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COUNTY OF ALAMEDA

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September 23, 2011

Brad Hill, Presiding Justice
Court of Appeal, Fifth District
Chair, Court Facilities Working Group

Justice Hill:

Attached for your consideration is the response to your information request regarding our Court facility project which is funded by SB1407.

This project will benefit the Court and the entire legal community. Significant time and resources have been expended on this project. All of which will be lost if the project is delayed or canceled. Moreover, it is not likely that the land donation, included as part of this project, will be available in the future.

This project is nearly ready to break ground and is fully funded through a cooperative agreement between the Court, County and the State.

Please contact us if you have any questions or if we can be of any assistance.

Sincerely,

Pat Sweeten
Executive Officer

Attachments:

c: Jon R. Rolefson, Presiding Judge
Adrienne Forshay, Assistant Executive Officer

EAST COUNTY HALL OF JUSTICE ALAMEDA SUPERIOR COURT

INTRODUCTION

The new Alameda East County Hall of Justice (“ECHOJ”), in the City of Dublin, will provide one traffic and twelve criminal courtrooms, in a five-story building courthouse. The ECHOJ will connect to a two-story County building via a shared elevator lobby/atrium space. The current Total Project cost estimate is \$139.883 million, of which \$110.078 million is attributable to the State portion of (“ECHOJ”). All parties agree that the State/Court parties will assume responsibility for 80% of costs, and the County will assume responsibility for 20% of costs.

The County of Alameda (“County”) plans to deliver using the design build value methodology.¹ The Project will be managed by the County of Alameda General Services Agency (“GSA”) with participation by the Administrative Office of the Courts (“AOC”) and the Alameda County Superior Court (“Court”). The construction completion date is projected to be June 30, 2014.

The ECHOJ project is critical on many levels as follows:

- The ECHOJ will replace six courtrooms at the Gale Schenone Hall of Justice located in the City of Pleasanton. The Gale Schenone Hall of Justice is a leased facility.
- The ECHOJ will also replace seven courtrooms formerly located in the Allen E. Brossard Courthouse (“AEB Facility”) in the City of Oakland which was vacated due to severe damage in July 2007. The AEB Facility was rendered uninhabitable at that time. The Superior Court was forced to find alternative space for seven courtrooms and support staff, including a clerk’s office and file space in a very short timeframe. Much of this space is substandard and/or overcrowded. For example, one replacement courtroom has a large column in the middle of the room; the judicial officer cannot view all of the participants or audience members.

¹ There are distinct advantages to using a design-build contract.

- *Time savings.* By overlapping design and construction, and by potentially reducing conflicts between designer and builder, a design-build project can usually be delivered faster than the design-bid-build approach.
- *Cost savings.* With the "stipulated price" method of implementing a design-build project, an entity has the best certainty of the cost of the building at the outset of the Project. This is because the agency specifies the amount that it is willing to pay for a building before it solicits proposals from design-build contractors for the configuration, features, and materials.
- *Builder involved in design process.* The contractor is involved from the beginning of design process and can provide observations on construction materials and methods that can make the design more efficient and less costly to build.

- The completion of the ECHOJ Project will benefit Court operations throughout the County. It will enable the Court to re-engineer operations and centralize/consolidate case-types by court location countywide, creating efficiencies for the Court and county justice partners. In addition, it will allow the Court to create a one-stop shop for family law litigants.
- Donation of the land by the County of Alameda for the courthouse and related parking is an economic opportunity to the Project. The State and Court will not have this opportunity again.
- In addition to the \$50 million state contribution which was appropriated and transferred in the FY 2010-2011 budget, the Court and County have set aside about \$22.5 million to dedicate to the Project. The County will issue bonds for the remaining amount (\$37 million) and on-going sources of revenue have been identified for purposes of the debt service.
- The operations and maintenance (O&M) cost for the ECHOJ, once occupied, will be covered through the O&M portion of the lease payment of the Gail Schenone Hall of Justice and the County Facility Payments from AEB. That amount is about \$1.2 million annually.
- The current economic climate will benefit this project and additionally create jobs in this region.

The bridging documents are close to completion and requests for proposals from pre-qualified design-build contractors could be solicited as early as January 2012. The ECHOJ project is very close to being “shovel ready”. The Project is fully financed through a solid partnership with the County and will benefit the local justice system and the judicial branch.

PROJECT HISTORY

Many entities, including the Alameda County Board of Supervisors, the City of Dublin, the AOC, the County, and the Courts have expended significant time and resources moving the ECHOJ forward. If the Project is cancelled or delayed, many of the approvals, actions and efforts will be rendered null and void.

