



MEMORANDUM OFFICE OF THE COUNTY MANAGER

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners DATE: December 16, 2003

FROM: George M. Burgess, County Manager  SUBJECT: Performing Arts Center of Greater Miami Status Report

On September 9, 2003 I reported to the Board that the Performing Arts Center project was confronting significant challenges. As you will recall, there was also considerable media coverage of these challenges, including questions about quality of workmanship, cost overruns, and delays to the project schedule. Unknown at the time was the magnitude of the problems, a clear understanding of the causes, or a plan on how to move forward to complete the project. Collectively, we all understood that the project was in serious trouble. I have used the past several months to undertake an assessment of the project. In accordance with the Resolution sponsored by Chairperson Carey-Shuler and subsequently approved by the Board on December 4th, the following report on the Performing Arts Center is provided. In the future, at a minimum, the Board will be updated quarterly on this project.

I am pleased to report that I believe we have made progress in the past two months in understanding what must be accomplished to successfully complete the project. This would not have been possible without the full cooperation of the contractor (PACB) and the design architect (Cesar Pelli). While many challenges must still be overcome, and much of the hard work is in front of us, I am confident that we have instituted a solid foundation which will ensure clear communication and a new working relationship between the owner, architect and contractor.

DIRECT INVOLVEMENT OF THE MANAGER'S OFFICE

Within days of issuing the September memo to the Board, I requested that Assistant County Manager Bill Johnson assume oversight of the project. A 24-year veteran of this government, he has the wealth of experience required to shepherd this project to a successful completion. He served as the County's representative for the development of the American Airlines Arena and was instrumental in working with the Miami Heat in opening this County-owned complex, on time and within budget. He has also been directly engaged with our massive capital programs at Miami International Airport and the Port of Miami. Bill has been spending the majority of

his time on this assignment since late September, and will continue his personal involvement until the complex is completed.

INITIAL ASSESSMENT

At my request, Bill spent the first several weeks meeting with various stakeholders directly associated with the project, including the architects and various specialty consultants, Performing Arts Center Builders (PACB), members of the Performing Arts Center Trust and Foundation, Project Management staff, the County Attorney's Office and the Office of the Inspector General. A clear picture emerged. The project had serious problems for a number of different reasons. Most fundamental, communication and trust amongst the various entities had dissipated. All stakeholders agreed that in order to stabilize the project, and then assess how to move forward, an independent evaluation was required. The nationally recognized and respected firm of URS was brought in on an emergency basis to provide this assistance in early November. On today's agenda is my request for the Board to approve the use of URS in a two-phase approach. URS, and in particular their assigned project executive, has been instrumental in helping to restore confidence among the various stakeholders.

SCHEDULE

This has been one of the most significant improvements. PACB is contracted to substantially complete the project in October 2004. The Sanford and Dolores Ziff Ballet/Opera House is 37% complete and the Carnival Symphony Hall is 35% complete. Both structures, however, should be approximately 66% complete by this time. PACB submitted their latest updated construction schedule with a reported 368-calendar day delay. PACB is projecting another 23 months left to complete the work.

We believe that the current schedule is not usable, especially for tracking progress. The positive news is that PACB has agreed to work with the other members of the project team to prepare a mutually acceptable final "work-to-complete" schedule by January 30, 2004. This will provide a final completion baseline schedule and should help to curtail future delays. PACB has also committed to implement a process for the early identification and correction/containment of issues affecting the critical path. Once this new schedule is finalized in January 2004, we will have a solid date for the opening of these halls. At this time, and with information we currently have, we estimate completion by the end of 2005 to mid-2006.

QUALITY

This is another area of significant improvement. As widely reported and discussed in September, the project suffered from severe deficiencies in the area of quality

management. As you are aware, the Office of the Inspector General issued a critical report on this matter. PACB has issued a new detailed quality assurance plan, which the County has reviewed and accepted. They also retained additional personnel, including a new quality assurance manager to oversee the implementation of the plan. In addition, PACB separated the quality assurance team from the field operations so that there is an independent reporting chain for quality. The QC Manager reports directly to the principals of PACB. As I reported to the Board several weeks ago, I am pleased with the changes made in this area. However, we must collectively remain vigilant to ensure full compliance. This is an area where there will be no compromise.

It should also be noted that none of the well-publicized construction deficiencies will have an impact on the quality of this project – aesthetically or in the functionality of the halls, including acoustics. We have also established a course of action to correct all prior deficiencies to the complete satisfaction of the designer and the County.

DESIGN

This has been an area of great attention and discussion during the past two months. A critical concern has been the amount of time required to respond to questions. For the project to succeed, the amount of time required for processing of responses to Requests for Information, etc. must be reduced. Extensive discussions have resulted in agreement that there is a critical need to resolve issues on site. My office is scheduled to have further conversation in early January 2004 with the architect on greater delegation of authority to its field personnel, as well as how the architect staffs the project and associated costs. The architect has been put on notice of our intent to restructure his agreement.

We have also had considerable discussion on the need to conform the documents. This includes ongoing dialogue regarding the selective reorganization and strengthening of the design effort. Our objective is to reach agreement in January 2004, on how to provide a conformed set of drawings.

CHANGE REQUESTS

As summary of the County's projected cost exposure, the County has received from PACB requests for additional costs of approximately \$35 million. These costs are being represented by PACB as the responsibility of the County resulting from added scope to the design drawings upon which the guaranteed maximum price was based. PACB's subcontractors, including trades such as steel, mechanical, electrical, plumbing and stone, have submitted the majority of these costs for consideration.

In addition, PACB is projecting another \$22 million in costs, which have not been submitted to the County. These costs, according to PACB, can be attributed to the delay in the construction schedule.

The total projected costs of \$57 million have been divided into categories for consideration in upcoming internal negotiations or in mediation. The first category, \$10.8 million in steel costs from the project's steel subcontractor, ADF, has been the subject of the first mediations. This has further been broken down into two categories - materials costs and detailing (shop drawing preparation) costs. Mediation of the materials costs is currently underway, with both the County and PACB committed to working toward an amicable resolution.

The goal of County staff and PACB is to reach resolution of the entire \$57 million claim amount by late spring of 2004.

In general, PACB believes that it has entitlement for these costs because of what it contends is insufficiently complete design documents, from which the total scope of the project could not have been discerned during the bidding or pre-construction phases. The County believes that PACB had a fiduciary responsibility to determine the level of completeness of the construction documents during the pre-construction phase.

With this being said, neither the County nor PACB wish to continue to make these disagreements an impediment in the project's ultimate success and have engaged in the above described negotiations in order to resolve the cost disputes. We expect to be able to report back to the Board within the coming months what the County can anticipate as the project's projected cost to completion.


Assistant County Manager