



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: July 13, 2015

IBA Report Number: 15-28

City Council Docket Date: July 14, 2015

Item Number: S-500

Proposed EIR for New Chargers Stadium

OVERVIEW

Council is being asked to allocate \$2.1 million in new revenue to efforts to prepare an Environmental Impact Report (EIR) for the demolition of Qualcomm stadium and construction of a new NFL stadium at that site. The \$2.1 million in new revenue is derived from a reimbursement from the State for Local Agency Mandate Claims that is not included in the FY 2016 Adopted Budget, and therefore represents a one-time source of new revenue.

The City has been in negotiations with the Chargers about building a new NFL stadium in Mission Valley since the May release of a plan for a new stadium by Citizens' Stadium Advisory Group. Negotiations have since stalled, and the Mayor's office and the City's outside consultants, upon discussions with the NFL, have advised that it is necessary for the City to make significant progress towards completing an EIR for presentation to an NFL owners' meeting in August in order to encourage the Chargers to reenter negotiations. While allocating this funding does not guarantee that the Chargers will return to the negotiating table, not moving forward with an EIR at this point is believed to be fatal to any efforts to keep the Chargers in San Diego.

This report provides contextual background behind the request and arguments made to justify its expedited nature, a breakdown of how the \$2.1 million is proposed to be allocated, and additional considerations that could influence Council's decision, including the County's participation in efforts to keep the Chargers in San Diego and any residual value a completed EIR might hold if the Chargers nevertheless elect to leave San Diego.

FISCAL/POLICY DISCUSSION

Background

In April, the City and the County entered into an agreement to jointly spend up to \$500,000 to hire consultants to assist with further development of a stadium concept and negotiations with the Chargers. Pursuant to that agreement, the City has retained a team of financial and legal

experts, and met several times with the Chargers. In June, the Chargers stopped negotiations with the City, stating that plans for an accelerated EIR were not feasible. Subsequently, the City's negotiating team met directly with the NFL league office in late June and presented a road-map for presenting an EIR by October. They were advised – in conversations that were described as encouraging though noncommittal – that the City should continue efforts towards an accelerated EIR, on a timeline in advance of an August 2015 NFL owners' meeting and that could be used for a January election.

The Mayor's office is requesting that preparation of an EIR move forward immediately in order for the City to be prepared for the NFL's August 2015 owners' meeting. This meeting is viewed as the earliest and best opportunity for the City to demonstrate its commitment to keeping the Chargers in San Diego. If an expedited EIR is approved, a scoping meeting would be held on July 15th, public review of a draft EIR would begin in early August and end in mid-to-late September, and a final EIR would be completed by the end of September.

Necessity for Immediate Action

According to both City staff and outside advisors who have been involved in recent negotiations, and with whom we have spoken with directly, completing significant progress on an EIR before the owners' August meeting is necessary to ensure that the City can make a competitive presentation to the NFL. Staff has indicated that subsequent action by the NFL at the August meeting could encourage the Chargers to return to the negotiating table.

Timely completion of an EIR will be critical to meeting construction timetables should an agreement be reached and the project approved by the voters. An EIR does not need to be completed prior to taking action to call an election, though it would need to be complete and certified by Council before an actual ballot measure was approved to go before voters. While the NFL recently told the City that January 2016 is their desired election timeframe, the ultimate decision on when or whether an election will be necessary is yet to be determined. These decisions will be based on many factors and are not directly tied to the request to expedite the EIR.

The City Attorney has advised that it is possible to complete all requirements necessary for a January 2016 election if an election in January is deemed to be necessary. The decision on when to hold an election – in January, June or November 2016 – will be based on a number of factors and conditions – first and foremost – should the Chargers return to the negotiating table in August, the progress of these negotiations, and whether binding terms can be agreed upon. Decisions and requests from the NFL, the progress of relocation efforts by other competing teams, and other factors could also impact a future election schedule.

Our office spoke with Christopher Melvin from Nixon Peabody, the consulting firm hired to engage in negotiations with the Chargers. He affirmed that progress on an EIR is necessary in order for the City to remain in consideration for keeping the Chargers. According to Melvin, if the City cannot tell NFL owners in August that the City has made significant progress on an EIR and completed conceptual architectural drawings, potentially allowing for a January election, the NFL is likely to view the City as having backpedaled on its commitments, and that this would likely prove “fatal” to the City's efforts to keep the Chargers in San Diego.

Requested Funding for EIR

The Mayor's office is requesting a total of \$2.1 million in new revenue be dedicated to an accelerated EIR effort. The proposed EIR would evaluate the impact of demolishing the existing stadium (QUALCOMM) and building a new stadium at the Mission Valley site.

Of the \$2.1 million in costs, \$1.2 million is requested to hire AECOM to provide professional services to lead preparation of the EIR, with support as necessary from City staff. The City has an existing as-needed agreement with AECOM through the Planning Department. AECOM is described as one of the most experienced firms with respect to building large projects, and has experience with several large stadiums. Our office met with City staff from Planning, Development Services, and Public Works who have considerable expertise in EIR development, and they concur with the estimated costs. Staff indicates that \$260,000 in task orders have already been submitted to AECOM, though no invoices have yet been received. Actual costs could exceed these estimates.

