



City of Emeryville

C A L I F O R N I A

MEMORANDUM

DATE: January 16, 2018

TO: Carolyn Lehr, City Manager

FROM: Charles S. Bryant, Community Development Director

SUBJECT: **Study Session Regarding The Emeryville Center For The Arts And Culture; And Approval And Authorization To Release A Request For Qualifications / Proposals (RFQ/P) For A Public-Private Partnership For The Project**

RECOMMENDATION

Staff recommends that the City Council consider the following report from staff on the Emeryville Center for the Arts and Culture ("Art Center"), and approve the draft Request for Qualifications/Proposals (RFQ/P) for a public-private partnership to complete the project, and authorize release of the RFQ/P.

SUMMARY

Mayor Bauters sought and received unanimous Council support to pursue development of the Art Center. This report summarizes background information on the Art Center project, details recent work by staff to restart the project and, based on information collected by staff, proposes steps toward implementation of the project.

Staff is requesting the City Council confirm the Overall Objectives for the project, including:

- Minimize City subsidy while ensuring fiscal sustainability of operations
- Maximize civic and community arts-based uses of the facility
- Expedite completion of the project
- Utilize robust community engagement in developing programming for the facility

Based on work completed to date, staff believes that the above goals and objectives for the Art Center project would be best served by initiating a competitive process to solicit proposals for a public-private partnership to design, construct and operate the Art Center, and is requesting that the City Council provide direction to staff accordingly.

BACKGROUND

In March 2006, the Emeryville Redevelopment Agency (“Agency”) purchased 4060 Hollis Street, a property located immediately south of Old Town Hall, northeast of the Hollis Street and 40th Street intersection. The property is 33,697 square feet and is almost completely occupied by a one-story brick building formerly occupied by the United Stamping Company. The Agency purchased this site for the purpose of adaptive reuse of the existing building to provide space for the annual Emeryville Celebration of the Arts Exhibit as well as year-round performing arts uses.

The initial plan for the Art Center, developed in 2006-07, included 10,000 square feet of gallery space for the Emeryville Celebration of the Arts Exhibition, 3,000 square feet of exhibit and storage areas for the Emeryville Historical Society, 3,000 square feet of classroom space for the Pacific Center for the Photographic Arts, and 15,000 square feet for flexible exhibit and performance space.

In 2011, a second plan was developed in coordination with Emeryville Center for the Arts (ECA), a non-profit entity created to operate the Art Center. In addition to plans for the physical space and other activities, ECA developed a Strategic Plan (Attachment 1) and Business Plan (Attachment 2). The Agency had entered into an Exclusive Right to Negotiate Agreement (ERN) with ECA in December 2010 for the purpose of negotiating a Lease Disposition and Development Agreement for the development of the Art Center.

On September 22, 2011, the Planning Commission approved a Conditional Use Permit and Design Review application for adaptive reuse of the property. This plan included a 242-seat theater, 7,600 square foot gallery, 3,900 square feet of office space for ECA staff, a 1,200-square foot exterior courtyard, a 1,700-square foot café, a retail store and support spaces for the theatre, gallery and café spaces. For the remainder of this report, this design is referred to as the “Current Capital Project” (see Attachment 3).

In 2012, the State of California dissolved all redevelopment agencies statewide. While ECA had made progress toward funding the Current Capital Project, a funding gap of \$7,600,000 existed at that time. When the Agency was dissolved, both the funding programmed for the Art Center, as well as the 4060 Hollis Street property itself, were at risk of redirection to other taxing entities.

As these events took place, members of the ECA board explored an alternate design for the Art Center to reduce the scope of the project and associated costs. This design contemplated use of only 13,000 square feet of the existing building, leaving the balance of the space for future redevelopment.

Despite these efforts, the financial uncertainty around the project delayed progress, the ERN expired, and the land use entitlements for the Current Capital Project expired. Eventually, ECA was dissolved as an entity.

Ultimately, the City was able to retain the property at 4060 Hollis Street due to the State's approval of the Successor to the Emeryville Redevelopment Agency's ("Successor Agency") Long Range Property Management Plan ("LRPMP"). The LRPMP identifies the property as eligible for transfer from the Successor Agency to the City for government use due to the above-summarized history, and on September 5, 2017 the City Council accepted the property from the Successor Agency (Successor Agency Resolution No. SA04-17 and City Council Resolution No. 17-140).

