



**Date:** July 21, 2015

**To:** Patrick H. West, City Manager *T.H.W.*

**From:** Michael P. Conway, Director of Economic & Property Development *MC*

**For:** Mayor and Members of the City Council

**Subject:** Status of Civic Center Project

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On February 12, 2013, the City Council authorized the release of a Request for Qualifications (RFQ) for the development, construction, operation and maintenance of a new Civic Center, including a new City Hall, Main Library and revitalized Lincoln Park. At their meeting of April 1, 2013, the Board of Harbor Commissioners agreed to participate in the RFQ process in contemplation of a possible new Port Headquarters being part of the new Civic Center.

On October 22, 2013, City Council selected a short list of RFQ respondents and authorized staff to proceed with the preparation of a Request for Proposals (RFP) to be issued to the short list of RFQ respondents to design, build, finance operate and maintain a new Civic Center to include a new City Hall and Main Library (City Facilities), permanent Port headquarters (Harbor Department Facilities) and a revitalized Lincoln Park. On January 27, 2014, the Port of Long Beach agreed to participate in the RFP process. The RFP was released on February 28, 2014 and proposals were received on June 2, 2014 from Long Beach CiviCore Alliance (LBCCA) and Plenary Edgemoor Civic Partners (PECP or Project Company).

On December 9, 2014, City Council selected PECP as the City's Project Team and authorized the City Manager to negotiate and execute, at a minimum, the following agreements with PECP, and, if negotiations with PECP come to an impasse, or otherwise terminate, then with LBCCA: Exclusive Negotiation Agreement, Terms Sheet, Global Executory Agreement and any other document or agreement necessary to effectuate the terms of the Project. During the meeting, City Council requested that the Global Executory Agreement, or a similar effectuating document, be brought back to City Council for review and approval. Additionally, City Council requested periodic updates regarding the status of the Civic Center Project.

Considerable progress has been made since January 5, 2015, the effective date of the Exclusive Negotiation Agreement. Nonetheless, considerable work remains to be done. This memo will serve to update City Council on the status of the Civic Center Project and the critical path to project delivery.

### Exclusive Negotiation Agreement (ENA) and Right of Entry

Since PECP had already agreed to the terms and conditions of the ENA, the parties entered the ENA shortly after City Council's authority was granted on December 9, 2014. The ENA includes a number of milestones that result in Commercial Close 17 months from the effective date of the ENA, or June 2016. However, PECP has proposed a more aggressive schedule that calls for Commercial Close by the end of 2015. City staff, its consultants and PECP are working diligently to achieve the accelerated schedule.

### Community Outreach

PECP and City staff have completed the majority of public outreach, including sixty-six meetings to date. These meetings include at least one meeting in each Council District, twenty six community meetings, three special purpose meetings and twenty-eight stakeholder meetings. Additionally, there has been a Scoping Meeting as required under the California Environmental Quality Act (CEQA). Attached is a summary of the comments and suggestions received at each of the nine Council District meetings. Additionally, this information is available on the City's website at [lbciviccenter.com](http://lbciviccenter.com).

### Basis of Design

As a result of the accelerated timeline to release the RFP, staff determined that the Basis of Design effort would need to be delayed until selection of the preferred project team. Subsequently, considerable time has been devoted to determining the occupancy needs of the City relative to headcount, meeting rooms, storage and archive space, shared space (including a Central Utility Plant), Council Chambers and related space, and office and workstation sizes and layouts. Additionally, staff has worked to accommodate an alternative parking design for the Harbor Department in order to move its parking structure from underneath its Headquarters building to underneath the Civic Plaza.

There have been a number of challenges with fitting into the City Hall building. As a result, office and work station sizes have been reduced and storage areas have been significantly condensed, opting instead to move the City toward digital storage. With these efforts, we have fit into the building, although the fit is tight. We have achieved a ratio of nineteen percent hard-walled offices and eighty-one percent soft-walled offices and work stations. The building design does not accommodate any future growth, so efficiency and productivity will be mandatory.

Considerable time has also been spent on Main Library programming, adjacencies, efficiencies and security. Specifically, community meeting space has been programmed for up to two hundred person capacity that can be made available after hours without activating the Main Library.

July 21, 2015

Page 3

Lincoln Park has also been designed within budget to accommodate a dog park, a children's playground, enhanced lighting, functionality in terms of power for future concerts/symphonies, and a public restroom facility for completion with separate funding.

Separately, the Harbor Department has also been working to complete its Basis of Design. Its programming efforts were a little less challenging as the department had already produced a needs assessment from earlier efforts. At this time, the Harbor Department's Basis of Design is essentially complete.

#### Transaction Terms Sheet

Staff from both the City and the Harbor Department have also been working on the Transaction Terms Sheet, which is non-binding, but lays out the detailed framework for the Project Agreement (rather than the Global Executory Agreement), which will be a long-term binding agreement. The Terms Sheet contains a number of important concepts discussed below:

*Parties:* Firstly, it will be a tri-party document including the City, the Harbor Department and the Project Company (Plenary Edgemoor Civic Partners or PECP). It is constructed in this way in order to provide the Harbor Department a legal ability to control the expenditure of Tidelands Funds. The Harbor Department has migrated away from a P3 structure and instead intends to purchase its building at the end of construction. Additionally, both the City and the Harbor Department need unilateral rights for change orders that affect their respective facilities during the construction period. The City and Harbor Department will have joint rights for change orders that affect shared facilities.

*Events of Default:* The City's exposure in an event of City default is limited to its annual service payment. The City can neither be evicted, nor can payments be accelerated, in any event of default.

*Project Company Obligations:* The Project Company shall have the obligation to design, construct, finance, operate and maintain the City Facilities. The Project Company shall guarantee performance through letters of credit, construction security, facilities maintenance performance guarantee, parent company guarantee, and punch list holdback. The most significant motivation for timely completion of the City Facilities is that the service payment made by the City does not begin until the City occupies the City Facilities.

*City Obligations:* The City is obligated to demolish the former courthouse and deliver the site free from hazardous materials and also manage any mitigation measures established resulting from the Supplemental Environmental Impact Report. Staff is preparing an Invitation to Bid for the demolition of the former courthouse which will provide a firm cost. Once the cost is determined, staff will seek to identify sufficient funding to proceed as quickly as possible. The City is also obligated to vacate the existing City Hall and Main Library when the City Facilities

are available for occupancy. The City cannot take any action that serves to diminish the value of the private development parcels and the City is obligated to make payment of the service fee, once it occupies the City Facilities.

*Private Development:* There are generally two sites that constitute the private development sites. The first site (3<sup>rd</sup> & Cedar Site) is the existing parking lot on 3<sup>rd</sup> Street between Pacific Avenue and Cedar Street. The second site (Mid-block Site) is the property on which the existing City Hall resides. This site includes the property south of the Broadway garage to Ocean Boulevard and between the southerly extensions of Cedar Street and Chestnut Street. It is currently intended that the 3<sup>rd</sup> & Cedar Site be conveyed at Commercial Close, while the Mid-block Site will not be conveyed until after the City occupies the City Facilities. Additionally, the Mid-block Site will not be conveyed until certain entitlement thresholds have been achieved. The details regarding the level of entitlement have not yet been established, as the timing of development is uncertain and subject to market forces, but is still a few years out. City staff intends to ensure that the existing City Hall and Main Library be demolished as quickly as possible and the Mid-block Site be developed as quickly as possible. Further details will be provided in the Project Agreement, which City Council will review prior to approval.

