



## Travis County Commissioners Court Agenda Request

**Meeting Date:** January 3, 2012

**Prepared By/Phone Number:** Jorge Talavera, CPPO, CPPB/854-9762;  
Marvin Brice, CPPB/854-9765

**Elected/Appointed Official/Dept. Head:** Cyd Grimes, C.P.M., CPPO

**Commissioners Court Sponsor:** Judge Biscoe

**Agenda Language:** Consider and take appropriate action on contract award to Ernst & Young LLP for consultant services on Feasibility Analysis for New Civil and Family Courthouse.

- Ø **Purchasing Recommendation and Comments:** Purchasing concurs with department and recommends approval of requested action. This procurement action meets the compliance requirements as outlined by the statutes.
- Ø In December 2010, the County purchased the full city block located at 308 Guadalupe for a New Civil and Family Courthouse in Travis County. On April 22, 2011, Request for Information (RFI) No. I041311CG was issued, as directed by the Commissioners Court, to solicit information from developers and construction teams to explore the potential for a P3 in the development of the new Courthouse building. The intent of the P3 contracting approach would be to significantly reduce Travis County's cost and to deliver the project more quickly and with quality long-term design, construction, maintenance, and/or operations of the new facility.
- Ø In response to the RFI, on June 30, 2011, twenty-one (21) responses were received from various companies and consortiums which provided information on their past experience with, and ideas on, the P3 contracting approach, and expressed an interest in participating in the County's P3 project in some capacity.
- Ø On May 31, 2011, the Purchasing Agent was authorized to issue Request for Services (RFS) No. S110505-CG to procure the services of an Advisory Team to assist in determining the feasibility of utilizing a P3 contracting approach for the development of the new Courthouse building. Ten (10) responses were received in response to the RFS by

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, [Cheryl.Aker@co.travis.tx.us](mailto:Cheryl.Aker@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.

the submission deadline of July 13, 2011, at 2:00 p.m., extended from the initial due date of June 30, 2011.

- Ø After the written proposals were scored by the Evaluation Committee (“Committee”), comprised of representatives from the Auditor’s, County Attorney’s, Planning and Budget, Purchasing, Transportation and Natural Resources Offices, and Facilities Management. The four (4) highest ranked respondents were short-listed and invited for oral interviews. These four firms were: Cushman & Wakefield/Oxford Commercial; Ernst & Young LLP; Jones Lang LaSalle Americas, Inc.; and, KPMG Corporate Finance LLC. After oral interviews were conducted, the Committee completed another round of scoring based upon written responses to the RFS, oral interviews and additionally requested information received from short-listed respondents during the evaluation process.
- Ø The Committee then determined that negotiating concurrently with the top two ranked teams would allow for a more competitive final selection process. These teams were: Ernst & Young LLP and KPMG Corporate Finance, LLC. After numerous meetings and follow-up discussions with the two top ranked teams, a final vote was taken to select the successful Advisory Team. Ernst & Young LLP was selected by the Committee through a 4-2 vote.
- Ø Contract negotiations with Ernst & Young LLP have been successfully completed. The Committee recommends that a contract in the amount of (Not-to-Exceed) \$425,000.00 be awarded to Ernst & Young LLP to act as the County’s Advisory Team.
- Ø The Advisory Team will review and analyze the twenty-one (21) RFI responses received on June 30, 2011, and help develop concepts and objectives for Travis County’s P3 project. If the Commissioners Court decides to proceed with a P3 contracting approach for development of the new Courthouse building, the County will then need to procure an Owner’s Representative to act on behalf of the County in establishing a P3 for the new Civil and Family Courthouse.
- Ø **Contract Expenditures:** Within the last 12 months \$0.00 has been spent against this requirement.
- Ø **Contract-Related Information:**
  - Award Amount: \$425,000.00 (Not-to-Exceed)
  - Contract Type: Professional Consulting Services
  - Contract Period: Through Completion of Services

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Ø **Solicitation-Related Information:**

Solicitations Sent: 227

Responses Received: 10

HUB Information: No

% HUB Subcontractor: 0%

Ø **Special Contract Considerations:**

Award has been protested; interested parties have been notified.

