construction management services for its convention center renovation and expansion project.² Like the City, Sacramento utilized a two-phase evaluation approach, summarized in the table on the following page.

[see next page]

² (City of Sacramento RFP, August 2018, https://www.ebidboard.com/docs/1809/060071/SCC%20CCT%20RFP_CM%20SERVICES-Final%208-30-18.pdf [last accessed February 1, 2019].)

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Table 2

WRITTEN PROPOSAL	MAXIMUM POINTS	REVIEWER SCORE
Introductory Letter – Reflects project understanding and summarizes critical issues, challenges, milestone tasks, and appropriate resourcing.	5	
Project Team – Team organization, qualifications and experience of the firm, project manager, team, and sub-consultants on similar projects. Experience with City procedures and team has worked together on past projects.	20	
Availability - Key personnel are available and committed to the project	5	
Workplan – Assignment, understanding, and organization of tasks, understanding of interrelationship of critical tasks, hour commitment to each task, deliverables.	25	
Quality Control - Consultant’s internal controls, communications with City are adequate and timely, and provide assurance for complete submittals.	5	
SUBTOTAL FOR SHORTLISTING	60	
References – See worksheet	10	
SUBTOTAL TO INTERVIEWS	70	
INTERVIEW (if requested by City)		
Presentation by PM - Project understanding, critical issues, innovation, and solutions.	10	
Presentation by team – Experience, roles and responsibilities, communication and coordination between team members, agencies, and City.	10	
Q&A – Response to panel’s questions.	10	
SUBTOTAL WITH INTERVIEWS	30	
LBE 5% Preference Points (Local firms only)	5	
TOTAL	105	
RANKING OF CONSULTANT FIRM (assigned after completion of scoring)		
Name of Evaluator:	Date Evaluated:	

Like the City, Sacramento’s RFP procedure consisted of a Phase 1 written proposal and Phase 2 interviews. However, the critical difference is the fact that Sacramento’s final ranking was based on the *combined* Phase 1 and Phase 2 scores and awarded the project to the “highest *overall*

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ranked firm.” In Sacramento, the Phase 1 written proposal contributed up to 60 points to the final score and the Phase 2 interview contributed up to 30 points to the final score, with the remaining 10 points being awarded for references. Unlike the City’s RFP procedure, Sacramento guaranteed that the final Project award was based on the Phase 1 *and* Phase 2 factors. Stated otherwise, Sacramento imposed a 60:30 ratio of Phase 1 to Phase 2 criteria in making its final Project award, while the City imposed a 0:100 ratio of Phase 1 to Phase 2 criteria.

As another example, in September of 2018, the City of Riverside issued a RFP for a 7.6 acre development project, including a convention center expansion.³ Riverside also implemented a Phase 1/Phase 2 procedure. In Phase 1, seven (7) evaluation criteria were analyzed on a weighted scale. In Phase 2, Riverside conducted interviews for at least the top two (2) responsive Proposers. However, unlike the City, Riverside *re-scored* the interviewees’ proposals using the same seven (7) evaluation criteria after the interviews to make its final award. The City of Oakland utilized a similar procedure in its September of 2014 RFP for the rehabilitation and reuse of its convention center.⁴ After the Phase 2 interviews, the evaluation panel scored the submittals using the same Phase 1 evaluation criteria. In doing so, Riverside and Oakland guaranteed that the final Project awards were based on the *combined* Phase 1 *and* Phase 2 criteria.

These three (3) examples highlight the issues with the City’s Phase 1/Phase 2 RFP procedure, which artificially discounted the important Phase 1 criteria in awarding the Project. In correcting its evaluation criteria, the City should look to these examples to ensure the final Project award is based on all relevant factors and avoid an arbitrary and capricious award.

B. Failure to Consider Relevant In-State Experience.

The City’s evaluation procedure set forth in Table 1 is additionally flawed for its failure to consider the Proposers’ relevant convention center experience in the State of California. Sourcing convention center management and operations services from entities with relevant, in-state experience should be of great value to the City and its taxpayers. However, this important factor is *not* included in the evaluation criteria or even mentioned in the RFP, including in RFP Attachment B – Statement of Qualifications.

³ (City of Riverside RFP, September 18, 2018, <https://www.riversideca.gov/cedd/pdf/Lot-33-RFP.pdf> [last accessed February 1, 2019].)

⁴ (City of Oakland RFP, September 22, 2014, <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/webcontent/oak049322.pdf> [last accessed February 1, 2019].)

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The City’s failure to consider relevant in-state experience directly prejudiced SMG. SMG manages several *full service* convention centers in California, as demonstrated below:

Table 3

Name	City	State	Seating
Convention Centers			
Moscone Center	San Francisco	CA	742,000
Long Beach Convention Center	Long Beach	CA	224,000
Palm Springs Convention Center	Palm Springs	CA	130,600
Fresno Convention Center	Fresno	CA	96,000
Ontario Convention Center	Ontario	CA	90,000
Valdez Hall	Fresno	CA	32,000

The City discounted SMG’s relevant experience and instead chose to award the Project to Spectra, which has no apparent experience in the California convention center industry. While Spectra undeniably has a presence in California, stadiums and fairgrounds do not pose the same unique challenges as convention center operations and management services, including but not limited to, clients served, event types hosted, level of service expectations, and role the venue plays in the overall economic health of the hospitality community it serves. The City’s failure to evaluate this aspect of SMG’s proposal is imprudent and should be reconsidered.

C. Failure to Disclose Phase 2 Evaluation Criteria.

As discussed above, the Oral Presentations and Financial Proposals were given undue weight by the City, each constituting 50% of the final Project award. However, the relative importance of the Oral Presentations and Financial Proposal was not communicated in the RFP and was not foreseeable by the Proposers. Despite the RFP’s rubric of the Phase 1 criteria, it does not provide a similar breakdown of how the Oral Presentations or Financial Proposals will be scored, *despite the fact* that the City apparently has a delineated rubric of the same. The Notice of Intended Award includes a table summarizing the criteria considered in scoring each Proposer’s Oral Presentation and Financial Proposal:

Table 4

CRITERIA	Spectra	SMG
<i>Oral Presentation (50%):</i>		
General Marketing	8.8	8.1
Transition Plan	8.0	8.6
Financial Plan	8.3	8.7
Community Benefits	9.2	7.6
Overall Presentation	9.0	8.2
Subtotal Oral Presentation	43.3	41.2
<i>Financial Proposal (50%):</i>		
Financial Plan	11.1	10.3
Management Fee	11.3	10.2
Financial Resources	10.7	10.1
Other Submissions	10.6	10.1
Subtotal Financial Proposal	43.7	40.7
Final Phase 2 Score	87.0	81.9

Remarkably, this information was *not* provided to the Proposers in either the RFP or the Phase 2 – Oral Presentation Agenda. The Phase 2 scoring criteria clearly should have been communicated to the Proposers *prior* to undertaking the Oral Presentation and Financial Proposal. Providing the scoring criteria only after the successful Proposer had been chosen could be interpreted as a post-hoc rationalization of the City’s award. Given that the *appearance of favoritism* undermines the integrity of the public bidding process and can result in a City’s award being invalidated, such post-hoc rationalizations should be avoided.⁵

D. Lack of Transparency in Identifying all Evaluation Criteria.

In total, the City relied on thirteen (13) unique criteria in evaluating the proposals in Phases 1 and 2:⁶

1. Quality of proposal (Phase 1)
2. Experience of firm (Phase 1)
3. Expertise of team assigned to project (Phase 1)
4. Technical/project approach (Phase 1)
5. Value added products/capabilities (Phase 1)

⁵ (*Advanced Real Estate Services, Inc. v. Superior Court* (2011) 196 Cal.App.4th 338, 353 [citing *Schram Construction, Inc. v. Regents of University of California* (2010) 187 Cal.App.4th 1040, 1049].)