In addition to the property, the City retained \$3,800,000 of the Agency's pre-2011 non-housing bond proceeds programmed for the Art Center. Other fund sources currently budgeted for the Art Center project include \$1,425,000 from Pixar Animation Studios, remaining from the \$2,000,000 originally pledged specifically for the Art Center, and \$5,775,000 in General Capital funds allocated to the Art Center project, for a total of \$11,000,000 available for the project in the City's current Capital Improvement Program (Project CF-08).

During the City Council meeting of October 17, 2017, then Vice-Mayor Bauters requested a study session agenda item regarding the Art Center project for January 2018. Since that time, Mayor Bauters has worked in concert with staff in support of moving the Art Center project forward in fulfillment of this long-desired community objective, and connecting staff with community resources, people, and examples of projects and processes for staff and Council consideration.

DISCUSSION

Policy Support

With the Art Center's extensive history as outlined above, it is unsurprising that the project enjoys strong policy support.

The August 2006 Park Avenue District Plan's "Implementation" chapter calls for "...a cultural arts center to accommodate visual and performing arts." The plan also identifies "...the east side of Hollis Street between 40th Street and Old Town Hall..." as a potential location.

The Emeryville General Plan, adopted in October 2009, after the Park Avenue District Plan was adopted and before the Planning Commission approved the Current Capital Project, includes a policy and an action related to the Art Center. Policy PP-P-21 states that "A community cultural arts center will be developed." Action PP-A-10 is to "Prepare a strategic plan and design documents for an Arts and Cultural Center." The General Plan anticipated "construction to begin in 2010 and the completed center to open in 2011."

More recently, on April 19, 2016, the City Council adopted its Priorities, Goals and Strategies for Fiscal Years 2016-2018. As part of "Objective 2. Completion of the CIP", a Cultural Arts Center is listed as a priority project.

On November 15, 2016, the City Council adopted the Public Art Master Plan, which calls for the City to “Encourage the development of the Emeryville Center for the Arts as space for the community to showcase and celebrate the work of local and visiting artists...” in its Priority Action Plan.

On October 17, 2017, the City Council adopted the Economic Development Strategy, which includes “Complete the Art Center Project” as a high-priority action under the experiential marketing and promotion topic.

Implementation Options

Considering this policy support and the identification of the Art Center as a City Council priority, in 2016 staff began a process to understand the status of the project, review operating models of other successful art centers, and use this information to propose a pathway to project completion.

The City’s long-term financial planning and budget discussions were underway during this time, and provide important context in reviewing options to proceed. Notably, the City does not have the fiscal capacity to support ongoing operation costs of the Art Center. Additionally, there is currently insufficient capital funding to support the Art Center capital project as originally entitled.

Three options for the project are theoretically possible: a) establish a new non-profit entity to oversee fundraising and programming of the Art Center, b) operate the Art Center as a City-run facility, or c) form a public-private partnership among and between the City (as landowner), a developer (as contractor and joint operator) and one or more community arts groups (facility user and joint operator).

Establishing a new non-profit entity would require leadership outside of the City to assemble a board of interested individuals. Discussions with some of the members of the former ECA board indicated limited interest in reconvening that specific entity. The time required to organize a functional non-profit entity is unknown, since it depends on the number of individuals willing to dedicate time to the effort.

City operation of the Art Center facility and programs is not a desirable operating model, according to interviews with several community members and as suggested by the Public Art Master Plan, which calls for the City to “Consider alternatives for non-profit operations versus City operations”. Moreover, as noted above the City’s fiscal capacity to operate new programs is severely limited.

A public-private partnership model appears to hold the most promise for expedient completion of the project with minimal fiscal risk to the City, and is the approach recommended by staff. Under this model, the City would solicit proposals from the development and arts community using a Request for Qualifications and Proposals (RFQ/P). Teams of developers and arts groups working jointly would compete to deliver a proposal for the capital construction, operation and maintenance of an Art Center that

best matches the City's objectives. This approach would result in a turn-key solution and City control over long-term fiscal implications of the project.

Regardless of approach, the project will require either a reworking of the Current Capital Project to reduce costs, or raising a significant amount of additional funding. While it is possible for the City to construct an Art Center building without having any operating model in place, this is not an optimal course of action because the end user would likely have needs for the space that were not considered during design and construction.

