

COUNTY OF MILWAUKEE
Inter-Office Communication

Date: August 17, 2021

To: Marcelia Nicholson, Chairwoman, Milwaukee County Board of Supervisors

From: Ashley Adsit, Director of Grants & Special Projects, Department of Administrative Services

Subject: Report from the Grants and Special Projects and Facilities Management Divisions, providing updates on securing grant funding for rehabilitation of the Domes and the approved structural testing and netting replacement projects at the Domes

File Type: Informational Report

REQUEST

The Department of Administrative Services Grants Procurement Division and Facilities Management Division shall submit a report to the Milwaukee County Board of Supervisors for the September 2021 committee cycle providing an informational update on structural testing performed at the Domes, as well as the upcoming netting replacement project approved in the 2021 Adopted Budget. The report shall also include an informational update on progress made by the Grants Procurement Division to secure grant funding for rehabilitation of the Domes and other outside funding avenues that are being explored (Amendment 1, Resolution File No. 21-518 to Appropriation Transfer A9 on P.5).

POLICY

Milwaukee County Resolution File No. 16-200 (March 2016): “BE IT RESOLVED, that Milwaukee County shall pursue the repair and preservation of the existing Mitchell Park Conservatory Domes.”

BACKGROUND

In September of 2019, the Board received the nonbinding Domes Task Force (“Task Force”) Business Plan and Conceptual Design (“Plan”). As documented in the historical timeline attachment, immediately following the conclusion of the Task Force’s work on this project, the Office of the Corporation Counsel (OCC) issued a memo that outlined a number of concerns about the Plan and recommended “a serious vetting of the legal and fiscal feasibility of the Plan...as well as the development of a more realistic timetable and pro forma based on past experience, aided by objective, independent

outside expert assistance as required and directed by the OCC and Comptroller's Office." (See OCC memo attachment)

Beginning in February of 2020, Milwaukee County urgently responded to the COVID-19 Public Health Crisis and placed a hold on all non-essential projects, including the Domes project.

The 2021 adopted budget directs that an appropriation transfer be submitted to the County Board to allocate funding for the "exploration of potential funding sources for the repair and restoration of the Mitchell Park Horticultural Conservatory (also known as the 'Domes')". In June of 2021, the County Board approved a transfer request in the amount \$75,000 to support the Grants and Special Projects (GSP) Division's pursuit of a professional services contract to analyze the feasibility, requirements, and ordinal implementation of the revenue sources that were proposed in the Task Force Plan in September of 2019.

Due to the two-year delay from 2019 to 2021, there are additional factors to consider, including outdated cost projections, further deterioration of the structure, and the sharp increase in construction materials costs (see attachments). The County's overall financial sustainability has also worsened due to the pandemic, an unfavorable shared revenue formula with the State, and the inability to increase the local sales tax. These factors have collectively strained the County's tax levy.

At the time of the transfer request in June of 2021, the intended course of action was to issue a comprehensive Request for Proposals (RFP) to identify a firm to assess the funding streams, restoration costs, and revenue models described in the Plan recommended by the Task Force as well as conduct an analysis of the legal and fiscal feasibility of the plan, per advisement by the OCC.

The GSP Division, in conjunction with the Procurement Division, formed an internal project team to determine the path forward for the Mitchell Park Domes based on the reports that have been commissioned and received. The team for this complex project consists of representatives from the Parks Department, Facilities Division, Office of Performance, Strategy, and Budget (PSB), Risk Management Division, Office of the Corporation Counsel, and Office of the Comptroller.

Preparation to issue an RFP for a comprehensive analysis revealed that this approach would exceed the financial resources that are available and that a more favorable approach would be to engage the Board of Supervisors in incremental decision-making around discrete components of the Domes project.