⁶ See Table 1, Table 4.

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6. General marketing (Phase 2)
7. Transition plan (Phase 2)
8. Financial plan (Phase 2)
9. Community benefits (Phase 2)
10. Overall presentation (Phase 2)
11. Management fee (Phase 2)
12. Financial resources (Phase 2)
13. Other submissions (Phase 2)

By artificially dropping the Phase 1 criteria from its final consideration (see Section A, *supra*) and failing to disclose the Phase 2 criteria in advance (see Section C, *supra*), the City obscured the “big picture” of the evaluation procedure. In the interest of transparency in its bidding process, the City should have fully disclosed its comprehensive evaluation criteria in a single rubric, like that used by Sacramento. (See Table 2.)

E. Inequitable Weighing of Phase 2 Evaluation Criteria.

In addition to the procedural concerns pertaining to the undisclosed Phase 2 criteria, the substance appears likewise flawed. Per Table 4, the Oral Presentation and Financial Proposal component criteria are equally weighted. This approach is inconsistent with the RFP.

Several sections of the RFP address the substantive factors the City will rely on in awarding the Project, including Section 15.9 (management and operations plan), Section 15.10 (marketing plan/sales plan), and Section 15.11 (transition plan). Each of these factors is thoroughly explained in the RFP and Proposers are given additional direction on how to provide information responsive to each. To a Proposer, this indicates that such items should be more heavily emphasized and that the Project award may depend, in large part, on the Proposer’s responsiveness to these factors. Conversely, there is *no mention* in the RFP of several of the determinative Phase 2 criteria listed in Table 2. For example, “community benefits,” which accounted for the largest scoring discrepancy between SMG and Spectra, *is not mentioned, at all, in the body of the RFP*. It is patently unfair for the City to place equal weight on two criteria, one of which is extensively addressed in the RFP (i.e., transition plan), and the other of which is not mentioned at all (i.e., community benefits).

Likewise, the Phase 2 – Oral Presentation Agenda misled the Proposers regarding the relative importance of the evaluation criteria. The agenda indicates that Proposers should allot their time as follows: forty (40) minutes to general and marketing, thirty (30) minutes to the transition plan, thirty (30) minutes to the financial plan, and *only* fifteen (15) minutes to community benefits. The Proposers might reasonably interpret this time allocation to suggest the relative importance and therefore scoring weight of the criteria. Simply put, the City’s materials do not accurately reflect the City’s scoring priorities and misled the Proposers.

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Further, the City should have placed greater weight on the most important criteria, namely the transition plan, marketing plan, and financial plan. It is unquestionable the Proposers' financial performance and ability to effectively transition personnel systems are of the greatest priority in ensuring the Project's long-term viability. It is hard to imagine that the City's taxpayers would find a Proposer's presentation style and/or community benefits to be equally important in expending City resources as the Project's financial viability.

The error in not emphasizing the Proposers' transition plans, marketing plans, and financial plans is even more apparent when viewed alongside the City's September 18, 2018 audit of the Convention Center's operations and management, attached as **Exhibit "A."** The audit reveals marked concerns with the Convention Center's financial management:

[T]he Contractor's financial management of the CVB's [convention/visitor services] operations has weaknesses in its internal controls, especially in the area of bill payment, while its information management activities have structural gaps that if addressed, could enhance managerial decision-making.⁷

In reference to the marketing plan, the audit states:

A key change needed to increase the SCCC's operational sustainability and performance is to update the overall marketing strategy. . . . Both the SCCC and the CVB operate as separate entities and could benefit from an integrated and comprehensive marketing plan.⁸

The audit recommends that the City implement a "comprehensive and integrated business and marketing strategy," among others, to ensure the Convention Center's success.⁹ In a November 27, 2018 presentation of the audit's findings, attached as **Exhibit "B,"** the City recommended that it "[p]artner with the Chamber to successfully *transition* Convention Center/CVB to a potential new operator."¹⁰

In light of the audit, the City should have placed *greater* emphasis on the Convention Center's known weaknesses, including the transition plan, marketing plan, and financial plan, in awarding the Project. The failure to do so, but instead weigh these crucial factors equally with presentation style and/or community benefits, is a clear error on the City's part.

⁷ See Exhibit A, p. 2.

⁸ See Exhibit A, p. 2.

⁹ See Exhibit A, p. 3.

¹⁰ See Exhibit B, p. 21 (emphasis added).

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F. Flaws in Conducting the Oral Presentations.

The Proposers were unable to adequately prepare for the Oral Presentations given the misleading information provided by the City. The Phase 2 – Oral Presentation Agenda describes the meeting formal as “informal.” This fact, combined with the City’s failure to disclose the Phase 2 evaluation criteria, rendered it impossible for Proposers to know that ten-percent (10%) of the final Phase 2 scoring would be determined by the “overall presentation.” The Oral Presentations should not have been advertised as informal when the City knew that the Proposers’ performance at the presentations would account for at least ten-percent (10%) of their decision to award the Project.

Further, the structure of the Oral Presentations prejudiced SMG as compared to Spectra. The RFP provided that Proposers may submit proposals either with or without CVB. However, the Phase 2 – Oral Presentation Agenda *did not* provide a different agenda or time allotment for those Proposers with CVB, such as SMG, or without CVB, such as Spectra. In essence, SMG had *twice as much* material to cover in its Oral Presentation as Spectra did, and its presentation had to address the more complicated content of the CVB. By requiring SMG to present this information in the same timeframe as Spectra, the City, in essence, dictated that SMG’s presentation of its proposal was more rushed and thus more susceptible to negative scoring by the City. The evaluation team also heavily questioned SMG on the CVB content, further adding to its time constraints. It was inherently unfair to hold SMG and Spectra to the same presentation agenda given the differing amounts of information each was responsible for presenting, particularly as the Oral Presentation accounted for *fifty-percent* (50%) of the final Project award. A more equitable result would have been to allow SMG proportionally more time to present its proposal.

The inequity of this result is even more apparent in light of the Best and Final Offer (“BAFO”) request issued to SMG by the City on January 22, 2019. The BAFO request indicated that the City had decided the CVB services would not be considered in the final award. Thus, SMG was not only prejudiced by allotting its Oral Presentation time to CVB, but the material it covered during that time would not even be considered in the final Project award. By requiring SMG to cover twice as much material as Spectra during its presentation, and then discounting half of that material from the final consideration, the City essentially allotted SMG *half as much time* as Spectra to address the information that would ultimately determine the Project award.

