Performance Audit of the Courthouse Construction Project

September 6, 2016

Revised: September 9, 2016
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To complete an independent review of the courthouse construction project.

Court facilities have long been considered inadequate to meet the Superior Court’s operational needs after several studies identified architectural deficiencies that rendered existing facilities “unsuitable,” including structural deficiencies, inadequate space, and security risks. Since 2008, the County has attempted to resolve these deficiencies through various renovation and/or construction projects, including:

- A 2008 effort to place a proposition on the ballot asking voters to authorize a bond issuance to fund a $163 million courthouse project.
- A 2012 effort to issue $75 million in bonds to fund renovations of the existing facilities and the construction of a new building.
- A 2013 effort to construct a new $162 million courthouse on the site of a county-owned parking lot.

Each of these projects ceased either in the planning or design phases.

Facilities adhered to statutory requirements and many best practices in managing the courthouse construction project, but the scope of the courthouse project remained in flux, with persistent questions relating to square footage, location, tenants, parking, and costs. These fluctuations in the scope of each proposed project stemmed at least in part from challenges in balancing existing needs and anticipated future needs, and in balancing those identified needs with persistent budgetary constraints.

Beginning in 2014, disagreements between the County and the City of Everett over parking and the fate of a mixed retail and parking facility adjacent to the courthouse resulted in delays, escalating costs, and lost opportunities to construct the project selected as the most advantageous to the County, as designed and within budget.

While there was agreement among the project team and County officials that off-street public parking was not within the scope of the 2013 courthouse project, interviews with the project team revealed that the County Executive’s Office was in discussions with the City regarding a separate mixed use parking facility adjacent to the Courthouse. Facilities asked its architect, at the request of the County Executive’s Office, to develop renderings and cost estimates for this facility, and limited courthouse project resources (staff time, project funds) funded the effort. This work was not authorized under the budget authority appropriated to Facilities for the courthouse project, and the audit did not identify any public hearing or County Council action in which such direction was given.

Evidence suggests a general lack of communication and transparency regarding the mixed-use facility initiated by the City of Everett, including its scope, cost, and relationship to the courthouse project.

From 2013 through 2015, the County incurred approximately $12.1 million in project costs that were paid by proceeds of the March 2013 bond issuance.

To enhance its oversight and management of capital construction projects, the Facilities should:

- Limit scope changes to the early stages of design. This should include gaining lasting consensus—to the extent feasible—on stakeholder needs and overall project scope, including location, size, and cost, during the planning phase.
- Obtain County Council approval prior to authorizing work outside the documented, previously approved project scope and, if applicable, formalize the scope modification through a formal contract amendment or change order.
- Obtain independent cost estimates at the end of each design phase.
- Consider developing a standard construction project delivery manual and implement its use for all County construction projects.
A. Introduction and Background

The Snohomish County (County) Superior Court is centrally operated out of two interconnected buildings, the Mission Building and the Snohomish County Courthouse, located on the County Campus in downtown Everett, Washington (see Figure 1). The Mission Building was constructed in 1910 and is on both the National and Washington Registers of Historic Places, while the Snohomish County Courthouse (courthouse) was constructed in the 1960s. These two buildings provide approximately 157,000 combined square feet in courtroom and office space. In addition to housing the Superior Court, the County Clerk, Prosecuting Attorney’s Office, Everett District Court, Domestic Violence and Family Law Facilitator, Office of Public Defense, Sheriff’s Office, and Law Library also occupy these premises.

Figure 1. County Campus Map

Source: Snohomish County website

Court facilities have long been considered inadequate to meet the Superior Court’s operational needs. The County commissioned courthouse studies between 2000 and 2008 to examine options for addressing the deteriorating condition of the aging courthouse and Mission Building. Each concluded that the existing facilities require “significant upgrades” to be safe, secure, and meet the County’s needs. In addition, a 2006 National Center for State Courts security study repeatedly emphasized the need for a new facility after identifying architectural deficiencies in the current buildings that rendered them “unsuitable.” Generally, courthouse deficiencies fall into three categories:

- **Security Risks:** The existing buildings present safety and security risks, including the lack of separate circulation patterns for staff and in-custody individuals, requiring commingling with the general public. Moreover, the facilities have multiple entrances...
and exits that require additional security measures that are not needed in modern courthouses with streamlined public and employee entrances and exits. While the existing facility is connected to the County jail via a tunnel under the County Campus, permitting the secure transfer of in-custody individuals, these security-related issues remain a security concern common among many courthouses built prior to 1980.

- **Structural Deficiencies:** The structures of each building present a variety of significant risk factors, including not meeting seismic standards; a lack of acceptable accessibility pursuant to the Americans with Disabilities Act; asbestos contamination in floors and ceilings; electrical systems that are at capacity; failing plumbing systems and leakage; energy inefficient windows and roofs; inefficient heating and cooling systems; unreliable and insufficient elevator systems; and poor ventilation.

- **Insufficient Space:** The buildings lack sufficient space in queuing and waiting rooms, in-custody holding areas, office and administrative areas, and meeting rooms.

Since 2008, the County has initiated four projects relating to renovating the existing court facilities or constructing new facilities, or a combination of both. The County Facilities Department has had primary project management responsibilities on each of these plans.

### A.1 The County Facilities Department

The County Facilities Department (Facilities) is one of eighteen administrative departments and offices that report to, and take direction from, the Office of the County Executive. As the department responsible for managing, administering, and maintaining County property, its mission is to “provide a safe, clean, and comfortable working environment for all employees and public who use [county] buildings” and to ensure “that the long-range plans for building improvements and upgrading are accomplished.” To achieve this mission, Facilities conducts activities in five main areas, shown in Figure 2.

#### Figure 2. Main Functions of the County Facilities Department

- **Administration**
  - Internal Support Services
  - Financial Management
  - Accounting
  - Record Keeping
  - Payroll and Personnel

- **Maintenance**
  - Routine Repairs
  - Preventative Maintenance
  - Limited Remodels

- **Fleet Services**
  - Fleet Vehicle and Equipment Purchases
  - Fleet Maintenance
  - Fleet Disposals
  - Parts, Materials, and Fuel Maintenance

- **Parking and Property Management**
  - Oversight of All County-Owned Property
  - Lease and License Management
  - Parking Garage Operations

- **Planning and Construction**
  - Capital Planning for County Facilities
  - Construction Project Planning and Oversight
  - Construction Project Management
  - Specification, Bid Doc, and Contract Development
  - Design and Construction Contract Management
  - Professional and Technical Assistance to County Agencies

*Source:* Auditor-generated using information from the Snohomish County website
Facilities has two in-house project managers who are primarily responsible for carrying out the department’s Planning and Construction responsibilities and overseeing county building and remodeling projects. Typically, projects are smaller in scale, under $2 million. However, Facilities has also overseen a limited number of major construction projects, the largest and most recently completed being the $170.6 million Campus Redevelopment Initiative (CRI), finished in 2005 and including the construction of a new jail facility, administration building, underground parking garage, and public plaza. For such large projects, Facilities relies on consulting firms to augment internal project management resources.

A.2 Overview of Courthouse Construction Project Phases

As noted previously, since 2008 the County has initiated four courthouse renovation and/or construction projects.

- In July 2008, the County Council adopted Amended Ordinance 08-096 “providing for submission to the voters of a proposition to authorize the County to incur indebtedness and issue general obligation bonds for design, remodeling, construction, and equipping of a Justice Center,” estimated to cost approximately $163 million dollars, and “to levy excess property taxes to redeem such bonds.” The Ordinance was vetoed by County Executive Reardon and the measure was not placed on the ballot.

- In November 2012, the 2013 Budget included a $65 million set aside for courthouse facility renovations and new construction, followed later by Council approving Ordinance 13-018, which authorized the sale of limited tax general obligation bonds to raise $75 million for the project. With the appointment of County Executive Lovick in June 2013, the County Council passed Motion 13-244, “requesting the Snohomish County Executive review the courthouse project progress and recommend next steps” to the County Council.