Award is not to the lowest bidder; interested parties have been notified.

Comments:

Ø **Funding Information:**

Purchase Requisition in H.T.E.: 549257

Funding Account(s): 001-5500-557-6099 (Budget adjustment pending.)

Comments:

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# PROFESSIONAL SERVICES AGREEMENT

BETWEEN

TRAVIS COUNTY

AND

ERNST & YOUNG LLP

FOR

ADVISORY TEAM FOR FEASIBILITY ANALYSIS OF A PUBLIC-PRIVATE  
PARTNERSHIP FOR A NEW CIVIL AND FAMILY COURTHOUSE AT 308  
GUADALUPE STREET IN AUSTIN, TX

CONTRACT NO. PS120059JT



PROFESSIONAL SERVICES AGREEMENT (PSA)

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PROFESSIONAL SERVICES AGREEMENT FOR ADVISORY TEAM FOR FEASIBILITY ANALYSIS OF A PUBLIC-PRIVATE PARTNERSHIP FOR A NEW CIVIL AND FAMILY COURTHOUSE AT 308 GUADALUPE STREET IN AUSTIN, TX

STATE OF TEXAS           §  
                                          §  
COUNTY OF TRAVIS       §

RECITALS

This AGREEMENT is made and entered into between Travis County, a political subdivision of the State of Texas, and ERNST & YOUNG LLP, a Delaware limited liability partnership.

The COUNTY desires to obtain professional consulting services for an Advisory Team for Feasibility Analysis of a Public-Private Partnership for a New Civil and Family Courthouse at 308 Guadalupe Street in Austin, TX; and

The CONSULTANT has the ability, expertise, experience, and necessary professional degrees, licenses, and certificates to furnish the PROJECT services;

The COUNTY and the CONSULTANT agree as follows:

**1. DEFINITIONS**

- 1.1 The AGREEMENT is this document, entitled "PROFESSIONAL SERVICES AGREEMENT FOR ADVISORY TEAM FOR FEASIBILITY ANALYSIS OF A PUBLIC-PRIVATE PARTNERSHIP FOR A NEW CIVIL AND FAMILY COURTHOUSE AT 308 GUADALUPE STREET IN AUSTIN, TX," together with all exhibits and appendices attached hereto.
- 1.2 The BASELINE MODEL for the VALUE FOR MONEY analysis will be a project that is financed through traditional public financing vehicles, and is procured through a design, bid, and build process.
- 1.3 The CIVIL AND FAMILY COURTHOUSE INTERNAL TEAM (also sometimes called the INTERNAL TEAM) is comprised of the PROJECT EXECUTIVE, the Travis County Auditor, the Travis County Purchasing Agent, representatives from the Travis County Attorney's Office, the Travis County Executive for Transportation Natural Resources and Facilities Management, the Travis County Executive for Planning & Budget, the PROJECT ADMINISTRATOR, and staff from each of the offices and/or departments named.
- 1.4 The CONSULTANT is ERNST & YOUNG LLP.
- 1.5 The CONTRACT ADMINISTRATOR is the Travis County Purchasing Agent or her designee. If the position of Travis County Purchasing Agent becomes vacant or if for any reason the Travis County Purchasing Agent is unable to perform the duties of the

CONTRACT ADMINISTRATOR at any time during the term of this AGREEMENT, then the Travis County Purchasing Agent's chief assistant shall be the CONTRACT ADMINISTRATOR until such time as a new Travis County Purchasing Agent shall be appointed or the Travis County Purchasing Agent regains the ability to perform the duties of the CONTRACT ADMINISTRATOR.