On November 30, 2004, the Alameda County Board of Supervisors approved an agreement with the City of Dublin to fund infrastructure improvements and accepted the City’s Conditions of Approval related to the Site Development Review (“SDR”) for the ECHOJ. Two times extensions were granted by the City that were due to expire in May 2009. On April 19, 2005, the Board authorized the assignment of the primary architectural and engineering services contract to Muller and Caulfield Architects (“M&C”) to complete bridging documents.

Unfortunately by the time the bridging documents were complete, it was determined that the Project had become too expensive to build primarily due to the increased cost of materials and labor.

In June 2008, The Court commissioned KMD Architects to value engineer the previous design which resulted in a more affordable facility.

The new design preserves both the entitlements and architectural program of the original 2004 approved SDR design, but in a more compact building.

On December 8, 2009, the Board of Supervisors accepted and certified the Environmental Impact Report/Statement (“EIR/S”) addendum, re-certified the ERI/S and approved a non-binding Term sheet for the development for the ECHOJ.

At its December 15, 2009 meeting, the Dublin City Council adopted two resolutions: one to certify that the City Council reviewed and considered the EIR/S addendum to the previously 2003 EIR/S for the ECHOJ, and the other to approve the SDR amendment and associated Agreement between the City of Dublin and the County regarding the enforcement of the conditions of approval for this updated design of ECHOJ.

Under the agreement, the County agreed to pay approximately \$3,309,131 to satisfy the City of Dublin’s request for Traffic Improvement Fees (TIF). The County, at its discretion, will use Surplus Property Section II TIF Section I Credits (as to Section I TIFs), a reduction in the Surplus Property Authority’s Section II loan to the City of Dublin (as to Section I TIFs), and/or cash to meet these obligations. The County will also pay the City approximately \$995,200 for the Tri-Valley Transportation Development (TVTD Fee, the Pleasanton Interchange Fee, and the Fire Facilities Fee.

Also, under the agreement, The Conditions of Approval have been modified to remove any obligation that the County would have to construct certain traffic improvements required by the EIR. In addition, the City waived its Public Facilities Fee and Noise Mitigation Fee (estimated to be approximately \$801,858).

In November of 2009, after a detailed presentation by the AOC and KMD architects, the schematic and site designs were approved by the Dublin City Council. The City also approved City permits which expire December 2011. The County is moving for an eighteen month extension of these permits.

FINANCING

There are significant financial advantages to initiating the Project now. The parties have agreed to a financial proposal that is a substantial economic opportunity to the State. The County is contributing land, selling bonds and managing the Project. The Court is allocating its civil assessments. This project does not require any State fiscal allocations for FY11/12 or thereafter.

Donation of land. Donation of land for the courthouse and parking is an essential economic opportunity to the Project that was agreed to initially, affirmed as a condition of the approval of the Project by the Judicial Council in August 2008, is included in the non-binding terms and principals approved by the County Board of Supervisors, and is documented in the state's Capital Outlay budget Change Proposal (COBCP), approved by the Legislature for \$50 million funding in FY2010-11.

\$50 million state contribution. The State is contributing \$50 million (SB1407 monies) of the State's portion of \$110.078. This money has been transferred by Department of Finance to the DFARF pending execution of the DDA, LPA and associated documents. No further financing from the State is required.

Civil Assessments. The Court is allocating \$11.5 million in civil assessments to the Project. The Court will also allocate \$2 million in civil assessment per year for the term of the debt.

Gale Schenone Court Facilities Payment. The Judicial Council has agreed to allocate the rent portion of the Gale Schenone court facilities payment towards the new courthouse's lease payment for a total of \$903,000 per year for the term of the lease.

County Bonds. The County has agreed to sell bonds to fund the design/build contractor/construction phase and provide project management and construction management services.

Contribution of Courthouse Construction Fund and Future Revenues. The County of Alameda used the local courthouse construction fund balance of \$10.9 million along with future revenues.

FINANCIAL EXPENDITURES

There will be substantial financial losses to the Alameda County Superior Court and the County of Alameda if the ECHOJ is delayed or canceled. Almost \$6 million has been spent on the ECHOJ Project. (See Exh. A.) If the Project was delayed or canceled, many of these expenses could not be recouped and some would have to be paid again if the Project was reinvigorated.

- The current contract with KMD is for \$2.86 million. If the Project is delayed, schematic drawings have a limited shelf life and would most likely need to be recreated.
- An EIR/S has been completed on the site at the cost of \$250,000. As discussed below, if the Project is delayed the EIR/S could be placed in jeopardy at great expense to the parties.
- The Court has paid counsel \$300K to represent its interests in the negotiations with the County. If the Project was delayed, the parties would have to revise agreements and the Court would incur additional attorney's fees.