- In November 2013, the County Council passed Amended Motion 13-478, which authorized “the County Executive to move forward with the design and construction of” a new courthouse on the site of a county-owned parking lot, including “relocation of existing staff to the Drewel building, sustainable development (LEED Gold Rating), and hardening and seismic to be considered.” The Motion also requested that the “County Executive prepare necessary documentation to fund the $150,000,000 project” (later increased to $162 million with sustainability and hardening additives). This plan was impacted when the City of Everett adopted emergency Ordinance 3420-14, which required additional off-street parking, at the end of 2014. County Executive Lovick and the County Council determined that escalating construction costs resulting from the delays experienced during subsequent negotiations of an interlocal parking agreement rendered the project too costly as designed. In September 2015, the County Council passed Motion 15-378, directing “that while alternatives are being developed and discussed, and until the County Council makes a formal decision on an alternative, no portion of the project budget is to be reassigned to any other projects or purposes.”
In June 2016, the County Council passed Amended Motion 16-224, which requested that County Executive Somers “proceed with planning and costing-out potential renovation of the current Courthouse,” with the option for “minor work on the Mission Building,” and “set a financial cap for the renovation project (design and capital) not to exceed funding available within the remaining bond proceeds [of] $75 million minus all costs of previous expenditures related to studying courthouse alternatives, planning, designing, and cost-estimating of a new courthouse, and property acquisitions.” The Motion also requested that the County Executive prepare, submit, and present to the County Council reports of cost estimates and life expectancy of recommended improvements that can be funded within the financial cap and potential costs and funding sources for those that cannot “when schematic design is complete (estimated to be early November 2016),” as well as “work with [the architect] to amend the contract for architectural services.”

In conducting its work, Facilities follows the standard phases of a project: planning or programming, design, construction, and closeout, as illustrated in Figure 3. As of August 2016, the County was in the initial planning or programming phase of the fourth project plan to renovate its court facilities. The first two courthouse related plans were terminated either in the planning and programming or the design phases. The 2013 project plan to build on the parking lot site progressed further; the Facilities project team had nearly completed the design phase and was ready to commence construction when the project was terminated in 2015. The history of each of these plans is discussed more fully in Section C, Observations and Conclusions.

**Figure 3. Phases of a Capital Construction Project**

![Diagram of project phases](image)

*Note: Depending on the delivery method, Construction phase may begin while Construction Documents phase is still in progress.*

To provide context for the events described in this report, below is a brief description of each phase:

- **Planning or Programming:** The project owner evaluates the need for the project, determines the project’s priority level, analyzes the project’s feasibility, obtains cost estimates, sets a conceptual project plan and budget, chooses a project delivery method, and procures architecture and engineering services.

- **Schematic Design:** The architect and owner formalize and document the project requirements, develop a site survey, identify building code requirements, and conduct meetings with stakeholders and local planning entities. The results of these efforts consist of preliminary drawings, sketches, and/or physical models prepared by the architect for the owner’s review and comment.

- **Design Development:** The architect develops a detailed drawing set and renderings incorporating interior design features such as lighting and material selections, sufficient
to serve as the basis for a preliminary construction cost estimate. The products of the Design Development phase usually include a site plan; floor plans; exterior and interior elevations; furniture layout plans; preliminary electrical, mechanical, foundation, and structural framing plans; and draft specifications.

- **Construction Documents**: The architect develops final construction drawings and final specifications that include all the information needed to price and build the project.

- **Construction**: The construction contractor builds the project consistent with specifications, the agreed upon construction cost, and approved change orders.

- **Closeout**: The architect, owner, and contractor formally close the project, including as-built drawings, warranties, contract reconciliation, final payment, releases of liability, and issuance of a certificate of occupancy.

### A.3 Report Overview

This report addresses the factors contributing to the three terminated plans to renovate and/or construct courthouse facilities and assesses the evolution to the current state. Section B (Scope & Methodology) of this report describes the audit methodology employed by the audit team. Section C, Observations and Conclusions, describes each of the four courthouse projects undertaken since 2008, presents conclusions relating to the extent to which Facilities’ project management efforts adhered to statutory requirements and best practices, and describes the factors that led to the termination of the 2013-2015 project plan as well as the financial and opportunity costs associated with the termination of the project.
B. Scope and Methodology

On February 10, 2016, the Snohomish County Council passed Motion No. 16-038 directing Council staff to issue a notice to proceed to the Office of the Performance Auditor to complete an independent review of the courthouse construction project (Audit Topic A.7 in the 2016 Audit Plan, Motion No. 15-493). The scope of this audit includes current practices and operational needs of the Superior Court, as well as all studies, analyses, and documentation related to the proposed construction of the new courthouse. To address the scope, audit activities involved evaluating the needs assessment processes employed in developing the courthouse construction program, identifying events leading to the termination of the courthouse project in 2015, and reviewing the options available to the County. In doing so, the audit team performed the following procedures:

B.1 Interviewed County Facilities project personnel, as well as personnel with select key stakeholders. The audit team requested interviews with representatives of the City of Everett, but was informed that City personnel were advised by the City Attorney to decline discussing the project with the County Performance Auditor.

B.2 Obtained and reviewed available studies and analyses used in the deliberative process surrounding the construction of the new courthouse building. Through document review, interviews, and walk-throughs of the existing courthouse, identified the reasons a new courthouse was deemed necessary, including courthouse physical security, the sufficiency of courtroom and office space, future growth or plans, and potential opportunities for consolidation and/or streamlining functions.

B.3 Reviewed project files, County documents, City Council agendas, motions, and meeting minutes, and news articles to compile a project history, identify the nature and amount of costs incurred, and track project status.

B.4 Identified and reviewed relevant requirements in the Revised Code of Washington and best practices for public works contracts using the general contractor/contract manager project delivery method, and reviewed project files to determine the extent to which the County complied with critical statutory requirements and best practices.

B.5 Assessed the reasonableness of cost per square foot estimates for the new courthouse construction project and alternatives through comparison to industry reports on trends in construction costs and other in-progress or forthcoming courthouse construction projects nationwide of similar scale, based on square footage and/or number of courtrooms.

B.6 Analyzed key statistics and trends related to courthouse usage (e.g., case filings, staffing levels, etc.).

Audit fieldwork was performed between April 1 and July 31, 2016. On August 19, 2016 the Office of the Performance Auditor provided the Facilities Department and the County Executive with a draft of this report and, on August 24, 2016, discussed the report findings and
recommendations in an exit conference with County representatives. Responses and input provided by the Facilities Department and the Office of the County Executive were considered and incorporated where applicable in the final report. County management was in general agreement with the conclusions and recommendations of this report. The Facilities Department’s formal response to the recommendations contained in this report is included in Appendix B.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.
C. Observations and Conclusions

Overall, this audit revealed that as Facilities engaged in the planning, programming, and design of the courthouse renovation and construction projects proposed since 2008, it adhered to statutory requirements and many best practices. Project records were well maintained and organized, and demonstrated significant efforts to identify the needs of many stakeholder groups. Documents also identify the many options available and considered by the County with respect to project sites, scope, and costs, and reflect Facilities’ actions to respond to the direction of the County Council and the three successive County Executives through each of the four courthouse plans.

Despite Facilities’ efforts, the scope of the courthouse project remained in flux since 2008, with persistent questions relating to square footage, location, tenants, parking, and costs. With the pause of each of the first three plans, Facilities was asked to develop options available to the County, requiring shifting the focus and project scope between designing the project to meet a specific budget (e.g., $75 million) to meeting the broader needs of stakeholders (e.g., $162 million). Most recently, while the 2013-2015 plan progressed nearly to the construction phase, the issue of parking was re-evaluated during the planning and design phases, as expected on any development project. These efforts resulted in confirmation that the County would not include parking in the courthouse project. This decision, once communicated to the City of Everett, resulted in the City adopting a parking ordinance that required a re-evaluation of the project.

Disagreement regarding whether the project should include parking and the fate of a city-promoted redevelopment of Hewitt Avenue properties resulted in delays between December 2014 and August 2015. As is generally the case with construction projects, delays translate to escalating construction costs. The County Council ultimately lost confidence that the project could be built as designed and within the existing $162 million budget, resulting in further project delays, sunk costs, and lost opportunities to construct the rendition of the project selected as the most advantageous to the County. As a result, the County Council passed Motion 15-378, which essentially froze the project budget until the County Council could make a formal decision regarding how to proceed. Pursuant to subsequent County Council Motion 16-224, the County Executive’s Office is currently in the process of planning and costing out options for proceeding with the project for County Council review.