Incremental decision-making as a tool of public policy (postulated by Charles Lindblom) assumes that¹: (1) Goals are unclear; (2) Problems, goals, and implementation are intertwined and will evolve; (3) Alternatives and goals are formed as learned; and (4)

¹ Olufeso, S. (2000). *Incrementalism as a Tool for Public Policy Analysis*. (1) OLUFESO Samuel - Academia.edu Retrieved August 4, 2021.

Policymakers are not free to choose the best alternatives because they must consider the feasibility and acceptability of possible choices.

Because the components of the project are closely inter-related, the GSP Division has constructed a Historical Timeline and a Project Planning Timeline (see attachments) with the input of the project team. A Decision-Making Guide for this project is also being drafted.

GRANTS & SPECIAL PROJECTS UPDATE

As noted in the fund transfer request in June of 2021, funding streams for the Domes project may include public/private partnerships, tax credits, grants, special financing, State or Federal funding, and private donations.

In order to prepare this update, the GSP Division conducted preliminary research into each proposed revenue source and consulted with the Region 7 Economic Development Director of Wisconsin Economic Development Corporation (WEDC), the Director of Business and Community Engagement and the Director of Business Development for Wisconsin Housing and Economic Development Authority (WHEDA), and the Director and other team members from the State Historic Preservation Office (SHPO). It is important to note that the GSP Division has not exhaustively analyzed the complexities of the capital revenue funding stack proposed by the Task Force.

Repair and Preservation Costs

The estimated costs for restoration, upgrades to be in compliance with various codes, and targeted investments in the Task Force Plan are not high enough.

There is a difference of at least \$10-\$20 million that does not appear to be accounted for in other cost categories in the Task Force Plan (page 55).

This conclusion was reached with the following information:

- The pro forma capital expense estimate in the Task Force Plan estimated **\$30 million for the costs of rehabilitation.**
- The Task Force's proposed approach was to address deferred maintenance and make targeted investments, which was presented in the 2018 ConsultEcon report (see Historical Timeline attachment); however, the ConsultEcon report estimated the costs for repairs and targeted investments to be **between \$40 million and \$50 million.**
- The 2018 ConsultEcon report also made it clear that the \$40-\$50 million estimate for repairs and targeted investments was based on multiple assumptions and had multiple caveats that could significantly affect, and presumably increase, this estimate.
- There is a line item for \$14.8M in the pro forma budget for "Other buildings, additions, spaces," in the proposal, but this does not address the full amount needed to **restore the existing Domes structure.**

In addition, the cost estimates in the 2016 Graef report are outdated (expired in 2019)

and Milwaukee County is working with the original vendor now to update these cost estimates. Both the 2018 ConsultEcon and 2019 Task Force Plan relied on these outdated estimates.

Revenue Options

Even if we assume that the \$66 million total cost projected by the Task Force is accurate, the capital revenue “funding stack” proposed by the Task Force is not realistic.

Capital Revenue Funding Stack- Domes Task Force Plan

Historic Tax Credits (HTC)	\$ 7,000,000
New Market Tax Credits (NMTC)	\$15,000,000
Opportunity Zone (OZ) Investments	\$ 2,000,000
Property Assessed Clean Energy (PACE) Loan	\$ 5,000,000
Private Sector Capital Campaign	\$13,500,000
Bond Financing	\$13,500,000
TOTAL	\$66,000,000

The funding stack “assumes a balance of equal investment through general obligation bond financing and private sector donations. It assumes \$13.5 million from each for a total of \$27 million. The balance of the \$66 million budget will come from a mix of Historic Tax Credits, New Market Tax Credits (NMTC), PACE and Opportunity Zone investment.” (see Task Force Plan)

Milwaukee County is not eligible to receive tax credits. The two proposed tax credit sources (totaling \$22 million) as well as the investment-based revenue (totaling an additional \$7 million) **require Milwaukee County to work with a private partner that would operate the Domes**. Combined, this constitutes 44% of the total projected revenue for the capital project. The OCC memo advised all due caution in proceeding with a private partner as proposed in the Plan, including the following points (see OCC memo attachment):