- The County has entered into a contract with Swinerton Management and Consulting for \$1.9 million. Swinerton will provide services throughout the Project including administrative support, bridging document and cost estimate reviews, and assist in the management of the Design/Build (D/B) process, schedule management and close-out support and commission.

PROJECT CONCEPT

The ECHOJ brings the most value to the County, its citizens, and the Court. Over time, as the addition of remote and separate court facilities became necessary, there has been a loss in the overall operational efficiency of the Alameda County Superior Court system. As would be expected, operational costs rise as efficiency decreased. Some of the sacrifices and challenges created by separate facilities that will be reconciled by consolidated case types include: communication efficiencies; security efficiencies related to public screening and transfer of detainees; and, staffing efficiencies.

1. *Centralization of felony matters.* Since the courts of Alameda’s jurisdiction began in 1853 with a single building, the functions and identity have become fractured into eight locations. Access to courthouse services will be improved because South County felonies will be consolidated in the ECHOJ; they are currently heard in two court locations – Hayward Hall of Justice and the Fremont Hall of Justice.
2. *Improvement of Security.* The design of ECHOJ will provide optimal courthouse security – a balance between architectural solutions, allocation of security personnel, and installation of security systems and equipment.

At this time, many of the Alameda County Superior Court’s gang-related and other high-security cases are tried in the Rene C. Davidson Courthouse (RCD), Hayward Hall of Justice, and Fremont Hall of Justice. For obvious reasons, the Court does not want to publish reasons for the vulnerability of its courthouses.

- **Public Safety:** All patrons entering the facility through the single public entrance will be screened, and packages x-rayed. There will be a single secure detainee sally port, holding and circulation that eliminates potentially dangerous detainee interaction with the public.
- **Judiciary Security:** The personal safety of the judicial officers is of vital concern. The design provides physically and visually secure parking for all judges leading directly to their chambers. In addition, the design provides continual security/separation of the judges from the public while circulating to and from their respective chambers as well as courtrooms.
- **Detainee Safety:** The design provides for the required separation of male, female and juvenile detainees, thereby minimizing the potential for unwanted interaction between them. The state-of-the-art electronic security system will provide 100% digital video-recording of detainee while within the ECHOJ.

3. *Coordination of County/Court Services.* The ECHOJ is a combination of courthouse and administrative/county functions. The ECHOJ will provide thirteen courtrooms. The County building will provide offices for Probation, the District Attorney's Office and the Public Defender's Office. It will be operationally efficient to have these administrative offices associated with the courtrooms.
4. *Proximity to Santa Rita Jail.* The proximity of the ECHOJ to the Santa Rita Jail will help maximize efficiency for the Sheriff's Office, judges, staff and the public. At this time, the Sheriff's Office transports inmates on major California highways, so that the inmates can appear for their hearings. After ECHOJ is built, the Sheriff's Office will transport fewer inmates on the freeways because many will be appearing in ECHOJ which is a short distance from the Santa Rita Jail (across the street). Also, judges, staff, attorneys, families, witnesses, victims, and individual citizens won't be waiting for inmates who are stuck in traffic.
5. *Office of Information and Technology (OIT).* The County of Alameda, AOC, and the Alameda County Superior Court approved an agreement for the Edgewater ITD Facility which houses the Court's Office of Information and Technology. The Edgewater Facility space will be accommodated at the new ECHOJ, which has been factored into the approved program square footage and cost estimate of the courthouse. The ECHOJ will accommodate the entire OIT office, including equipment. The addition of the OIT at the new courthouse was authorized in budget year 2010-2011. The inclusion of these facilities warranted designing the building to a higher level of safety to protect the vital information technology infrastructure of the Superior Court.

The Court will save \$420K annually after OIT moves to ECHOJ due to the servers being consolidated in that facility. Currently, the Court leases space from the County to house the Court's servers.

INVESTMENT OF RESOURCES

Providing the ECHOJ is a complex undertaking that requires multiple entities with specialized skills working in concert for the ultimate goal. The Court, County of Alameda ("County"), AOC, Dublin City Council, Alameda County Board of Supervisors and others have expended a significant amount of time and resources moving this project forward. (For example, see Milestone Schedule, Exh. B.) If the project was delayed, many of the approvals and agreements that the parties and entities have entered into would be rendered null and void.

Negotiation Meetings. Regular negotiation meetings with the County, AOC, and Court have been ongoing for over three years, and continue for the purpose of establishing the Development Disposition Agreement (“DDA”), Lease Purchase Agreement (“LPA”), and other documents necessary for the execution of the Project, occupancy by the Court, and transfer of title when the debt is retired. The DDA is almost complete and ready to be agreed to by all parties. The LPA is approximately 50 percent complete.