At this time, the development proposals for the two sites have not changed. The 3<sup>rd</sup> & Cedar Site is intended for residential development, while the Mid-block Site is intended for mixed use development including residential, hotel, retail and limited institutional uses.

*Default Events and Termination Payments:* There are a number of events that could lead to default and termination of the Project Agreement as discussed below.

- Default events by the Project Company include the following:
  - Breach of the Project Agreement, Ground Lease or Space Lease
  - Bankruptcy
  - Abandonment of the Project
  - Failure to commence and complete construction
  - Failure to adequately maintain the City Facilities
- Default events by the City include the following:
  - Breach of the Project Agreement, Ground Lease or Space Lease
  - After appropriation, failure to pay the service fee
  - After appropriation, failure to pay a termination fee
- Default events by the Harbor Department include the following:
  - Breach of the Project Agreement
  - After appropriation, failure to pay to acquire the Harbor Department Facilities

- No-fault default events include the following:
  - War
  - Terrorism arising from nuclear, biological or chemical materials
  - Nuclear explosion
  - Epidemics, pandemics or quarantine
  - Extended Other Relief Events

A default event could lead to termination of the Project Agreement. The effects of a termination are different during the construction period in contrast to the operating period. Additionally, termination of the Project Agreement could be as a result of 1) a Project Company default, 2) a City or Harbor Department default, or 3) a no-fault default as a result of an uninsurable force majeure event. Each of the default-driven termination scenarios result in a calculation of a payment either to the Project Company by the City and/or Harbor Department, or a payment to the City and/or Harbor Department by the Project Company.

1. Project Company default termination: Payment for a Project Company default termination is calculated as follows:
  - If termination occurs prior to final occupancy, the City will pay to the Project Company, or the Project Company will pay to the City, the net design-build work value. The design-build work value is an amount equal to the design-build contract amount, less the cost to complete the project.
  - If termination occurs after final occupancy, the City will pay to the Project Company accrued but unpaid amounts owed and payable by the City.
2. City or Harbor Department default (or termination for convenience): Payment for a City or Harbor Department default termination (or termination for convenience) is calculated as follows:
  - Outstanding costs owed by City, Project Company breakage costs (determined at the time the construction contract is executed), and net present value of nominal return on equity determined by a third party expert, minus
  - Account balances, deferred equity and insurance proceeds
3. No Fault Termination: Payment for a no fault termination is calculated as follows:
  - Outstanding costs owed by City, and Project Company breakage costs (determined at the time the construction contract is executed), if any, minus
  - Outstanding equity and equity member debt, account balances, and Insurance proceeds

*Relief Events:* There are other events that could trigger relief of schedule and could also include a payment to the Project Company. These events include Relief

July 21, 2015

Page 6

Events, Other Relief Events, Extended Other Relief Events, Change in Law Events, and Discriminatory Change in Law Events.

Relief Events, Other Relief Events and Extended Relief Events occur as a result of a number of unanticipated events and may result in schedule relief, to allow additional time for Project Company to address the unanticipated event and proceed with its obligations under the Project Agreement. Depending on the source of the relief event, a payment may also be included to compensate the Project Company for unanticipated costs.

Change in Law Events and Discriminatory Change in Law Events include new legislation that either expands the scope or materially interferes with performance of Project Company's obligations.

*Ground Lease:* The City and the Harbor Department will enter into a Ground Lease with the Project Company or a Joint Powers Authority (depending upon the financing structure) that allows the Project Company access to the City and Harbor Department land for the purpose of constructing the Civic Center Project. The Ground Lease with the City will continue through the operations and maintenance period, while the Ground Lease with the Harbor Department will expire upon payment by the Harbor Department for the Harbor Department Facilities. The Ground Lease payment by the Project Company is \$1 per year.

*Space Lease:* The City will enter a Space Lease with the Project Company or a Joint Powers Authority (depending on the financing structure), allowing occupancy by the City of the new City Hall and Main Library. The Space Lease will set forth the maintenance obligations and the deduction regime should the Project Company fail to achieve certain key performance indicators related to the required level of maintenance. At the end of the operations and maintenance period, both the Ground Lease and the Space Lease (in addition to the Project Agreement) will expire and be of no further force or effect and the City's ownership of the City Facilities will be unencumbered.

#### Project Agreement

As it relates to the City, the Project Agreement is the document that will control both the construction period and the operation and maintenance period, which together, will span approximately forty-three years. This includes approximately three years for construction and a forty year lease. As it relates to the Harbor Department, the Project Agreement will expire upon payment by the Harbor Department for the Harbor Department Facilities.

The Transaction Terms Sheet is the initial basic framework of the Project Agreement. There are a few concepts that are not sufficiently negotiated in the Transaction Terms Sheet, for reasons related mostly to timing of information germane to decision making, and will be further detailed in the Project Agreement. These items include insurance requirements, timing of conveyance and

development of the private development parcels, allocations of cost between the City and the Harbor Department as it relates to the shared space and the common area, the final structure of the financing mechanism, details of a relocation plan and definitions of insurable and uninsurable events.

Once the Project Agreement has reached final draft and the parties are prepared to reach Commercial and Financial Close, the Project Agreement and all related agreements including the Ground Lease and Space Lease will be brought to City Council and the Board of Harbor Commissioners for consideration.

#### Harbor Department Design-Build alternative

The Board of Harbor Commissioners have determined that it is in its best fiscal interest to purchase its facility at the completion of construction. Additionally, the Board of Harbor Commissioners has opted to conduct certain operation and maintenance activity with Harbor Department staff. The City, through its long-term Operations and Maintenance agreement with Johnson Controls will provide services for shared facilities, common areas, the Central Utility Plant, elevators and the Harbor Department's underground parking facility. The costs for these services will be proportionally billed to the Harbor Department as a direct pass through. The Harbor Department has assured the City that it will achieve the same performance levels that are guaranteed under the City's long term operation and maintenance contract with the Project Company. While this created some complexity in the Terms Sheet, the financing structure and the Project Agreement, City staff will work to manage these impacts as best as practical.

#### Legislation

While the procurement structure being pursued by the City aligns well with existing legislation, there is a potential for legal challenge. Because public-private partnership project delivery models are relatively new, these innovative projects benefit from clarifying legislation. Proposed legislation has been introduced to address this pioneering procurement structure. SB 562 is specific to the Long Beach Civic Center Project and merges existing State law applicable to lease-leaseback public-private partnerships, and State law applicable to Design-Build-Finance-Operate-Maintain public-private partnerships. By reducing the risk of legal challenge to the project, SB 562 enables the City to invest a greater amount of resources into the tangible aspects of the Civic Center Project rather than financing costs. SB 562 has already passed the Assembly and the Senate and is currently on the Governor's desk for signature.

