

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 9/21/2021 **Approx Start Time:** 1:30 pm **Approx Length:** 30 min

Presentation Title: New County Courthouse Project Update

Department: County Administration

Presenters: Gary Barth, Courthouse Project Manager

Other Invitees: Presiding Judge Kathie Steele, County Finance Director Elizabeth Comfort, Consultants Marcel Ham (Rebel), Tom Kness (WT Partnerships), and Eric Peterson (Hawkins, Delafield & Wood).

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

No action required. Information Only.

EXECUTIVE SUMMARY:

At a Policy Session on May 5, 2021 the Board authorized staff to proceed with a Public-Private Partnership (P3) delivery approach to design, build, finance, operate and maintain (DBfOM) a new County courthouse. At a subsequent Business Meeting on May 20, 2021 the Board adopted a Resolution authorizing the P3 procurement approach providing staff with the approvals necessary to undertake the P3 procurement effort. On June 23, 2021 the State Legislature authorized the issuance of \$94.5 million in bonds to cover their 50% contribution towards the projected capital costs of new courthouse.

With Board approval and state funding approval, the County issued a Request for Qualifications (RFQ) on July 1, 2021 for P3 development teams interested in pursuing the courthouse project. The county then hosted a webinar about the project on July 7, 2021 attended by over 70 interested firms where Chair Smith, Presiding Judge Steele, and County Administrator Schmidt spoke to the purpose, need and objectives for the new courthouse followed by a project overview provided by staff.

Eight teams submitted Statements of Qualifications (SOQ's) in response to the RFQ by the deadline of August 12, 2021. This was an exceptional response and demonstrated strong interest in the new courthouse project.

An Evaluation Committee - with input from our P3 consultants – conducted a comprehensive review of all SOQ's and scored each based on the selection criteria below that represents all the essential capabilities respondents must possess to DBfOM the new courthouse:

SELECTION CRITERIA	WEIGHTING
General Qualifications (Section 1-2 of Package 1)	10%
Design Qualifications and Experience (Section 1-3 of Package 1 and Package 2)	25%
Construction Qualifications and Experience (Section 1-4 of Package 1 and Package 2)	20%
Facilities Management Qualifications and Experience (Section 1-5 of Package 1 and Package 2)	20%
Project Financing Qualifications and Experience (Section 1-6 of Package 1 and Package 2)	15%
Project Understanding and Approach (Section 1-7 of Package 1)	10%
Total	100%

The Evaluation Committee members were:

- Jim Edwards, Retired Commercial Developer
- Gary Barth, Courthouse Project Manager,
- Elizabeth Comfort, Finance Director
- Jeff Jorgensen, Facilities Manager
- Chris Storey, Assistant Director, Water Environment Services (WES)

Through the scoring process, the Evaluation Committee identified the top three highest scoring Project Companies to advance to the Request for Proposals (RFP) phase. They are:

1. Fengate PCL Progress Partners
2. Plenary Justice Red Soils, LLC
3. Red Soils Justice Partners, LLC

Fengate and Plenary tied for the highest score while Red Soils Justice Partners had the third highest score among the eight submissions.

These three Project Companies were issued Requests for Proposals and a draft Project Agreement on September 14, 2021, launching the RFP phase per the following schedule.

Activity	Due Date
Issue RFP and initial Draft Project Agreement to Proposers and make the RFP Procurement Website Available to Proposers	September 14, 2021
Submittal of Proposal Form 14 (Confidentiality and Non-Disclosure Agreement)	September 21, 2021
Individual Proposal Preparation Kickoff Meetings with Proposers	September 28, 2021
Proposers to Schedule Project Site Visit with Contact Person	September 29, 2021
Proposer Inspections of Project Site	As scheduled
First Round of Individual Meetings with Proposers	October 26-28, 2021
Interim Technical Submittal due via email	November 10, 2021, before 10:00 AM Pacific Time
Interim Financial Submittal due via email	November 10, 2021, before 10:00 AM Pacific Time
Second Round of Individual Meetings with Proposers	December 7-9, 2021
Third Round of Individual Meetings with Proposers	January 11-13, 2022
Final Day to Submit any Questions or Comments to the Contact Person	January 19, 2022, before 5:00 PM Pacific Time
Issue Final Draft Project Agreement and Final RFP	February 10, 2022
Technical Proposal Due	April 6, 2022, before 11:00 AM Pacific Time
Baseline Market Curves Provided to Proposers	April 6, 2022, before 11:00 AM Pacific Time
Benchmark Interest Rate Submittal, as described in Section 2.10.3.1, Due	April 8, 2022, before 11:00 AM Pacific Time
Financial Proposal Due	April 20, 2022, before 11:00 AM Pacific Time
Technical Proposal Presentations and Interviews, if necessary	May 17-19, 2022
Selection of Preferred Proposer	Early June 2022
Board of County Commissioners Approval of Execution of Project Agreement	Late June 2022
Estimated Commercial Close	August 2022
Estimated Financial Close	August 2022
Design-Build Period Commences	August 2022
Substantial Completion, Occupancy Readiness and Commencement of Facilities Management Period	Second Quarter of 2025