G. Illusory Consideration of the “Best and Final Offer”

The timing of the BAFO and the Notice of Intended Award is troubling. On January 17, 2019, the City requested that SMG submit a BAFO by the deadline of January 22, 2019. Per the City’s instructions, SMG submitted the BAFO to Mr. Giovannetti on January 22, 2019 at 5:35 p.m. The *day after the BAFO was submitted*, on January 23, 2019 at 5:00 p.m., the City issued its Notice of Intended Award. Given the complexity and magnitude of this Project, it is hard to

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imagine that the City was able to meaningfully analyze SMG's BAFO *and* independently verify the Proposers' financial projections in *less than twenty-four (24) hours*. The City's independent verification was essential as the financial performance projections submitted by SMG and Spectra in the BAFOs were vastly dissimilar, particularly the Net Operating Income ("NOI"). SMG's extensive California experience reveals that Spectra's claimed nearly \$3,000,000.00 NOI is unachievable and unprecedented. It was incumbent on the City to meaningfully compare and independently verify these projections prior to awarding the Project, and it is difficult to imagine that it did so in such a short period of time.

This fact is even more concerning given that the Notice of Intended Award was not scheduled to be released, per the RFP's timeline of events, until February 4, 2019. It would appear that not only did the City provide only a cursory and rushed review of SMG's BAFO, but it did so *without reason*. The City had *additional twelve days* in which it could have fully and fairly analyzed SMG's BAFO or requested further negotiations, yet it declined to do so. This fact only confirms the City's apparent post-hoc rationalization of the predetermined Project award. By all appearances, the BAFO request was a mere formality issued after the City had made up its mind to award the Project to Spectra.

H. Failure to Define Bid Protest Procedures.

Finally, the City has unfairly restricted SMG's ability to file this bid protest by failing to clearly outline the bid protest procedures. Section 3.1.4 of the Procurement and Contract Process Integrity and Conflict of Interest Guidelines, attached and incorporated into the RFP, requires that the Notice of Intended Award include instructions for filing a protest. The City did not comply with this requirement. As a result, counsel for SMG was forced to contact Mr. Giovannetti, personally, to clarify the procedures for filing a protest. The City has needlessly introduced uncertainty into the bid protest procedure and has prejudiced SMG by the same.

II. Conclusion.

In light of the foregoing, SMG is understandably concerned by the procedure used to award the Project to Spectra. The flawed evaluation criteria, withheld information, and illusory consideration of SMG's BAFO are sufficient to raise, at the very least, the appearance of an arbitrary and capricious Project award. SMG respectfully submits these concerns to the City and asks that it take either one of the following actions:

1. Overturn the Notice of Intended Award to Spectra and reopen the RFP to the public for the submission of proposals, using the corrected evaluation criteria recommended herein; or

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2. Overturn the Notice of Intended Award to Spectra and continue negotiations with the final two Proposers in consideration, SMG and Spectra, to ultimately renegotiate the best and final offer for the City in a transparent and fair manner.

Respectfully submitted,

RUTAN & TUCKER, LLP



Ash Pirayou

AP:hg



February 4, 2019

Mr. Ash Pirayou
Rutan & Tucker, LLP
Five Palo Alto Square
3000 El Camino Real, Suite 200
Palo Alto, CA 94306

Subject: Protest letter from Mr. Ash Pirayou dated February 1, 2019
Reference: City of Santa Clara Request for Proposal RFP # CMO-001

Dear Mr. Pirayou:

The City of Santa Clara (City) received the subject protest letter, dated February 1, 2019, submitted by Rutan & Tucker LLP on behalf of SMG for the Management and Operation of the Santa Clara Convention Center and Convention/Visitor Services. Please accept this letter as the City's decision to decline SMG's request to:

1. Overturn the Notice of Intended Award to Spectra and reopen the RFP to the public for the submission of proposals using corrected evaluation criteria; or,
2. Overturn the Notice of Intended Award to Spectra and continue negotiations with the final two Proposers in consideration, SMG and Spectra, to ultimately renegotiate the best and final offer for the City in a transparent and fair manner.

Background

The review and evaluation process is described in Sections 16 and 18 of the referenced Request for Proposals (RFP). The evaluation process was conducted in two phases, with Phase 1 consisting of an evaluation of written proposals and Phase 2 consisting of an evaluation of oral presentations and financial proposals. As stated in the RFP, only the highest scoring proposals would advance to Phase 2, and scoring would be "reset", with 100% of the final award recommendation based on the Phase 2 scores. Section 17 of the RFP allowed the City to issue a Best and Final Offer (BAFO) at its discretion. In addition, scoring of the BAFO was optional, at the discretion of the City.

The proposal evaluation team was comprised of seven members with executive representation from the City Manager's Office, Public Works, and Finance, as well as executive level representation from outside the City including the Executive Vice President, Membership Engagement, Destinations International; VP & General Manager, California's Great America; and Director of City Hall Events, City of San Francisco. Scoring was done individually, with team meeting follow-ups to discuss individual scores and agree on a final score for each scoring element. Each evaluator was required to complete a conflict of interest statement prior to reviewing any proposal to identify any potential conflicts of interest which would prevent an impartial evaluation of the proposals.

The proposal evaluation process commenced on December 8, 2018 and concluded on January 22, 2019. This is consistent with the timeline published in the RFP stating December 4, 2018 through January 29, 2019. Throughout this process, the proposals and other information as submitted or presented were scored and then re-scored (if required) according to the evaluation process as additional information was submitted, presented, or demonstrated to the evaluation team. The final scoring was very close, with only 6% of separation between the final scores.

On January 23, 2019, the City issued a Notice of Intended Award to both Phase 2 finalists, Spectra and SMG, recommending award of contract to Spectra. The Notice of Intended Award included the Phase 2 finalist scores for each evaluation criteria that was described in the RFP.

On February 1, 2019, the City received a protest on behalf of SMG protesting the City's recommendation of award of contract to Spectra.

Discussion

SMG contends that the Notice of Intended Award should be rescinded and the RFP re-noticed or concurrent negotiations should take place with both SMG and Spectra based on the argument that the RFP procedure and evaluation criterion was flawed in the following areas:

- A. There was arbitrary weighting of Phase 1 vs. Phase 2 Evaluation Criteria
- B. The City failed to consider relevant in-state experience
- C. The City failed to disclose Phase 2 evaluation criteria
- D. There was a lack of transparency in identifying all evaluation criteria
- E. There was inequitable weighing of the Phase 2 evaluation criteria
- F. There were flaws in conducting the oral presentations
- G. There was illusory consideration of the Best and Final Offer

The City's RFP procedure and evaluation criterion was flawed

Arguably, SMG's protest is invalid because Section 13 of the RFP, "Objections" states the following:

"Any objections as to the structure, content or distribution of this RFP must be submitted in writing to the Purchasing contact prior to the submission deadline for Questions and

Answers. Objections must be as specific as possible, and identify the RFP section number and title, as well as a description and rationale for the objection.”