#### Due Diligence

Since January 5, 2015, the Project Company has been conducting activities intended to satisfy the Project Company regarding geotechnical, environmental, structural, and title issues related to the old Courthouse property and the private development sites. Under the Transaction Terms Sheet and, ultimately, the Project Agreement, the City is responsible for the environmental condition of the old Courthouse property. After the Project Company has conducted its due diligence on

July 21, 2015

Page 8

both the old Courthouse property and the private development sites, the City will continue to be responsible for any unknown environmental conditions on the old Courthouse property and the Project Company will take responsibility for any unknown environmental conditions on the private development sites. It is staff's expectation that the environmental investigation conducted on the former Courthouse property should serve to substantially confirm if any existing environmental issues exist on the former Courthouse property. Any recognized environmental conditions can then be managed before the start of construction so as to avoid costs associated with construction delays. In this way, exposure to costs related to environmental conditions will have been minimized.

### Critical Path

There have been many inter-dependent, yet itinerant, issues that have served to somewhat modify the critical path. The remaining items of critical importance include:

- Submittal of Basis of Design for Site Plan Review
- Submittal of Fixed Price Proposal
- Parks Commission review of the design of Lincoln Park
- Planning Commission review of the Project and Supplemental EIR
- City Council review of the Project, the Project Agreement and the Supplemental EIR
- Commercial and Financial Close
- Funding and demolition of the old Courthouse

With the near finalization of Basis of Design, submittal for Site Plan Review is imminent. This event also helps to better delineate the process and timing to comply with the California Environmental Quality Act (CEQA).

The Fixed Price Proposal and its validation period is another critical element. The timing of the Fixed Price Proposal balances between two competing needs. The earlier a Fixed Price Proposal is received, the earlier Project costs and annual payments can be verified and locked in. However, if the Fixed Price Proposal is presented too early, the validation period could expire before Financial Close and certain Project costs would escalate between the expiration of the validation period and the date of Financial Close. If staff requests a longer validation period so that Project costs and annual payments can be verified early, but still provide sufficient time to reach Financial Close, the Fixed Price Proposal will necessarily be higher in order to cover construction cost escalation and interest rate risk for the extended validation term. Staff continues to work within these parameters to provide the highest confidence levels that the Project remains economically feasible, while keeping Project costs within a reasonable range.

### Relocation Plan

PECP will be preparing a Relocation Plan a number of months prior to the proposed occupancy date. Relocation costs related to the actual physical move are borne by PECP, however, staff will need to have a plan in place to be prepared to relocate

July 21, 2015

Page 9

within the timeframes negotiated in the Relocation Plan. There may be an opportunity for portions of the project, such as the Main Library, to be available for occupancy ahead of other portions of the project, such as City Hall. This will allow for partial payments to PECP, with the understanding that the City will not be “double paying” for any early occupancy. At this point, other than preparation and close coordination, there do not appear to be any insurmountable concerns regarding relocation and occupancy.

#### Prevailing Wage and Project Labor Agreement

PECP understands and acknowledges that, for the Civic elements of the project, PECP and all contractors and subcontractors of PECP shall pay not less than prevailing wage. Additionally, PECP shall cause its design-build contractor, currently identified as Clark Construction, to enter a Project Labor Agreement with the unions anticipated to participate in the project and PECP shall bear any costs related to the Project Labor Agreement, including any administrative costs.

#### Next Steps

As the project proceeds, staff expects the following next steps:

- Submittal for Site Plan Review
- Ongoing development of the Basis of Design to facilitate a responsive Fixed Price Proposal
- Complete the Supplement Environmental Impact Report
- Execute the Transaction Terms Sheet
- Prepare for the issuance of Lease Revenue Bonds
- Negotiate and prepare a Project Agreement
- Receive the Fixed Price Proposal
- Bring the Project Agreement to City Council for consideration, and if approved,
- Proceed to Commercial Close
- Provide financing and proceed with demolition of the old Courthouse
- Issue Bonds and proceed to Financial Close

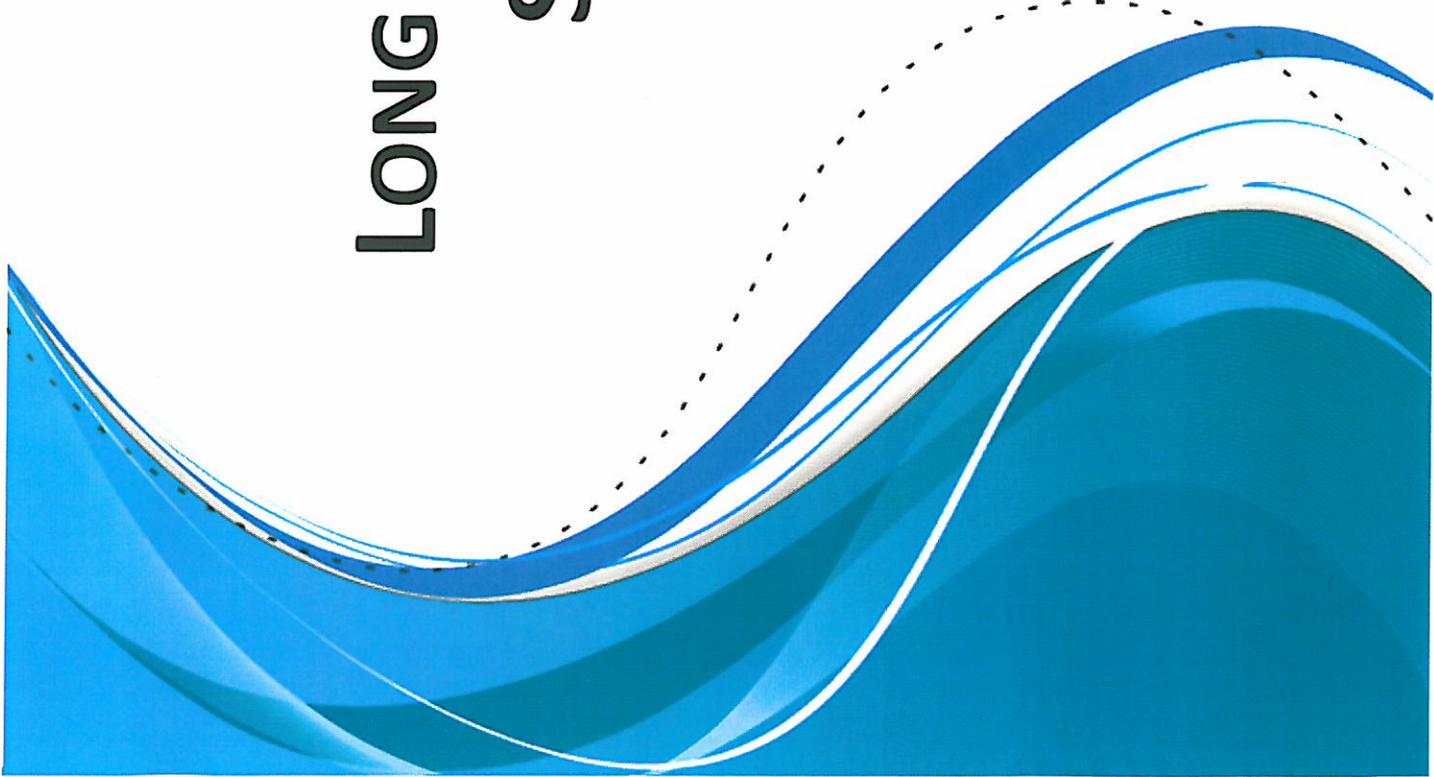
If there are any questions regarding any aspect of this communication, please contact Mike Conway at extension 8-5282, or via email at [Michael.conway@longbeach.gov](mailto:Michael.conway@longbeach.gov)