- 1.6 The COUNTY refers to Travis County, Texas. The COUNTY and the OWNER are synonymous for purposes of this AGREEMENT.
- 1.7 FINANCIALLY FEASIBLE is defined as the ability of an option for completing the PROJECT that justifies itself economically and that does not substantially restrict the OWNER from funding or financing other COUNTY needs.
- 1.8 FITNESS FOR PURPOSE means that the PROJECT meets, at a minimum, a LEED Silver Certification; meets the needs of the Civil and Family Justice System as described in the *Travis County Central Campus Study Civil and Family Courthouse Program*, dated August 26, 2011 (Space Program), prepared by Broaddus and Associates for the OWNER; is compliant with the current legally required functions of the agencies in the Travis County civil and family justice system; and is responsive to the current business needs while looking to the future of a growing, dynamic, and adaptable judicial system in Travis County.
- 1.9 The LAW FIRM is **HAWKINS DELAFIELD & WOOD LLP.**
- 1.10 LEGALLY PERMISSIBLE is defined as complying with federal, state, and local law governing the actions of a county as a subdivision of the State of Texas or it is reasonably probable that federal, state, or local law can be changed within a reasonable time so that an action does comply with federal, state, or local law.
- 1.11 The LIFECYCLE term for the PROJECT is the longest term the CONSULTANT recommends that a PUBLIC-PRIVATE PARTNERSHIP AGREEMENT be in place for the building or 30 years, whichever is greater.
- 1.12 The OPERATING AND MAINTENANCE COST MODEL is the representation of all operating and maintenance costs for a building using parametric or other high-level comparable cost per square foot industry standard operating cost estimating techniques. The OPERATING AND MAINTENANCE COST MODEL shall include a category of costs to reflect the replacement and/or upgrade of building systems and elements throughout the LIFECYCLE of the PROJECT, such that the building condition at the end of the LIFECYCLE is comparable to that of a well-maintained building of similar type and age with normal wear and tear.
- 1.13 The OWNER is the COUNTY, a political subdivision of the State of Texas. The OWNER and the COUNTY are synonymous for purposes of this AGREEMENT.
- 1.14 PHYSICALLY POSSIBLE is defined as complying with local applicable and/or anticipated planning constraints and industry accepted construction techniques which are suitable for the site conditions and building functions.



- 1.15 The PRIVATE PARTNER is a private entity, composed of one or more individuals and/or one or more legal entities, whose function is to design, construct, and potentially operate, and/or maintain the PROJECT in cooperation with the OWNER, and who may also finance the PROJECT, pursuant to an AGREEMENT with the OWNER.
- 1.16 The PROJECT is the delivery of a Civil and Family Courthouse that meets the space needs of the civil and family justice system through 2035, with space for the possibility of expansion after 2035 if it is financially feasible, physically possible, and legally permissible. The structure or structures on the SITE will be designed to eventually serve public purpose occupants.
- 1.17 The PROJECT ADMINISTRATOR is the Strategic Planning Manager, which position is currently located in the Travis County Planning & Budget Office. The Commissioners Court of the COUNTY may appoint a different position as the PROJECT ADMINISTRATOR at any time in their sole discretion by complying with the terms of paragraph 12.6 of this AGREEMENT.
- 1.18 The PROJECT COST MODEL is the representation of all cost figures for the initial delivery of the PROJECT using parametric or other high-level comparable cost per square foot industry standard cost estimating techniques. The PROJECT COST MODEL will be developed by the CONSULTANT and agreed to by the PROJECT EXECUTIVE, which agreement will not be unreasonably withheld.
- 1.19 The PROJECT EXECUTIVE is the Travis County Executive of Justice and Public Safety. See Exhibit 9 for an overview of relationships between the PROJECT EXECUTIVE, PROJECT ADMINISTRATOR, INTERNAL TEAM, the CONSULTANT, the OWNER, and other stakeholders. If the position of Travis County Executive of Justice and Public Safety should become vacant or for any reason the incumbent is unable to perform his or her duties, then the PROJECT ADMINISTRATOR shall perform the duties of the PROJECT EXECUTIVE until such time as that position is filled or the incumbent again becomes available to perform his or her duties. The Commissioners Court of the COUNTY may name a different position to serve as the PROJECT EXECUTIVE at any time in their sole discretion by complying with the terms of paragraph 12.6 of this AGREEMENT.
- 1.20 A PUBLIC-PRIVATE PARTNERSHIP is any AGREEMENT between the OWNER and the PRIVATE PARTNER for delivery of the PROJECT and which includes some or all of the following: financing, development, construction, operations, or maintenance of the PROJECT. There are many forms and options for a PUBLIC-PRIVATE PARTNERSHIP.
- 1.21 The REQUEST FOR INFORMATION (also sometimes called the RFI) is the document issued by the CONTRACT ADMINISTRATOR, dated April 22, 2011, in response to which information was received by the CONTRACT ADMINISTRATOR on June 30, 2011.
- 1.22 The SERVICES are the services required to be performed by CONSULTANT under this Agreement, being the BASIC SERVICES and any ADDITIONAL SERVICES as described in Section 4 of this AGREEMENT.