This section includes an overview of each of the four iterations of the courthouse renovation/construction project (C.1); the audit’s conclusions regarding the key factors contributing to the termination of the project in 2015 (C.2); an evaluation of the financial and opportunity costs resulting from the changes to the project scope (C.3); an assessment of the project management approach adopted by the Facilities project team and their adherence to statutory requirements (C.4); and recommendations for the County to enhance its oversight and management of capital construction projects on a go forward basis (C.5).
C.1 Since 2008, the County has Initiated and Terminated Three Courthouse Construction/Renovation Projects

Since 2008, the County has attempted to address the facilities needs of the Superior Court through four distinct construction and/or renovation plans. The first three—in 2008, 2012, and 2013—would ultimately be terminated in the planning or design phases. Figure 4 provides a high-level illustration of the timing and events related to each of the four iterations.

**Figure 4. Overview of Project Timeline**

1967: Existing courthouse opens.

March 2008: Snohomish County Justice Center Master Plan issued.

March 2013: County Council authorizes the issuance and sale of bonds to raise $75 million for the construction of an expanded courthouse and renovation of the Mission Building.

July 2008: County Executive vetoes Council-approved ballot measure to raise property taxes to fund remodel of existing courthouse and construction of a 10-story addition.

November 2013: County Council authorizes design and construction of a new 263,000 square foot (later reduced to 250,000 square feet) courthouse on the parking lot site for $162 million.

November 2012: County Council adopts the 2013 county budget, including $65 million to remodel the existing courthouse and construct an expansion.

December 24, 2014: City Council adopts emergency parking ordinance.

June 2013: County Council passes a motion asking the County Executive’s Office to review project progress and recommend next steps.

May 2015: City and County reach agreement on parking for new courthouse; provide written agreement to County and City Councils.

July 27, 2015: Scheduled start date for demolition and site preparation; does not occur.

May 2016: Based on Courthouse Building Committee efforts, County Executive recommends renovating the existing courthouse.

June 2016: County Council passes motion directing County Executive’s Office to plan and cost out an extensive courthouse renovation.

July 20, 2015: County Council delays taking further action on project until City Council formally approves parking agreement.

November 2015: County Council adopts the 2016 county budget calling for the formation of a Courthouse Building Committee to assess options.
C.1.a The 2008 Courthouse Project Plan

In 2008, the County Council initiated efforts to resolve court facility deficiencies by approving Amended Ordinance 08-096, which provided for the submission to voters of a proposition “to authorize the County to incur indebtedness, issue no more than $163,195,300 of general obligation bonds maturing within 30 years to finance the capital costs of design, remodeling, construction, and equipping of a justice center” and to “levy annual excess property taxes to pay and retire such bonds,” with the vision of potentially building a 10-story addition to the existing courthouse. The ballot measure was vetoed by County Executive Reardon in July 2008, and efforts to address the County’s court needs were effectively put on hold until 2012, after the recovery from the Great Recession had begun. This pause would be the first of three pivotal pauses that impacted project planning, design, and development.

C.1.b The 2012 Courthouse Project Plan

Towards the end of 2011, the County Council reinitiated remodeling and construction efforts by adopting the 2012 budget, Ordinance 11-072, which requested that County Executive Reardon and the Presiding Judge of the Superior Court form a study group “to review and update the assumptions pertaining to staff and space needs identified in the [2008 Snohomish County Justice Center] Master Plan,” “to explore and propose for Council consideration available options for development of a revised Justice Center,” and “to present a written report of its findings and recommendations to the Executive and Council.” In the year and half that followed, the County established a Project Oversight team and a Courthouse Project Advisory Committee, and considered several options. These included:

- A combined remodel of the existing buildings and new construction to create 275,000 square feet of court facilities at an estimated cost of $110 million. (July 2012)
- A renovation of the courthouse and construction of an additional three or four story building, allocated $65 million in anticipated bond proceeds. (November 2012 – 2013 Budget Ordinance 12-095, Note 2)
- A remodel of the Mission Building and the construction of a new 161,000 square foot courthouse, financed by $75 million in bond funding authorized and allocated to the project as recommended by the Courthouse Project Advisory Committee. (March to June 2013 – Ordinance 13-018, shown in Figure 5)
After County Executive Reardon resigned effective May 2013, the County Council appointed County Executive Lovick to take over in June 2013. Subsequently, the County Council adopted Motion 13-244 requesting newly-appointed County Executive Lovick to “review the progress to date on the Courthouse Project and make recommendations to Council regarding the appropriate next steps”—the second pause in planning.

C.1.c The 2013 Courthouse Project Plan

The Executive’s Office concluded that the $75 million renovation and new construction plan, in progress through the first half of 2013, would not meet the County’s long-term needs and recommended expanding the scope of the project. As a result, the Courthouse Project Advisory Committee’s program report for the $75 million project was never completed and the project team developed alternatives for larger-scale options designed to address many of the additional needs identified by the Committee. Five options were presented in various combinations to the County Council between September and November 2013.
At the conclusion of the final presentation in November 2013, the County Council passed Amended Motion 13-478 authorizing “the County Executive to move forward with the design and construction of Option C,” a new 263,800 square foot courthouse to be constructed on County property at the northwest corner of Wall Street and Oakes Avenue currently occupied by a parking lot (dubbed the “parking lot site”), and requesting that the “County Executive prepare necessary documentation to fund” the project. Under this option, the Mission Building would be left empty and the existing courthouse building would be demolished and a public plaza constructed in its place.

Following the direction of the County Council, the Facilities project team held regular meetings amongst its members, as well as Advisory Committee and stakeholder meetings, risk analysis workshops, and a Value Analysis workshop to identify needs, create and refine plans and designs, and review budget and schedule constraints. Also during this time, the County employed its powers of imminent domain to acquire five privately-owned buildings and one surface parking lot near the County’s existing parking lot site necessary for construction of the new courthouse. Over the course of 2014, the Facilities project team briefed the Council on the project status eight times. The Facilities project team also met with the City of Everett on several occasions to review project plans, the State Environmental Policy Act (SEPA) application, and permitting requirements for the project. As a result of these efforts, the project scope evolved from a 263,000 square foot building to a 250,000 square foot building, with the budget remaining consistent at $162 million.

In December 2014, the County submitted its SEPA application to the City of Everett for review. Shortly thereafter, the City Council adopted an emergency ordinance, Ordinance 3420-14, which changed off-street parking requirements relative to the project from zero to 300 new spaces. While the City Mayor’s Office notified the County Executive’s Office of the impending adoption of this ordinance, Facilities was not aware that this ordinance was being considered until after its first reading to the City Council on December 10, 2014, too late to account for the City’s new parking requirements in its SEPA application or project plans. Because the plans included in the SEPA application were premised on the former City ordinance and had not accommodated the new parking requirements, one month following the ordinance change, in January, the City
rejected the County’s SEPA application due to the absence of off-street parking—resulting in the third, and most costly, pause in project planning and design since the project’s inception.

Between January and May 2015, the County worked in good faith with the City to negotiate an interlocal parking agreement that would allow the project to proceed. During this time, the County progressed through the design phases, executed contracts for the project as planned, and advanced with alley vacation efforts. In April, the City and the County announced a tentative parking agreement and the County resubmitted its SEPA application to the City. On July 15, 2015, following completion of Design Development and the start of the Construction Documents phase, the City Planning Director approved the SEPA application and informed the County that the City would issue permits for demolition, shoring, and excavation upon the City and County Councils’ formal adoption of the parking agreement, anticipated to occur at their respective meetings later in the month. Demolition was scheduled to begin on July 27, 2015.

However, the County Council deferred approval of the parking agreement pending the City Council’s approval, but the City Council moved to table action on the agreement “until a later date” after learning at their meeting that the project would result in the permanent loss of ten on-street parking spaces and would limit parking on adjacent streets during construction—a common occurrence during construction projects. As of the completion of audit fieldwork, the parking agreement had not been adopted, the City of Everett had rescinded the most burdensome conditions of the agreement, and the City allowed its December 2014 parking ordinance to expire. At present, there is once again no off-street parking requirement for new construction in the parking lot site zone, allowing the County to construct the project as designed.

