



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO**

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**KEVIN A. ENRIGHT  
PRESIDING JUDGE  
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September 22, 2011

Administrative Office of the Courts  
Court Facilities Working Group  
Hon. Brad R. Hill, Chair  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688

**Subject: Response to Request for Information – SB 1407 Funding for the San Diego  
New Central Courthouse**

Dear Justice Hill:

On behalf of the San Diego Superior Court, we would like to thank you and the Court Facilities Working Group (CFWG) for the opportunity to provide information regarding our New Central Courthouse project. We recognize the tremendous challenges faced by the CFWG in light of the reduced availability of SB 1407 court construction funds, however we strongly believe that continuation of the New Central Courthouse project is of critical importance to our local court, and the citizens of San Diego County.

We will summarize the New Central Courthouse project, and discuss the overriding importance of this project to our court. We will present a number of factors that we believe illustrates the critical need to continue funding this project, and will discuss the risks and costs that will accrue should the project be delayed.

### **PROJECT OVERVIEW<sup>1</sup>**

San Diego's New Central Courthouse provides for 71 courtrooms in a 704,000 gross square foot high-rise facility. The site, which was transferred to the State of California/Judicial Council by the County of San Diego in December 2009 as part of the overall agreement to transfer responsibility of San Diego's court facilities from the county to the state, is adjacent to the existing Downtown Courthouse, the Hall of Justice and the Central Jail. The Environmental Impact Report (EIR) on the site was successfully concluded in December 2010 with a finding that there are "no areas of controversy for the New Central Courthouse project." All preliminary city/county permits have been obtained.

The land acquired for the new courthouse also includes two of the three blocks under which the existing courthouse sits. The sale of these two city blocks will help offset costs associated with the New Central Courthouse. This land fronts Broadway, the primary pedestrian and traffic corridor in downtown San Diego, and has high potential for future commercial development.

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<sup>1</sup> For Project key facts and issues, please see the *Project Profile (Attachment 1)*.

The new Courthouse will be connected by a pedestrian bridge to the Hall of Justice (a county-owned facility with 16 civil courtrooms and various court support operations plus offices for the District Attorney and Probation Department) and by tunnel to the Central Jail. Central holding capacity for 215 inmates will be provided along with sufficient secure courtroom holding.

The project consolidates operations from four substandard facilities: the county-owned Family Court and the Madge Bradley Building, the existing Downtown Courthouse, and a small claims operation currently operating in a trailer in suburban Kearny Mesa. These combined facilities serve over 76,000 people per month and handle nearly 38,000 new criminal, family law and probate filings every year.

The project team supporting the development of the San Diego New Central Courthouse has worked closely with the City of San Diego to coordinate the development of a “green street”, consistent with the city’s Downtown Community Plan Update, that will connect the New Central Courthouse with the soon-to-be-completed Federal Courthouse pedestrian plaza.

The project is currently in the Preliminary Plans phase, which we expect to complete in the third quarter of FY 11-12. As we will discuss below, it is absolutely critical that the project move forward to the Working Drawings phase at the conclusion of Preliminary Plans.

## **PROJECT METRICS**

### **Cost Metrics of New San Diego Central Court Building:**

**Total Project Cost:** This includes cost of site acquisition, professional fees, cost escalation, contingencies, furniture fixtures, and equipment:

<b>Total Project Budget</b>	\$	642,596,000 <sup>2</sup>
<b>Less refund from Acquisition Phase</b>	\$	7,100,000
<b>Current Total Project Budget</b>	\$	635,496,000

**Construction-only Costs:** The costs of the Project are in line with the un-escalated construction-only costs (current \$) of other large full-service court buildings currently in the design phases:

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<sup>2</sup> Per the List of Trial Court Capital-Outlay Projects to be Funded by SB 1407, October 2008, the Escalated Total Project Budget was estimated to be \$1,187,880,000.

<b>Project</b>	<b>Hard Construction Cost</b>	<b>\$/SF</b>	<b>No. Courtrooms</b>	<b>\$/Courtroom</b>
New Sacramento Criminal Courthouse	\$ 228,354,035	\$ 563	44	\$ 5,189,864
New Modesto Courthouse	\$ 150,602,536	\$ 500	26	\$ 5,792,405
New Santa Rosa Criminal Courthouse	\$ 100,536,363	\$ 579	15	\$ 6,702,424
<b>New Central San Diego Courthouse</b>	<b>\$ 377,059,295</b>	<b>\$ 517</b>	<b>71</b>	<b>\$ 5,310,694</b>

Note that the new United States Federal Courthouse, San Diego is \$618/SF based on the information we have been able to collect.