- 1.23 The SITE is the city block owned by Travis County at 300 Guadalupe Street bounded by 4<sup>th</sup> Street on the north, 3<sup>rd</sup> Street on the south, San Antonio Street on the west, and Guadalupe Street on the east.
- 1.24 The STAKEHOLDERS are the OWNER, the INTERNAL TEAM, the Travis County Civil Court Judges, other civil and family justice officials, and the general public. A specific list of stakeholder names and contact information will be provided by the OWNER no later than (fill in date or deadline following Effective Date) to the CONSULTANT for use at various stages of the STUDY.
- 1.25 The STUDY (including the review and analysis of responses to the RFI and the development of concepts and objectives for the PROJECT), as outlined in the Scope of Services, is the research, analysis, and compilation of findings and recommendations developed during the course of the Consultant's work to determine the feasibility of a PUBLIC-PRIVATE PARTNERSHIP and assist the Travis County Commissioners Court in selecting the best approach to deliver the PROJECT.
- 1.26 The STUDY MANAGEMENT PLAN is the documented protocols for the day-to-day management of this AGREEMENT under which services will be performed.
- 1.27 VALUE FOR MONEY (also sometimes called VFM) is the optimum combination of LIFECYCLE costs and FITNESS FOR PURPOSE of the PROJECT to meet the OWNER'S requirements. VFM is not the choice of public works procurement based on the lowest cost bid. A VFM analysis as applied to this STUDY will consider and compare the financial risks and rewards of LEGALLY PERMISSIBLE, FINANCIALLY FEASIBLE, and PHYSICALLY POSSIBLE PROJECT delivery options as appropriate for the OWNER.
- 1.28 WORK PRODUCT is any reports, plans, specifications, studies, analyses, supporting documentation, and other information (including notes, drawings, diagrams, photographs, videotapes, draft appraisal reports, derived electronic data and/or files, and other materials of any kind), created, obtained, or assembled in connection with performance of this AGREEMENT and with the services rendered in connection with the PROJECT, including all deliverables for the PROJECT as described in Paragraph 4 of this AGREEMENT, to the extent developed by the Consultant for delivery to the COUNTY as part of the Services.

## **2. EMPLOYMENT OF THE CONSULTANT**

- 2.1 The COUNTY agrees to contract with the CONSULTANT as an independent contractor and the CONSULTANT agrees to perform the professional services described in this AGREEMENT. The COUNTY also agrees to contract with the LAW FIRM to advise the COUNTY and CONSULTANT regarding all legal issues connected with the STUDY using the form of contract attached to this AGREEMENT as Exhibit 10.
- 2.2 By approval of this AGREEMENT, the Travis County Commissioners Court orders this AGREEMENT exempted from the bidding requirements of the County Purchasing Act under Section 262.024(a)(4) of the Texas Local Government Code as a contract for personal and professional services.

2.3 The COUNTY and the CONSULTANT acknowledge and agree that:

2.3.1 the CONSULTANT is an independent contractor, operating solely in that capacity, and assumes all of the rights, obligations, and liabilities applicable to it as an independent contractor;

2.3.2 no employee of the CONSULTANT will be considered an employee of the COUNTY or gain any rights against the COUNTY under the COUNTY'S personnel policies;

2.3.3 no employee of the CONSULTANT may claim any benefits from the COUNTY other than the payments set forth in this AGREEMENT;

2.3.4 none of the CONSULTANT's employees have a contractual relationship with the COUNTY.

**3. AUTHORITY OF THE TRAVIS COUNTY PURCHASING AGENT AND PROJECT EXECUTIVE**

3.1 The Travis County Purchasing Agent acts as the overall CONTRACT ADMINISTRATOR. The CONTRACT ADMINISTRATOR may designate representatives to transmit instructions and receive information.