cc: J. Charles Parkin, City Attorney  
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Glenda Williams, Director of Library Services  
Richard Anthony, Assistant City Attorney  
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# LONG BEACH CIVIC CENTER SURVEY RESULTS

Plenary-Edgemoor Civic Partners (PECP)

April 15, 2015

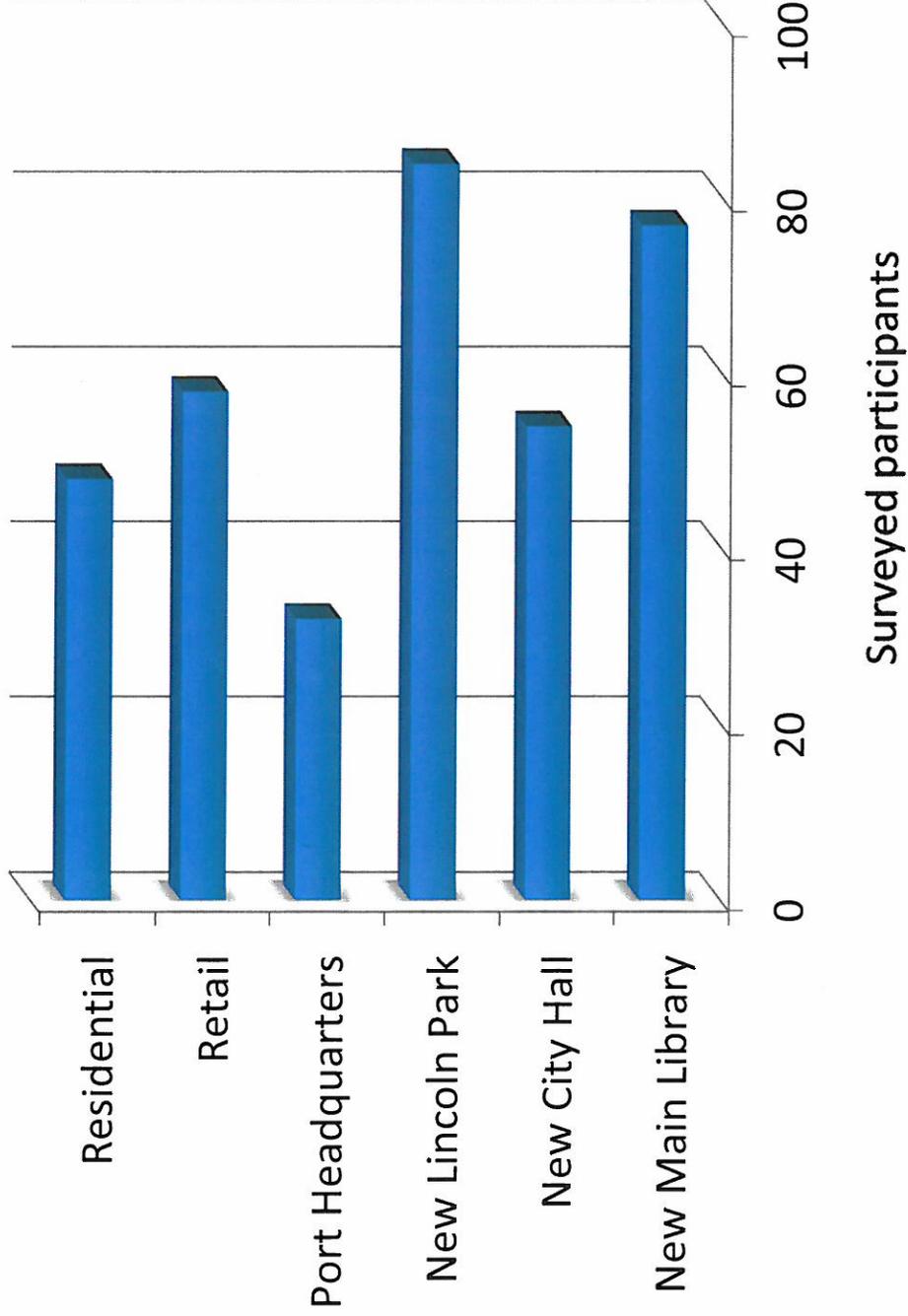


# Total # of participants = 166

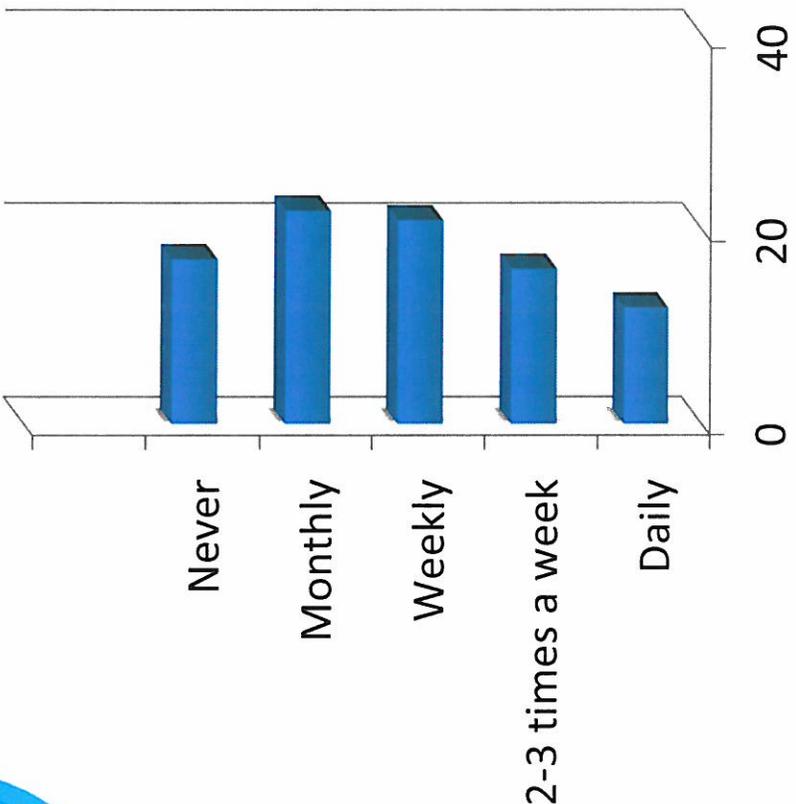
(Total number of names on Community Meeting Sign-In sheets)