Public-Private Partnership

To help illustrate staff's recommended approach to the Art Center project, and to provide an opportunity to move the project forward, staff has drafted an RFQ/P for the City Council's consideration and comment (Attachment 4). The RFQ/P establishes the City's overall objectives for the project and identifies the key elements required in the project, as follows:

Overall Objectives:

- Minimize City subsidy while ensuring fiscal sustainability of operations
- Maximize civic and community arts-based uses of the facility
- Expedite completion of the project
- Utilize robust community engagement in developing programming for the facility

Key Elements

- Dedicated space for annual Emeryville Celebration of the Arts
- Dedicated and managed gallery space for local artists
- Flexible use space suitable for performing arts and other community events
- Flexible use space to serve as the City's Emergency Operations Center (EOC)

It is envisioned that a long-term ground lease to the successful proposer would contain the operating terms required by the City to ensure the delivery of the overall objectives and key elements outlined above. To ensure long-term financial viability, proposers could include a commercial component that could provide rental income that supports operation and maintenance costs. Such commercial users could include co-working space, arts-centric retail businesses or office space, and/or a café.

By initiating a competitive process for the project that also facilitates partnerships between community arts groups and the development community, the City would leverage private capital to support the arts. A primary basis of competition will be the balance of civic, arts-centric and commercial space, which is directly related to financial feasibility. Proposers will seek to demonstrate that they can maximize civic and arts uses while

minimizing the City's capital outlay and maintaining the Art Center's financial feasibility. It is notable that staff has received unsolicited interest in this approach, which suggests that the level of interest is high and would result in a robust competition if the City were to formally solicit proposals.

RFQ/P Process

The draft RFQ/P is arranged as a two-phase process. After advertising the RFQ/P, a mandatory pre-proposal meeting would be held for all interested parties. This meeting would serve three purposes: 1) to provide an opportunity for arts groups and development firms to network and form partnerships, 2) to provide an opportunity for staff to answer questions in an environment that communicates to all interested parties, and 3) to define the list of eligible proposers, which facilitates equitable communication during the proposal process since all information can be provided to all interested parties at the same time.

Phase I

Phase I submittals will focus on proposing teams' qualifications, consisting of information about the proposing entities, including their relevant experience, financial capacities and history of working together. Additionally, basic project proposal information will be submitted, including anticipated uses/users, operating model characteristics, and projected pro-forma financial statements. Proposers will be asked to develop these initial proposals using the Current Capital Project design as the goal and to identify the funding gaps, if any, to complete the project as originally envisioned by the community.

Phase I submittals will be evaluated by a panel of staff members against the criteria specified in the RFQ/P. The panel will consist of staff from Community Development, the City Attorney's Office, and Public Works.

Phase II

The highest scoring proposals (i.e. a "shortlist" of two to five proposals) will be invited to prepare a Phase II submittal, which will consist of more specifics regarding their proposals. Prior to preparing Phase II submittals, the shortlisted applicants will attend a mandatory "Community Listening Session". This is intended to be a public meeting where community members are introduced to the applicant field and are invited to share their thoughts on the Art Center project. The applicants are then to consider this input in developing their Phase II submittals.

Phase II submittals are to include two options: one for the Current Capital Project with additional detail, any alterations to reflect the needs of the anticipated user groups, and identified means of closing any funding gap; and one for an art center capital project that is responsive to the City's goals but also fully funded from existing sources (i.e., without a funding gap). For both options, submittals will include preliminary design drawings,

project schedules, and additional detail on project finances (both capital sources and operating funds).

Phase II submittals will be reviewed by two bodies: the panel comprised of staff that evaluated the Phase I submittals, and an Art Center Interview Panel (“Interview Panel”) consisting of key community stakeholders and subject area experts. To maintain a manageable size while providing an adequate cross-section of expertise, the Interview Panel would include seven voting members and the Mayor as a non-voting Chair. As a non-voting member, the Chair’s role would be to facilitate the Interview Panel’s discussion. The Interview Panel will review the Phase II submittals and interview the applicants to develop ratings, with the Interview Panel’s evaluation focused on the proposed programming, uses and design of the project.