3.2 The PROJECT EXECUTIVE has authority to interpret and define the COUNTY'S policies and decisions with respect to the CONSULTANT'S services. CONSULTANT will not assume any of the COUNTY'S management responsibilities (as used in American Institute of Certified Public Accountants [AICPA] professional standards) in connection with the services to be performed hereunder.

3.3 The PROJECT EXECUTIVE may designate representatives to transmit instructions and receive information. The PROJECT EXECUTIVE will supervise the performance of the CONSULTANT'S services under this AGREEMENT, and the CONSULTANT must cooperate fully with the PROJECT EXECUTIVE in the performance of these services. The COUNTY remains responsible for all management decisions relating to CONSULTANT'S services, the use or implementation of the output of the services, and for determining whether the services are appropriate for the COUNTY'S purposes.

**4. SCOPE OF SERVICES**

The CONSULTANT will serve as the COUNTY'S professional consultant and must give consultation and advice to the COUNTY during the performance of the CONSULTANT'S SERVICES.

**4.1 BASIC SERVICES**

4.1.1 The CONSULTANT is responsible for the professional performance of the work described in this AGREEMENT. The work will be rendered so that it is acceptable to the PROJECT EXECUTIVE. For the purposes of this Agreement,

CONSULTANT shall be deemed to have satisfied its obligations hereunder and the work shall be deemed acceptable to the PROJECT EXECUTIVE in the event it meets the Agreement requirements and has been performed with due professional care and meets applicable professional standards.

4.1.2 The CONSULTANT must perform "Basic Services," which include:

- (a) all services set forth herein that are required for CONSULTANT's performance of the STUDY, which must be rendered so that it is acceptable to the PROJECT EXECUTIVE and in accordance with the terms of this Agreement between CONSULTANT and Travis County;
- (b) the detailed Scope of Services for this AGREEMENT, set forth in Section 4.2 (the "Scope of Services");
- (c) the WORK PRODUCT, which the CONSULTANT must submit to the COUNTY for review and acceptance.

#### 4.2 DETAILED SCOPE OF SERVICES

The CONSULTANT shall provide the OWNER with a review of the RFI, recommended concepts and objectives for the PROJECT, a prioritized list of potential options for completion of the PROJECT, and a VFM comparing the BASELINE MODEL with the top two prioritized options. Based on the four site configuration options contained in the Civil and Family Courthouse options presentation approved by Commissioners Court on August 31, 2011, the information contained in the RFI responses, input from the STAKEHOLDERS, and the CONSULTANT's professional judgment, several potential options will be identified for the delivery of the PROJECT. The CONSULTANT will work subsequently with the COUNTY to identify two options to consider for delivery of the PROJECT in Task B.3. Tasks B.4 through B.8 will be performed on the two agreed upon options. These SERVICES shall be performed by the CONSULTANT with that standard of care which is common among entities similar to the CONSULTANT. These SERVICES shall comprise those Tasks and Deliverables set forth in this Paragraph 4.2.

The communication structure between the CONSULTANT and the OWNER (including the CONSULTANT, the INTERNAL TEAM, the PROJECT EXECUTIVE, and the PROJECT ADMINISTRATOR) shall be as depicted on the attached Exhibit 9 and will become a part of the STUDY MANAGEMENT PLAN. The concepts and objectives for the PROJECT described in this section are the financial, construction, management, operations, design and community desires and approach to delivering the PROJECT as adopted by the OWNER. The concepts and objectives are not expected to be detailed in architectural intent, but the approach should include at a minimum those elements outlined in this Scope of Services.

The CONSULTANT shall perform the following Tasks and provide the following Deliverables:

## **Phase A – Review and Analysis of RFI Responses**

### **Task A.1 – Review and report on responses to the RFI**

Task A.1.1 – Analyze, collate, and synthesize responses to the RFI including such areas as:

- Breadth of experience of the respondent with the delivery method proposed, and where proposed, managing the development and operations of large buildings.
- Experience of the respondent in documenting costs as a result of the method proposed.
- Resources and expertise needed to deliver the PROJECT under the proposed method.
- Site use and optimization of site area.
- Timelines to complete projects.
- Strategies used to finance projects.
- Use of taxable versus tax exempt debt and financial impacts.
- Critical success factors for such a project given previous experience.
- Key non-legal obstacles, threats, and mitigation strategies to proposed delivery options.
- Any other relevant information.