EIR/S. If the Project is delayed a significant amount of time and certain factors change, such as the design, the EIR/S could be placed in jeopardy. The parties would be placed in the unlikely position of expending financial resources and staff time in obtaining a supplemental or subsequent EIR.

Bridging Document. Bridging documents are almost 65% complete and will be 100% finished by December 2011. A delay in this Project will impair the approval of the drawings and specifications due to the fact that they have a limited shelf life.

Request for Proposals/Design-Builder. In January 2012, the County will issue Request for Proposals to pre-qualified design-builders. The design-bid proposals are due in March 2012. The following month, April, the Court, State and County will receive and evaluate the design-bid proposals, conduct interviews and negotiate an agreement with the design-builder. In May 2012, the design-builder will be recommended into County Board of Supervisors for an award.

Construction. Construction on the ECHOJ should be completed by August 2014 (depending on the design-builder’s schedule). The Court should move in September and October 2014.

CONCLUSION

In sum, the East County Hall of Justice is critical for many reasons to the Superior Court, County of Alameda and the residents of Alameda and therefore should move forward as scheduled.

First, the ECHOJ will replace two buildings: a courthouse that was rendered uninhabitable and also a leased facility.

Second, in addition to the \$50 million that the State has contributed, the parties have agreed to a financial arrangement that is a substantial economic opportunity to the State, including the County’s donation of land, the County’s agreement to issues bonds, and the contribution of \$22.5 million in funds that the Court and County have set aside.

Third, this project is almost “shovel ready”. Bridging documents are 65% complete and will be 100% complete in December 2011. In a few months, the County intends to issue Request for Proposals to pre-qualified design-builders. Construction is expected to be completed in August 2014 and judicial officers and staff should move into ECHOJ around September and October 2014.

Fourth, the ECHOJ brings many operational efficiencies, such as centralization of felony matters and improvement of security.

Lastly, since this project is almost ready for construction, there will be a significant financial loss of the significant amount of funds spent to date by the Superior Court and the County of Alameda if the ECHOJ Project is cancelled or delayed.

ECHOJ - Current Estimated - Financial Commitments

Services	Fund	Amount	Notes
1 Bridging - KMD Contract	CCF	\$ 2,862,000	Current contract
2 Site Development Study -KMD Contract	CCF	\$ 305,000	Completed
3 CM Contract - Swinerton Contract	CCF	\$ 1,929,000	Current contract
4 GeoTech Services	CCF	\$ 78,000	Completed
5 County PM Services - GSA	CCF	\$ 150,000	up-to-date
6 EIR Amendment	CCF	\$ 250,000	Completed
7 Plan Review City of Dublin	CCF	\$ 25,000	Current contract
8			
9 Total - Project		\$ 5,599,000	
10 Current Estimated Share - Financial Commitments			
11 County Share		\$ 1,119,800	20%
12 Court/State Share	CCF	\$ 4,479,200	80%

Up-to-Date - ECHOJ - Court's Total Expenditures (CCFs are at 80% Share)

1 DDA & LPA - Attorney Fees	Court General Fund	\$ 300,314	Current Contract
2 Parking Study - Walker Parking Consultants	Court General Fund	\$ 7,672	Current Contract
3 Feasibility Study - KMD	Court General Fund	\$ 13,700	Completed
4 Bridging Documents - HLM, Muller & Caulfield and URS	CCF	\$ 4,800,000	Court's 80% share (Jun 2000- Jun2009)
5 Bridging Documents	CCF	\$ 800,000	Court's 80% share (Jun 2009 - Aug 2011)
4	Total	\$ 5,921,686	

Savings to the Court

1 OIT - Server Consolidation \$ 420,000 Rent paid to the county/yr

EXHIBIT B

East County Hall of Justice (ECHOJ) project

September 23, 2011

1) **MILESTONE SCHEDULE (approvals in BOLD):**

June 21, 2011	Program Re-verification Approval by AOC, Court and County
Oct. 2011	Complete 65% Bridging design review and reconciled budget approval
Nov 2011	Obtain Dublin City Council approval for 18 month time extension
Dec. 2011	Complete 100% Bridging design review and budget approval
Jan. 2012	Issue RFP to pre-qualified Design-Builders (D-B)
Mar. 2012	D-B proposals due
Apr. 2012	Receive and evaluate D-B proposals and conduct interviews; negotiate agreement w/D-B
May 2012	Recommend D-B to BOS for award
Aug. 2012	50% Construction document approval (depending on D-Bs schedule)
Dec. 2012	100% Construction document approval (depending on D-Bs schedule)
Aug. 2014	Complete construction (depending on D-Bs schedule)
Sept./Oct 2014	Move -in

