



CITY COUNCIL AGENDA REPORT

MEETING DATE: November 17, 2009

ITEM NUMBER: VIII-3

SUBJECT: Request to Governor Schwarzenegger to Cancel the Proposed Sale of the Orange County Fairgrounds

DATE: November 13, 2009

FROM: City Manager's Office

PRESENTATION BY: Mayor Pro Tem Wendy Leece and
Council Member Katrina Foley

FOR FURTHER INFORMATION CONTACT: Allan L. Roeder, City Manager
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BACKGROUND:

This item has been placed on the City Council's agenda at the request of Mayor Pro Tem Wendy Leece and Council Member Katrina Foley.

Pursuant to Section 3884.2 of the California Food and Agricultural Code as approved by the State Legislature and signed by Governor Schwarzenegger, the Orange County Fairgrounds has been put up for sale. The action was taken in an effort to generate additional revenue in response to the State's current economic condition. The Request for Proposals (RFP) was released on October 7, 2009 soliciting bids in order for the State to "...achieve the highest and most certain return for the Property from a responsible bidder" (RFP Introduction and Background Pg. 1). The RFP goes on to note that the property is being offered "as-is" excepting a reservation for mineral rights and the requirement for a negotiated State Profit Participation Agreement if the property is to be used for other than a fair and event center.

In June 2009, the City Council adopted Resolution 09-41 opposing the sale of the property. The resolution states "...the City Council hereby opposes the Governor's proposal to sell the Orange County Fair and Event Center and also opposes any proposals by the State to relocate or close the facility in order to reduce the State's budget deficit." The City Council's action constituted a restatement of the City's long established position regarding the value and importance of the Orange County Fairgrounds to the Costa Mesa community and the County of Orange. A similar resolution was approved by the City Council in 2004. The City's General Plan designates the site as "Fairgrounds" reflecting the Land Use policy for the site.

More recently and in response to the State's decision to proceed with the sale of the property despite Resolution 09-41, the City Council authorized preparation of a Specific Plan for the site (City Council meeting of October 20, 2009) and subsequently directed staff to prepare a ballot initiative for the June 2010 ballot for voter approval of a land use restriction to Fairgrounds (City Council meeting of November 3, 2009). Subsequent to the City Council's actions, Assemblyman Van Tran and Assemblyman Jose Solorio

conducted a Town Hall meeting regarding the proposed sale on November 9, 2009. Opposition to a change in the use and sale of the property was overwhelming. Both Assembly Members indicated their intent to support legislation to ensure the retention of the Fairgrounds.

In the absence of any contrary action by the State to the preceding, bids for purchase of the site are due to the Department of General Services by January 8, 2010 along with a deposit of \$50,000. On January 14, 2010, the bids are to be opened followed by an auction limited to those parties having submitted qualified bids. The current schedule in the RFP calls for the opening of escrow with the highest qualified bidder on March 15, 2010 with close of escrow in September 2010. Sale of the property is conditioned upon the continued operation of the Orange County Fair and Event Center through the 2010 Orange County Fair slated to end in mid-August (RFP Pg. 10).

The schedule as detailed above creates multiple obstacles to the preservation of the existing Fairgrounds as outlined in the following:

1. There are several outstanding questions regarding the ultimate disposition of the 32nd District Agricultural Association – the current owner and operator of the Fairgrounds – should the property be sold. For example - If the 32nd District Agricultural Association is “disestablished” as a function of the property sale, what becomes of the annual Fair?
2. The timetable for responses to question regarding the RFP is extremely short. Questions and responses are to be posted no later than December 4, 2009 with bids due January 8th. With a large number of questions outstanding that will have a very material impact on the proposed sale, bidders will have 30 days in which to revise their submittals to meet the State’s deadline.
3. For public agencies such as the City of Costa Mesa and perhaps the County of Orange, submission of proposals is a matter of public policy. Accordingly, actions relating to the submission of proposals including financial commitments must be acted on publicly. Any public agency considering submission of a proposal would have the limited timeframe above to (a) prepare a draft proposal, (b) consider the matter in a noticed, public meeting, accept public testimony and either adopt or revise the proposal, (c) arrange for public financing of the proposal as adopted (possibly requiring a public hearing on the method of financing) and (d) prepare the final proposal. This would all be conducted through the upcoming holiday season when members of the community are focused on personal matters and less on the conduct of public affairs.

As noted in the preceding, Council Members Leece and Foley will be presenting this item and speaking to their recommendation that the Governor be requested to cancel the pending sale of the Orange County Fairgrounds. Given the points above and numerous other uncertainties, the Council Members believe it is in the public’s best interest that the sale be halted immediately as opposed until waiting up to or after the bid submission deadline. Because the sale of the property was authorized by the State Legislature, yet is not considered by the State as “surplus” property, it is somewhat unclear as to who has the legal authority to withdraw the property from sale. This specific subject is currently being researched by legal counsel. In the absence of any conclusion on this point, staff believes the Governor to be the appropriate party to approach regarding sale of the property. If the City Council endorses the request of the Council Members, staff would also strongly suggest that the requested action be

communicated directly to the Governor by an appropriate contingent representing both the City of Costa Mesa and the County of Orange. Unlike correspondence to date with the Department of General Services on the details of the property's sale, staff believes the recommended action be communicated personally by elected officials directly to the Governor given the circumstances and the need for urgent action.



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City Manager

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