Task A.1.2 – Meet with the Travis County Commissioners Court in a public meeting to present and discuss findings in the RFI evaluation report, including a short overview of Public-Private Partnerships (also sometimes called a P3 or P3s).

Deliverables for Task A.1 –

1. RFI evaluation report presented to the Commissioners Court in a public meeting on responses to the RFI which includes analysis described in Task A.1.1. At a minimum, the RFI evaluation report on Task A.1.1 shall include summarization of the analytical review of the responses to the RFI, key themes and concerns, favored delivery models and approaches, potential obstacles or barriers to procurement, and mitigation techniques.
2. The presentation backup for the Commissioners Court agenda session.

## **Phase B – Develop Objectives and Project Concepts**

**Task B.1 – Communicate FITNESS FOR PURPOSE and PHYSICALLY POSSIBLE project plans and facilitate input by STAKEHOLDERS through various STAKEHOLDER meetings. This task can be executed concurrently with Task A.1.**

Task B.1.1 – Hold kickoff meeting with the PROJECT EXECUTIVE and the INTERNAL TEAM to, at a minimum, receive input, explain the P3 concept, and develop a STUDY MANAGEMENT PLAN. The STUDY MANAGEMENT PLAN must be approved by the PROJECT EXECUTIVE.

Task B.1.2 – Hold meetings with each Commissioner and the County Judge separately, if they wish to meet, to review the STUDY MANAGEMENT PLAN, explain P3 concept, and receive input from each Commissioner and the County Judge. These meetings shall be held in strict compliance with the Texas Public Meetings Act.

Task B.1.3 – Hold meetings with civil court Judge Lora J. Livingston, or her successor, and civil court Judge John K. Dietz, or his successor, separately, if they wish to meet, to review STUDY MANAGEMENT PLAN, explain the P3 concept, and receive input from both judges.

Task B.1.4 – Hold a meeting with Civil Court judges and other civil and family justice officials as a group to review and explain the P3 concept and receive input.

Task B.1.5 – Hold two general public information gathering workshops to explain and receive input from the general public on the PROJECT concept. These meetings will be coordinated through the COUNTY, which will be responsible for such administrative tasks as procuring the location, scheduling dates and times, and publishing meeting announcements with information provided by the CONSULTANT. An on-line survey questionnaire conducted by the CONSULTANT may be substituted for one of the public workshops, at the discretion of the PROJECT EXECUTIVE.

Deliverables for Task B.1 –

1. A project calendar which includes dates, times, and locations of the required meetings.
2. A written summary of the findings from the interviews and workshops outlined in Task B.1 for use in development of project analysis and the final report, except findings from Task B.1.2, which shall be kept confidential by the CONSULTANT.

**Task B.2 – Facilitate development of STAKEHOLDER Objectives and Evaluation Criteria**

Task B.2.1 – Conduct an objective-setting workshop with the INTERNAL TEAM and any Civil Judges who wish to attend, either together or separately to develop STAKEHOLDER objectives options for the OWNER.

Task B.2.2 – The CONSULTANT internally analyzes information from Task B.2.1 to develop evaluation criteria for options.

Task B.2.3 – Present proposed STAKEHOLDER objectives and criteria for options to the Commissioners Court at a regularly scheduled public meeting.

Task B.2.4 – Based on Commissioners Court meeting feedback, revise objectives and evaluation criteria as needed. The CONSULTANT acknowledges that no action of the Commissioners Court is binding on the COUNTY, unless that action is taken during a properly posted meeting and appears in the minutes of the Commissioners Court kept by the Travis County Clerk, provided that CONSULTANT shall not be responsible for

any deficiency or failure of performance for following the direction of the Commissioners Court. The CONSULTANT may, in its discretion, require a formal vote of the Commissioners Court approving the Final or the Revised Final Report on Objectives and Evaluation Criteria before beginning work on Task B.3 or any subsequent task.