Once the proposals have been submitted next spring, an Evaluation Committee, with input from our P3 consultants, will score the three proposals based on the following criteria to determine the Preferred Proposer:

Criterion	Maximum Points Possible
TECHNICAL PROPOSAL	70
Project Approach (Packages A-1, A-2 and A-3)	10
Design (Package B-1)	30
Construction Approach (Package B-2)	10
Facilities Management Approach (Package B-3)	20
FINANCIAL PROPOSAL (Package C) (Net Present Value of the Proposed Service Fee)	30
TOTAL	100

Once the Preferred Proposer is selected, the County and the Preferred Proposer (Project Company) will execute the final Project Agreement and complete financial and commercial close. That will conclude the procurement phase and mark the beginning of the final design and construction phase by the Project Company.

This session is intended to provide the Board with a project status update and answer any questions or hear any concerns the Board may have at this time and determine the schedule for future Board updates during this procurement phase

FINANCIAL IMPLICATIONS (current year and ongoing):

The proposed Project costs and 30-year Availability Payment schedule will be included in each of the three proposals and part of the Evaluation Criteria. The terms from the preferred proposer as agreed to by the county will be contained in the final Project Agreement.

Is this item in your current budget? YES NO

The estimated cost to execute the competitive P3 procurement phase is in the FY 21/22 approved budget at \$5.4 million with 50% eligible for subsequent state reimbursement. This budget includes consulting fees for P3 technical, financial, transactional and legal expertise in conducting P3 procurement efforts and drafting and executing P3 Project Agreements. The costs also include a reserve for reimbursable design fees to be paid to unsuccessful proposers participating in the competitive and comprehensive Request for Proposals to ensure we have a robust competition among qualified teams.

Upon building completion, estimated around mid- 2025, the state funding match for 50% of the capital costs will be received by the county to be applied to the project capital costs per a State/County Intergovernmental Funding Agreement. The county will accordingly use that state funding contribution to make a “milestone payment” to the Project Company to pay off a significant portion of the privately financed debt outstanding. The remaining debt will be repaid through scheduled Availability Payments over a 30-year term. A Net Present Value (NPV) of

the projected Availability Payments of \$170 million was approved by the Board as a project “Affordability Ceiling” and specified in the RFP. Proposals in response to the RFP that exceed that ceiling will be deemed unacceptable.

County Counsel has proposed revisions to the current master Funding Agreement between the County and the State to reflect the P3 approach and also drafted the next phase agreement which will cover the P3 procurement phase as well as the design-build phase with the selected Project Company. Those draft agreements were provided to the state on July 13, 2021 and we are awaiting their response.

STRATEGIC PLAN ALIGNMENT:

- Build a new County courthouse
 - Build public trust through good government
 - Grow a vibrant economy
 - Build a strong infrastructure

LEGAL/POLICY REQUIREMENTS: The Project RFQ, RFP, Project Agreement and Funding Agreement are all being produced and approved by County counsel, State DOJ and outside legal counsel

PUBLIC/GOVERNMENTAL PARTICIPATION: County Public & Government Affairs (PGA) is leading the public and governmental participation efforts as key members of the Project TAT.