However, in September 2015, the Facilities project team estimated that through May 2015 costs associated with delays related to the parking agreement and the City’s newly-adopted parking ordinance escalated more than $400,000 and that each additional month of delay could result in added costs of $220,000. Citing uncertainty and financial risk due to delays, County Executive Lovick recommended that the County Council suspend the project, reallocate some of the $64 million remaining from the original $75 million in bond proceeds to renovations to “address pressing safety and accessibility issues” at the existing courthouse and Mission Building, and retire the remaining bond debt. Instead, toward the end of the month, the County Council passed Motion 15-378, which froze the project indefinitely pending the development and evaluation of alternative options to address the County’s needs.

C.1.d The 2016 Courthouse Project Plan

The County’s 2016 budget instructed the County Executive to report to the County Council with recommendations regarding how best to move forward to resolve the courthouse construction project delays. Since then, a new County Executive, Executive Somers, has taken office, and a Courthouse Building Committee that included County and City officials as well as key stakeholder representatives has researched viable alternatives and prepared cost estimates for six options within the 2012 project plan’s $75 million budget, each consisting of a renovation of the
existing courthouse with the construction of a new tower addition. Figure 7 provides a high-level comparison of the six alternatives.

**Figure 7. 2016 Courthouse Project Options**

<table>
<thead>
<tr>
<th></th>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
<th>Option 4</th>
<th>Option 5</th>
<th>Option 6</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Tower Addition</strong></td>
<td>$4.8 million (12,000 sf)</td>
<td>$4.8 million (12,000 sf)</td>
<td>$4.8 million (12,000 sf)</td>
<td>$4.8 million (12,000 sf)</td>
<td>$4.8 million (12,000 sf)</td>
<td>$4.8 million (12,000 sf)</td>
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<td><strong>Courthouse Renovations</strong></td>
<td>$49.7 million (118,800 sf)</td>
<td>$49.5 million (118,800 sf)</td>
<td>$55.1 million (118,800 sf)</td>
<td>$52.9 million (118,800 sf)</td>
<td>$44.5 million (110,800 sf)</td>
<td>$50.8 million (118,800 sf)</td>
</tr>
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<td><strong>Mission Building Renovations</strong></td>
<td>$4.1 million (17,000 sf)</td>
<td>$2 million (17,000 sf)</td>
<td>$2 million (17,000 sf)</td>
<td>$2 million (17,000 sf)</td>
<td>$2 million (17,000 sf)</td>
<td>None</td>
</tr>
<tr>
<td><strong>New Sheriff's Office Buildouts</strong></td>
<td>$11.8 million (21,700 sf)</td>
<td>$11.3 million (20,000 sf)</td>
<td>None</td>
<td>$6.4 million (12,000 sf)</td>
<td>$10.1 million (20,000 sf)</td>
<td>$6.4 million (12,000 sf)</td>
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<td><strong>New Criminal Court Buildouts</strong></td>
<td>$4.6 million (12,750 sf)</td>
<td>None</td>
<td>$4.6 million (12,750 sf)</td>
<td>None</td>
<td>$4.6 million (12,750 sf)</td>
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<td><strong>Estimated Total Cost</strong></td>
<td>$75 million (182,250 sf)</td>
<td>$67.7 million (167,800 sf)</td>
<td>$66.5 million (160,550 sf)</td>
<td>$66.1 million (159,800 sf)</td>
<td>$66 million (172,550 sf)</td>
<td>$62 million (142,800 sf)</td>
</tr>
</tbody>
</table>

*Note: Figures have been rounded.*

On May 16, 2016, County Executive Somers recommended that the Council move ahead with a project limited to courthouse renovation. Following the County Executive’s recommendation, the County Council adopted Ordinance 16-224, requesting that the County Executive proceed with planning and costing of an “extensive renovation of the existing Courthouse facility” with a budget not-to-exceed the amount of remaining bond proceeds (approximately $62 million).

Option 6, reflected in Figure 7, is the only option viewed to be feasible within the $62 million budget limitation. Option 6 is similar to Option A from 2013, shown in Figure 6, except smaller in scale and with a focus on renovating the existing courthouse building rather than constructing a new one. Figure 8 illustrates the differences between the project envisioned in the 2013 project plan and the one anticipated from the recent 2016 project discussions.
### Figure 8: Pros and Cons of Current Options

<table>
<thead>
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<tbody>
<tr>
<td><strong>PROS</strong></td>
<td><strong>CONS</strong></td>
</tr>
<tr>
<td><strong>Safety and Security</strong></td>
<td></td>
</tr>
<tr>
<td>Ability to continue using the existing tunnel from the county jail for inmate transport.</td>
<td>No separate circulation; inmates, the public, and staff will continue to use the same corridors and other public spaces.</td>
</tr>
<tr>
<td></td>
<td>Multiple potential public entries will remain.</td>
</tr>
<tr>
<td><strong>Building Structure</strong></td>
<td></td>
</tr>
<tr>
<td>Ability to take advantage of existing utilities infrastructure.</td>
<td>Columns must remain in courtrooms to support building structure.</td>
</tr>
<tr>
<td>New elevators will be constructed alongside the existing building.</td>
<td>Hazardous material abatement will take place only in accessible areas.</td>
</tr>
<tr>
<td>Enhanced seismic reinforcement.</td>
<td></td>
</tr>
<tr>
<td>Courtrooms will be ADA compliant.</td>
<td></td>
</tr>
<tr>
<td><strong>Other Considerations</strong></td>
<td></td>
</tr>
<tr>
<td>Can be completed with remaining bond proceeds.</td>
<td>Interruption of court services; some court operations and staff will need to be relocated during renovations.</td>
</tr>
<tr>
<td>Less likely to trigger further issues with the City over parking.</td>
<td>Shorter remaining building life.</td>
</tr>
<tr>
<td></td>
<td>No renovations to the Mission Building.</td>
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As of the end of audit fieldwork, the County had not completed renovation plans or formally selected an option to move forward with.
C.1.e Project Funding & Expenditures as of June 2016

As discussed previously, the County Council adopted Ordinance 13-018 in March 2013 authorizing the issuance and sale of limited tax general obligation bonds with $75 million of the proceeds allocated to construction of a new courthouse and remodeling of the Mission Building. Following the expansion of the project scope in November 2013, the County Council adopted Amended Ordinance 13-097 authorizing a property tax increase to generate funds for debt service on a bond to be issued at a later date to provide additional funding for the then-$162 million project. This second set of bonds was never issued.

From 2013 through June 2016, the County incurred approximately $12.6 million in project costs that were paid by proceeds of the March 2013 bond issuance; $12.1 million relates to the 2013 plan and $500,000 relates to the 2016 plan. Figure 9 delineates the nature of these costs for both plans.

Figure 9. Overview of Project Costs

<table>
<thead>
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</thead>
<tbody>
<tr>
<td>$12.1 Million</td>
<td>$500,000</td>
</tr>
<tr>
<td>• $4.9 million for architecture and engineering services</td>
<td>• $300,000 for architecture and engineering services</td>
</tr>
<tr>
<td>• $3.7 million for property acquisitions</td>
<td>• $75,000 for project consulting services</td>
</tr>
<tr>
<td>• $1.6 million for project consulting and pre-construction services</td>
<td>• $125,000 for various other, lower cost items such as Facilities salaries, overtime, and personnel benefits; extra help; additional professional services; utility work; alley vacation efforts; City of Everett fees; furniture and fixtures; hazardous material abatement; legal fees; testing and inspections; and surveys</td>
</tr>
<tr>
<td>• $1.9 million for various other, lower cost items such as Facilities salaries, overtime, and personnel benefits; extra help; additional professional services; utility work; alley vacation efforts; City of Everett fees; furniture and fixtures; hazardous material abatement; legal fees; testing and inspections; and surveys</td>
<td></td>
</tr>
</tbody>
</table>

Total Project Costs Through June 2016: $12.6 Million

Source: Project Team Master Financial Spreadsheet (figures have been rounded)

C.2 The Scope of the Courthouse Construction Project Remained in Flux throughout the Planning and Design Phases

Each of the pauses in the three previous courthouse plans occurred during the planning and design phases. In each case, the County Council adopted an ordinance or passed a motion authorizing specific steps for a defined project. The first pause resulted from the County Executive determining in 2008 that the project—at a cost of $163 million—was too large and too
costly. The second resulted from the County Executive determining that the project—at $75 million—was too small and did not fully address the current and foreseeable needs of the Superior Court and its stakeholders. The third resulted because the project—at $163 million—was found by the City to be deficient because it did not include 300 or more additional off-street public parking spaces, resulting in delays and escalating costs, as discussed further in this section. Following each, Facilities was asked to reevaluate options and identify alternatives to accommodate a shift in focus and scope from designing the project to meet a specific budget (e.g., $75 million) to meeting the broader needs of stakeholders (e.g., $162 million).