In addition Section 19 of the RFP “Protests” states the following:

“If an unsuccessful Proposer wants to dispute the award recommendation, the Protest must be submitted in writing to the contact listed below no later than 10 calendar days after announcement of the successful Proposer, detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes of proposal requirements and specifications, which must be addressed in accordance with Section 13. Failure to submit a timely written Protest as instructed will bar consideration of the Protest.

The address for submitting Protests is:

Ms. Linh Lam, Assistant Director of Finance/City Auditor
City of Santa Clara
1500 Warburton Ave.
Santa Clara, CA 95050”

The RFP evaluation process including evaluation factors, their respective weights, and basis of award were clearly stated in RFP Sections 16 and 18. The entire Convention Center Procurement Strategy was presented and approved by the Santa Clara City Council at the October 9, 2018 Council meeting. In addition, the evaluation process was presented to proposers at the mandatory Pre-Proposal conference on November 2, 2018, as well as the Governance and Business Engagement Meeting held on November 15, 2018 where representatives from SMG were present.

The reason the RFP requires proposers to raise their concerns or objections to the structure, content, or distribution of the RFP during the RFP process is to avoid a situation where proposers “go along” with the process until they are not selected for award of contract, and then submit a protest claiming the process is flawed and stating areas of process unfairness in areas where they scored low. In addition, raising such concerns prior to receiving proposals allows the City to consider them and amend the RFP, if necessary.

The City never received any objections from SMG as to the structure, content or distribution of this RFP in accordance with Section 13 of the RFP.

Throughout your protest letter, you raise issues of RFP “flaws” and process unfairness regarding the two phase evaluation process, weighting, and the criteria that was scored. Notwithstanding that your protest is invalid based on the requirement that you cannot protest the RFP process that was established and communicated to SMG over three months ago; I will address each area where you claim the process was flawed.

There was Arbitrary Weighting of Phase 1 vs. Phase 2 Evaluation Criteria

Your protest contends that the two phase evaluation was flawed because scores should not have been re-set after Phase 1. Instead, Phase 1 and 2 scores should have been cumulative and you further cite several RFP evaluation process from the Cities of Riverside, Sacramento and Oakland as examples of RFP processes that the City of Santa Clara should have followed. The two phase process was designed to short-list the number of proposals, and then proceed to the oral presentation and financial proposal Phase 2 for final award and consideration. With only the highest scoring proposers capable of performing the required services entering Phase 2, the final decision would be based on the team that best presented their understanding of the City’s requirements, and their solution and approach toward managing the Convention Center. Financial proposals were also requested in Phase 2.

Best practices in RFP writing generally state that an RFP should include an evaluation procedure, the evaluation criteria and weights, and the review and vendor selection methodology. The RFP examples that you provide from other jurisdictions include these principals, as did the RFP for the Santa Clara Convention Center.

Both SMG and Spectra submitted exceptional proposals that scored within 10% overall as demonstrated in the table below, and the evaluation team unanimously concurred that both firms should advance to Phase 2. Final Phase 1 scores are demonstrated in the table below.

Table 1: Final Phase 1 RFP Scoring – Convention Center

	Spectra	SMG
Quality	4.4	4.7
Experience	41.5	45.1
Value Add	12.0	14.3
Technical	20.7	21.8
Total Score	78.6	85.9

As previously stated, the City never received any objections as to the structure, content or distribution of this RFP including the arbitrary weighting of Phase 1 vs. Phase 2 evaluation criteria from SMG in accordance with Section 13 of the RFP.

Failure to Consider Relevant In-State Experience

Your protest contends that the evaluation team failed to consider SMG’s experience managing convention centers in California. In fact, the seven member evaluation team was very aware of SMG’s experience in this area and this resulted in higher scores as demonstrated in the table above. The RFP did not require convention center clients in California.

In Phase 2, this was further explored by asking the SMG team the following question:

“What is your guarantee that you will bring the required degree of dedication to this account, given its many accounts? Please outline how SMG will interface with the City

and all of the key stakeholders to demonstrate the overall corporate involvement and resources that will be used for ensuring the success of SCCC.”

Further, the Spectra team was asked to address the following relative to this same issue:

“What is your guarantee that you will bring the required degree of dedication to this account? Please outline how Spectra will interface with the City and all of the key stakeholders to demonstrate the overall corporate involvement and resources that will be used for ensuring the success of SCCC.” and,

“Please address our concern that Spectra’s business presence in California appears to be limited.”

Failure to Disclose Phase 2 Evaluation Criteria

You protest raises the concern of unfairness around the City not disclosing a breakdown of how the oral presentations and financial proposals would be scored, similar to the Phase 1 breakdown that was included in the RFP. You further state that the breakdown was established post-hoc, or after the oral presentations took place and financial proposals were received. Section 16.2 of the RFP states:

“In Phase 2, Proposers will be asked to submit a financial proposal as well as participate in oral interview/presentations. *The format and date of the presentation will be established at the time of short listing.*”

On December 22, 2018, both finalists were notified of their advancement to Phase 2 and provided Financial Proposal instructions (Attachment A) that required them to respond to information under the headings of Financial Plan, Management Fee Proposal, Financial Resources, and Other Submissions. Each of these sub-criteria mapped directly to the criteria that were scored and presented in the Notice of Intended Award.

On December 23, 2018, both finalists received oral presentation agendas (Attachment B). The agenda included discussion topics under the categories of General/Marketing, Transition Plan, Financial Plan, and Community Benefits. With the exception of “Overall Presentation”, these sub-criteria mapped directly to the criteria that were scored and presented in the Notice of Intended Award. The Overall Presentation score encompassed all criteria identified above, and gave the evaluators the opportunity to consider all of the information presented. All of the sub-criteria scores carried equal weight.

As originally established in the RFP, the final recommendation was based on the Oral Presentation and Financial Proposal, each weighted at 50%. The information that was scored under each of these general categories was presented to the proposers on December 22-23, 2018, with submittal or presentation deadlines on January 10, and January 15 for the financial proposal and oral presentations, respectively. Evaluation criteria were established and provided to the proposers well in advance. Therefore, the City rejects the allegation that there was a post-hoc determination of criteria after information was presented or received.

Lack of Transparency Identifying all Evaluation Criteria

This appears to be a continuation of your previous argument that the two phase evaluation process was unfair, and evaluation criteria and weights were incorrect or lacked transparency. These concerns have been addressed previously in this letter.

Inequitable Weighing of Phase 2 Evaluation Criteria

In this section, RFP “procedural concerns” are raised, citing specific areas of concern where SMG scored the lowest. A further argument is made that all of the information in the RFP should have carried over to Phase 2. Further, the evaluation criteria of “Community Benefits” is cited as an example of unfairness because proposers were required to address it in their oral presentations, but this element was not specifically included in the RFP document. SMG scored lower than Spectra for this criterion, which accounted for 10% of the 50% oral presentation weight.

Community Benefits was addressed at the November 15, 2018 Business Engagement Workshop which was incorporated into the RFP as an addendum. In addition, proposers were asked to address community benefits in their presentations as follows:

“Describe options for community benefits you would recommend to offer while maximizing revenue. How will you engage community groups? What policy framework for providing community benefits do you propose? What would you recommend as an approach to insuring that the community has access through events but the SCCC still attains its fiscal and economic impact targets?”

