

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** August 7, 2019 **Approx. Start Time:** 9:30 AM **Approx. Length:** 45 min

**Presentation Title:** Courthouse Replacement Project

**Department:** County Administration, Finance, and Public & Government Affairs

**Presenters:** Gary Barth, *Project Director*

**Other Invitees:** Presiding Judge Kathie Steele, DA John Foote, District Attorney; Craig Roberts, Sheriff; Debbie Spradley, Trial Court Administrator;

### WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

No action requested. Today's briefing is informational only.

### EXECUTIVE SUMMARY:

For this briefing, staff has produced a comprehensive Progress Report (attached). Included is a Timeline of critical milestone dates followed by Accomplishments-To-Date leading to the creation of the "Base Case" Project Summary outlined in the report.

### FINANCIAL IMPLICATIONS (current year and ongoing):

### STRATEGIC PLAN ALIGNMENT:

This project aligns with three of the Board's five Strategic Priorities:

- Ensure safe, healthy and secure communities – the new courthouse will be large enough to accommodate the number of judges available and needed for this community and eliminate overcrowding that cause intermixing of jurors, the public, and offenders providing adequate circulation.
- Build a strong infrastructure – the project will replace the outdated County courthouse in downtown Oregon City, which is too small to accommodate the number of judges needed for the community and is not seismically sound.
- Build public trust through good government – the project will improve access to justice for all residents of Clackamas County.

### LEGAL/POLICY REQUIREMENTS:

1. The OCCCIF program requires that the County spend at least an equal amount of matching funds for courthouse related costs to those provided by the State OCCCIF.
2. The County must adhere to conditions and outcomes outlined in the IGA's with the State.
3. The Green Energy Technology program applies to public entities in Oregon and requires that 1.5 percent of the total cost for new construction of a public building must be spent on green energy technology, regardless of the funding source.
4. This project will be subject to Oregon City comprehensive plan and permit requirements.
5. The project will adhere to the County Green Building policy in effect as the building is being designed.

### PUBLIC/GOVERNMENTAL PARTICIPATION:

The replacement County Courthouse Project was one of the County's top two initiatives along with I-205 for the recently concluded 2019 legislative session. Success with this priority lead to the State approving

\$31.5 million for FY 19/21 for the State share of courthouse design and pre-construction costs.

In addition to the State Legislature's continued involvement in this process, the project also includes participation of the Courts, Clackamas County Sheriff's Office, the Clackamas County District Attorney's Office, the Oregon Department of Human Services, the Association of Oregon Counties, the City of Oregon City, and additional key stakeholders throughout the community.

**OPTIONS & RECOMMENDATIONS:**

This is an informational session.

**ATTACHMENTS:**

1. Clackamas County Courthouse Project Progress Report

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_

County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact Mary Raethke @ 503-742-5912

# CLACKAMAS COUNTY COURTHOUSE REPLACEMENT PROJECT



August 7, 2019

Board of County Commissioners Work Session

Progress Report on the accomplishments to-date and the tasks remaining to fund, design and construct a new County Courthouse on the Red Soils Campus

# Clackamas County Courthouse Replacement Project

## BOARD OF COUNTY COMMISSIONERS WORK SESSION

### TIMELINE

The Courthouse Replacement Project was prioritized and undertaken after the 2013 Oregon Legislative Assembly created the Courthouse Capital Construction and Improvement Fund (OCCCIF), a program where the State would contribute up to 50% of the costs of a county courthouse improvement or replacement project. A new Courthouse was planned for the Red Soils Campus with the adoption of the Red Soils Master Plan in 1998.

<b>RED SOILS CAMPUS MASTER PLAN</b>		
<b>Date</b>	<b>Action</b>	<b>Purpose</b>
1998	BCC Approves Red Soils Master Plan	To guide policy decisions regarding consolidation of county functions and facilities on the Red Soils campus over 20 years 1998-2018
2004	PSB Is Built	First Phase of Red Soils master Plan Development. Funded with Full Faith & Credit (FF&C) Bonds
2006	BCC Study Session	To authorized staff to develop a proposal for a new Adult Detention Facility to be developed after the DSB.
2006	DSB & CUP built	Second Phase of Red Soils Master Plan Development. Funded with FF&C Bonds
2008	BCC	BCC was informed that new ADF proved cost prohibitive. Planning was halted during 2008 recession
<b>NEW COUNTY COURTHOUSE REPLACEMENT PROJECT</b>		
<b>Date</b>	<b>Action</b>	<b>Purpose</b>
2013	Oregon Legislative Assembly Creates the OCCCIF	To fund up to 50% of county courthouse improvement or replacement projects
12/10/14	BCC Study Session	Authorized staff to conduct research and present a policy proposal regarding construction of a new courthouse on the Red Soils Campus
4/7/15	BCC Study Session	Request approval of \$133,500 in current FY 14/15 and a Policy Level Proposal for \$371,500 for FY 15/16 and 16/17 for a total of \$505,000 to hire outside consultant to assist staff in pursuing OCCCIF funding for a new courthouse
7/9/15	BCC Business Meeting	Approve contract totaling \$505,000 with SERA Architects as outside consultant
12/1/15	BCC Study Session	Red Soils Master Plan and New Courthouse Project Update

