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MAY 28, 2019

NEWS RELEASE

City Provides Counter Settlement Offer for MPC

City of El Paso works to close out litigation

EL PASO, TEXAS – The City of El Paso will issue a counter settlement offer to retired Houston oilman J.P. Bryan related to the ongoing litigation over the voter-approved Multipurpose Performing Arts and Entertainment Center (MPC).

The City's counter offer includes consideration of incorporating the Trost Fire House into the new facility, keeping the MPC facility within the approved footprint and mitigating the loss of existing structure the use of Historic American Building survey information in the new facility through interpretive signage, details and curated exhibits throughout or local museums.

Bryan, in a letter dated May 23, 2019, offered settlement terms to the City of El Paso. The proposed terms called for the City to:

- Spend \$35 million on renovations to the Abraham Chavez Theater to fulfill the promise of the 2012 Quality of Life Bond to deliver a multipurpose performing arts and entertainment facility. Use savings from \$180 million by not building a standalone MPC to complete other Quality of Life bond projects.
 - **City's response:** This request will not fulfill the expectations of the community. The MPC is the result of studies conducted over the span of 20 years. Voters overwhelming approved the development of an MPC that would provide a variety of entertainment events, including sports.
- Create a local and federal Historic District in the Union Plaza area and invest an unknown number of millions of dollars for public uses, including low revenue private and/or nonprofit uses.
 - **City's response:** Proposal is not financially viable. The condition of buildings in the area include many that are in demolition by neglect. None of the structures within the footprint currently have any local, state or federal historic designation. The results of an archeological study to be completed by the City will document the history of the area. Further, under the National Register of Historic Place, buildings with historic designations may be demolished provided the loss is mitigated. Mitigated efforts include Historic American Building Surveys, which the City has completed on multiple buildings within the footprint.
- Entice a private developer to build a sports venue on Airport property with no public dollars. However, the request does not identify the private developer and goes against the voter-approved ballot that calls for the MPC to be located within Downtown.
 - **City's response:** The language in the ordinance calling for the election stated the MPC would be located in downtown. The City has a contract with the voters to deliver an MPC in downtown. In addition, it is unlikely that the private sector would build a facility with private dollars on airport land when successful models call for such facilities to be located within downtown and tend to require public dollars. It is also important to note that the buildings, which had been privately owned, are in demolition conditions by neglect. In addition, FAA regulations restricts the location such facility in an around aviation uses.

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The City has always been open to engage in good faith settlement negotiations. In February 2018, the City offered to move the MPC footprint within the downtown area; however, JP Bryan did not appear at the mediation. JP Bryan was also asked to purchase buildings within the footprint but declined the option. At no time has the opposition offered any funding for historic preservation.

LITIGATION BACKGROUND

Last year, the Third Court of Appeals in Austin entered a judgment holding that the City of El Paso is authorized to build an MPC in downtown that accommodates sports, and sporting events, and may use additional funding sources for its construction.

In January 2019, the 250th District Court in Austin upheld the issuance of the permit by the THC to the City of El Paso for the on-site archeological study of the MPC master planning area (requires the demolition of the structures). The lawsuit against the THC and its Executive Director Mark Wolfe had sought to revoke the permit issued to the City in October 2018. The court found the THC and its director to be immune from the allegations.

Following the ruling by the 250th District Court, the opposition filed a request with the Third Court of Appeals in Austin seeking an emergency injunction to halt demolition activity. The Third Court of Appeals issued an emergency injunction suspending the THC permit and prohibiting the City from demolishing the buildings. The City had committed to waiting for a ruling from the 250th District Court before commencing demolition.

The archeological study being conducted by Moore Archeological Consulting, Inc., encompasses four phases: archival and historical research, ground-penetrating radar survey, mechanical survey, and an additional investigations stage, which would only be conducted if intact archeological deposits are discovered. The archival and historical research has been conducted; the next phase is the ground-penetrating radar survey.

The City contracted Moore Archeological to ensure the study complies with all applicable requirements under state law. Any archeological findings will be handled in accordance with state law.

The MPC project is the largest of the three signature bond projects overwhelmingly approved by voters in 2012. A total of 102,358 people voted in favor of the project, representing 71.67 percent of the votes cast in the election.

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