

Superior Court State of California



GARY NADLER
PRESIDING JUDGE
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COUNTY OF SONOMA
HALL OF JUSTICE
600 ADMINISTRATION DRIVE
SANTA ROSA, CA 95403

September 22, 2011

Brad R. Hill, Presiding Justice
Chair, Court Facilities Working Group
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102

RE: Sonoma County: New Santa Rosa Criminal Courthouse
SB 1407 Capital Project

Dear Justice Hill and Committee Members:

The Sonoma County Superior Court appreciates the opportunity to address the unique needs of the above referenced project. Sonoma urges sufficient funding to (1) complete site acquisition, and (2) to proceed with preliminary plans. Any delay in proceeding with this phase subjects Sonoma County citizens, the judiciary, and court staff to an unacceptable security risk and will result in an escalation of cost that would be difficult to justify.

The Superior Court and the AOC, in conjunction with the County of Sonoma, has engaged in an arduous process, spanning several years, to arrive at the current project phase. As will be addressed below, a failure to proceed with site acquisition and preliminary plans would result in substantial financial waste, probable elimination of the project as currently envisioned, and would subject all court users to a continuing and substantial security risk.

Our Court is literally on the verge of approval for site acquisition by the PWB. The project is calendared for site acquisition of the courthouse lot approval in October, 2011; the remaining parking sites are expected to be approved in December, 2011. After two long years of site selection, negotiations, and County of Sonoma removal of existing buildings and utilities, taxpayers have made a major investment to facilitate this project to move forward. If the project were delayed now, the funds expended by the County to ready the site for the courthouse would be a significant loss of funds that could have been directed to meet other County obligations. The consequences to the County, if the ultimate courthouse location is offsite of the County complex, amounts to the loss of millions of dollars in permanent future costs associated with prisoner

movement. Likewise, the significant economic investment through the AOC relative to this site could constitute public waste.

Most important, delay here equates to a loss of the opportunity to proceed on the County site, and would result in reversion to the site selection process outside of the County administrative complex. The consequences go well beyond the lost opportunity, as significant safety implications caused by delayed action are untenable. The existing Sonoma County Hall of Justice is ranked as an immediate priority for constructing a new courthouse; it ranks in the worst category (Category 5) for security; it ranks in the worst category (Category 5) for physical condition. The immediate safety concerns are compelling.

I.
EXECUTIVE SUMMARY

The following describes (1) that a delay will result in an inability to proceed with the negotiated agreement between the County of Sonoma and the AOC on behalf of the Sonoma County Superior Court; (2) that any such delay will result in the loss of significant out-of-pocket expenditures by the County of Sonoma; (3) that the AOC has expended significant project costs as to the subject County site, all of which would need to be refunded, and the previous expenditures would be lost; (4) that delay will result in continuing and substantial economic cost to the County of Sonoma and taxpayers; (5) that delay will increase the likelihood of injury or death to citizens, including the judicial officers, court staff, and public citizens using the current Hall of Justice. These safety concerns are described in detail below.

II.
ANY DELAY WOULD LIKELY RESULT IN THE INABILITY TO PROCEED WITH THE PROJECT AS NEGOTIATED

The Sonoma County Superior Court, working closely with the AOC, engaged in protracted negotiations with the County of Sonoma officials over purchase terms. Over the course of years, a once acrimonious relationship was transformed into a collaborative process, resulting in an agreement as to terms of the purchase. As shown below, the agreement includes the County vacating one of its operational sites to accommodate the new courthouse parking. Months were devoted to arriving at a timeline for the County relocating its current operations, which in turn, was predicated on the availability of certain real estate options. Without this site, there can be no criminal courthouse located on County property. In good faith, the County incurred considerable expense, which would potentially be lost. The Superior Court, along with the AOC, has devoted years to arrive at this complex agreement, all defined by a mutually acceptable timeline. Without purchase, the timeline agreement would be rendered useless and the negotiations would be a waste of time and resources.

A. Loss of Building Site

Considering the special and geographical requirements of the new courthouse, there is only one site acceptable for the new courthouse: the “old jail site” adjacent to the HOJ. However, the square footage of this site, although sufficient to accommodate the building site, is

insufficient to support adequate and project-funded parking for the new courthouse. As such, negotiations resulted in agreements for adjacent and nearby parking areas. The aggregation of the different parcels to facilitate the court project was driven by the need to provide a parking scheme that would enhance the customer convenience and optimize court functionality. A necessary requirement of the AOC and court was the inclusion in the offer of the “Fleet Property” which is across the street from the proposed courthouse site. Losing the adjoining parcels proposed for parking would render the entire project unworkable.