C.2.a The Scope of the Project Changed with Each Iteration

Between 2008 and 2015, several factors contributed to the scope changes in the courthouse project. The need for a renovated or newly-constructed courthouse appeared to never be in doubt, but questions relating to the following factors persisted throughout each planning phase:

- **Square Footage:** Over the past eight years, numerous proposed options would result in court facilities of varying sizes, ranging from 405,000 square feet reflected in 2008 recommendations to 143,000 square feet considered in 2016.

  The 2008 Snohomish County Justice Center Master Plan determined that the existing courthouse lacked sufficient usable space to meet the County’s needs at that point, determining that 40 percent more space was needed immediately, an additional 30 percent would be needed by 2015, and a further 25 percent by 2025. The 2008 Master Plan reviewed several options to address projected needs and recommended expanding the courthouse to 405,000\(^1\) square feet at a cost of approximately $169 million as the “most effective and economical” option to accommodate the courts’ growth through 2025 and beyond. In 2008, the County’s existing and future needs were determined primarily on the volume of court filings and court staffing levels in 2006 and as projected.

  However, since 2008, trends and conditions pertinent to state court operations in Washington and nationally have changed dramatically and in unanticipated ways. Some short term caseload trends may be attributable to the significant economic downturn experienced over the past several years. However, a cultural shift towards alternative forms of dispute resolution and changing business methodologies and technological tools and trends have profoundly impacted court operations nationwide. We compared actual data for 2015 to data for 2006 and to the Master Plan’s projections for 2015.

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\(^1\) The Snohomish County Justice Center Master Plan included the City municipal court in addition to the district and superior courts, but does not indicate a percentage of the 405,000 square foot courthouse that would be dedicated to municipal court operations.
Figure 10. Trends in Court Usage and Staffing

<table>
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<tr>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Superior Court New Case Filings</td>
<td>24,852</td>
<td>36,044</td>
<td>(31.1%)</td>
<td>29,424</td>
<td>(15.5%)</td>
</tr>
<tr>
<td>District Court New Case Filings</td>
<td>90,018</td>
<td>170,176</td>
<td>(47.1%)</td>
<td>123,565</td>
<td>(27.1%)</td>
</tr>
<tr>
<td>Staffing (FTE)*</td>
<td>392.9</td>
<td>500</td>
<td>(21.4%)</td>
<td>373.3</td>
<td>5.2%</td>
</tr>
</tbody>
</table>

*FTE = full-time equivalents; Sheriff’s Office, Corrections, and Building Security staffing levels are not included in these numbers, as 2015 data was not available for those areas.

As is illustrated in Figure 10, contrary to the 2008 Master Plan’s predictions, court workload indicators and staffing levels never reached the predicted levels for 2015, and the number of new court filings decreased significantly between 2006 and 2015 instead of increasing as projected. In addition, staffing indicators remained stagnant between 2006 and 2015.

Recognizing that remarkable changes to court operations have occurred since 2008, in July 2012, the Courthouse Project Advisory Committee revisited court needs and concluded that 247,150 square feet would be sufficient to accommodate current demand and 273,350 square feet (about 10.6 percent more space) would accommodate future growth. The following year, in the first half of 2013, the Committee conducted a survey of court users that led to a conclusion that downsized the previous estimate to 229,950 square feet to meet all the County’s needs and objectives. Subsequently, after value assessment exercises, the project team believed that an approximately 161,000 square foot building would be sufficient. Shortly thereafter, according to the project team, the County Executive’s Office indicated that the building needed to accommodate departments that were not in the original assessment and program, such as the County Prosecutor and the County Sheriff, and that the space needed was greater than a 161,000 square foot facility could accommodate. Five options were proposed at the end of 2013 ranging from 181,400 to 275,800 square feet. The most recent options presented for consideration for the 2016 project plan fall on the low end of this range, varying from 142,800 to 182,250 square feet.

- **Occupants:** Since the County began courthouse project discussions in 2008, the inclusion of the offices of the County Sheriff and Prosecuting Attorney within the court facility has remained uncertain. When the Courthouse Project Advisory Committee reduced the project program from 229,950 to 161,000 square feet in spring 2013, it achieved the space savings in large part by removing the Prosecuting Attorney and Sheriff from the new construction, placing those offices instead in the Mission Building. In another instance, at the end of 2014, with approximately 30 percent of design complete, the project experienced two months of delay due to the County’s decision to replace the Prosecuting Attorney’s Office with the Sheriff’s Office as the eighth floor.
tenant. This uncertainty continues as the options previously under consideration in 2016 differed on the location and space reserved for the Sheriff’s Office.

- **Location:** At various times, including times when the County was already moving forward with a particular project iteration, the County has explored various alternatives for the location of a new courthouse: the plaza north of the existing courthouse on the County campus, the parking lot site, the site of the existing courthouse, and properties outside downtown Everett. Of these options, the County has moved forward with projects on three of them: the north plaza of the County campus (the 2008 and 2012 plans), the parking lot site (the 2013 plan), and the site of the existing courthouse (the 2016 plan).

These fluctuations in the scope of proposed courthouse projects stemmed at least in part from challenges in balancing existing needs and anticipated future needs, and in balancing those identified needs with persistent budgetary constraints. As a result of the struggle to reach lasting consensus on the direction the project should take, the program has frequently been placed at risk and has repeatedly been reevaluated for further options, resulting in deliberations, delays, and increasing costs.

C.2.b While Many Factors Impacted Project Scope and Costs, Disagreement over Costs and Parking Ultimately Led to the Termination of the Courthouse Project in 2015

Unlike the square footage, occupancy, and location factors discussed above, the issue of parking availability was addressed throughout Facilities’ planning processes and in discussions between Facilities and the City’s Planning and Community Development Department with general consensus. Off-street public parking was not intended to be incorporated into the 2013 courthouse project. However, while there remained significant communication between the project team and City and County officials regarding the courthouse project, there was a lack of communication among Facilities, the County Executive, and the County Council relating to the City of Everett’s expectations regarding parking.

Parking availability is a routine factor considered in development projects, as new development often impacts traffic and parking in the surrounding areas. As would be expected, the project team studied the various impacts that courthouse renovation and new construction proposals would bring to the area. Parking was raised as a potential issue for courthouse construction on several occasions:

- The 2008 Snohomish County Justice Center Master Plan considered parking to be an important issue due to the increased size of the proposed new courthouse and observed a need to address parking as part of any courthouse replacement project. At the direction of the County Executive’s Office, in accordance with this observation, the Master Plan recommended construction of a parking structure at an additional cost of $23.4 million in conjunction with $169 million in expanded court facilities.
• The project team’s presentation to the County Council on November 8, 2013 noted that construction on the parking lot site would result in a “loss of public parking for County visitors and Comcast [Xfinity] Arena.”

• At a meeting with City staff on April 11, 2014, the Assistant City Traffic Engineer indicated that “any parking that is displaced will need to be replaced elsewhere since this is one of the areas where parking is most [in] demand.”

While the issue of parking was given due consideration, the Facilities project team reasonably believed that the project could proceed without additional parking spaces. The following factors support the conclusion that Facilities performed its due diligence in its parking impact analyses.

• Throughout the planning and early design phases of the project, the City’s zoning code did not require any additional off-street parking to be included.

• The County viewed the new courthouse as a replacement project, with the same number of courtrooms, that would result in existing staff and court users simply moving from two buildings in downtown Everett to a new, more spacious building in the same vicinity.

• The projected increase in parking demand from 2007 to 2015 in the 2008 Snohomish County Justice Center Master Plan was based on an expected increase in staffing levels and court filings, which was never realized.