### **Other Project Metrics**

The project area (building gross square feet) per courtroom for the New Central Courthouse is shown below in comparison with other large pending court projects.

<b>Project</b>	<b>Building GSF</b>	<b>Courtrooms</b>	<b>GSF/Courtroom</b>
New Sacramento Criminal Courthouse	405,500	44	9,215
New Modesto Courthouse	301,464	26	11,595
New Santa Rosa Criminal Courthouse	173,500	15	11,566
<b>New Central San Diego Courthouse</b>	<b>704,000</b>	<b>71</b>	<b>9,915</b>

### **CRITICAL ISSUES**

The life and safety, infrastructure, and operational deficiencies of the four facilities to be replaced have been well documented<sup>3</sup>. The critical issues will be summarized below.

#### **Existing Downtown Courthouse -- 220 West Broadway, San Diego**

##### **1. Seismic Safety Risk Level V**

<sup>3</sup> Capital Outlay Budget Change Proposal (COBCP), September 2009 (Attachment 2).

A recent engineering assessment<sup>4</sup> concluded that **this building poses significant risk of capital loss, business interruption, and life safety hazard resulting from a moderate earthquake. In any five year period there is approximately a 5% probability that such an earthquake would render the entire existing court building unusable for more than one year.** The existing downtown court building contains 59 courtrooms, or 1/3 of the court departments in San Diego County. It would be extremely difficult and costly to find available space and convert it into a secure, in-custody-holding-capable facility that would be suitable as a replacement facility.

There is approximately a **4% probability [in any five year period] that a moderate earthquake would cause a partial building to collapse.** The existing downtown court building (220 W. Broadway) is used by over 54,000 people per month<sup>5</sup>.

In addition to its structural deficiencies, a potentially more significant hazard to the existing complex is present. **The San Diego Fault (Rose Canyon Fault System) runs directly beneath two of the five segments of the existing building.** Geotechnical studies concluded this fault is subject to surface rupture<sup>6</sup>. Should an earthquake cause the San Diego Fault to rupture directly under one of the segment of existing court building, the probability of significant damage or collapse is greatly increased. Lateral movement between the sides of a fault directly under a building is likely to cause significant damage and the potential for collapse.

The existing building structure **cannot be retrofitted** because of the underlying fault.

The Department of Finance required the AOC to purchase **seismic liability risk insurance** for the County Courthouse and other transferred San Diego court facilities with a seismic risk level of V. The **cost of this seismic liability insurance is currently approximately \$207,400 annually.** Delay in proceeding with the project will result in the state accumulating ongoing costs and ongoing risk for general liability and personal injury claims related to a seismic event.

## 2. Safety and Security

**Courthouse spans city streets.** Courtrooms, judges' chambers and other spaces are in portions of the building located over B and C streets. This is a major security concern should an explosive device be placed beneath the building.

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<sup>4</sup> Seismic Risk Assessment – existing court complex, 220 West Broadway – Certus Consulting Inc., July 31, 2011 (Attachment 3).

<sup>5</sup> See COBCP September 2009 (Attachment 2)

<sup>6</sup> Geotechnical Investigation and Fault Hazard Assessment, URS, April 1, 2011 (Attachment 4).

**Lack of secure prisoner transfer paths.** In order to transfer prisoners to trial courtrooms, deputies must walk them in chains through public corridors, judicial corridors, public stairwells and public elevators.

**Lack of in-custody holding cells.** There are no holding cells or toilet facilities adjacent to the criminal trial courtrooms. Managing in-custody defendants in trial departments requires extra time (for moving defendants to and from secure holding/toilet facilities) and Sheriff's manpower to move and monitor the in-custody population.

**Central in-custody holding area deficiencies.** Central holding areas are too small and layouts are poor. In-custody defendants must pass through control stations to get to holding cells. Ventilation systems are almost non-existent, and spaces are crowded, hot and stuffy. There are no attorney/client interview rooms.

**Fire safety system non-compliance.** This facility lacks a complete fire sprinkler, fire detection and notification system. Only the south tower has a functioning fire alarm system.

**Fire exiting system violations in courtrooms.** Courtrooms do not comply with fire exiting requirements. Only the south tower courtrooms are served by a fire notification system.

**Perimeter security.** The building includes numerous unsupervised exterior doors, including many glass doors, distributed over three city blocks. Managing these doors often brings security and fire exiting requirements into conflict.

**Unprotected Judges' Parking.** The judge's parking lot is secured by a chain-link fence and gates and is visible from surrounding streets and buildings.

### **3. Aging Building Infrastructure**

**Aging HVAC systems.** A number of the building air handlers are the original units from 1961. Chilled water distribution & central plant capacity have been problematic for years.