The County of Sonoma, it should be noted, was extremely reluctant to offer what has been referred to as the “Fleet Property” for use by the Court. However, the County ultimately acquiesced and reached agreement for the sale of this lot, subject to a complicated agreement which allows the County to locate to another acceptable site, along with an agreement to vacate by a date certain. The County, prior to reaching this agreement, investigated the availability of alternate sites. Should site acquisition not proceed, it is uncertain what, if any, sites may be available to the Court. The Sonoma County Superior Court has considerable concern as to whether, should the agreement not proceed, it would *ever* be feasible to construct on a County location.

The agreement with the anticipated acquisition timeframe involved substantial market price reductions and inclusion of additional county property for parking and possible expansion for court operations. Failure to proceed as anticipated will lead to the loss of these considerable opportunities. Additionally, any delays in completing the acquisition for the “Fleet Property” will result in higher relocation costs and escalating property and construction costs for the County.

Future changes in the County’s Master Plan may restrict the Court’s ability to secure additional land for building the immediate adjoining parking lots that will serve the courthouse. The Master Plan was modified to accommodate the courthouse project. Further, the project presently is supported by the Sonoma County Board of Supervisors, the County Administrative Officer, and the public.¹ A delay in acquisition also compromises the complex terms of the agreement, as 40% of the Board of Supervisors are anticipated to retire and be replaced in 2012.

All the effort, energy, synergy, momentum, and expenditures would be lost if this project is not approved to proceed.

In addition to the foregoing, the County of Sonoma, relying on the good faith of the AOC and the Superior Court, modified its Master Plan. Proceedings would need to be initiated to again modify this Master Plan considering the lost opportunity.

B. Potential Economic Loss

In *addition to* the loss described above, the County of Sonoma and the public would incur a dramatic financial loss. To date, the County has expended \$7.6 million to ready the new courthouse site and accommodate the asserted needs of the AOC. These expenditures have been undertaken in good faith, with the understanding that this project would proceed as to the County

¹ Not a single negative comment was submitted or stated in connection with the CEQA process.

site. The attached Exhibit 1 describes the components of these costs. Also noted are the projected opportunity loss and cost to the County of Sonoma and Superior Court.

A tangential, but still important consideration is that delaying acquisition and potentially subsequent construction phases will represent a loss to our community of infusion of funds for construction during high unemployment cycles.²

C. Security Concerns

The Hall of Justice is, simply put, an accident and catastrophe waiting to happen.

The existing Hall of Justice (“HOJ”) is the single building in which criminal matters may be heard in Sonoma County.³ The HOJ is a large, two-story building constructed in 1962, and which is located adjacent to the county jail within the county administrative complex. It currently has 15 courtrooms—two of which are located in the attached jail. The HOJ is shared with the County of Sonoma—at approximately 58 percent occupancy of the total building square footage—for County offices including the District Attorney, the Public Defender, and the Probation Department.

Upon its completion in 1962, due to the rapid expansion of the County’s population, additional courtrooms were added on to the building on a piecemeal basis. The original design of the building included unsecured access to court clerks and justice partners such as the Public Defender. The courtrooms added over the years were designed without any security. Thus, the *entire* first floor of the HOJ is unsecure and cannot be security screened; it is entirely open to the public. Even as to the second floor, obvious and unacceptable security concerns exist which expose judicial officers, court staff, in custody defendants, and the public at large to serious potential consequences.

In light of the Criminal Justice Realignment Act, our County justice system anticipates 600 additional defendants that historically would have been housed and dealt with at the State Prison level. Without an appropriate and secure courthouse, this projected increase in level of court activity will further deteriorate the inadequate security conditions that currently exist.

As to the entire HOJ, security concerns include the following:

- 1) Department #14 (Traffic): No security screening; completely accessible to the public

This existing courtroom is located on the perimeter of the HOJ, nearby the outside (unsecured) parking lot utilized by judicial officers. There is no screening, and the courtroom is completely accessible to the public. The judicial officer and staff are located immediately

² Sonoma County continues to experience double digit unemployment, current 10%.