“Describe how your firm will work with local small businesses and local hospitality programs to provide business and educational opportunities.”

You contend that because *only* fifteen minutes was allotted to this factor, as opposed to longer time allotments for other factors, this misled proposers into concluding that this factor was not as important as the others. Fifteen minutes was allotted because there were only two discussion points to address. Under the topic of General Marketing, SMG was asked to respond to nine questions/discussion topics, averaging 4.4 minutes per question. The per-question average under Community Benefits was 7.5 minutes per question. Using your correlation of time versus importance, SMG was given ample time to discuss Community Benefits and should have recognized its importance based on the public discussion at the November 15, 2018 Business Engagement Workshop where City Councilmembers themselves expressed their strong interest.

Your contention that the City should have placed greater weight on the most important criteria, transition plan, marketing plan, and financial plan is noted. Each of these factors were evaluated extensively in Phase 2, with transition, marketing, and financial plans comprising 30% of the oral presentation weighted at 50% of the final score, and 100% of the financial proposal score weighted at 50%, or 80% of the Phase 2 score.

Flaws in Conducting the Oral Presentations

You contend that misleading information was provided on the oral presentation expressing concerns that the use of the word “informal” in describing the meeting format mislead the proposers into thinking that the oral presentation, with its importance weighted at 50% of the final score as advertised throughout the RFP process, was no longer as important. The oral presentation instructions to the proposers included the following information:

“Meeting Format: The meeting format is “informal” and evaluators will be encouraged to ask questions throughout the presentation. Attire is business casual. Please consider and allow time for questions when preparing your presentation.”

Proposers had the opportunity to ask, and in fact did ask clarification questions regarding the oral presentation process, which the City responded to in advance of the Oral Presentations. There were no questions regarding “informal” in describing the format of the meeting, and if it changed the oral presentation importance or scoring weight.

You further raise concerns that SMG was prejudiced because SMG submitted a proposal for the management of CVS and Convention Center Services or Convention Center Services only, and Spectra only proposed for Convention Center Services. Holding both proposers to the same presentation agenda prejudiced SMG because they had twice as much material to cover.

You are correct in that SMG proposed a combined model, and Spectra proposed for Convention Center Management only. However, both proposers did not receive the same question to address on this issue. SMG’s oral presentation question was:

“Why is your proposed business model of SCCC and CVB Management advantageous to the City? What are the potential challenges if we award SMG the SCCC only? Describe how you would be an active partner if the CVB was managed and governed separately.”

Spectra was asked:

“Why is your proposed business model of SCCC Management only (versus combined SCCC and CVS management) advantageous to the City? What are the potential challenges of a combined model? Describe how you will be an active partner with the CVB if it is managed separately.”

Each proposer was asked one question regarding their proposed approach. To allow SMG twice as much time to present both models would have been unfair to Spectra as each proposer was asked to address one question regarding their management approach, and the balance of the questions asked of both firms had to do with the management of the convention center.

Illusory Consideration of the “Best and Final Offer”

Your letter states that the timing of the issuance of the Notice of Intended Award one day after Best and Final Offers (BAFO) were received is “troubling” because less than 24 hours between these two events was not long enough to analyze and verify the BAFO’s.

The Best and Final language included in Section 17 of the RFP is as follows:

“A Best and Final Offer (BAFO) may be held with one or more Phase 2 participants if final information or clarification is necessary in order to make a final decision. The BAFO may allow Proposers to revise their technical and/or financial proposals based on information received from the City. The City will send out the request for a BAFO with instructions addressing the areas to be covered and the date and time in which the BAFO is to be submitted. After receipt of the BAFO, scores may be adjusted based on the new information received in the BAFO.”

“The City will request only one BAFO, unless the City’s Purchasing Manager determines in writing in the procurement file that another BAFO is warranted.”

“Proposers are cautioned that the BAFO is optional and at the sole discretion of the City. Therefore, Proposers should not assume that there would be an additional opportunity to amend their proposal after the original submission. Proposers may not request an opportunity to submit a BAFO.”

Any discussion regarding the BAFO process should also include a discussion of the financial proposal process. Requests for financial proposals were distributed on December 22, 2018, and proposals were received on January 10, 2019, and evaluated and scored over a thirteen day period.

The Best and Final Offer required each firm to respond to no more than four questions, including a final opportunity to make any adjustments to any aspect of their financial proposal.

BAFO instructions included specific questions regarding contractual commitments in the event projections are not met, and re-considering capital expenditure commitments to the Convention Center. The BAFO’s were sent to the proposers on January 17, and received by the January 22 deadline. BAFO’s from both proposers improved on their original financial proposal position. However, Spectra’s improvement was significantly greater than SMG’s thus increasing the separation in the financial proposal scores. Spectra increased their capital commitment expenditure that was already significantly greater than SMG’s, they decreased their base management fee, increased their advertising commitment to the City, and introduced fee rebates to the City in the event that income projections are not met. It did not take longer than 24 hours to establish that both Spectra’s and SMG’s financial proposal scores would have improved; however, Spectra’s score would have improved even greater relative to SMG’s because their BAFO was more aggressive.

While the City may have had more time per the original RFP timeline to review the BAFO prior to the issuance of the Notice of Intended Award, additional time for such a review was not required.

RUTAN & TUCKER, LLP

Subject: Protest Response

February 4, 2019

Page 9 of 9

Failure to Define Bid Protest Procedures

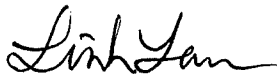
You raise a final concern that the bid protest procedures unfairly restricted SMG's ability to file a protest by failing to clearly outline the bid protest procedures. The protest instructions in the RFP are stated earlier in this letter. Your office contacted the City's purchasing Manager, Mark Giovannetti on two occasions, once to inquire about the bid protest deadline, and the other to inquire about Ms. Lam's e-mail address, and any protest page count restrictions. Mr. Giovannetti responded to both inquiries within 24 hours. Hence, you were able to seek clarity on the protest procedure.

Conclusion

The City thoroughly and fairly evaluated and scored all proposals against the criteria set forth in the RFP. SMG had the opportunity to object to the structure, content or distribution of this RFP. The process was transparent, and all participants in the process were treated equally. Allegations that the evaluation criteria, weights and the two phase process were unfair have not been supported, and even though each allegation has been addressed in this response, many do not meet the allowable protest criteria per the RFP instructions that the evaluation process cannot be challenged after the fact.

This item is scheduled to be considered by the Santa Clara City Council at the February 5, 2019 meeting.

Sincerely,



Linh Lam

Assistant Director of Finance/City Auditor

Attachments



City of Santa Clara, CA

Request for Financial Proposal

RFP# CMO-001

**MANAGEMENT and OPERATION of the SANTA CLARA
CONVENTION CENTER and CONVENTION VISITORS
BUREAU**



December 21, 2018

1 BACKGROUND

1.1 Pursuant to Section 16.2 “Phase 2” of RFP CMO-001 for the Management and Operation of the Santa Clara Convention Center and Convention Visitors Bureau, The City of Santa Clara is requesting a financial proposal and other submissions from your firm for the services that you have proposed under the Phase 1 process.