• The December 2014 Supplemental Traffic Impact Analysis concluded that relocating the courthouse to the parking lot site adjacent to the County campus “is not expected to significantly alter the parking climate” and would not result in increased parking demand.

• The Project Team met with staff from the City’s Planning and Community Development Department on several occasions to gain an early understanding of the City’s requirements and concerns, many of which addressed parking:
  - On July 21, 2013, the City’s Director of Planning confirmed that no off-street parking was required by the City’s zoning code and noted that the “City is not concerned if the parking on this site is removed,” even if the building constructed is larger than the 160,000 square feet originally planned “as there is no parking required regardless of size.”
  - On December 10, 2013, City Planning and Community Development Department management confirmed that a 2002 Development Agreement, which required the County to take certain parking mitigation measures as part of its CRI project, did not apply to the parking lot site.
  - On April 15, 2014, in the middle of the Schematic Design phase, no indication was given that the County would have to provide additional or replacement parking.

• The County provided its project plans, which did not reflect off-street parking to the City multiple times during 2014, including a meeting on September 25, 2014 to review the
County’s SEPA application. During these meetings, the City did not express a need for additional parking.

While project documentation suggests that both County and City personnel working on the project determined there was no need (as determined by ordinance, zoning codes, or impact mitigation) to incorporate parking into the courthouse project, there remained a desire on the part of the City of Everett to incorporate parking into the courthouse development. This desire predated the 2013 courthouse project. Prior to the County’s decision in late 2013 to place the courthouse on the parking lot site across the street from the existing courthouse, the City hired a real estate services firm to study the feasibility of redeveloping the entire block of Hewitt Avenue to Wall Street, between Rockefeller Avenue and Oakes Avenue, to include commercial space and a multi-level parking structure. The “Hewitt Avenue Redevelopment Project” evolved after the City became aware of the County’s plan to locate the courthouse on the block.

Documents obtained during the audit revealed little information relative to the County’s involvement in the Hewitt Avenue Redevelopment project. However, based on audit interviews and a review of statements made by public officials in public meetings and to the press in the aftermath of the termination of the courthouse project, the County’s notification to the City that there was no funding available to add off-street parking preceded the City’s adoption of Ordinance 3420-14 requiring off-street public parking, and the County’s inability to obtain necessary permits and commence the construction phase.

Interviews and documentation obtained during the audit reveal that County Executive Lovick’s Office and Facilities had been engaged with the City in preliminary planning for the Hewitt Avenue Redevelopment project. This included Facilities working with the architect hired for the courthouse project to develop a rendering and conceptual cost estimates for the Hewitt Avenue Redevelopment Project, meeting with the Deputy County Executive and a real estate firm regarding a proposed redevelopment partnership, and presenting the idea of a City-County redevelopment partnership to the County Council with the County Executive’s Office in executive session during the spring of 2014, as reported in the Everett Herald.2

The architect for the courthouse project prepared three concepts for the project, one with above ground parking and two with below ground parking, each with retail at street level. According to Facilities, the project required the County to condemn four properties on Hewitt Avenue, was projected to cost an estimated $19 million to $38 million, and relied on the County to fund the vast majority of the project. Figure 11 provides an initial rendering and sketch of one of the three concepts developed for the Hewitt Avenue Redevelopment Project, the above ground option.

Figure 11. Rendering of Option 1 (Above Ground Option) of the Hewitt Avenue Redevelopment Project

External Rendering

Sketch of the Parking Structure in Relation to the Courthouse
This audit did not obtain sufficient documentary evidence to identify when the County began discussions with the City regarding the Hewitt Avenue Redevelopment project, when the County determined whether it could or would financially support the Hewitt Avenue Redevelopment project, or whether the Hewitt Avenue Redevelopment project was viewed as a component of the courthouse project. However, based on interviews, it appears that the City began discussions with the County Executive’s Office in January 2014—shortly after the County decided to build on the parking lot site—and that the Executive’s Office instructed Facilities to have the courthouse architect develop a rendering, concept sketches, and conceptual cost estimates in March 2014.

It appears that in July 2014, six months after the project partnership was proposed to the County, the County determined that it could not participate in the proposed Hewitt Avenue Redevelopment project due to a lack of available funding and challenges related to acquiring property on Hewitt Avenue. According to reports, the City Mayor indicated that this information was not communicated to the City until November 2014, shortly before the County was scheduled to submit its SEPA application for City approval, at which point the City moved to adopt the emergency parking ordinance without notice to the County, preventing the courthouse from being built without additional off-street parking.

After the City’s new parking ordinance became effective, with Schematic Design complete and the $162 million project budget firmly established, the County concluded that it lacked sufficient physical space and funding to construct a parking lot or garage with the number of parking spaces desired by the City and required by the new ordinance.

An analysis of these events revealed two factors within the control of the County that contributed to the delays, escalating costs, and lost opportunities. This includes contributing to fluctuations in the scope of the construction project by expending budgeted courthouse construction resources on preliminary planning on the Hewitt Avenue Redevelopment project without County Council direction. It also includes an apparent lack of communication between all pertinent parties within the City and the County that could have mitigated the gap in expectations regarding parking in general and the Hewitt Avenue Redevelopment project in particular, including their relationships to the courthouse project. Both are discussed below.

- A review of courthouse construction project costs revealed that project resources were dedicated to preliminary planning on the Hewitt Avenue Redevelopment project, activity that was included in neither the description of Option C selected by the County Council nor the Council’s November 25, 2013 Motion 13-478 authorizing the Executive’s Office to “move forward” with the project. Specifically, the architect’s invoice for services rendered in March 2014 included 65 hours worked on “Hewitt Ave. Properties” at a total cost of $13,390. This was identified as “additional services” on the invoice by the Facilities project team. Project records demonstrate that the majority of the work on the rendering, sketches, and cost estimates was performed through the end of April 2014, but subsequent invoices did not identify any of this work as being related to “Hewitt Ave. Properties.” According to Facilities, charges for work performed on the Hewitt Avenue
Redevelopment project were not separately itemized in the architect’s invoices, but were reflected as courthouse construction work.

The level of expenditures related to this preliminary planning/programming work on the Hewitt Avenue Redevelopment project is unlikely to have had a material impact on the budget for the courthouse construction project. However, this work appears entirely outside the scope of the courthouse construction project, rendering the work unauthorized under the budget authority appropriated to Facilities for the project. The audit also did not identify any public hearing or formal County Council action in which such direction was given.

- Evidence suggests a general lack of communication and transparency regarding the Hewitt Avenue Redevelopment project, including its scope, cost, and relationship to the courthouse project. From the perspective of the project team, the Hewitt Avenue Redevelopment was not an element of the courthouse project and was in the very early stages of pre-planning, and therefore was not something in which the team was significantly involved. According to the Facilities project team, most of the preliminary planning work, such as meeting with stakeholders (e.g., the City of Everett) and identifying project needs, was primarily performed by the County Executive’s Office with minimal input from or direction to Facilities. In fact, while this audit found substantial evidence of routine and substantive communication between the Facilities project team and the City’s Planning and Community Development Department regarding the courthouse project, it revealed limited evidence of communication between the Facilities project team and the City regarding the Hewitt Avenue Redevelopment project, such as meeting with a real estate firm.

The audit similarly revealed frequent communication between the Facilities project team and County Council regarding the courthouse project, but only one instance of communication between Facilities, the County Executive’s Office, the County Council, and City officials regarding the Hewitt Avenue Redevelopment project, as reported in the press—an executive session during the Council’s General Legislative Session on April 16, 2014. It did not identify any instance in which Facilities presented the rendering, sketches, and cost estimates to the County Council for review and deliberation during an open session.

As a result, as the Hewitt Avenue Redevelopment project was being discussed as a potentially viable project, the audit found no evidence that the County Council was involved in deliberations, briefings, or decisions relating to the project or its actual or perceived connection to the courthouse project. Similarly, with the exception of developing the rendering, sketches, and conceptual cost estimates, Facilities’ perception that the Hewitt Avenue Redevelopment project was unrelated to the courthouse project is supported by the project team’s apparent absence from deliberations, briefings, or decisions relating to the Hewitt Avenue Redevelopment project. While the City Mayor’s Office and the County Executive’s Office communicated regarding parking and the
Hewitt Avenue Redevelopment Project, this audit did not identify the nature or extent of this communication; thus the nature of the deliberations, briefings, or decisions relating to the project or its actual or perceived connection to the courthouse project remain unknown.