³ Civil matters are heard in leased facilities as to which criminal matters are excluded under the lease terms, and which contain no security measures to accommodate criminal matters.

adjacent to the outside door access, and there is almost no security perimeter between the judicial officer and courtroom attendees.

Due to the nature of the traffic proceedings, and security cost involved, separate screening is impractical. Traffic courtrooms are high volume and recognized as the most likely place for the public to have contact with California's government other than schools. As noted in the Judicial Council's Report on Procedural Fairness, litigants who are involved in traffic matters come into crowded courtrooms and inevitably have to wait a while to resolve their case. As the California State Legislature increases traffic penalties, people are likely to come into court to fight traffic penalties, thus increasing the level of frustration, indignation, anger in traffic courtrooms, and security risks for everyone involved.



The proximity of the exit/entrance door creates a hazard, particularly in light of the lack of security screening. Here, the judicial officer's bench is immediately to the right of the witness podium. The door opens to an open area adjacent to the judicial officers' parking lot, which is itself completely accessible to the public.



View of the exit/entrance to the traffic department from the judicial officer's bench.

2) No security screening is available for the entire ground floor of the HOJ

The HOJ was designed as a rectangle, with an open courtyard in the middle and open access from the outside. In addition to the traffic department described above, court clerk staff and administrative personnel occupy approximately half of the office space on the first floor. The jury assembly room is also located on the first floor. There is no screening whatsoever, and unfettered access by the public. The current and unrestricted access to the unsecured common areas requires that victims, witnesses, defendants, and staff move within the same and unsecured space. In addition other criminal justice partners are housed within or in adjoining space of the Hall of Justice building. The District Attorney, Public Defender and Probation staff all utilizes the same areas making circulation and movement within the area a challenge and security risk.

The adjacent jail facility, in which a criminal law department was added years ago, requires additional security staffing since this felony department is on the first floor and opens directly to the outside, with no additional barriers. Additional Sheriff Deputies are required in the courtroom to minimize the potential escapes of in-custody prisoners and provide security to the courtroom staff, including the Judge, from the potential escape or influx of the general public who have free access to this courtroom.

This design allows everyone to enter freely without any weapons screening from three public entrances (public passages) and into the public courtyard.



First floor felony department, facing the entrance from the public courtyard. The current jail is pictured on the right. Only wand screening is possible, when available due to security limitations.



The courtyard is open on multiple sides, allowing unfettered and unsecure public access. Two of the criminal courtrooms may be accessed from the outside, or through this courtyard area. This courtyard is accessed from three sides by the general public.



Long lines for those waiting to go through screening for the second floor of the HOJ.



Lines wrapping around the hallway for those waiting to enter the traffic clerk's office on the first floor. There is no security whatsoever.

3) Prisoner transport from jail through public corridors to courtrooms

Although the jail is “attached” to the HOJ, it was not designed to accommodate female prisoners, who must be transported chained through the public hallways to each courtroom. The female prisoner groups are told to wait in front of each courtroom, while the deputy unchains those that are scheduled in a particular courtroom or delivery to the courtroom guard. This group of female prisoners is taken through the public who are attending the courthouse.

In addition to all females, males that are security risks are transported past and through the public in the same manner, usually in wheelchairs. This may include such inmates as “keep

aways” that are volatile, gang members, and mental health risks. The Sheriff transports 100 inmates to court per day on average. Forty percent of those inmates are hand-offs and cannot mix together. The holding cell capacity is approximately 76. However, several of the cells have a capacity of 8. Rarely are there 8 inmates that can be placed in the same location. Most inmates require complete separation. Thus, many inmates are typically left in jail locations, and transported at the last minute for court. This creates substantial delays for the courts.

Inmates that are transported through the corridors of the courthouse present public safety issues, officer safety issues, and safety concerns for the inmates themselves.



Female and high risk inmates are transported from a “portal” connecting from the jail. The wheelchairs used for transport, and all female prisoners, are transported through the public hallways. This is the view from the jail portal to the first hallway, which is typically crowded with attorneys, out of custody defendants, and members of the public.

Sonoma County Sheriff figures for FY 2010-2011 reveal the following:

Total in-custody court appearances		24,562
Total County jail bookings		17,904
Felonies	5,858	
Misdemeanors	9,135	
Civil	62	



The prisoners are transported to each courtroom throughout the HOJ, past the public. Concerns about gang affiliation, mental health issues, and violent propensities are always present, particularly with limited Sheriff security resources.