1.2 All other terms, conditions, and requirements under the original RFP CMO-001 remain in full force and effect.

1.3 Some of the requested information in Phase 2 may be duplicative to your firm’s Phase 1 submission. Please ensure that your Phase 2 is fully responsive to the requirements outlined herein.

2 WORKER RETENTION POLICY

2.1 The City’s Worker Retention Ordinance can be found on the City of Santa Clara’s website at <http://santaclaraca.gov/government/departments/city-manager/worker-retention>. Per the ordinance, the policy only applies to certain classification of workers at the Convention Center.

3 TIMELINE

Phase 2 request for Financial Proposals release date:	December 22, 2018
Financial proposal and other submissions as outlined in this document must be submitted by close of business no later than 3:00PM Pacific Time.	January 10, 2019

4 PROCEDURE FOR SUBMITTING QUESTIONS AND INQUIRIES

Please direct any questions pertaining to this RFP via e-mail to the purchasing contact listed below.

5 PURCHASING CONTACT

Mark Giovannetti, Purchasing Manager
1500 Warburton Ave.
Santa Clara, CA 95050
mgiovannetti@santaclaraca.gov

6 SUBMITTAL REQUIREMENTS

6.1 GENERAL

6.1.1 Please submit one original and eight copies to the purchasing contact listed above at the address indicated. If delivering in-person, follow the signage to the Purchasing Division located in the West Wing of City Hall, downstairs, next to Human Resources. Please clearly label your proposal "Financial Proposal, CMO-001.

6.1.2 Hardcopy proposals should be in Times New Roman, Arial or some similar, easily readable font. The size of the font cannot be any smaller than 11 and margins should be 1 inch or wider.

6.1.3 If your firm submitted a proposal for SCCC and CVS Management, or SCCC only depending on what the City decides, then you must submit two separate financial proposals. Each proposal should clearly state if it is for SCCC and CVS operations, or SCCC only.

6.2 FINANCIAL PLAN

6.2.1 Provide your strategy for minimizing the annual operating expenses and maximizing the annual operating revenues of the SCCC, while ensuring certain community benefits.

6.2.2 Discuss the balance that needs to be struck for convention facilities between financial operating performance and economic impact generation, and examples of approaches/strategies that you have employed to attempt to bring these two issues closer to a "win-win" situation for the facility and community.

6.2.3 Develop a SCCC budget for the first full year of operations, as well as five-year operating pro forma. Include a detailed description of all expenses and revenues, by line item, and provide an explanation of how each line item was developed and the assumptions used. The management fee paid to your entity should be included as one or more separate line item expense(s). Include a clear delineation for fixed and incentive-based fees as separate line items.

6.2.4 Provide examples of management reports that will be submitted to the City on a monthly basis detailing profits/losses, surcharge details and any other significant financial activity from the previous month.

6.2.5 Provide a description of your firm's role identifying and prioritizing capital improvements.

6.3 MANAGEMENT FEE PROPOSAL

6.3.1 It is the City's desire to obtain creative compensation proposals related to the management of the SCCC. Compensation for the selected firm shall consist of a "base" and "incentive fee" structure.

6.3.1.1 Base Fee: the amount of annual fee for management services. The base fee will be subject to annual adjustments based on the Consumer Price Index (CPI) for All Urban Consumers (Current Series) for the San Francisco-Oakland-Hayward California region, for the prior twelve months ending December 31st, not to exceed 5% in any fiscal year.

6.3.1.2 Incentive Fee(s): identify the standards that will be used to determine the amount of the incentive fee. Consider incentives that balance the need for: a) minimizing operating deficits; b) maximizing the attraction of non-local, economic impact generating events; and c) maintaining high standards of physical product and service quality.

The proposed incentive fee may reward areas that include superior performance for customer satisfaction, innovative and successful marketing, cost containment, revenue enhancement and facility maintenance.

Incentives should be based on stretch goals set every year which exceed historical performance levels. Proposers shall provide a framework for the basis of these incentives, which will be finalized during final negotiations.

6.3.1.3 Capital Investment(s): Identify amount, process, and potential areas in which the proposer will invest in additional fixtures, equipment, or other aspects of the SCCC.

6.4 Describe the nature and amount of the financial resources that would be committed by the proposer to enhance the likelihood of the successful operation and management of the SCCC.

6.5 OTHER SUBMISSIONS

Marketing Plan: Please submit a recent client-approved annual marketing plan for review.



RFP CMO-001

Management and Operations of the Santa Clara Convention Center and Convention Visitors Services

Phase 2 – Oral Presentation

Congratulations! Pursuant to Section 16 of the RFP, SMG has been selected to advance to Phase 2 of the evaluation process which consists of the submittal of your financial proposal and an oral presentation. The purpose of this correspondence is to provide general information, instructions, and an agenda for your oral presentation. You will receive a separate correspondence with self-contained instructions for completing and submitting your financial proposal.

1 GENERAL

Meeting day and time: Tuesday, January 15 2019 from 9:30 to 11:30 AM, Pacific Time. In addition, there will be a maximum one-half hour “buffer” period in order for the evaluators to ask any final questions. The meeting room will be available for set-up at 9:00 AM.

Meeting Location: City of Santa Clara Police Building (Community Room). located at, 601 El Camino Real, Santa Clara, CA 95050. The meeting room is to the immediate left of the front entrance to the building.

Meeting Format: The meeting format is “informal” and evaluators will be encouraged to ask questions throughout the presentation. Attire is business casual. Please consider and allow time for questions when preparing your presentation.

Equipment: The City will provide data projection equipment, and there is a podium in the room. If additional equipment or materials are required, please notify the purchasing contact and we will make every effort to comply with all requests.

Handout Material: If your presentation includes handout materials, please plan on bringing 10 copies. In addition, please submit one copy of your presentation in electronic format (does not need to be submitted prior to the presentation).

Purchasing Contact: Please continue to direct any questions to Mark Giovannetti, Purchasing Manager, mgiovannetti@santaclaraca.gov.

2 ATTENDEES

Your presentation team must include the following representation proposed for the Santa Clara Convention Center:

- **General Manager**
- **Financial Liaison:** (person responsible for the preparation and submission of all financial and related reports)

- **Operations Manager:** (the individual responsible for daily operations including facilities and labor)
- **Sales and Marketing Director:** (the sales executive who will lead the sales and marketing effort for SCCC)
- **Transition Team Leader:** (the individual responsible for the smooth transition of all activity from the current arrangement to the proposed model)

These five key team members in attendance should be the same individuals assigned to the account and will be listed by name in the final contract if your firm is recommended for award. The City will be confirming this at the meeting.

In addition to the required representation listed above, you may bring up to five more representatives from your firm that you feel are essential to addressing the agenda. Each individual that you bring should have a role in your presentation.

Meeting attendance is capped at ten total participants.