Nevertheless, given the City’s expectations, as represented in public hearings, regarding parking and/or the Hewitt Avenue Redevelopment project and the County Council’s and Facilities’ lack of expectations regarding parking and the Hewitt Avenue Redevelopment Project, it is evident that there was inadequate communication between City and County officials regarding parking in general and the Hewitt Avenue Redevelopment project in particular, as well as the relationship of either to the courthouse project.

In January 2016, County Executive Somers established the Courthouse Building Committee, consistent with County Council direction, and included both County and City officials, as well as key stakeholder groups. By August 2016, the Committee worked together to reduce the number of viable courthouse options that effectively addressed concerns related to on-street parking.

C.3 Changes in Scope Contributed to Unnecessary Financial and Opportunity Costs

Uncertainties related to the project’s scope and the County’s finances resulted in increased costs. Had the County elected to proceed with the $162 million courthouse project through to completion, escalation costs would have impacted the project’s contingency budget. As noted previously, the project team estimated that through May 2015 costs associated with delays related to the parking agreement and the City’s newly-adopted parking ordinance escalated more than $400,000 and that each additional month of delay could result in added costs of $220,000. Despite these escalation costs, the project team believed the project remained financially viable.

At the same time, the County’s decision to cease work on the $162 million project because of financial uncertainties resulted in sunk costs associated with work performed on the project throughout 2015. The audit did not reveal exactly when concerns began to be raised about the County’s ability to pay debt service on a second bond issuance required to fund the $162 million project, but, according to the Project Team, this occurred within the County Executive’s Office while Facilities continued through the design phase in 2015. As described previously, the project team had expended nearly $12.1 million in costs for the courthouse construction project between 2013 and 2015, in part because planning and design on the project continued unabated despite the City’s December 2014 parking ordinance and January 2015 rejection of the County’s SEPA application. Based on financial data compiled by the project team, the County incurred nearly $5 million in project costs after the City’s emergency parking ordinance was passed. This includes over $3 million in architecture and engineering costs, nearly $500,000 in GC/CM consulting and construction management services, approximately $290,000 in GC/CM preconstruction services (including sales tax), and about $330,000 in furniture, fixtures, and equipment.
While some of these costs may be able to benefit future project efforts to renovate the existing courthouse, others most certainly will not, such as architecture, engineering, and preconstruction services specific to constructing an entirely new building, as well as funding dedicated to property acquisition and alley vacation efforts. As illustrated in Figure 9, the County incurred an additional $500,000 in costs between January 1, 2016 and June 2016.

Thus, from 2013 through June 2016, the County incurred a total of $12.6 million in project costs, of which approximately 4% were incurred in 2016 and related to the process of deciding how to proceed with the project. This leaves $62.4 million in remaining bond proceeds available for renovation of the existing court facilities.

In addition to the financial impact of the delays and changes in scope, several options are no longer possible within the budget deemed feasible by County officials. As a result of the escalating cost of construction, the County’s options are more limited now than in 2014.

C.4 Despite these Events, Facilities Generally Followed Project Management Requirements and Best Practices

For any construction project, there are a myriad of legal requirements and recommended best practices that constrain and guide the management team, some of which are specific to the project delivery model chosen for the project. Records for the County’s courthouse construction project demonstrate that the Facilities project team complied with key legal requirements and, with minor exceptions, followed major best practices for the delivery of a General Contractor/Construction Manager (GC/CM) project. Documentation supports that, overall, the County carried out the expected critical tasks for each of the planning and design phases through which the courthouse construction project progressed.

Industry practices afford a number of approaches to capital improvement project management and delivery. Design-bid-build, the method traditionally used by local governments on capital improvement projects, requires local agencies to engage an architectural and engineering firm to design the project, solicit bids via a Request for Bids (RFB) from construction companies, and award the project to the responsible construction company submitting the lowest responsive bid. This model was designed to promote a cost-effective method of delivering public works projects—by awarding to the lowest bidder—and often was the statutorily mandated project delivery method for local jurisdictions. However, local governments found that this method often resulted in cost overruns and unanticipated delays because, in part, the winning bidder was uninvolved in the design of the project they were charged to deliver. Over the last two decades, many states amended statutory mandates to allow for alternative project delivery methods, including Washington.

Chapter 39.10 of the Revised Code of Washington (RCW) allows public entities within the state, including counties, to employ certain alternative public works contracting procedures while complying with the procedures and rules set forth in the statute. One of the authorized alternative
public works contract procedures is the GC/CM project delivery method. This approach awards the contract to the highest ranked proposer, with rankings based on factors other than cost alone. The Washington Legislature established the Capital Projects Advisory Review Board in 2005 to oversee the use of alternative public works contracting procedures by public entities in the state. Effective in 2007, the Project Review Committee was created under the Capital Projects Advisory Review Board to review and approve the use of alternative contracting procedures by public entities. A public entity that wishes to use the GC/CM project delivery method for a specific project must receive the Committee’s prior approval to do so.

Under the GC/CM project delivery method, a GC/CM contractor is hired early in the lifecycle of a project and provides pre-construction services during the design phase and general contractor and construction management services during the construction phase. While many benefits may be derived when the general contractor is active in the project from the start, there may be downsides as well, as shown in Figure 12 below.

**Figure 12. Benefits and Risks of Using the GC/CM Project Delivery Method**

<table>
<thead>
<tr>
<th>BENEFITS</th>
<th>RISKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Contractor selection is based upon “best value” and not limited to the lowest responsive, responsible bid.</td>
<td>• Significant learning curve for staff with limited or no experience using GC/CM.</td>
</tr>
<tr>
<td>• Cost, schedule, and constructability are discussed through design development, leading to:</td>
<td>• More difficult and complex than design-bid-build, requiring an experienced project team.</td>
</tr>
<tr>
<td>- Better budget control</td>
<td>• Solicitation and award process takes longer and is more involved.</td>
</tr>
<tr>
<td>- Constructability reviews</td>
<td>• Contract complexities can lead to unintended costs, such as double payment for work</td>
</tr>
<tr>
<td>- Value engineering to optimize the cost and performance of the project</td>
<td>between pre-construction and construction.</td>
</tr>
<tr>
<td>- Team approach and improved communication</td>
<td></td>
</tr>
<tr>
<td>- Fewer change orders</td>
<td></td>
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<tr>
<td>- Realistic, well-thought out schedule and time savings</td>
<td></td>
</tr>
<tr>
<td>• Potential cost savings through early changes to design and scope.</td>
<td></td>
</tr>
<tr>
<td>• Greater understanding of costs.</td>
<td></td>
</tr>
<tr>
<td>• Balanced and mitigated risks between the owner, architect, and the GC/CM contractor, with the GC/CM contractor guaranteeing completion for a fixed, negotiated price following design.</td>
<td></td>
</tr>
<tr>
<td>• Early components of construction can be “fast-tracked” and begun prior to full completion of design.</td>
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</tr>
</tbody>
</table>

The County selected the GC/CM project delivery method for the courthouse construction project in March 2013, making it the County’s second capital project to use the GC/CM method. In 2005, the County completed its first project with the GC/CM approach, the CRI.
C.4.a Facilities Adhered to Statutory Requirements and Many Best Practices

We examined project records and interviewed project management personnel to determine the extent to which the Facilities project team adhered to statutory requirements and best practices for GC/CM project management. Overall, Facilities complied with all relevant statutory requirements in managing the design phase of the courthouse project, including the following:

- Retaining a project management consultant with expertise and prior experience managing comparable construction projects to supplement the more limited internal experience of the Facilities team.
- Applying for and receiving the Project Review Committee’s approval to use the GC/CM project delivery method early in the lifecycle of the project.
- Including all required elements in the public solicitation of proposals for the GC/CM contract.
- Evaluating GC/CM proposals using the statutory criteria and awarding the GC/CM contract to the firm submitting the highest scored final proposal.
- Including required terms in GC/CM contract documents.
- Establishing a budget contingency of seven percent of the total budgeted construction cost, greater than the five percent minimum contingency required by statute.