The front of a wheelchair being used for prisoner transport can be seen through the crowd. The proximity of the public creates a continuing security concern.

4) Prisoner transport through judge and staff “secure” hallway

Due to the lack of prisoner transportation and holding cells, in-custody prisoners must be transported through a hallway that is used by judicial officers to go from chambers to courtrooms, past staff walking from office to office or making copies in the hallway (due to lack of space), and sometimes *through* an employee office to be taken to a courtroom. This includes both misdemeanants and felons, accused and convicted. During such times, judicial officers are told to flatten against the hallway wall in order to allow the prisoner and guard to pass.



Prisoners must be transported through the same hallway used by judicial officers to enter courtrooms, and by court staff to perform their functions. Here, a prisoner is taken through the hallway to the courtroom for a hearing.



To access the courtroom in which the hearing is being held, the prisoner must be taken through a clerk's office to the rear door of the courtroom of this department. The route also passes the judicial chambers associated with this courtroom.

5) Prisoner transport from holding cell to courtroom through court staff hallway

As to two of the misdemeanor departments, prisoners must be transported between these departments through a busy court hallway through which court staff consistently pass. There is no security whatsoever. This hallway is located immediately adjacent to several judicial chambers.



The prisoner has been transported past a court employee, across the court hall, to the courtroom in which the hearing is being held.



The employees must “freeze” to allow passage of the prisoner past them.

6) Lack of secure access for judges to chambers: Departments 1 through 4

In these four larger courtrooms, judicial officers have no access to chambers *other than* through the public hallway. Thus, a judicial officer must wade through the public, who may have just witnessed a high security sentencing, a gang case, a murder, or any high tension matter. Judges have had to “flee” through family of defendants and victims who are at the height of emotion, and former inmates who were released and were just “observing” the proceedings.



In one section of the HOJ, in which the more serious felonies are assigned, judges must access chambers through the public hallways. The chambers doors are adjacent to the courtroom entrance.

Often, judges must exit chambers into the public hallway, past prisoners being transported, families of sentenced defendants, and gang-related witnesses and associated public members.

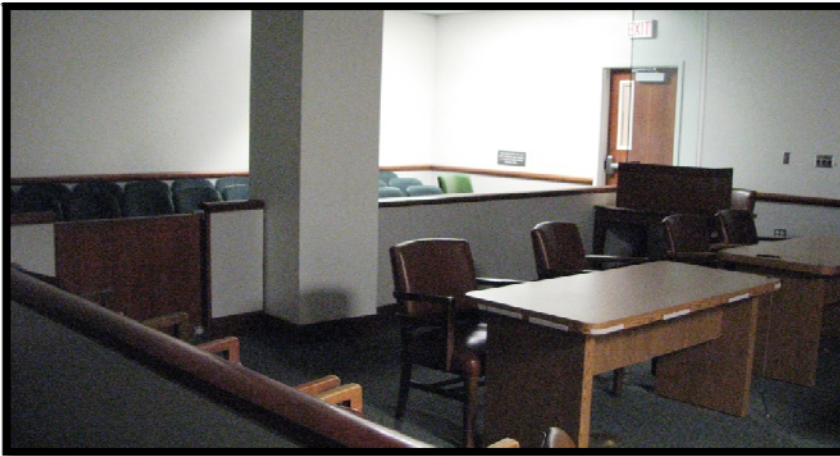
The top photograph shows a clerk entering a courtroom through the public door. Immediately adjacent is the door to the judicial chambers. The bottom photograph is taken from the opposite direction- prisoner transport continues past the public waiting for court proceedings. Judicial chambers are accessed through the door shown on the right.

7) Structural security risks in HOJ and courtrooms

Below are just a few examples of the security concerns caused by the design in some existing courtrooms:



Prisoners are transported through the door shown on the right, directly in front of the court reporter, witness, and within a few feet of the judicial officer.



Structural deficiencies that also contribute to deficient court security (obstructing the view of bailiffs) include pillars inside the courtroom.



The entire second floor area is open to the public view. A bullet was fired into this glass several years ago, and concerns remain for security of judicial officers and court staff. These concerns are increasing due to the transport of high risk and prisoners through the public hallways to the courtrooms.