3 AGENDA

Please follow the following agenda outline and the recommended time allotment for each topic, contemplating questions from the City. Please note that through the proposal review and evaluation process (Phase 1), your firm has demonstrated that it is an industry leader. Therefore, general information about the size, strength, and qualifications of your firm is discouraged. Instead, the evaluation team is looking for information specific to the City’s needs.

The General Manager should facilitate and “drive” the meeting. We would like to hear primarily from the team that will make up the local leadership in Santa Clara. We would also like the primary focus of the presentation to be on strategies and tactics that are specific to Santa Clara. Please keep the “company overview” to less than 5 percent of the allocated time.

9:30-9:35 (5 minutes): Team Introductions

9:35-10:15 (40 minutes): General/Marketing

- Based on your tour of the facility, your knowledge of Santa Clara, and the information presented thus far, what does the City need in order to be successful?
- Please include overall thoughts on SCCC, Santa Clara as a destination and any other factors to Santa Clara’s long term success.
- What are your thoughts about the Santa Clara market and what challenges do you foresee? What do you see as the primary convention markets and why? How does this influence the overall approach in terms of service and quality of SCCC?
- Please outline those areas that you see as weaknesses or threats to the SCCC and Santa Clara being a meetings and convention destination of choice? Which of these areas can SMG directly influence and which ones will you need help?

- Present the number and types of events that you will bring in and what are the assumptions you made in arriving at these projections. Please detail why you believe the SCCC can achieve the levels of business you are projecting. Please detail the overall mix of business that is factored into your projection.
- What is your guarantee that you will bring the required degree of dedication to this account, given its many accounts? Please outline how SMG will interface with the City and all of the key stakeholders to demonstrate the overall corporate involvement and resources that will be used for ensuring the success of SCCC.
- Why is your proposed business model of SCCC and CVB Management advantageous to the City? What are the potential challenges if we award SMG the SCCC only? Describe how you would be an active partner if the CVB was managed and governed separately.
- What design improvements to the Convention Center facility, if any, are you recommending? How will these recommendations increase the competitiveness of SCCC? Please delineate those that could be accomplished in the short term and those that might take longer due to size and resources.
- What capital improvements to the Convention Center facility, if any, are you recommending? How will these improvements be funded? How will they help in attracting more business and increase revenue?

10:15-10:45 (30 minutes): Transition Plan

- Considering that the City's agreement with the Chamber of Commerce ends on March 17, 2019, the proposed six month transition plan and the City's retention policy that guarantees jobs for 90 days for certain labor classifications, how will you ensure a seamless transition with uninterrupted operations starting March 18, 2019? Please review the key milestones and dates that need to be accomplished.
- Present your transition plan for the initial 90 days of the agreement, and what do successful ongoing operations look like within six months? How are you going to transition the service to the levels of excellence that will be needed for future success? How will you work with the current staff that you retain to train and assess during this period?
- What is your recommendation for transitioning all of the vendor agreements? Do you have an approach for creating short term transitional agreement?
- What is your approach to collaborating with organized labor? Please review the current environment in Santa Clara and give us your recommendation on the best approach.

10:45-11:15 (30 minutes)

Financial Plan

- Summarize your financial proposal as submitted to the City including your assumptions for generating additional revenue, capital investment, and the management fee structure.
- Describe your financial systems and financial reporting capabilities. Please present sample reports for Santa Clara beyond the full financials that you believe will be informative, easy to digest and demonstrate a transparent environment.
- The City understands that you are committed toward meeting your bookings, sales profitability projections. What “out of the box” contractual commitments are you willing to make to back your commitment?

11:15-11:30 (15 minutes)

Community Benefits

- Describe options for community benefits you would recommend to offer while maximizing revenue. How will you engage community groups? What policy framework for providing community benefits do you propose? What would you recommend as an approach to insuring that the community has access through events but the SCCC still attains its fiscal and economic impact targets?
- Describe how your firm will work with local small businesses and local hospitality programs to provide business and educational opportunities.

11:30-12:00 (30 minutes)

Final Comments, Questions, and Wrap-Up



RFP CMO-001

**Management and Operations of the Santa Clara
Convention Center and Convention Visitors Services**

Phase 2 – Oral Presentation

Congratulations! Pursuant to Section 16 of the RFP, Spectra has been selected to advance to Phase 2 of the evaluation process which consists of the submittal of your financial proposal and an oral presentation. The purpose of this correspondence is to provide general information, instructions, and an agenda for your oral presentation. You will receive a separate correspondence with self-contained instructions for completing and submitting your financial proposal.

1 GENERAL

Meeting day and time: Tuesday, January 15 2019 from 1:00 to 3:00 PM, Pacific Time. In addition, there will be a maximum one-half hour “buffer” period in order for the evaluators to ask any final questions. The meeting room will be available for set-up at 12:30 PM.

Meeting Location: City of Santa Clara Police Building (Community Room). located at, 601 El Camino Real, Santa Clara, CA 95050. The meeting room is to the immediate left of the front entrance to the building.

Meeting Format: The meeting format is “informal” and evaluators will be encouraged to ask questions throughout the presentation. Attire is business casual. Please consider and allow time for questions when preparing your presentation.

Equipment: The City will provide data projection equipment, and there is a podium in the room. If additional equipment or materials are required, please notify the purchasing contact and we will make every effort to comply with all requests.

Handout Material: If your presentation includes handout materials, please plan on bringing ten copies. In addition, please submit one copy of your presentation in electronic format (does not need to be submitted prior to the presentation).

Purchasing Contact: Please continue to direct any questions to Mark Giovannetti, Purchasing Manager, mgiovannetti@santaclaraca.gov.

2 ATTENDEES

Your presentation team must include the following representation proposed for the Santa Clara Convention Center:

- **General Manager**

- **Financial Liaison:** (person responsible for the preparation and submission of all financial and related reports)
- **Operations Manager:** (the individual responsible for daily operations including facilities and labor)
- **Sales and Marketing Director:** (the sales executive who will lead the sales and marketing effort for SCCC)
- **Transition Team Leader:** (the individual responsible for the smooth transition of all activity from the current arrangement to the proposed model)

These five key team members in attendance should be the same individuals assigned to the account and will be listed by name in the final contract if your firm is recommended for award. The City will be confirming this at the meeting.

In addition to the required representation listed above, you may bring up to five more representatives from your firm that you feel are essential to addressing the agenda. Each individual that you bring should have a role in your presentation.

Meeting attendance is capped at ten total participants.

3 AGENDA

Please follow the following agenda outline and the recommended time allotment for each topic, contemplating questions from the City. Please note that through the proposal review and evaluation process (Phase 1), your firm has demonstrated that it is an industry leader. Therefore, general information about the size, strength, and qualifications of your firm is discouraged. Instead, the evaluation team is looking for information specific to the City’s needs.

The General Manager should facilitate and “drive” the meeting. We would like to hear primarily from the team that will make up the local leadership in Santa Clara. We would also like the primary focus of the presentation to be on strategies and tactics that are specific to Santa Clara. Please keep the “company overview” to less than 5 percent of the allocated time.