Deliverables for Task B.2 –

1. A Draft Report on Objectives and Evaluation Criteria outlining proposed stakeholder objectives and evaluation criteria presented for approval in a public meeting of the Commissioners Court. If approved, the Consultant shall proceed with issuance of the Final Report on Objectives and Evaluation Criteria.
2. The Final Report on Objectives and Evaluation Criteria approved by the Commissioners Court.
3. If revisions are required prior to Commissioners Court approval, the Revised Final Report on Objectives and Evaluation Criteria, including revised stakeholder objectives and evaluation criteria, must be presented for approval in a public meeting of the Commissioners Court.

### **Task B.3 – Develop components to analyze Project Concepts – Identification of Options**

Task B.3.1 – Conduct a workshop with the INTERNAL TEAM to identify two options to consider for delivery of the PROJECT, including options for design, construction, financing, operations, and maintenance.

Deliverables Task for B.3 –

1. Report on various options analyzed including information developed during the workshop as outlined in Task B.3.1 and cost estimates utilizing the PROJECT COST MODEL and OPERATIONS AND MAINTENANCE COST MODEL agreed to by the PROJECT EXECUTIVE.

### **Task B.4 – Develop components to analyze Project Concepts – Risk Matrix**

Task B.4.1 – Conduct a risk workshop with the INTERNAL TEAM to gather information necessary to develop a high-level strategy for retention or transfer of risks against options under consideration, and assess the probabilities and impacts of such risks, including costs associated with retention or transfer.

Deliverables for Task for B.4 –

1. Risk matrix developed from information gathered in the risk workshop described in Task B.4.1.

### **Task B.5 – Develop components to analyze Project Concepts – Real Estate Market Analysis**

Task B.5.1 – Perform an independent local real estate market analysis. Through this analysis determine local real estate market conditions, which will include, at a minimum, the current and short term economic and market conditions in Austin, Texas, potential real estate opportunities given the options and the absorption potential of the gross square footage, and an assessment of interest in the options.

The CONSULTANT shall identify all sources of information used in the independent local real estate market analysis and indicate which, if any, of it is claimed to be proprietary. Information claimed to be proprietary is subject to the provisions of the Texas Public Information Act as provided in Paragraph 12.21 of this AGREEMENT.

If the CONSULTANT intends to use or uses in the analysis any information not available to the public that is derived from CONSULTANT'S public accountancy services clients, upon execution of this AGREEMENT, the CONSULTANT shall provide the COUNTY with signed written consent from all such clients in a form acceptable to the COUNTY based on the requirements of 22 TEXAS ADMINISTRATIVE CODE § 501.75 and that includes the nature of the information to be used, its intended use, and the client's agreement that it can be disclosed to and used by the COUNTY.

Deliverables for Task B.5 –

1. Information on local real estate market conditions which will be used to evaluate options and be included in the Options Analysis Report.
2. Written consent for the CONSULTANT to disclose and the COUNTY to use confidential information based on the requirements of 22 TEXAS ADMINISTRATIVE CODE § 501.75.

**Task B.6 – Reserved**

**Task B.7 – Develop components to analyze Project Concepts – Options Analysis Report**

Task B.7.1 – Using information from Tasks B.1 through Task B.6, develop an Options Analysis Report which will include the objectives, evaluation criteria, and the risk matrix developed with the COUNTY, a qualitative review of each option for delivery of the PROJECT, results of the local real estate market analysis, a high level analysis of tax implications and a prioritization of various options to present to the INTERNAL TEAM. At the County's discretion, if legal review is necessary for any of the options, a Notice to Proceed will be issued to the LAW FIRM for an opinion on LEGAL PERMISSIBILITY. The LAW FIRM shall be requested to represent and warrant that any recommended options will have been reviewed, assessed, evaluated and approved by the LAW FIRM. CONSULTANT acknowledges that, if the Commissioners Court selects one of the options recommended by the CONSULTANT, after taking into account the risk profiles identified, it will do so, subject to its own and the County's exercise of their responsibilities hereunder, based in part on the CONSULTANT's professional assessment of whether the option selected is PHYSICALLY POSSIBLE and FINANCIALLY FEASIBLE based on the information provided and assumptions and decisions made. The Commissioners Court will similarly make its decision based on



LAW FIRM's legal assessment of the options recommended. This provision will survive the completion of the PROJECT services to be performed by the CONSULTANT under this AGREEMENT.