Recent statistics reflect a 20% increase in gang related cases in Sonoma County.

8) Lack of holding cells

Due to the lack of holding cells, prisoners are transported to the courtroom's jury box during arraignments and non-jury proceedings. Additional bailiffs are required within the courtroom as guards to assure the security of all in the courtroom. This not only creates security risk, but requires additional deployment of Sheriff deputies at great cost.

The HOJ is approximately 30% deficient in holding cell capacity. This is significant for security purposes. Approximately 100 prisoners are transported to the courts daily, and as to those, about 40% cannot be mixed together. Thus, highly assaultive and unpredictable inmates

are transported in wheelchairs, and where there *are* holding cells, they have stairs. Even as to those that can be transported through the corridors above the courtrooms from the jail to existing holding cells, they must be transported down very steep stairs. This is the only way to deliver inmates into the courtroom *directly* to the bailiff. However, even here safety concerns exist due to the design of any existing holding cells.⁴



Even where holding cells exist, the design prohibits the holding of the more volatile prisoners, and creates a considerable security concern even when prisoners can be held in the cells. In these photographs, prisoners must sit on the stairs while waiting to be brought into court.

⁴ The Sonoma County Sheriff's office offered the following:

"In speaking with our court movement staff, they relayed one incident recently where two hand-offs, one *norteno* and one *sureno* were inadvertently mixed and had an altercation. This was directly related to a lack of sufficient and correct type of holding space. Another incident occurred where a mental health inmate became uncooperative in the courtroom, the bailiff felt his only option was to place him in a holding tank. The holding tank was filled with the regular population inmates and he didn't wait for court movement deputies to arrive. The uncooperative inmate began fighting with the other inmates and deputies had to quickly respond. Several deputies fought with this inmate receiving minor injuries. Once the inmate was restrained he had to be moved up the very steep flight of stairs.... A third example also directly related to proper holding cells occurred when an inmate (handoff) was called into court and very quickly the bailiff stated he wasn't needed for some reason. His co-defendant was already enroute ...and a fight ensued. The deputies had to use pepper spray to separate the inmates. Had there of been proper holding space close to the courtroom, the handoff would have been staged in that location."

9) No security for judicial parking



The judicial officers' parking lots are totally unsecure and vulnerable. Parking is open to everyone, they are not patrolled or under CCTV surveillance, and exposes all judicial officers to potential attacks and security risks.



Judges must enter the courthouse past the open traffic courtroom and traffic clerk's office (to the left of the photograph), areas which have no security whatsoever.

10) No secure remand area for prisoners



When remanded from a courtroom. Prisoners are taken to a room waiting processing into jail. This room, nearby the public hallway, is considered to be unsafe by Sheriff personnel and is considered to be a safety hazard to court users, the judiciary, and staff.

D. Structural Safety Concerns

1) Seismic Concerns

The HOJ has been categorized at risk level “V” for seismic safety under guidelines utilized by the state Department of General Services. Under these guidelines, evaluating life safety standards, the HOJ would incur substantial structural damage in an earthquake, including the likelihood of partial collapse and extensive non-structural damage. The risk to life is deemed substantial. There would be total disruption of systems and the building would need to be totally vacated during repairs. A review of the HOJ concluded that renovation or repair would not be cost-effective.

Sonoma County has had a history of devastating earthquakes and continued occupancy of a sub-standard earthquake deficient building should not be allowed. The current HOJ is located within one mile of the Rodgers Creek fault line. Santa Rosa suffered severe damage during the Great San Francisco Earthquake of 1906. In 1969 Santa Rosa experienced a 5.7 magnitude earthquake resulting one fatality and severe property damage to several old brick and wood-frame buildings. Buildings in Santa Rosa that sustained substantial damage included Fremont Elementary School, Sonoma County Social Service Building, J.C. Penney Company store, and Veterans Memorial Building. Total damage was estimated at \$8.35 million.

As noted by the State of California Department of Conservation, the Rodgers Creek fault runs through Santa Rosa into Windsor toward Healdsburg. This fault is part of the greater Hayward fault system. A probability calculator for faults in the Bay Area shows the Rodgers Creek fault has the single highest probability of any fault to experience a large earthquake in the next 30 years. The probability of a serious earthquake within that time is 17 percent, but combined with the probability of a major Hayward fault earthquake, the likelihood increases to 27 percent for a major earthquake, at any moment, within the next 30 years.