The staff selection panel will also review the Phase II submittals and participate in the applicant interviews to evaluate the submittals against the criteria in the RFQ/P.

The highest scoring proposal(s) will be recommended to the City Council for execution of an Exclusive Right to Negotiate (ERN) with the City. The rankings and recommendations of the Interview Panel and staff selection panel will be separately presented to the City Council and, owing to the differences in focus, may not necessarily be identical. The result will be two recommendations to the City Council, one from the Interview Panel, and one from City staff.

Exclusive Right to Negotiate

During the ERN period, staff will work to negotiate basic business terms of the lease and any other necessary agreements to complete the Art Center project as proposed by the selected team. During these negotiations, the City Council would hold a study session to select either the Original Capital Project option or the modified project option, with this decision informed by an analysis of feasibility as well as community feedback. The intended outcome of the ERN period is a Term Sheet, which will then be used to finalize the Lease Agreement after City Council approval.

Lease Negotiation

During this period, final negotiations will take place and specific terms and conditions of the governing documents for the Art Center project will be finalized. The Lease Agreement will then be presented to the City Council for approval. The project would then proceed to construction after obtaining necessary permits.

In the event negotiations are unsuccessful and a lease is not agreed to, the City has the right to enter into an ERN and commence negotiations with the second-ranked applicant.

Timeline

Staff is proposing a timeline for the RFQ/P process that is sufficient to allow the formation of partnerships between the development and arts communities and for these partnerships to develop quality proposals. The proposed timeline is illustrative only and subject to approval of the RFQ/P by the City Council:

Milestone	Date
Release of RFQ/P	February 1, 2018
Mandatory Preproposal Meeting	February 20, 2018
Phase I Submittals Due	March 30, 2018
Finalists Notified	April 13, 2018
Mandatory Community Listening Session	May 3, 2018
Phase II Submittals Due	May 11, 2018
Finalist Panel Interviews	May 24, 2018
Recommendation to City Council	July 10, 2018
ERN Period (60 days)	July-September, 2018
Lease Negotiation Period (est. 90 days)	September-November, 2018
City Council approval of Lease Disposition and Development Agreement	Winter 2018

FISCAL IMPACT

As noted above, the current Capital Improvement Program includes \$11,000,000 in funding for the Art Center project, with \$500,000 budgeted in Fiscal Year 2017-2018 and \$10,500,000 budgeted in Fiscal Year 2018-2019. These funds could be deployed in a variety of ways, depending on the financing proposals received in response to the RFQ/P.

Specific fiscal impacts will be identified and analyzed during the review of responses to the RFQ/P as well as prior to execution of the lease.

STAFF COMMUNICATION WITH THE PUBLIC

Over the past year, staff has communicated with several members of the public regarding the Art Center project and its status. Additionally, staff has communicated with developers regarding possible opportunities for participation in the project.

On January 11, 2018, staff will present much of the information in this report to the Public Art Committee (PAC) to solicit feedback. As the PAC meeting follows the production of this staff report, staff will summarize the PAC's feedback at the January 16, 2018 City Council Meeting.

DISCUSSION QUESTIONS

1. Does the City Council concur with the project Overall Objectives, as follows:
 - Minimize City subsidy while ensuring fiscal sustainability of operations
 - Maximize civic and community arts-based uses of the facility
 - Expedite completion of the project
 - Utilize robust community engagement in developing programming for the facility
2. Does the City Council concur with the project Key Elements, as follows:
 - Dedicated space for annual Emeryville Celebration of the Arts
 - Dedicated and managed gallery space for local artists
 - Flexible use space suitable for performing arts and other community events
 - Flexible use space to serve as the City's Emergency Operations Center (EOC)
3. Does the City Council support implementation of the project through a Public-Private Partnership as described in this staff report?
4. Does the City Council have any other comments regarding the draft RFQ/P?
5. Does the City Council authorize the release of the RFQ/P?

PREPARED BY: Emi Thériault, Community and Economic Development Coordinator

REVIEWED BY: Chadrick Smalley, Economic Development and Housing Manager

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Carolyn Lehr, City Manager

ATTACHMENTS

1. Art Center Strategic Plan
2. Art Center Business Plan
3. Current Capital Project Rendering and Floor Plan
4. Draft RFQ/P
5. CIP Excerpt; Art Center Capital Project