## Clackamas County Courthouse Replacement Project

Feb 2017	OCCCIF Application	OCCCIF application submitted to Oregon Judicial Department seeking match funding to plan, design and construct a new county courthouse. County share would come from FF&C Bonds
2/14/17	BCC Study Session	Request \$1.25 million in county general funds to match \$1.25 million in State general funds for planning efforts for the new county courthouse
2/16/17	BCC Business Meeting	BCC approved request of \$1.25 million in State funding for courthouse planning to be matched by \$1.25 million from county
Aug 2017	OJD Response to OCCCIF Application	OJD provides comments on Clackamas application, states that the application is a living document to be updated throughout the planning process as more information becomes available
10/17/17	BCC Policy Session	Courthouse Replacement Project Planning Update. Total project costs estimated at \$184 million, with Courthouse \$154 million. <b>NOTE: staff report says State approved \$1.2 million for planning, not \$1.25 million as shown in the 2/16/17 staff report</b>
<b>11/2/17</b>	<b>Project Public Event</b>	<b>Presentations by Elected Leaders, thank you to State Legislators, reveal of new courthouse conceptual design</b>
6/13/18	Leadership Team Meeting	Kick-Off meeting of Leadership Team of Elected Officials; Presiding Judge, District Attorney, Sheriff, BCC Chair and one additional County Commissioner. Purpose of the Leadership Team is to advise the BCC on critical issues to assist the BCC in providing staff direction on the courthouse project
6/26/18	BCC Study Session	Project Update: Revised cost estimate of \$235 million with Courthouse costs excluding DA space at \$189 million. Outlined project organizational structure, project timeline, and results of survey for a general obligation bond measure
9/5/18	Leadership Team Meeting	Project Update: Financing options, Communications & Outreach, Polling Updates, Legislative updates, call for Leadership Team commitment to project
9/18/18	BCC Study Session	Project update. Discussed county financing under various financing scenarios, assuming GO Bond on May 2019 ballot. Discussed polling efforts to gauge public support for a GO Bond. Requested that BCC authorize drafting a Board Resolution confirming the County's commitment to the project
1/24/19	Leadership Team Meeting	Project Update: Financing discussion, adding Public Defenders as co-location agency in new courthouse per OJD request
1/29/19	BCC Study Session	Project Update; Legislative update, polling update, financing update, review of draft Resolution confirming County commitment to the project
2/14/19	BCC Business Meeting	Board adopted Resolution No. 2019-11 that states "Clackamas County is committed to funding and building a new county courthouse". Approval of Master and Phase I IGA's with State for courthouse funding.
2/25/19	Communication to City of Oregon City	County Administration sent a letter to Oregon City City Manager and Planning Director advising that the county is moving forward with constructing a new OSU Extension Building and County Courthouse as the next capital projects on the Red Soils campus as identified in the Red Soils Master Plan

3/14/19	Leadership Team Meeting	Project Update: NCSC final report, Communications Update, CLT Update
3/19/19	BCC Study Session	Project Update; National Center for State Courts concept design and space plan for new courthouse, Legislative update, communication update, cross-laminated timber update,
6/6/19	Leadership Team Meeting	Project Update: Timing of GO Bond – Nov 2019, Mar 2020, Nov 2020. <b>Financing Options – Input needed for the BCC.</b> <b>Communications – Input needed for the BCC</b>
6/18/19	BCC Study Session	Information only discussion on “Community Benefit Agreements” also referred to as Project Labor Agreements. No action taken
6/27/19	BCC Business Meeting	Approved amendment to the Phase I IGA for time extension of Phase Completion Date to July 1, 2020

## Initial Planning Phase - Accomplishments To-Date

Since BCC approval in July 2015 to pursue OCCCIF funding for a replacement Clackamas County Courthouse the following tasks have been completed during this initial planning phase:

- Submitted OCCCIF Application to Oregon Judicial Department in February 2017 which included:
  - SERA structural and space analysis of the existing courthouse demonstrating that replacement and not remodel was the only viable option
  - SERA space programming analysis and conceptual design for a new courthouse
  - Cost projections based on the SERA design provided by JMB Consulting (September 2016)
  - Financing Plan calling for issuance of Full Faith & Credit Bonds to cover county share of costs
- Reviewed the Red Soils Master Plan to confirm courthouse site location, Loop Road for on campus circulation, and new parking facilities to accommodate increased traffic to the campus
- Began relocation efforts for H3S Behavioral Health Facilities – Stewart and Hilltop – to be displaced by the new courthouse, as envisioned in the Red Soils Master Plan. [Note – a new Human Services Building was included in the Red Soils Master Plan on property north of the Development Services Building. This building was intended to be constructed before the Courthouse to house Behavioral Health and clearing the site for the future courthouse].
- Updated the cost estimates in March 2018 and March 2019
- Contracted with National Center for State Courts (NCSC) per OJD recommendation to conduct a secondary space programming and concept plan for the new courthouse.
- Updated the cost estimates in May 2019 based on NCSC analysis
- Evaluated Cross-Laminated Timber as a potential building component in the new courthouse. This initiative aligns with BCC policy direction and legislative priorities to support increased use of this sustainable building product which has the potential to revitalized the timber economy in Clackamas County. Received a \$100K Wood Innovation Grant from the USFS to further research use of CLT and other Mass Timber in the new Courthouse. Contracted with the University of Oregon School of Architecture for architectural renderings developed by the Mass Timber Courthouse Design Studio.
- Research alternative Project Delivery Approaches to finance, design, build, operate and maintain the new courthouse to include possible Public-Private Partnership models (P3).
- Held an information only session on Community Benefit Agreements (aka Project Labor Agreements)