OPTIONS: N/A

RECOMMENDATION: N/A

ATTACHMENTS:

- Notice of Intent to Award/Competitive Range
- Summary of Three Finalist Project Companies

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval *GBarth*

County Administrator Approval _____

For information on this issue, please contact Gary Barth, Courthouse Project Manager, gbarth@clackamas.us
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Department of Finance

Elizabeth Comfort
Finance Director

Procurement & Contracting Services

Public Services Building
2051 Kaen Road, Oregon City, OR 97045

NOTICE OF INTENT TO AWARD/COMPETITIVE RANGE

DATE: September 3, 2021

REQUEST FOR QUALIFICATIONS #: 2021-35

TITLE: Public-Private-Partnership to Design-Build-Partially Finance-Operate-Maintain the New Clackamas County Courthouse

PROPOSERS SELECTED TO RECEIVE THE Request for Proposals (“RFP”):

- Fengate PCL Progress Partners
- Plenary Justice Red Soils
- Red Soils Justice Partners- Balfour Beatty

Clackamas County (“County”) received eight (8) submittals to the above referenced Request for Qualifications. In accordance with Local Contract Review Board Rules C-049-0645 and C-049-0450, and as a result of the evaluation, the County has determined a competitive range of the top scoring Statement of Qualifications (“SOQ”) to continue with the next steps of selection and receive the Request for Proposals.

Attached is the scoring summary of the received SOQs.

This Notice of Competitive Range starts the seven (7) calendar day period in which an unsuccessful proposer may file a protest in accordance with Rules C-049-0645 and C-049-0450(5). Unsuccessful proposers may review the procurement file at the above Oregon City address upon appointment. Due to current COVID-19 restrictions, any protest must be in writing, be in accordance with Rules C-049-0645 and C-049-0450(5), and must be delivered by email to the below address.

Ryan Rice
rrice@clackamas.us

Clackamas County appreciates the time and effort by proposers to submit for this solicitation and looks forward to receiving other proposals in the future. Please contact Ryan Rice if you have any questions.

Ryan Rice
Clackamas County Procurement



Department of Finance

Elizabeth Comfort
Finance Director

Procurement & Contracting Services

Public Services Building
2051 Kaen Road, Oregon City, OR 97045

RFQ # 2021-35
Evaluation Scores Averages

Firm	General Qualifications (0-10 Points)	Design Qualifications and Experience (0-25 Points)	Construction Qualifications and Experience (0-20 Points)	Facilities Management Qualifications and Experience (0-20 Points)	Project Financing Qualifications and Experience (0-15 Points)	Project Understanding and Approach (0-10 Points)	Total Average (0-100 Points)
Red Soils Justice Partners- Balfour Beatty	8	20	17.80	14.80	12	8	80.60
EllisDon Griffin / Swinerton	7.80	19.80	16.80	15.40	10.40	7.80	78.00
Fengate PCL Progress Partners	8.40	21	18.20	17	15	9	88.60
Clackamas Judicial Partners	6.60	20.20	13	9.40	10	7.20	66.40
Clackamas County Courthouse Ventures (C3V)	5	17.20	13.60	8.40	5	5.40	54.60
Plenary Justice Red Soils	8.60	20.60	16.80	18.80	15	8.80	88.60
Clackamas Judicial Partners- Star America	4.80	13	11.60	9.60	7.80	5	51.80
Red Soils Justice Partners- Meridiam	6	14.60	11	13.80	9.60	7.20	62.20

TEAM MEMBERS

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Respondent Team Lead Firm:	Plenary Americas US Holdings Inc.
Project Company:	Plenary Justice Red Soils LLC
Equity Sponsor:	Plenary Americas US Holdings Inc.
Lead Design Firm:	HOK Architects Inc. SRG Partnership Inc. (Local Design Firm)
Lead Construction Firm:	Gilbane Building Company Andersen Construction Company
Facilities Management Firm:	Johnson Controls Inc.

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- Respondent Team Lead Firm: Fengate Capital Management Ltd. and PCL Investments Inc.
- Project Company: Fengate PCL Progress Partners
- Equity Sponsor: Fengate Capital Management Ltd. and PCL Investments Inc.
- Lead Design Firm: DLR Group Inc.
- Lead Construction Firm: PCL Construction
- Facilities Management Firm: Honeywell

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Respondent Team Lead Firm:	Balfour Beatty Investments, Inc.
Project Company:	Red Soils Justice Partners, LLC
Equity Sponsor:	Balfour Beatty Investments, Inc.
Lead Design Firm:	Gensler Architecture, Design and Planning, P.C. IBI Group Architects (USA), Inc.
Lead Construction Firm:	Balfour Beatty Construction, LLC, d/b/a Howard S. Wright
Facilities Management Firm:	Balfour Beatty Investments, Inc. and CLS, LLC, d/b/a Black & McDonald

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