- Total of 6 questions
- NOTE: Participants were able to vote for more than one options for each of the 6 questions

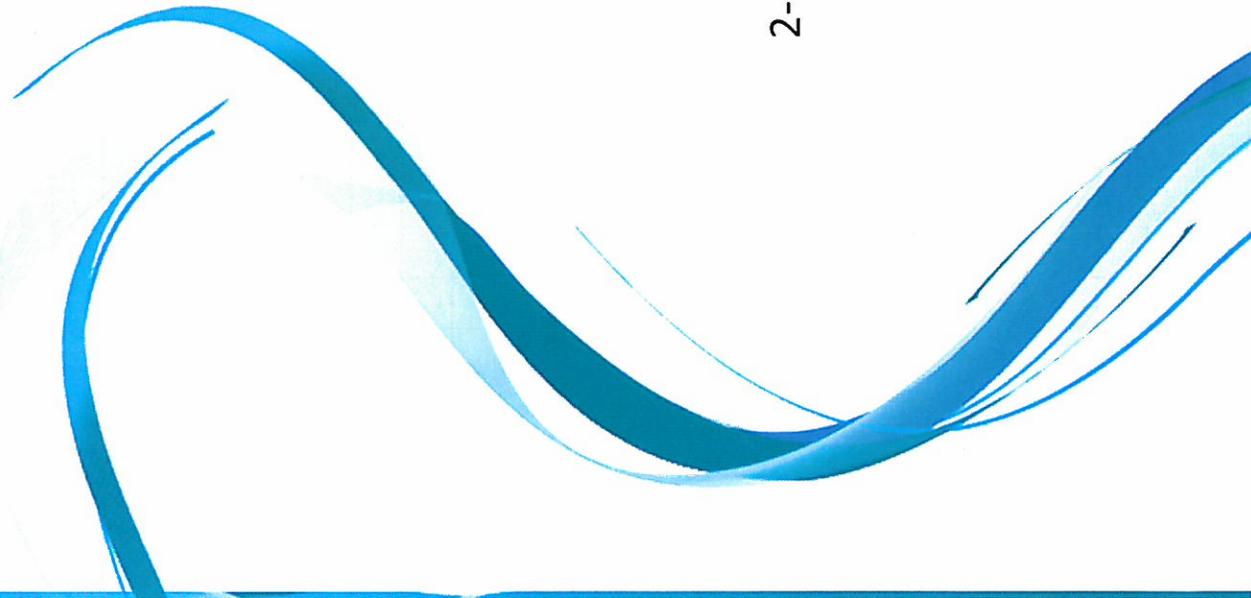
# What excites you the most about the new Civic Center development?



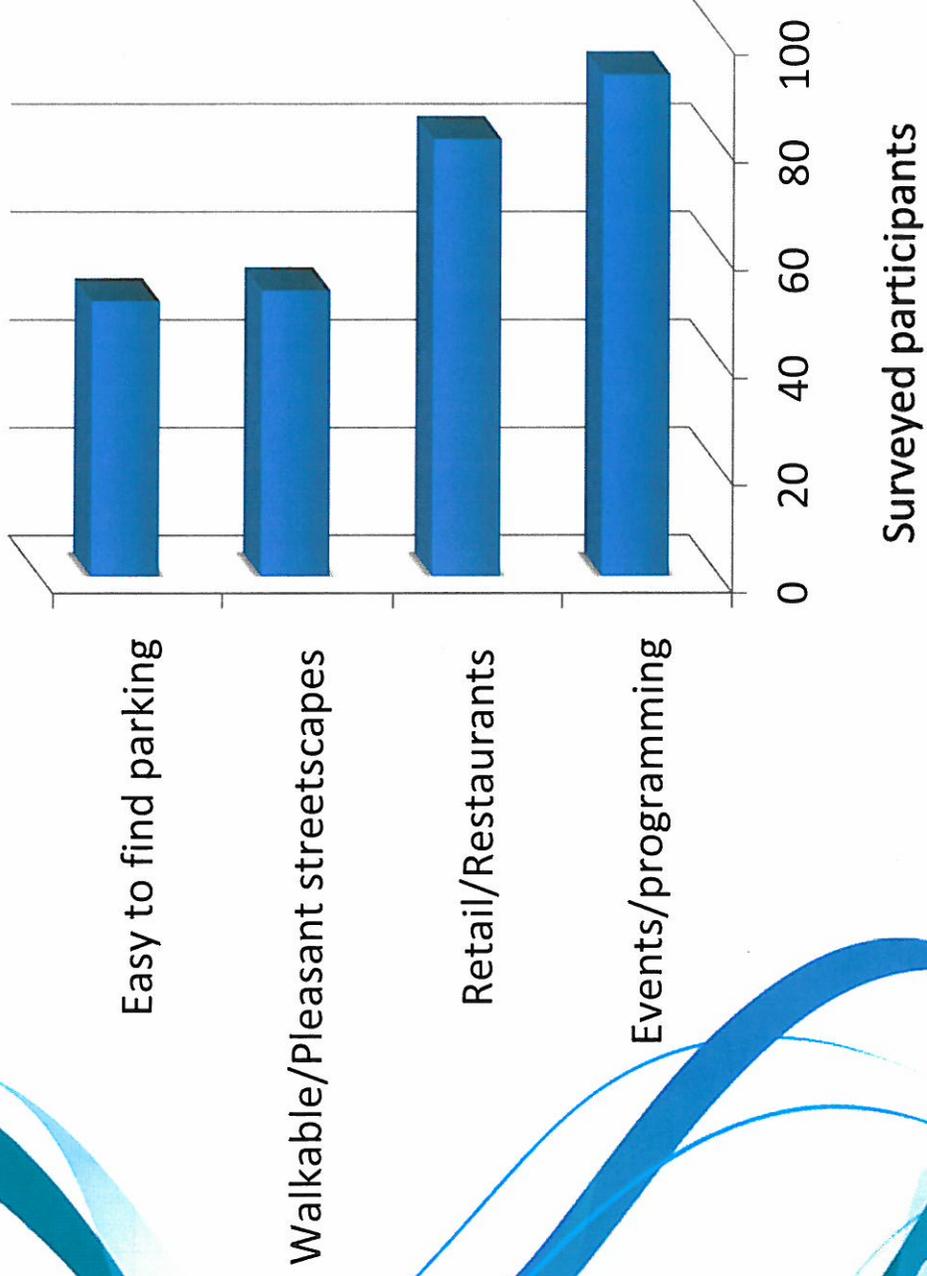
# How often do you visit Lincoln Park or the Main Library?