## Public-Private Partnerships (P3) and Value-for-Money (VFM) Analysis

With the Public Sector Comparator (PSC) approved by the BCC to provide certainty of project completion with state match funding, we propose that the BCC authorize staff to hire outside consultants to perform a VFM analysis that will compare the approved PSC against P3 alternatives to determine optimum “life-cycle” costs and quality for the new courthouse project.

This approach was recently used by Howard County Maryland for their new county courthouse. They looked at four options prepared by their consultants that provided analysis of project risk, VFM analysis, financial analysis, and implications on credit ratings among others. The four options were:

1. Conventional: Design, Bid, Build after which the county would Operate and Maintain (DBB+OM) This was there Public Sector Comparator similar to our Base Case above.
2. Hybrid P3-1: Design, Build, Operate & Maintain (DBOM). County provides all financing, private partner is responsible for DBOM
3. Hybrid P3 – 2: Design, Build, Partially Finance, Operate & Maintain (DBfOM). In this option, the private party finances the design and build. At project completion, the County makes a lump sum payment for ½ the costs funded by issuance of GO Bonds (which do not require voter approval in Maryland). The remaining debt is repaid over a 30-year lease agreement with the private developer, along with “availability” payments for O&M. The private party is responsible for Operating & Maintaining the building during the lease term and if any portion of the building should ever be deemed “unavailable” due to building issues the lease payment is reduced accordingly. This shifts all operating risks to the private party.
4. P3: Design, Build, Finance, Operate & Maintain. This is often referred to as the Availability Model. In this option, the entire project is finance by the private entity and their debt is repaid through lease payments from the public partner, along with availability payments for the O&M.

Howard County then scored these four options on five evaluation factors:

1. Project Risk
2. Project Cost
3. Quality (building and O&M)
4. Long-Term Cost Certainty
5. Completion Time

Based on their scoring they chose Option 3, the Hybrid P3 DBfOM as the lowest risk, least costly option with the highest certainty of long-term costs. Having completed this analysis, they felt confident in moving forward with their chosen financing and delivery approach that also addressed the long term operating and maintenance needs of the new courthouse.

Clackamas County has similarity with Howard County. Both counties are replacing very old courthouses. Both are locating new courthouses on county-owned land, but both counties have to relocate existing buildings and services to accommodate the new courthouse. The buildings are comparable in total square footage although Howard County is planning for only 5 courtrooms and much more space for other agencies. Howard County can issue GO Bonds without voter approval but must pay 100% of the costs, whereas Clackamas County would need voter approval for a GO Bond but is getting ½ the cost paid for by the state so in some ways the financing is comparable as well.

Both counties need to consider ongoing Operations and Maintenance requirements of their new courthouses and plan for the operating funds necessary to fund O&M. The Howard County option analysis considered these lifecycle costs in their financial analysis and VFM analysis.

### **Design and Size = Cost**

With the PSC approved by the BCC, providing certainty for project completion, efforts can still be undertaken during the Design phase to see if the current project costs can be reduced through design refinement. The BCC could set a goal for total project budget and an effort can be undertaken during the design phase to see if that goal can be achieved without compromising the building capabilities or quality for its projected life.

### **State as a Partner**

The State of Oregon is a significant financial contributor to the new Clackamas County Courthouse. Intergovernmental Agreements define the Roles and Responsibilities of the County and State Agencies involved in this project, particularly staff from the Oregon Judicial Department (OJD) and Department of Administrative Services (DAS).

Any decisions made by the County relating to this project will need to be made in consultation, support and approval of the State. Project teams are in place and formal, recurring communication takes place between the County project staff and key staff from the State to ensure that efforts are coordinated and appropriate for this project.

### **H3S Behavioral Health Center Relocation**

As shown in the adopted Red Soils Master Plan, the Stewart and Hilltop Behavioral Health Centers will need to be relocated from their current location to clear the site for the new Courthouse as outlined in the staff report for Red Soils Master Plan BCC Study Session on 12/10/14. Accordingly, this relocation is a key requirement for the new Courthouse project and must be adequately planned and financed to minimize disruption to clients and staff providing services.