- Unlike other public-private partnerships in the County’s experience, the County must be the first to fund **and** the funder of last resort
- Timetable is “extraordinarily aggressive”
- Parties outside of the County’s control will have a determinative impact on the ultimate success of the project, including but not limited to third-party developers, third-party partners, granting entities, the fundraising capability of the affinity friends group, and the Internal Revenue Service
- Certainty that significant outside legal counsel expenses will be incurred, excluding initial diligence into the legality of the proposed structures, the creation of the required entities, ongoing careful monitoring of loan repayment deadlines, regulatory compliance, governance and oversight.
- Potential for prolonged operational uncertainty based on possible, e.g. the IRS rejecting one of the tax credits or auditing the structure or a legal dispute among subsidiaries

According to WHEDA, the NMTC tax credits are incorrectly calculated as a portion of the total project costs and the lack of non-debt cash will most likely not meet underwriting criteria. In addition, the NMTC revenue source, which would at most be one-third of the \$15M estimated in the funding stack, is only available if the County can identify one or more federally-certified allocatees that have been awarded NMTC funds that agree to work on this project (see overview of NMTC to follow).

To follow is a brief overview of each of the proposed revenue sources.

Historic Tax Credits (HTC), \$7 million

- Requires a private partner
 - A **for-profit** private partner would be able to draw down more tax credits compared to a **non-profit** private partner, according to SHPO
 - A **for-profit** partner in a partnership model of this type would typically have a long-term lease (up to 50 years) to operate the Domes. Details regarding maintenance and other factors would be included in the partnership legal agreement.
- A benefit of the HTC is that the tax credits can be “twinning,” meaning the same qualified expenses that are used for other tax credits can also be used for HTC.
- Requires a historic preservation status on the state register (approximately four-six months from application to approval)
- Once on the state register, any proposed structural changes must be approved by SHPO to preserve the most historically accurate appearance; Milwaukee County would be required to submit all materials and plans to review and would engage in a process of consultation and mitigation with SHPO over proposed changes. This requirement can increase both cost and the time it takes to complete projects.
- HTCs are only released when the building is placed “in service”, requiring the project to have up-front financing for the construction/rehabilitation phase

New Market Tax Credits (NMTC), \$15 million

- The NMTC Program was enacted by Congress as part of the *Community Renewal Tax Relief Act of 2000*; incorporated as section 45D of the Internal Revenue Code
- Requires that Milwaukee County work with one or more Qualified Community Development Entities (CDEs)
- The 2019 NMTC grants noted in the Task Force Plan are no longer available (confirmed with WHEDA)
 - There is a new solicitation for NMTCs from the Community Development Financial Institutions (CDFI) Fund of the U.S. Treasury Department each year, but only about 25% of the applications nationally are funded
- **The calculation of the NMTC tax credit in the Task Force Plan is incorrect.** WHEDA estimates that on a project that has a total of \$80 million of qualified expenses, there would possibly be \$4-6 million in NMTC tax credits (from which the County would have to pay transaction fees for attorneys and the CDE/s that

are allocatees on the project)

- NMTC investors want to see high impact in the projects they support- e.g., a large number of sustainable new jobs created, profitability, longevity, etc.
- “Only applicable to a new portfolio of programs and services”—not restoration activities alone (see Task Force Plan)

Opportunity Zone Investments (OZ), \$12 million

- Qualified “opportunity zones” were created by the *Tax Cuts and Jobs Act of 2017* to “spur economic development and job creation in distressed communities throughout the country by providing tax benefits to investors” who invest eligible capital into these communities
- Requires a private partner
- “Only applicable to a new portfolio of programs and services” (see Task Force Plan)
- The IRS/Treasury Department updated the OZ rules in December of 2020; changes include:
 - “Working capital safe harbor” gives investors up to 62 months to complete a project from the time when the money is first invested (increased from 31 months)
 - Investors can invest gross Section 1231 gains even if they have net Section 1231 losses. This means that the entire amount of the capital gains from investments can be invested, not just amounts that are greater than the losses
 - Taken together, these and other changes are overall more favorable to potential investors in development projects