1:00-1:05 (5 minutes): Team Introductions

1:05-1:45 (40 minutes): General/Marketing

- Based on your tour of the facility, your knowledge of Santa Clara, and the information presented thus far, what does the City need in order to be successful?
- Please include overall thoughts on SCCC, Santa Clara as a destination and any other factors that are important for Santa Clara’s long term success.
- What are your thoughts about the Santa Clara market and what challenges do you foresee? What do you see as the primary convention markets and why? How does this influence the overall approach in terms of service and quality of SCCC?

- Please outline those areas that you see as weaknesses or threats to the SCCC and Santa Clara being a meetings and convention destination of choice? Which of these areas can Spectra directly influence and which ones will you need help?
- Present the number and types of events that you will bring in and what are the assumptions you made in arriving at these projections. Please detail why you believe the SCCC can achieve the levels of business you are projecting. Please detail the overall mix of business that is factored into your projection and how this mix also achieves the overall balance between SCCC fiscal performance and overall economic impact.
- What is your guarantee that you will bring the required degree of dedication to this account? Please outline how Spectra will interface with the City and all of the key stakeholders to demonstrate the overall corporate involvement and resources that will be used for ensuring the success of SCCC.
- Why is your proposed business model of SCCC Management only (versus combined SCCC and CVS management) advantageous to the City? What are the potential challenges of a combined model? Describe how you will be an active partner with the CVB if it is managed separately.
- Please address our concern that Spectra's business presence in California appears to be limited.
- What design improvements to the Convention Center facility, if any, are you recommending? How will these recommendations increase the competitiveness of SCCC? Please delineate those that could be accomplished in the short term and those that might take longer due to size and resources.
- What capital improvements to the Convention Center facility, if any, are you recommending? How will these improvements be funded? How will they help in attracting more business and increasing revenue?

1:45-2:15 (30 minutes): Transition Plan

- Considering that the City's agreement with the Chamber of Commerce ends on March 17, 2019, the proposed six month transition plan and the City's retention policy that guarantees jobs for 90 days for certain labor classifications, how will you ensure a seamless transition with uninterrupted operations starting March 18, 2019? Please review the key milestones and dates that need to be accomplished.
- Present your transition plan for the initial 90 days of the agreement, and what do successful ongoing operations look like within six months? How are you going to transition the service to the levels of excellence that will be needed for future success? How will you work with the current staff that you retain to train and assess during this period?
- What is your recommendation for transitioning all of the vendor agreements? Do you have an approach for creating short term transitional agreements?

- What is your approach to collaborating with organized labor? Please review the current environment in Santa Clara and give us your recommendation on the best approach.

2:15-2:45 (30 minutes)

Financial Plan

- Summarize your financial proposal as submitted to the City including your assumptions for generating additional revenue, capital investment, and the management fee structure.
- Describe your financial systems and financial reporting capabilities. Please present sample reports for Santa Clara beyond the full financials that you believe will be informative, easy to digest and demonstrate a transparent environment.
- The City understands that you are committed toward meeting your bookings, sales profitability projections. What “out of the box” contractual commitments are you willing to make to back your commitment?

2:45-3:00 (15 minutes)

Community Benefits

- Describe options for community benefits you would recommend to offer while maximizing revenue. How will you engage community groups? What policy framework for providing community benefits do you propose? What would you recommend as an approach to insuring that the community has access through events but the SCCC still attains its fiscal and economic impact targets?
- Describe how your firm will work with local small businesses and local hospitality programs to provide business and educational opportunities.

3:00-3:30 (30 minutes)

Final Comments, Questions, and Wrap-Up

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA AUTHORIZING CITY MANAGER TO NEGOTIATE
AND EXECUTE A MANAGEMENT AGREEMENT WITH
GLOBAL SPECTRUM L.P. DBA SPECTRA VENUE
MANAGEMENT FOR THE MANAGEMENT AND OPERATION
OF THE SANTA CLARA CONVENTION CENTER**

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, City of Santa Clara executed a Management Agreement with the Santa Clara Chamber of Commerce & Convention-Visitors Bureau (Chamber) for the management and operation of the Santa Clara Convention Center (SCCC) in 1984;

WHEREAS, the management responsibilities of SCCC includes, among other items, the responsibility for performing services necessary to direct and manage all Convention Center operations including marketing and promoting the Center; booking of events; hiring of staff; and daily operations of the center including accounting, catering, security, janitorial, and maintenance;

WHEREAS, the City commissioned a performance audit on the management and operation of the Santa Clara Convention Center and Convention-Visitors Bureau and received audit findings on September 18, 2018;

WHEREAS, based on the audit findings, the Council directed the City Manager to issue a 180-day notice to terminate the Convention Center Management Agreement, while simultaneously engaging in a competitive procurement process for the management and operation of the Convention Center and take necessary actions to stabilize its operations and to minimize further impact to public resources and assets;

WHEREAS, on September 18, 2018, the City Manager issued a termination notice for the Convention Center Management Agreement with the termination being effective on March 18, 2019;

WHEREAS, on October 9, 2018, the Council approved the procurement strategy and Process Integrity Guidelines for the selection of a vendor to manage the Convention Center and/or the

Convention Visitors Bureau;

WHEREAS, on October 17, 2018, the City issued a Request for Proposal (RFP) to select a qualified firm to manage and operate the Santa Clara Convention Center and Convention Visitor Services;

WHEREAS, by the December 7, 2018 RFP deadline proposals were received from SMG and Global Spectrum L.P. dba Spectra Venue Management;

WHEREAS, SMG and Spectra submitted responses to both Phase 1 and Phase 2 RFP criteria, inclusive of a management fee proposal, as required by the City;

WHEREAS, following an evaluation process consisting of review of and scoring by a seven member evaluation panel of written qualifications; oral presentations; fee proposals and Best and Final Offers, staff has recommended the selection of Global Spectrum L.P. dba Spectra Venue Management (Spectra) as the operator of the Santa Clara Convention Center;

WHEREAS, the City will commence negotiations with Spectra for long term management services necessary to operate the Convention Center with the objective of execution of an Agreement to allow for a transition to a new operator as of March 18, 2019; and,

WHEREAS, the execution of a long term agreement may not be possible to allow for its implementation by March 18, 2019.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. The City Manager is authorized to negotiate and execute an agreement including two 5-year options to extend the agreement with Global Spectrum L.P. dba Spectra Venue Management (Spectra) for the management and operation of the Santa Clara Convention Center consistent with the proposal submitted, including the Best and Final Offer, and Report to Council as well as an Interim Management Agreement to allow for transition of management and operation of the Santa Clara Convention Center by March 18, 2019.
2. In the event that the City Manager is unable to negotiate an agreement with Spectra, then

City Manager is authorized to negotiate and execute an agreement with SMG or the Santa Clara Chamber of Commerce for the management and operation of the Santa Clara Convention Center for an Interim Management Agreement commencing on March 18, 2019 subject to appropriation of funds.

3. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF _____, 2019, BY THE FOLLOWING VOTE:

AYES:	COUNCILORS:
NOES:	COUNCILORS:
ABSENT:	COUNCILORS:
ABSTAINED:	COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

- Attachments incorporated by reference:
1. Reports to Council (#19-159 and #19-187)
 2. Spectra Proposal