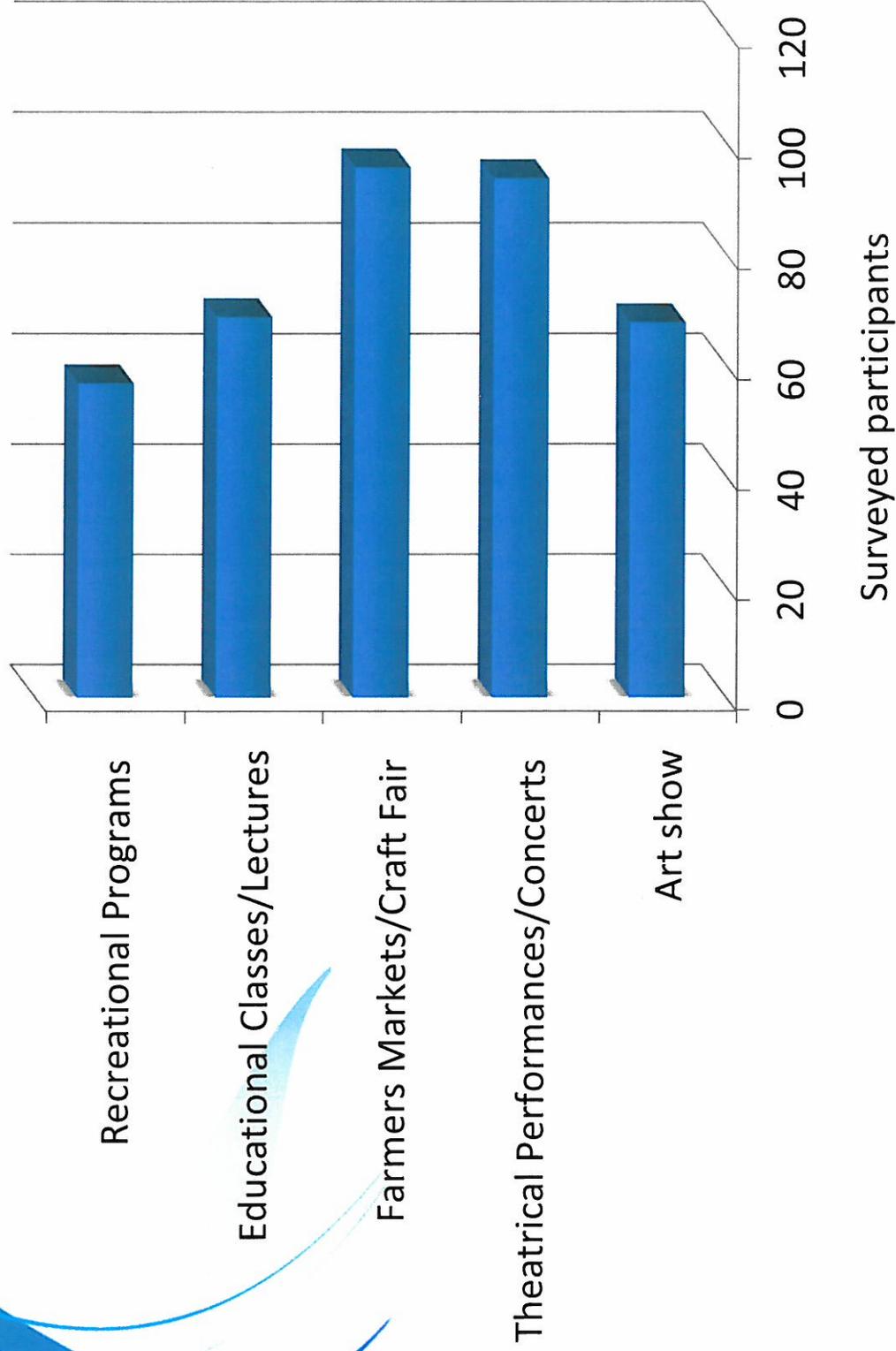
Surveyed participants



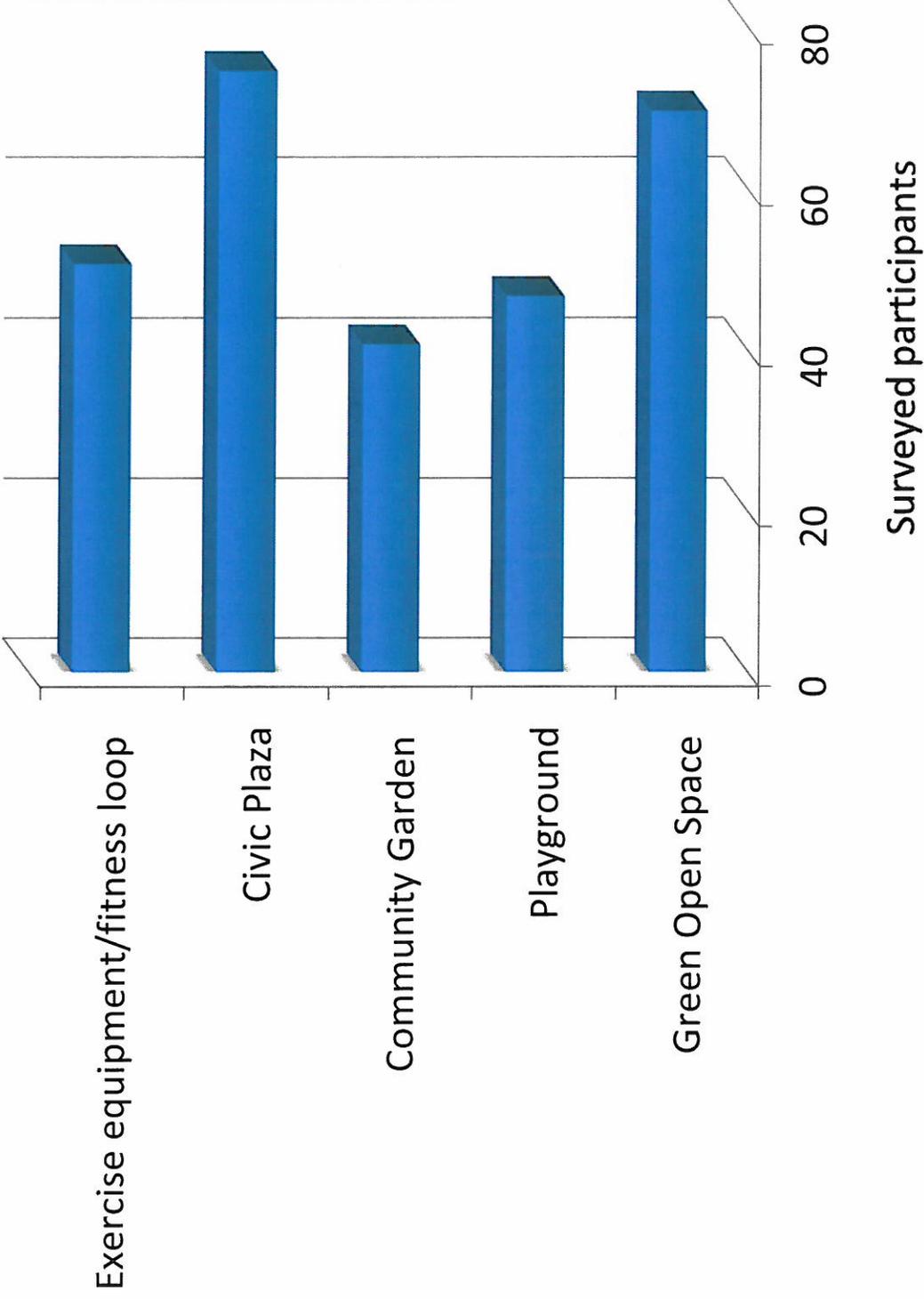
# What would cause you to bring friends/family to the new Civic Center?