Property Assessed Clean Energy (PACE) Loan, \$5 million

- National development program available to private and public building owners
- Investments to support energy efficiency/clean energy in various building types, typically over 20-25 years (life of equipment)
- Approval for PACE financing is “primarily based on the equity in the property being upgraded, which serves as collateral to secure the loan”
- Can be used to fill gaps in financing for projects that use Historic Tax Credits
- Costs are presumed to be passed on to customers
- The Domes are over 50 years old and have an energy inefficient design
- The Domes’ HVAC system is outdated and needs to be replaced
- A 2018 energy study conducted by the Milwaukee County Facilities Management Division reported that the Domes expended 43,823,857.79 KBTU, which translates into emissions of 2,778.21 metric tons of CO₂ equivalent-- one of the highest emissions in the County
- In order to install a new HVAC system, the leaks and missing glass in the current glazing system should be repaired; the most energy-efficient construction would be to install a thermal pane system over the structure, but the current structure cannot support this additional weight. Additionally, the coatings on tinted glass might further worsen plant conditions by blocking out badly needed light for them to grow.

Private Sector Capital Campaign, \$13.5 million

- Task Force Plan suggests naming rights for various areas/spaces within the Domes and Mitchell Park grounds (both existing and proposed new spaces)
- One-time gifts for capital campaign
- Suggests that securing 30% of \$13.5 million total (before the construction begins) would “telegraph that the balance of the campaign will be successful”
- Anticipates successfully securing a minimum of 238 major gift donors inside and outside of Wisconsin, with four single gifts being \$1 million or more
- Assumes (or strongly relies upon) donors making their gift regardless of the partnership structure and business model
- WHEDA advised that private philanthropists/donors become NMTC investors, which would increase their donation by approximately 20%

Bond Financing, \$13.5 million

- Viewed as foundational (required to begin the capital project) to the proposed revenue structure
- Milwaukee County would have to issue General Obligation Corporate Purpose Bonds pursuant to Chapter 67 of the Wisconsin Statutes
- Milwaukee County’s credit rating would have to be AA or higher to meet underwriting criteria
- Milwaukee County would have to decide if this bonding would appear on its balance sheet or if the County would just be a conduit (the latter of which would make it more difficult to meet underwriting criteria and would almost certainly increase the interest rate)
- Milwaukee County would have to work with one or more financial and legal advisors to issue the bonds
- According to the 2018 ConsultEcon report, “the capacity to float County bond issuances for major capital investment in the Domes themselves might be limited”
- Per WEDC, other bonds not mentioned in the Task Force Plan might also be applicable to this project, e.g. industrial revenue bonds
- WHEDA advised that Milwaukee County consider applying for a loan from the Board of Commissioners for Public Lands as opposed to bond financing, which is a relatively simple and less expensive process

CONCLUSIONS

A preliminary analysis indicates that the revenue structure for the Domes project as proposed in the Task Force Plan is highly unlikely to succeed due to multiple factors, including but not limited to:

1. Incorrect calculation of tax credits as a percentage of the total qualified expenses;
2. Lack of equity that is going into the project in the form of local or state subsidies and private philanthropy/donations (non-debt cash). **WHEDA advises that 50% of the total revenue should be non-debt cash** to meet underwriting criteria for investors and loan programs (like PACE); and
3. Revenue projections based on attendance and sales are speculative, which places

scheduled payments at risk and leaves only the tax levy to absorb operational revenue shortfalls under the private non-profit partnership that is proposed in the Task Force Plan.

These additional factors contribute to the unreliability of the revenue structure proposed in the Task Force Plan:

4. Cost estimates are outdated (expired in 2019), which renders all reports relying on the outdated cost estimates to be invalid;
5. There is a lack of clarity, definition, and structure around the private partnerships required for a project of this size (development and operating partners); and
6. There is a need to definitively resolve what activities will take place within the existing Domes in order to raise funds (i.e. apply for tax credits and loans and attract investors and major donors).