2) Additional Design Concerns

The HOJ has no public waiting area. The only areas in which to sit are located directly outside each courtroom, creating general congestion and noise within each public corridor. This, of course, adds to the security concerns.

Many non-ADA compliant features exist throughout the building, including judicial officer and staff toilets, circulation routes, corridor widths, door-strike clearances, and hardware, restrooms, and drinking fountains.

The HOJ does not have fire sprinkler systems or any fire safety alarms.

The HVAC and electrical systems are antiquated, inefficient, and in desperate need of replacement. The replacement cost has been estimated at \$1 million.

The number of public elevators is inefficient. The two available elevators are old and in need of replacement. The estimated replacement cost is \$.5 million.

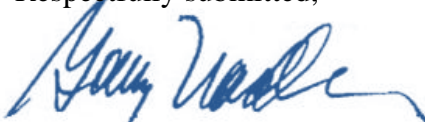
IV.

CONCLUSION

This agreement required tremendous amount of work, effort, and perseverance to reach the level of collaboration and agreement it presently enjoys. This was not easy to accomplish. It took time, effort and trust. The parties established, over time, a shared vision and are committed to a successful project. The basis for this collaborative approach has been the mutual goal of replacing a deficient court facility and using that effort to facilitate county and court strategies to locate and provide services within a facility environment that maximizes efficiencies and effectiveness. This unique and collaborative vision was not the case couple of years ago. If the project is not given funding priority and allowed to complete acquisition and the next phase, the branch, County and the community as a whole will incur more costs and the collaborative efforts to build a new County Government Center that better serves the community in whole will be derailed.

The Sonoma County Superior Court appreciates the consideration given by Justice Hill and this Committee.

Respectfully submitted,



Honorable Gary Nadler
Presiding Judge
Sonoma County Superior Court

Santa Rosa New Criminal Courthouse Economic Factors

County Costs to Date	
September 16, 2011	
Projects	Expensed
New Courthouse Study	\$ 45,500
Relocation of Court Staff in Old Jail	\$ 158,000
Courthouse Feasibility Study	\$ 165,000
New State Courthouse Support Documents	\$ 5,000
County Real Estate Involment (to date)	\$ 74,000
Staffing Costs	\$ 500,000
Sub-total: Planning	\$ 947,500
Relocation of Old Jail Utilities - Ph 1	\$ 1,664,000
Abatement & Demolition of Old Jail	\$ 3,036,000
HOJ Accessible Path of Travel	\$ 120,800
MADF Hydronic Pipe & Utility Relocation	\$ 228,000
Relocation of Fleet Facility	\$ 14,600
Old Jail Site Restoration	\$ 154,000
HOJ East Elevation Restoration	\$ 2,000
Discounted Value of all Jail Land 50%	\$ 898,136
Sub-total: Capital Improvements	\$ 6,117,536
Total:	\$ 7,065,036
Court Costs to Date	
September 16, 2011	
Planning	Expensed
Staffing, Meetings, Consultants	\$ 500,000
Total: County and Court Costs	\$ 7,565,036

Opportunity Costs	
County	
Inmate Transportation and Security (Annual Cost)	\$ 2,000,000
Travel Cost for other Agencies (Annual Cost)	\$ 350,000
Increase in Operational Costs (i.e. telecommunication, postage) (Annual Cost)	\$ 500,000
Deferred Repairs if Project is Delayed	
HVAC System	\$ 500,000
Retrofit Elevators	\$ 500,000
Retrofit Electrical System	\$ 400,000
Sub-total: County	\$ 4,250,000
Court	
Additional screening guards for multiple entries	\$ 80,000
Additional deputies for courtroom outside of screening	\$ 344,200
Additional movement deputies for in-custody movement	\$ 344,200
Initial Annual Savings	\$ 768,400
Current Acquisition Economic Factors	
Land value of Jail parcel offered at 50% of appraised market value	\$ 898,136
Sub-total: Court	\$ 1,666,536
Total: County and Court Opportunity Costs	\$ 5,916,536

Note

[1] The costs incurred are for the recent support provided by the County to the State that began in 2009

[2] Costs do not include new Fleet Facility and its relocation

[3] Costs do not include new County parking spaces, should the Court reused the "old" HOJ as a courthouse in the future

[4] Costs do not include deferred HOJ projects, such as the south elevator repairs.