**Aging vertical transportation systems.** Escalators and elevators are old and suffer regular breakdowns. Repairs are problematic due to lack of availability of replacement parts. Recently (September 2011), the "up" escalator at the courthouse main lobby suffered a breakdown and extended period out of service, thus shifting heavy public and staff traffic to the south tower elevator bank.

**Sewer system backups.** Aging sewer infrastructure has resulted in sewage backups, most recently in May and December 2010, that impacted court operations. These recent sewage backups cost the AOC in excess of \$50,000 to clean, repair and restore various public, staff and storage areas.

**Hazardous materials.** Asbestos in the sprayed-on fireproofing hampers maintenance activities above the ceiling and in mechanical rooms. For example, to change light bulbs in courtrooms, certified maintenance personnel must use approved “HAZMAT” procedures and protocols when court is not in session (i.e. at overtime rates) to work on the lighting systems above the ceiling. Asbestos in floor tile is another example of building conditions that require special handling and extra expense.

**Shortage of Toilet Facilities.** There are insufficient toilet facilities in the building, which has a particular impact on jurors. The north wing floors include seven trial courtrooms that share one women’s restroom containing two toilet stalls.

**ADA deficiencies.** These exist throughout the building and include inaccessible exits and restrooms, jury and witness boxes, and judges benches.

**General space shortage.** Court operations continue to be hampered by insufficient and undersized public corridors and courtroom waiting areas, facilities for the media, witness and peace officer waiting areas, and file storage rooms.

#### **Family Court – 1555 6<sup>th</sup> Avenue, San Diego**

- 1. Seismic Safety Risk Level V.** A 2006 study concluded that a seismic retrofit of this 6-courtroom facility would require closing the building for 12 to 18 months, and thus was judged to be impractical.
- 2. Undersized Facility / Major Circulation Problems.** This facility is drastically undersized for the Family Law functions and programs that it contains. Out of necessity, programs and services have been placed in public lobbies and circulation spaces, including the main courtroom lobby that now houses the Family Law Facilitator program.
- 3. ADA Deficiencies.** This facility, including the south portion (“B” building) containing Family Court Services, a business office, calendar department and a children’s waiting room, is inaccessible to wheelchairs. Customers in wheelchairs who wish to use these services must be escorted by Sheriff’s personnel down the public sidewalk approximately 200 feet to a locked street-level door, and be let in to a cramped lobby area.
- 4. Roof Leaks.** This facility with rooftop parking facilities has a history of roof leaks during the rainy season.

5. **Mold Growth.** Mold growing in the facility's six courtrooms was a problem in 2003-2006. It is currently under control, but the underlying cause has never been determined.
6. **Internal Building Security.** This is a problematic issue given the contentious nature of family law proceedings. The building's general overcrowding, numerous isolated areas, and narrow hallways and stairwells make monitoring by Sheriff's personnel very difficult.
7. **HVAC.** Over the years, the operation and reliability of the buildings HVAC systems have been erratic.
8. **Roof Structural Problems.** Rooftop parking on the south ("B") building has been abandoned due to insufficient structural support.

**Madge Bradley Building – 1409 4<sup>th</sup> Avenue, San Diego**

1. **Undersized Building Lobby.** This 190 square-foot area is extremely undersized for the functions it contains – weapons screening station, public queuing and elevator waiting area.
2. **Vertical Transportation – One Public Elevator.** The only public access into the building is via a single elevator, and there are no public stairs. When the elevator breaks down, the public must use the unprotected fire stair which is accessible only from the city sidewalk.
3. **Security.** The building's inefficient, cramped layout causes major security challenges for the Sheriff as they attempt to monitor public activity in courtrooms, lobbies and corridors.
4. **Functionally Inefficient.** The building's spaces are poorly laid out. These inefficient spaces severely hinder effective court operations.

**Kearny Mesa Small Claims Department – Trailer C2**

1. **Security.** To access this trailer courtroom, judicial officers must cross the open public courtyard when moving between their chambers in the main building and the courtroom. This open-air courtyard is vulnerable to weapons and other contraband being thrown over the fencing that separates it from the public parking lot.
2. **Substandard Courtroom.** There is limited seating, and no rail separating the public from the well. The bench is a freestanding desk.

3. **ADA & Safety Issues.** The ramp and handrails leading to the entry door are not ADA compliant. Inside the courtroom, there is no ramp leading to the judge's desk platform, and no railing at the step. There is no ballistic material inside the judges' desk.

### **COST IMPACTS IF PROJECT IS DELAYED**

Delays in reaching a contract for construction with a guaranteed maximum cost will incur significant financial penalties. The relatively large scale of the construction budget results in a large loss of purchasing power due to additional construction cost escalation, if the project were delayed. The follow table illustrates those financial impacts<sup>7</sup>;

<b>Project delay</b>	<b>Budget Impact – loss of purchasing power</b>	
	3.5% annual escalation	5% annual escalation
<b>4 months</b>	\$6.1 million	\$8.7 million
<b>8 months</b>	\$12.1 million	\$17.4 million
<b>16 months</b>	\$24.9 million	\$35.4 million

The project team has developed a methodology to accelerate reaching a contract for construction with a guaranteed maximum cost (GMAX), which would save an additional \$13.44 million in construction costs and achieve occupancy of the new court building seven (7) months earlier than the approved schedule<sup>8</sup>. This fast-track approach would also mean that the seismically deficient existing building could be abandoned and the property sold sooner for re-development at the fast-track design and construction.

The project has a good track record of efficiency. The current project status is on time and within budget. \$7.1 Million Fund has been returned to ICNA from the Site Acquisition Phase appropriation.

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<sup>7</sup> Source: Rudolph & Sletten, construction manager at risk for project; September 8, 2011; Impact of Delay in Project assumed that Preliminary Plans completed - delay at spring 2012 in start of working drawing and subsequent phases

<sup>8</sup> OCCM Fast Track Feasibility Study, October 15, 2010; this methodology is supported by OCCM management, it was discussed with DOF Capital Outlay unit staff on January 26, 2011 – no final decision on using this approach has been made (Attachment 5).



## **SUMMARY**

The project is moving forward and making tremendous progress. The irreplaceable project site has been acquired. The initial EIR has been favorably completed, and all preliminary permits have been obtained. The Preliminary Plans phase will be completed in the first quarter of 2012. The design team has gained detailed knowledge and insight into the requirements and expectations of our court and is engaged and producing excellent work. We are working closely with the City of San Diego to coordinate with other downtown initiatives and maximize the enhancement of the downtown courthouse district.

Delaying the project will cost millions of dollars in escalated construction costs:

- A 4 month delay will cost \$6.1 to \$8.7 million
- An 8 month delay will cost \$12.1 to \$17.4 million
- A 16 month delay will cost \$24.9 to \$35.4 million

Delaying the project will delay the sale of the property under the existing courthouse, proceeds of which will help defray project expenses.

Delaying the project will increase the risk of capital loss, business interruption, life safety hazard, and general liability and personal injury claims resulting from a moderate earthquake:

- In any five year period there is a 5% probability that a moderate earthquake would render the entire existing court building unusable for more than one year.
- There is a 4% probability in any five year period that a moderate earthquake would cause a partial building collapse.
- The San Diego Fault (Rose Canyon Fault System), which is subject to surface rupture, runs directly beneath two of the five segments of the existing building.
- Should the San Diego Fault rupture directly under one of the building segments, the probability of significant damage or collapse is greatly increased.
- The existing building structure cannot be retrofitted because of the underlying fault.
- The annual cost of seismic liability insurance is \$207,400. The state faces ongoing risk for general liability and personal injury claims related to a seismic event.
- Finding suitable replacement space for 59 courtrooms plus support space that would meet security requirements (inmate holding capability etc.) would be costly and extremely problematic.
- Inmates would have to be transported to and from the replacement facility, incurring additional cost.

Delaying the project will extend the exposure of the public, staff and judiciary to unsafe conditions (including in-custody movement in crowded hallways and insufficient in-custody holding cells) in our existing facilities.

**Hon. Brad R. Hill**  
**SB 1407 Funding for the San Diego New Central Courthouse**  
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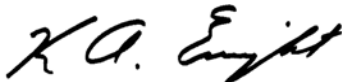
Delaying the project will extend the state/judicial branch's responsibility (at a high cost) to maintain our aging, problematic facilities that include infrastructure and hazardous material issues.

Delaying the project will negatively impact our Family Law operations and customers. Family Law programs will continue to be spread out among our three downtown facilities, resulting in an inefficient deployment of resources and confusion and frustration for court users and the public.

Delaying the project will break up the design team (team members may be reassigned & unavailable in the future) and disrupt the continuity and momentum, and cost savings that has been achieved to date. It will also significantly impair the effectiveness of our coordination efforts with the City of San Diego.

We appreciate the opportunity given to our court to provide the Court Facilities Working Group with the information and supporting materials which we believe clearly demonstrates the critical and urgent need to continue funding for our New Central Courthouse project. If we can answer any further questions or provide additional information to assist the working group in its deliberations, please do not hesitate to contact us.

Sincerely,

  
**KEVIN A. ENRIGHT**  
**Presiding Judge**

  
**MICHAEL M. RODDY**  
**Executive Officer**

Attachments