Further discussion and fully informed decisions by the Board and County Executive with ongoing input by OCC and the Office of the Comptroller are essential to engage in a capital project this complex.

As we move into the incremental decision-making phase of this project, there are significant factors that would ideally inform all decisions as they relate to this project. These discrete factors will be solidified by independent expert analysis in the coming months (see project planning timeline):

- Need to infuse more non-debt cash equity into the project (50% of total project costs)
- Comfort level with Milwaukee County being both the first to fund **and** the funder of last resort (see OCC Memo)
- Partnership with private entity: a for-profit operating partner would likely be able to draw down more revenue for the capital project compared to a non-profit operating partner
- Construction costs for repair, restoration, and necessary upgrades for code compliance relate directly to: 1) the useful life of the current structure; 2) the types of activities/business model in the current structure, 3) what characteristics Milwaukee County includes on a historic preservation application (if Milwaukee County chooses to submit this application to SHPO); 4) and the optimal environment for the plant collection, valued at \$3.2 million according to the ConsultEcon report. **These factors are each listed separately to follow.**
- **Useful life of the current Domes:** the current board policy calls for extending the useful life to the “maximum” length.²
 - A lifespan of 50+ years is not possible by restoring and upgrading the current Domes structure; the only options with a 50+ year lifespan in the 2018 ConsultEcon report are new construction developments—the report

² Milwaukee County Resolution File No. 16-200 (March 2016): “...BE IT FURTHER RESOLVED, that the method selected to repair the domes, as recommended by engineering experts, should aim to extend the **maximum usable life of the existing facility...**” (emphasis added)

- calls for razing the existing domes and building new “built to suit” structures to reach a 50+ year lifespan
- New construction domes would forgo HTCs as a revenue source and significantly limit the ability of the County to raise private philanthropic funds, as the historic quality of the Domes is its most attractive characteristic to potential private donors
- **Types of activities/business model:** The future path of the Domes is substantially related to the types of activities/business model Milwaukee County wants to occur in the current structure. The various reports suggest a wide range of options of variable profitability, from remaining a horticultural conservatory to a unique entertainment/recreation complex.
- **Historic preservation:** Whichever characteristics Milwaukee County includes in its SHPO application would be considered for the official description; therefore, limiting the characteristics that are considered historic provides more flexibility to Milwaukee County.
 - For example, Milwaukee County is not required to include the plant collection on the historical preservation state register application (if the County decides to submit an application to SHPO); this allows the County to remain flexible in making the best decisions regarding the plant collection, including the option of relocating the plants permanently.
- **Plant conditions:** The 2018 ConsultEcon report described the current environment for the plants as “sub-optimal,” which is further delineated in the horticulturalist memo (see historical timeline attachment).

The timeline to make these decisions is relatively short. The 2018 ConsultEcon report estimated that the **five-year horizon for addressing deferred maintenance will end in 2024.**

TIMELINE

Specific to this request, the GSP Division will pursue an independent feasibility analysis of these revenue sources from an experienced accounting firm that will include a request for a new capital funding stack that could be used to fund this project, to be completed/received by no later than December 31, 2021.

ALIGNMENT TO STRATEGIC PLAN

This item is related to the County’s strategic plan implementation, as the Mitchell Parks Domes has been operating at a substantial annual loss, which increases the burden on the tax levy (see the Comptroller’s audit report in the historical timeline attachment), and the 50+ year old structure requires extensive repairs and upgrades to remain operable. Milwaukee County’s ownership of this property necessitates extensive internal and external coordination. Strategic investments by Milwaukee County in “upstream” prevention (of poor and racially disparate health outcomes) relies on a stable business model to sustain our landmarks.