An additional \$580,000 is requested for City staff costs. While AECOM will lead development of the EIR, over 30 staff across multiple City departments will be needed to support AECOM's work. Of the \$580,000, \$150,000 is planned for Public Works, which will lead City staff's efforts, assign a Project Manager to coordinate all efforts, and provide additional technical contributions through a Senior Traffic Engineer and Principal Planner. Development Services would receive \$230,000 to assist in completing the preliminary steps necessary to facilitate EIR preparation, and to provide additional technical analysis and review of specific chapters and appendices in the EIR; the remaining \$200,000 would be used for engineering conceptual design.

A contingency of \$320,000 is also requested.

Funding Sources

The \$2.1 million in EIR expenses are expected to be off-set by the City's recent receipt of an unanticipated one-time payment of approximately \$2.1 million from the State for Local Agency Mandate Claims.

Local Agency Mandate Claims are expenses for programs that the City is State-mandated to perform, and for which the City may seek reimbursement. The State does not regularly reimburse these claims however, so while the City applies for reimbursement each year, it does not budget for the receipt of the reimbursement revenues. Due to the recent budget surplus, the State has made payments to local agencies for claims that date back to 2004 and earlier, and in July 2015 the City received a payment of \$2.1 million in reimbursements to expenses originally incurred by the City's General Fund. These funds have been deposited in the City's General Fund and are currently unappropriated and unallocated. These funds represent a one-time source of revenue, and as such they should be used to provide a one-time funding source, either for the proposed EIR or for other projects in need of additional one-time funding.

The current action brought to Council by staff requests the authority to increase the FY 2016 Adopted Budget by appropriating the \$2.1 million received from the State into the Citywide

Program Expenditures Department, and then transfers that budget to a newly created Stadium Reconstruction CIP project to fund the EIR.

County Contributions

Some have questioned why the County is not sharing the costs of the proposed EIR for the Chargers stadium site, as it is sharing costs to retain experts for stadium negotiations. The Mayor did approach the County to request their participation in the costs. However, current policy of the Board of Supervisors states the following:

It will be the policy of the Board of Supervisors to require an election before County resources may be used to support the development or renovation of any professional sport facility.

While this policy could be waived by Board, currently it precludes the Board from allocating funds toward an EIR. It has been indicated that the County will consider increasing its share of negotiating costs by providing an additional \$500,000, to increase its total contribution to \$750,000. If the Council approves the EIR proposal before it on July 14th, the City's stadium-related commitment will total \$2.35 million.

Residual Value of Environmental Review

Our office did request that staff provide the residual value of an EIR if the Chargers ultimately decide to leave the City or select a different site. The proposed EIR would evaluate the impact of demolishing the existing stadium (QUALCOMM) and building a new stadium at the Mission Valley site. Staff indicates this EIR would have lasting value for any subsequent effort to demolish the existing stadium or rebuild a similarly sized, or smaller, sports facility to host an NFL, MLS, collegiate or other sports team. If a future project was determined to be different (under CEQA) from the Stadium Reconstruction Project, a supplemental or subsequent EIR could be prepared or a new EIR would be required. Either way, staff believes elements of the Stadium Reconstruction Project EIR could be useful and potentially reduce the costs of a future environmental analysis for a substantially different project at the same site.

The amount of residual value the requested EIR might have for future City projects will largely depend on project specifics and the amount of time that has lapsed. If the Chargers relocate, it is reasonable to assume there will be some indeterminable amount of additional consultant and/or staff expense for environmental review of a future project at the site. There would be little residual value if no other projects were to be proposed for the site and Qualcomm stadium were left in its current condition.

Conclusion

From a budgetary perspective, the funding source (the \$2.1 million in new revenue not accounted for in the FY 2016 budget) is appropriate. We have confirmed that the new funds are not restricted to any specific purpose; and as these funds represent a one-time funding source it is appropriate to use them for a one-time purpose. The requested fund transfer is also appropriate and will assist in identifying and monitoring expenditures for this work.

The decision to spend these new funds on an EIR effort, however, is a policy decision before Council. The Mayor's office has indicated that absent significant progress on an EIR before the NFL owners' meeting in August, any City efforts to keep the Chargers in San Diego will not be competitive. There is still uncertainty as to whether or not progress on an EIR by August will ultimately result in the NFL and the Chargers returning to the negotiating table, or in reaching an agreement to keep the Chargers in San Diego. In a separate discussion with our office, Nixon Peabody's representative confirmed that lack of progress towards an EIR and a potential January election could kill efforts to keep the Chargers in San Diego.

Accordingly, the decision on whether or not to proceed with the proposed EIR should be informed by how important Council believes the Chargers are to the local economy and vitality of the San Diego community, if that importance justifies expenditure of these funds to avoid foreclosing the possibility of keeping the Chargers in San Diego, and what residual value the EIR might have should the Chargers ultimately elect to leave San Diego.



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