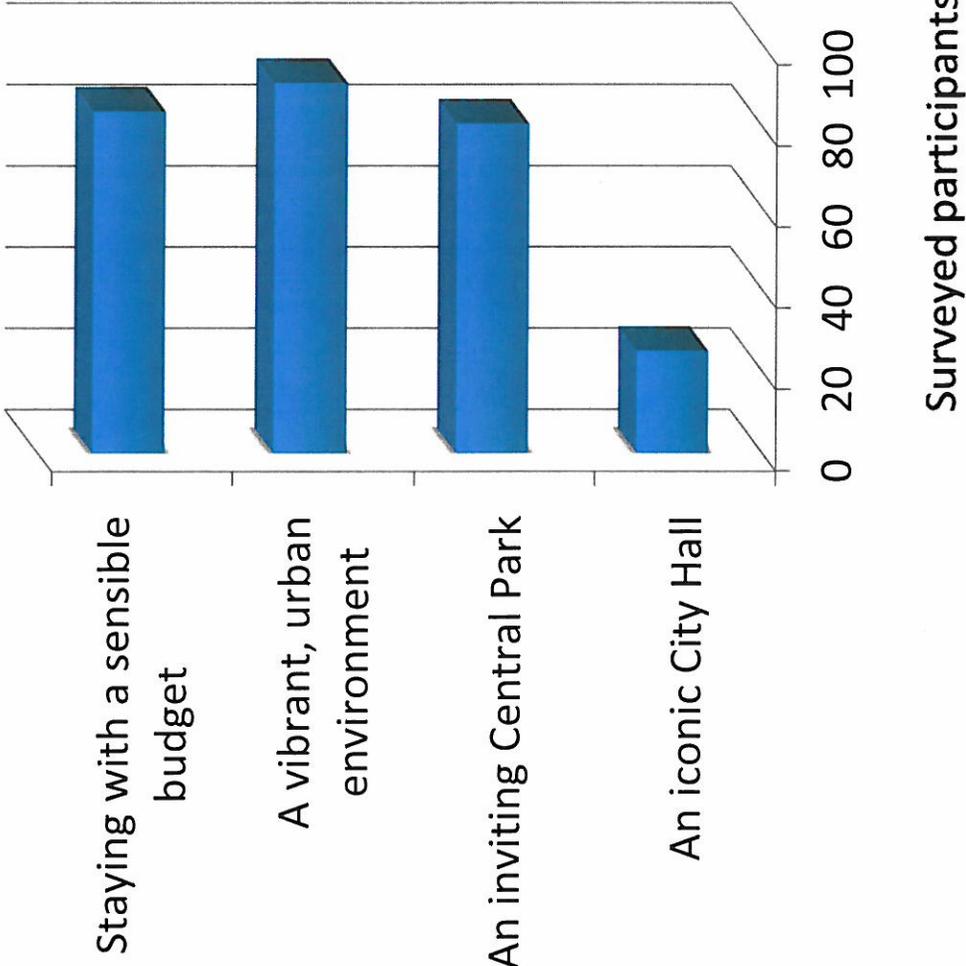
# What kind of events/programming would you like to have at the new Civic Center?



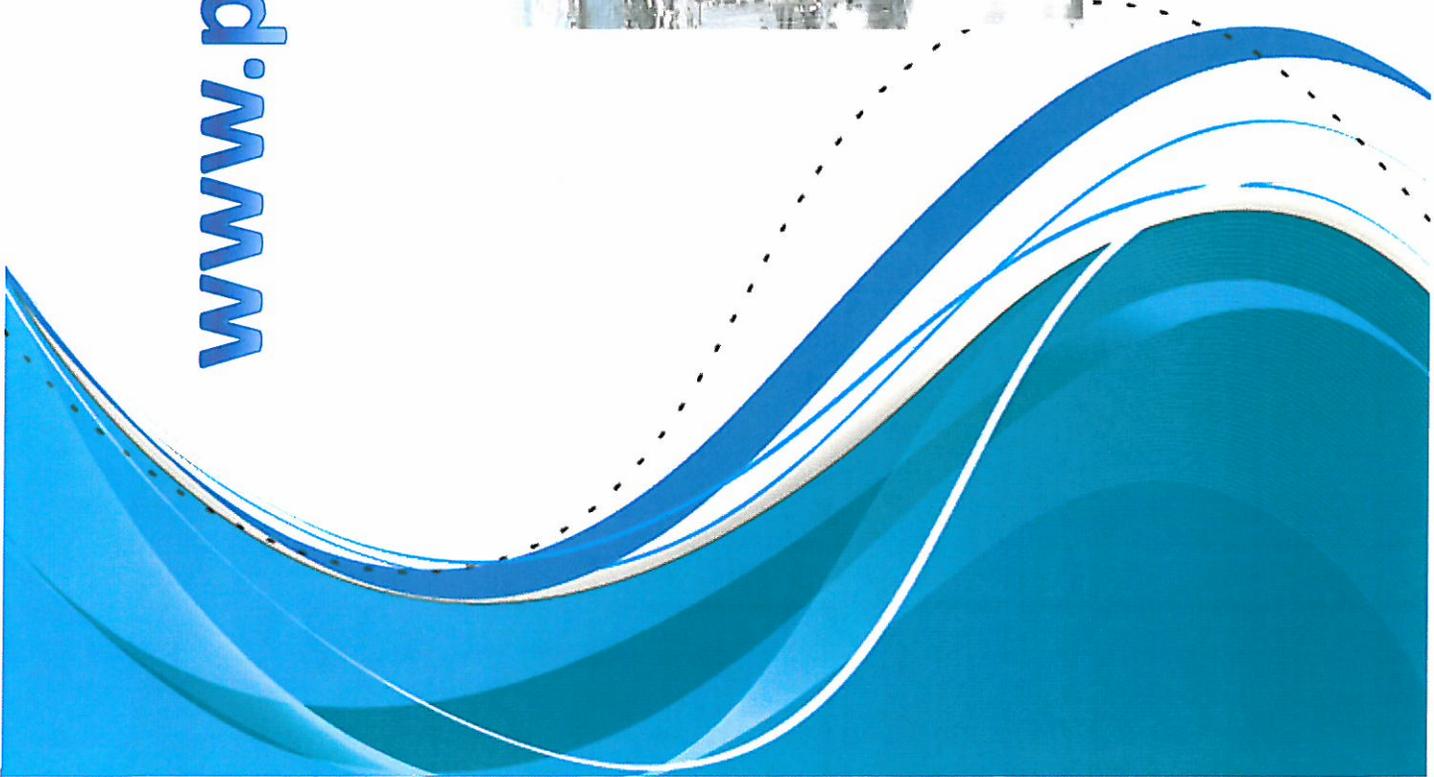
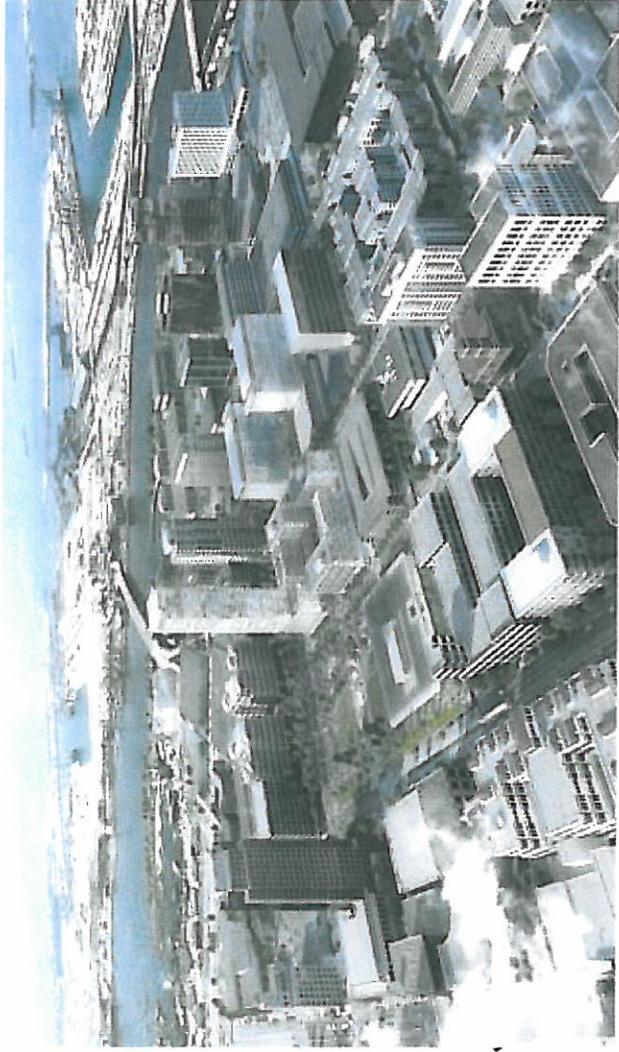
# What elements/amenities would you like to see in Lincoln Park?



