

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: N/A

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

No action required. Information Only.

EXECUTIVE SUMMARY:

As noted at our last project update, three Project Companies have advanced to the Request for Proposals (RFP) phase of the courthouse project. They are:

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

These three Project Companies were issued a draft RFP and a draft Project Agreement (PA) 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

The project remains on schedule. On October 26th, 27th and 28th the county hosted the first of three rounds of all-day, in-person meetings with the Project Teams. County and state staff were assisted in these meetings by our P3 legal, financial and technical consultants. The purpose of these meetings is to ensure that the county and state requirements contained in the draft RFP and draft PA are clearly understood by the respective Project Teams as they develop their proposals and to make any revisions to the draft RFP or PA that would result in a final RFP and PA that provides the greatest value to the county and the state. Two more rounds of in-person meetings are scheduled as proposals are further developed and refined. The final RFP and PA will be issued to each Project Team following the final round of meetings.

These project update sessions are intended to provide the Board with timely information and answer any questions and address any concerns the Board may have as the project progresses through 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 have been advised that they will provide their responses to the draft agreements by early November.

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: N/A

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