C.4.b With Each Project Iteration, Facilities Engaged in Proper Planning and Design Activities

The County, and Facilities project team, generally followed the protocols expected for capital construction projects, including employing many best practices. To begin, prior to proposing a scope or budget for a project to address the deteriorating condition of the County’s court facilities, the County commissioned a comprehensive feasibility study, the Snohomish County Justice Center Master Plan issued in March 2008, to identify court needs and evaluate the County’s options. The 2008 Council-approved proposition for submission to the voters that followed the Master Plan was consistent with the Master Plan’s findings and recommendations. Likewise, when the County Council revived its efforts to remediate the existing facilities’ shortcomings with its 2012 budget note in Ordinance 11-072, it convened an internal courthouse study group to assess and update the 2008 Master Plan’s findings. The draft project program, hatched from the 2012 study group’s efforts, aligned with the finding that the County’s court needs had changed since 2008 and placed a greater emphasis on shrewd spending and a lesser emphasis on meeting potential future needs that would be dependent on uncertain trends in court usage.

Once the County Council passed Motion 13-478 at the end of 2013 authorizing the County Executive to move forward with a larger new construction project on the parking lot site, the project team held regular meetings with the architect, the GC/CM, the City’s Planning and Community Development Department, and court users to build rapport and set project
expectations. These meetings included discussions of and decisions on project organization, communication protocols, goals, needs of stakeholder groups, project challenges, construction procedures, strategies and action plans for key challenges, issue resolution processes, and project milestones, many of which are documented in the Facilities team’s project management plan.

Furthermore, in accordance with best practices, the project team completed a formal value engineering study at the end of the Schematic Design phase, as well as a four-day design review workshop at the conclusion of the Design Development phase that included representatives of the County, architect, GC/CM, and stakeholders. In addition, the County followed leading practices for procuring and entering into contracts with the architect and GC/CM contractor, including scoring bids and proposals using documented evaluation approaches and incorporating detailed, precise scopes, schedules, and budgets into contracts.

Finally, the project team maintained well organized project records with clearly labeled files and folders, and adopted a web-based collaborative project control system allowing members of the project team to access key project documents and data and collaborate with one another even when not located in the same physical space.

C.4.c This Audit also Revealed Additional Best Practices Recommended as Facilities Commences Project Planning on the Courthouse Project

While in compliance with statutory provisions, the Facilities project team did not employ some best practices relating to GC/CM contract management. Benchmarking studies and best practice guides developed by and for local government agencies on the West Coast include several areas that should be considered to enhance the County’s project management practices.

- **Limit scope changes to the early stages of design.** As discussed in Section C.2, the County significantly changed the scope of the courthouse construction project in late November 2013, almost eight months after execution of the design contract in April of that year. The County incurred at least $450,000 in design charges during this eight-month period, some of which may have been avoided had the County not made late changes to the project size, moving it from the originally envisioned $75 million project to the $162 million project. In addition, the County made a material change to the eighth floor tenancy of the courthouse, approximately 30 percent into the design phase, requiring a complete redesign of that floor.

- **Develop and use a standard project delivery manual.** The County has not developed or adopted a standard project delivery manual for capital projects, nor does Facilities have such policies and procedures. The County maintains a decentralized capital improvement program, with Facilities, Public Works, Paine Field, and Parks and Recreation all managing capital improvement projects independently without generalized project delivery standards. Such a manual would contain policies and procedures for countywide practices for capital project oversight and management. This audit did find that the Facilities project team prepared a project management plan that included project-specific procedures for the courthouse construction project.
• **Obtain independent cost estimates at the end of each design phase, performed by unbiased, independent, qualified professionals with an understanding of local market conditions.** The courthouse construction project reached the conclusion of two design phases: Schematic Design and Design Development. Although the County retained a third party for independent cost estimate review consulting services towards the end of the Schematic Design phase, it did not obtain a second set of independent cost estimates at the end of the Design Development phase, as is a best practice.

We found that the estimates of the cost per square foot to build the new courthouse on the parking lot site ($640, including property acquisition, utilities undergrounding, LEED sustainability features, and building hardening) and estimated cost per square foot for an alternative smaller new courthouse adjacent to the existing courthouse ($600, not including sustainability, hardening, and critical facility additives, or parking) were reasonable based on our analysis of construction cost trends nationwide and locally, and when compared to recently completed and in-progress courthouse construction projects similar in scale within other jurisdictions. The County will obtain a higher level of confidence in the fairness of its construction costs if it obtains periodic independent estimates.

In sum, as the County undertakes new construction projects and moves forward with courthouse renovations into 2017, in addition to following statutory requirements, the County could further strengthen its project management practices by developing and using a standard county-wide project delivery manual. Additionally, the County can maximize its opportunities for cost savings and increase project efficiencies by avoiding significant changes to the project scope late in the design phase and by obtaining independent cost estimates at the end of each design phase.

### C.5 Conclusions and Recommendations

To enhance its oversight and management of capital construction projects, the Facilities should:

C.5.a. Limit scope changes to the early stages of design. This should include gaining lasting consensus—to the extent feasible—on stakeholder needs and overall project scope, including location, size, and cost, during the planning phase.

C.5.b. Obtain County Council approval prior to authorizing work outside the documented, previously approved project scope and, if applicable, formalize the scope modification through a formal contract amendment or change order.

C.5.c. Obtain independent cost estimates at the end of each design phase.

C.5.d. Consider developing a standard construction project delivery manual and implement its use for all County construction projects.
### Appendix A – Summary of Recommendations and Corrective Action Plan

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Page</th>
<th>Responsible Entity</th>
<th>Priority</th>
<th>Entity’s Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.5.a Limit scope changes to the early stages of design. This should include gaining lasting consensus—to the extent feasible—on stakeholder needs and overall project scope, including location, size, and cost, during the planning phase.</td>
<td>31</td>
<td>Project Team County Executive County Council</td>
<td>A</td>
<td>This is a decision that is made by elected officials with Facilities working as directed.</td>
</tr>
<tr>
<td>C.5.b Obtain County Council approval prior to authorizing work outside the documented, previously approved project scope and, if applicable, formalize the scope modification through a formal contract amendment or change order.</td>
<td>31</td>
<td>Facilities</td>
<td>A</td>
<td>Noted. To clarify, the work cited was directed by the County Deputy Executive. There is no other instance of work being authorized outside of the approved project scope or budget.</td>
</tr>
<tr>
<td>C.5.c Obtain independent cost estimates at the end of each design phase.</td>
<td>31</td>
<td>Facilities</td>
<td>B</td>
<td>The estimates provided by Hoffman were validated and challenged by Heery’s in-house estimator, John Langer (a third party outside estimator) and by OAC.</td>
</tr>
<tr>
<td>C.5.d Consider developing a standard construction project delivery manual and implement its use for all County construction projects.</td>
<td>31</td>
<td>Facilities</td>
<td>C</td>
<td>Noted. To clarify, an extensive, specific “Snohomish County Replacement Courthouse Project Manual” was developed in accordance with best practices and RCW 39.10.280 (2) (iii).</td>
</tr>
</tbody>
</table>

**A – High Priority:** The recommendation pertains to a high priority conclusion or observation. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

**B – Medium Priority:** The recommendation pertains to a moderately significant conclusion or observation. Reasonably prompt corrective action should be taken by management to address the matter.

**C – Low Priority:** The recommendation pertains to a conclusion or observation of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

**N/A:** Not Applicable
Appendix B – Facility Department’s Response

Historically, the county’s attempt to address the deficiencies of the existing courthouse has been a long and difficult process. In particular, the most recent efforts (since 2013) have been complex, involving significant changes in direction, time-frame, scope, and cost. The audit report does a good job of tracking these changes over time, and discussing the reasons for their occurrence. Three separate branches of county government, at least 25 separately elected county officials (including three different executives), and the City of Everett were all major players in the decision making, with the County Council and Executive playing the most significant roles. Through all of this, the project team was able to respond to the changing directions, and was delivering a project through schematic design that was supported by the users, met operational and structural goals, and was ready to move forward within the budget approved by Council and as proposed by the Executive. That’s a product of which the Facilities Department team is justifiably proud.