

RESOLUTION NO.

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE (1) FINDING THAT THE AWARD OF THE PROPOSED DESIGN-BUILD CONTRACT FOR THE INTERIM FACILITY - FOUR GATES PROJECT (“PROJECT”) AT THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT WILL RESULT IN LOWER COSTS AND FASTER COMPLETION TIME THAN IF THE CITY USED THE TRADITIONAL DESIGN-BID-BUILD METHOD OF PROJECT DELIVERY; (2) APPROVING THE FINAL RANKING OF THE DESIGN-BUILD ENTITIES THAT RESPONDED TO THE RFP FOR THE PROJECT; (3) AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO NEGOTIATE A DESIGN-BUILD CONTRACT FOR THE PROJECT; (4) AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO AWARD AND EXECUTE THE DESIGN-BUILD CONTRACT FOR THE PROJECT TO THE HIGHEST RANKED DESIGN-BUILD ENTITY; (5) AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO NEGOTIATE AND EXECUTE TASK ORDERS UP TO THE CONTRACT NOT-TO-EXCEED AMOUNT; AND (6) APPROVING A DESIGN-BUILD CONTINGENCY IN THE AMOUNT OF FIFTEEN PERCENT OF THE NEGOTIATED DESIGN-BUILD CONTRACT FOR CITY-APPROVED CHANGES TO THE DESIGN SCOPE AND CONSTRUCTION SERVICES AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE CONTRACT CHANGE ORDERS UP TO THE CONTINGENCY AMOUNT**

**WHEREAS**, Section 1217(e)(7) of the Charter of the City of San José (“City”) authorizes the City to negotiate and award a design-build contract for a public works project that meets the following criteria: (1) the design-build contract for the project will cost more than \$5,000,000; and (2) the City Council finds that the design-build procurement process would save money or result in faster project completion than the traditional design-bid-build procurement process; and

**WHEREAS**, the City owns and operates the Norman Y. Mineta San José International Airport (“Airport”); and

**WHEREAS**, the Airport’s unprecedented growth of passenger traffic has led to increased demand for additional aircraft gates and to address this demand in the near-term, the Airport desires to construct an interim facility, which will include four (4) additional gates with accompanying hold room space, restrooms and concession space (“Project”); and

**WHEREAS**, on May 1, 2018, the City Council adopted Resolution No. 78571 approving the use of the design-build project delivery method for the Project, the Project’s Request for Proposals (“RFP”) and the criteria and process by which the City will select a design-build entity; and

**WHEREAS**, Section 14.07.660 of the San José Municipal Code requires that the Council make a finding that following the competitive request for proposal selection process, the City Council may award a design-build contract if the amount of the contract for the project exceeds five million dollars, and the City Council makes a finding that the use of a design-build project delivery system will either save money or result in faster project completion than if the City used a traditional design-bid-build procurement process; and

**WHEREAS**, City staff has submitted a memorandum to Council for this item (“Council Memorandum”) that finds that the award of the proposed design-build contract (“DB Contract”) for the Project at the Airport will result in lower costs and faster completion time than if the City used the traditional design-bid-build method of project delivery; and

**WHEREAS**, the RFP’s submittal deadline was June 1, 2018 and the results of City’s evaluation of the written submittals and oral interviews, and a comparative analysis of

the price proposals versus the City's independent estimates and rankings of the design-build entities ("DB Entities") will all be summarized in a supplemental memorandum ("Supplemental Memorandum") to Council for this item; and

**WHEREAS**, Consistent with the final rankings of the DB Entities set forth in the Supplemental Memorandum, City desires to authorize the Director of Public Works to negotiate a DB Contract for the Project; and

**WHEREAS**, City desires to authorize the Director of Public Works to award and execute the DB Contract for the Project with the highest-ranked DB Entity that successfully completes DB Contract negotiations with the City; and

**WHEREAS**, City desires to authorize the Director of Public Works to negotiate and execute Task Orders up to the DB Contract not-to-exceed amount as necessary to meet Project completion; and

**WHEREAS**, City desires to approve a design-build contingency in the amount of fifteen percent (15%) of the negotiated DB Contract for City-approved changes to the design scope and construction services and authorize the Director of Public Works to execute DB Contract Change Orders up to the contingency amount;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

**1. Findings and Determination.**

**A. Findings.**

- i. The City Council hereby finds that the Council Memorandum demonstrates the following facts to be true:

- a. The design-build delivery method provides a 6.1% lower cost compared to the traditional design-bid-build method.
  - b. The design-build construction speed is 12% faster than the design-bid-build methodology with an overall delivery speed of 33.5% faster than design-bid-build.
  - c. There is 5.2% less of a chance of cost growth potential for design-build over the entire construction period when compared to the design-bid-build method.
  - d. Based on the above facts, the City Council finds that the design-build project delivery system will result in cost savings and faster completion of the Project than if the City used a traditional design-bid-build project delivery system.
- ii. Based on the above findings, the City Council hereby determines that the requirements of Section 14.07.660 of the San José Municipal Code are satisfied.

**B. Determination**

The design-build project delivery system will save money and result in faster project completion than if the City used a traditional design-bid-build procurement process.

2. As set forth in the Supplemental Memorandum, the final rankings of the DB Entities that responded to the RFP for the Project is hereby approved.
3. Consistent with the final rankings of the DB Entities set forth in the Supplemental Memorandum, the Director of Public Works is hereby authorized to negotiate a DB Contract for the Project as follows:

- A.** Begin negotiating with the highest ranked DB Entity;

- B. Begin negotiating with the next highest DB Entity, if after having negotiated with the highest ranked DB Entity, the Director determines that the City's interests are best served by beginning negotiations with the next highest ranked DB Entity; and
    - C. Begin negotiating with each of the other DB Entities in order of their ranking as the Director determines is appropriate.
  
- 4. The Director of Public Works is hereby authorized to award and execute the DB Contract for the Project to the highest ranked DB Entity that successfully completes DB Contract negotiations with the City.
  
- 5. The Director of Public Works is hereby authorized to negotiate and execute Task Orders up to the DB Contract not-to-exceed amount as necessary to meet Project completion.
  
- 6. A design-build contingency in the amount of fifteen percent (15%) of the negotiated DB Contract for City-approved changes to the design scope and construction services is hereby approved and the Director of Public Works is hereby authorized to execute DB Contract Change Orders up to the contingency amount.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk