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April 19, 2006

To: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: David E. Janssen
Chief Administrative Officer

PUBLIC-PRIVATE PARTNERSHIPS FOR COURTHOUSES

On January 17, 2006, on motion of Supervisor Knabe as amended by Supervisor Yaroslavsky, this office was instructed to report on the potential for utilizing public-private partnerships to construct new or replacement courthouses. We believe it may be desirable to utilize these partnerships, but possible only with the passage of legislation to solve certain inherent conflicts between the partnership concept and current law.

Background

With the passage of the Trial Court Facilities Transfer legislation, SB 1732 (Escutia) Chapter 1082 of 2002, responsibility for construction of new courthouses for new judgeships and, to the extent that existing courthouses are transferred, for renovation or replacement of existing courthouses, was effectively reassigned from counties to the California Judicial Council. Under the law, any future expenditures from the County's Courthouse Construction Fund, beyond existing obligations of the Fund, are controlled by the State.

Included in SB 1732 was the implementation of additional court fines and fees which fund a new State Court Facilities Construction Fund. At this time, the State Fund has insufficient near-term revenues to complete more than a few projects statewide, despite identified priorities of 201 expansion, renovation, and replacement projects. The Governor recently attempted to secure funding for at least some of the projects through the issuance of $1.8 billion of bonds for courts. This proposal did not receive legislative

support to put the issue before the voters. As a result, the County's highest priorities, Southeast and Long Beach, are still years away from being funded.

An additional impediment to the realization of replacement courthouses is the State Administrative Office of the Court's position that it is prohibited by State policy from engaging in replacement projects until the existing courthouse has been transferred to the State. This is problematic due to the imposition by the State of the very high seismic standard being used to assess older buildings, thereby preventing transfer of the County's courthouses.

In the case of Long Beach, a transfer cannot take place until the County funds a major structural upgrade to the facility to meet standards which apply to new construction. This retrofit would be far costlier than the current $14 million seismic stabilization project which is underway. Under current law, unless County funding is identified for either the major retrofit or a replacement facility, the courthouse cannot be transferred to the State; therefore, the State cannot fund replacement of the facility. Similarly, the planned replacement Southeast Courthouse is in jeopardy due to the unrealistic seismic standard used to assess older buildings such as the Huntington Park and South Gate courthouses.

Criteria for a Solution

In order to implement courthouse construction projects in Los Angeles County, a solution must achieve the following:

- Be fiscally independent of the passage and issuance of State courthouse construction bonds;
- Be driven by local priorities, independent of the priority structure of the AOC, in order to reach important projects early;
- Allow the transfer of the new courthouse(s) to the State, without the need for long-term lease or bond payments by counties;
- Conform to State trial court standards and the overall Statewide plan for courthouse construction, in order to ensure State participation.

Public Private Partnership

Collaboration among the Superior Court, the City of Long Beach and the County resulted in a proposal to overcome the problems identified above using Long Beach as a pilot. This proposal involves a private developer working with the involved parties to offer the State a fully realized courthouse in a shortened amount of time.

A public-private partnership (PPP) would bring together the City of Long Beach Redevelopment Agency, the County and the State to work with a private developer to deliver a completed courthouse. The value of a PPP is that a replacement courthouse project could be elevated in the statewide rankings by the infusion of outside resources from a private developer. In this scenario the developer acquires a site, funds pre-construction activities and arranges for construction financing. Once these activities have taken place, a lease can be signed between the State and the developer which can then be used as collateral for a construction loan and the courthouse can be constructed. Upon completion of the construction and occupancy by the Superior Court, the State would begin making lease payments (debt service).

In accordance with the Knabe/Yaroslavsky motion of January 17, 2006, which also instructed this office to seek an author for legislation relative to the PPP concept discussed above, draft language was provided to Senator Lowenthal, who introduced SB 10 to allow the PPP concept to meet its goals. Unfortunately, the AOC has neither supported the bill, nor helped devise an alternative solution, because the bill would conflict with their current priority order for courthouse capital projects; thus, Senate staff do not believe that the bill could pass, and have held it in committee.

Unless your Board directs otherwise, we will continue to work, on both potential legislative solutions and other solutions, to implement the Long Beach replacement and other important courthouse projects in this County.

DEJ:JSE
MV: rr

c: Executive Officer, Board of Supervisors
County Counsel