FACILITIES MANAGEMENT UPDATE

Project A: The Glazing System Renovation Investigation, P-684-18607, Contract 2

The two-part proposal was awarded to ZS, LLC, a local engineering firm that has teamed up with Stutski Engineering and Supersky, Inc. (the original manufacturer of the Domes glazing system) to evaluate and propose a repair or replacement solution.

Part 1: At the present time, the Part 1 study was completed early in 2020 and recommendations and preliminary estimates were developed at a cost of just under \$20 million to repair the glazing system.

Part 2: The mock-up and testing of a six-panel piece of the glazing system is not yet completed, as the original allowance for the mock-up will not cover the cost of some of the specially formed gaskets and aluminum extrusions that are required. This part of the study has been on hold this past year. A fee increase of nearly \$53,000 had been requested to complete this work. The original allowance was \$50,000, creating a total cost of \$103,000 for the mock-up and testing. ZS, LLC. has proposed that they can save money on this work if Milwaukee County were to combine the 2021 mesh inspection and repairs with this mock-up project. Both projects require the use of specialty lifts, removals of the mesh system, a contractor and closing of a dome to complete.

Project B: The Safety Mesh Inspection and Repairs Project, P718 20079

The 2021 capital project for “Inspections and Repairs” to the stainless-steel mesh that was installed in all three domes as a temporary safety measure (in order to keep the Domes facility operating) have gone beyond the estimated life of 5 years. This project includes a good deal of cost in accessing the underside of the glazing system for inspection. A proposal from ZS, LLC. was recently received showing that tens of thousands of dollars can be saved by combining the work on the mesh with the mock-up study referenced above. This contract will be written to complete all of the work in September and October of 2021 and will be followed by a written evaluation.

Project C: The Concrete Material Testing and study, P-684-18607, Contract 1

The study of the structural concrete condition of the conoidal frame was completed late in 2019 by the local structural engineering firm, Pierce Engineering. Pierce teamed up with Vector Corrosion Services, Inc., a company from the Chicago area that specialized in concrete science, structural investigation, repairs, and corrosion prevention. In the Executive Summary of the report, they state the following:

“Overall, the findings indicate that the SHOW DOME concrete frame is in reasonably good condition. Concrete members are sound, it has good design strength, and is not showing signs of progressive deterioration from any of the common distress mechanisms (corrosion, reactive aggregate, freeze-thaw, chemical attack). The problems identified stem from initial design and construction. So, if the representative areas tested are actually representative of the overall conditions, the SHOW DOME concrete frame can last several more decades if a few maintenance interventions are

included in any future glazing replacement effort.”

The report goes on to describe some of the options for maintenance and minor repairs to the pre-cast frame and grouting. They again emphasize that the repair of the glazing system is key in determining the future life of the concrete. These concrete repair costs were estimated as part of the 2016 Graef estimate for repairs and will need to be updated prior to bidding out any contracts for repairs.

REPAIR COST ESTIMATES

As part of an updating of the cost estimates for the future repair work, Graef, Inc. has been asked to submit a proposal to update the cost estimates from their 2016 estimates, reflecting the inflation and industry changes along with the updated studies of the material testing that have been completed. We have not yet received this proposal, but we expect to have the updated estimates completed by the end of 2021.

FISCAL EFFECT

The funds to assess the proposed funding streams and complete the material testing and inspections have already been allocated (or requested). There is no fiscal effect related to this update.

PREPARED BY:

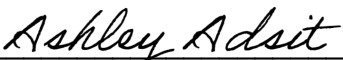
Nichole Todd, Senior Analyst, Grants and Special Projects Division
Julie Bastin, Senior Engineer, Facilities Management Division

APPROVED BY:

Aaron Hertzberg, DAS Director

ATTACHMENTS:

Historical Timeline
Project Planning Timeline
OCC Memo
The Domes Project Update (PowerPoint)



Ashley Adsit
Director of Grants & Special Projects
Department of Administrative Services