**What elements do you consider most important in creating a civic center that Long Beach can be proud of?**



[www.pecplongbeach.com](http://www.pecplongbeach.com)



## LBCC Community Ad-hoc Specific Elements

### By Districts

#### CD1:

- Another request to include a roller rink in the park Can you add some sort of concrete rink?
- Interest in water features in the project
- Iconic design
- How sustainable will this project be? (Solar?, electric vehicle charging?, natural gas fill station?, etc.)
- Would like to see military history incorporated into art and history walk
- Fitness should be a big component of this park
- Dog park
- Programming: Long Beach is multicultural, want these projects to be able to engage and incorporate folks from different experiences and backgrounds. Native Americans and Nieto history incorporated
- Local retailers
- Public viewing area on the top of the hotel tower would be greatly appreciated, and free for everyone
- Jobs for local residents
- Parking
- Water feature

#### CD2:

- Playground
- Ocean-friendly plants
- Drought-tolerant plants
- Rain capture
- Educational component of the landscaping
- Ambient music
- Learning activities
- Skate park
- Something iconic, like Chicago bean
- Water feature
- Drinking fountains

#### CD3:

- Gray Water
- Iconic design

- Lincoln statue
- Reflect individual neighborhoods' characteristics
- What do you want to see most: open space
- Art shows
- Theater concerts
- Parking
- Contemporary art
- Incorporate universities
- Water theme
- Events to pull people downtown
- Safety

#### CD4:

- A plan for the homeless
- Parking
- Reopening streets
- Faster bus service from CD4 to downtown
- Skate park
- Drought-resistant landscaping
- Remember mom and pop stores
- Boutique eateries
- Keep tower height low, don't turn LB into NYC
- Open, passive space in park. As much grass as possible.
- Not too much programming for kids
- Incorporate public art
- Incorporate solar technology

#### CD5:

- Plan for the homeless
- Parking
- Traffic/transit connectivity
- Homelessness solution
- Need for more homeownership, not rental units
- Would like to be able to see City Hall from hotel
- Transit connectivity
- Connectivity to rest of downtown
- Community events to pull people downtown
- Large retail, like South Coast plaza
- Arts programming
- TED talks

- Performance space (Hollywood Bowl, Shoreline amphitheater)
- Protecting the public

CD6:

- Local retail
- Tech space, enterprise hub
- Big events
- Farmers market
- Theater performance
- Vibrant urban experience
- Inviting public space
- Look at Santa Monica for retail example
- Variety of retail
- Parking

CD7:

- Local jobs, jobs for women
- Places for children to play
- Seniors
- Skate park
- Accessibility
- Military history
- Arts and arts programming
- Theater and concerts
- Fitness
- Solution for homelessness
- Tie into rest of downtown character, retail (Pike)
- Equity for all LB residents
- Homelessness

CD8:

- Solution for homelessness
- Parking
- Sufficient parking for residents
- Homeownership, better than rental
- Childcare, recreation for kids (fixed and programming)
- Smaller, quality retail

- Small eateries
- Water features
- CA native landscaping
- Events in park to attract people downtown
- Arts loop
- Dog park
- Iconic/landmark
- Ice rink in winter
- Security in case of an emergency

CD9:

- Community meeting space in library
- Opportunities for small business owners
- Public transportation
- Solution for homelessness issue
- Parking
- Excitement about retail, education, performances
- Open space
- Vibrant urban environment

## LBCC Website site and Comment Card Suggestions

(As of April 14, 2015)

- Outreach:
  - Project materials need to be readily available in multiple languages
  - Reach out to business community
  
- Park Design Elements:
  - Skate park
  - Roller rink
  - Bike Kitchen
  - Fitness element
  - Obstacle course
  - Mountain bike trails
  
- Technology:
  - Wifi access
  - Expand sustainable energy resources
  
- Community Design Space:
  - Music venue/stage
  - Artist workshop studio
  - Mental health & Social service center
  - Community center
  - Museum Space
  - Multi language park signs
  - Bathroom access throughout layout
  - Long Beach multi-cultural and union history should be included historical walk corridor
  
- Retail & Housing
  - Will local businesses afford new commercial and retail space?
  - Affordable rent
  - Affordable retail
  
- Parking
  - Free parking should be provided
  - Parking signs in multiple languages

- New parking will bring more traffic congestion