Task B.7.2 – The Options Analysis Report will also identify an approach to a quantitative “VALUE FOR MONEY” analysis.

Task B.7.3 – The CONSULTANT will present the information in the Options Analysis Report to the INTERNAL TEAM in a meeting.

Deliverables for Task B.7 –

1. The Options Analysis Report presented in a meeting with the INTERNAL TEAM.

**Task B.8 – Develop components to analyze Project Concepts – Value for Money Analysis**

Task B.8.1 – Develop inputs for VFM analysis including construction costs as developed in the PROJECT COST MODEL, operating costs as developed in the OPERATING AND MAINTENANCE COST MODEL, LIFECYCLE, risk quantification, and financing costs.

Task B.8.2 – Perform VFM analysis utilizing inputs from Task B.8.1, to include:

- Analyzing a baseline delivery model;
- Analyzing the top two options from the Options Analysis Report; and,
- Comparing the results of the BASELINE MODEL to the results of the two options analyzed, adjusted for risk.
- Analyzing federal, state and local tax implications at a level sufficient for the financial feasibility analysis.

Task B.8.3 – Present results of the VFM analysis in a summary report and make recommendations on appropriate Project Concepts to the Commissioners Court in a public meeting.

Deliverables for Task B.8 –

1. The full VFM analysis, including Final PROJECT COST MODEL and OPERATING AND MAINTENANCE COST MODEL.
2. The summary report on VFM analysis presented in a public meeting with the Commissioners Court with recommended best delivery approach for Travis County, any percentage cost savings for the recommendation, and recommendations for next steps.

Should a legal opinion or legal advice be required then, notwithstanding the foregoing or anything else in this Agreement, COUNTY acknowledges that CONSULTANT is not a law firm and is not licensed to and is not permitted to perform legal services or provide legal advice. Consequently, in such instance, the LAW FIRM shall perform a legal review based on Texas law of each option under consideration in Task B.3.1 for delivery of the PROJECT. Legal review should consider obstacles and potential mitigations or

proposed changes to legislation. In addition, the LAW FIRM shall perform a legal review to consider restrictions on using public finance to fund projects with a high proportion of private business use – including the original land purchase, which was financed using municipal debt. If required, a legal opinion prepared by the LAW FIRM will be used in the evaluation of options and appended to the Options Analysis Report. Such tasks and the legal opinion and any legal advice shall be the sole responsibility of the LAW FIRM, which shall provide any legal opinion directly to COUNTY and all other parties hereunder, for which CONSULTANT shall have no responsibility.

#### 4.3 ADDITIONAL SERVICES

“Additional Services” are those services performed by the CONSULTANT not described in paragraph 4.1 or 4.2. The CONSULTANT must not perform any Additional Services until after receiving a written request for those services from the PROJECT EXECUTIVE and the parties have executed a written contract modification issued by the CONTRACT ADMINISTRATOR.

4.4 In the event of any dispute over the classification of the CONSULTANT’S services as “Basic Services” or “Additional Services” under this AGREEMENT, the dispute will be resolved pursuant to Section 9.12.

4.5 The Request for Services which preceded this AGREEMENT included a request for services described as Phase II of the PROJECT. This AGREEMENT specifically excludes any services pursuant to that portion of the request.

#### 5. COORDINATION WITH COUNTY

5.1 The CONSULTANT must designate a primary representative and an alternate representative to communicate with the COUNTY.

5.2 The CONSULTANT must not commence work on the PROJECT until receipt of a written notice to proceed issued by the CONTRACT ADMINISTRATOR upon the recommendation of the PROJECT EXECUTIVE (the “Notice to Proceed”).

5.3 The COUNTY will provide the CONSULTANT prompt convenient access to all existing plans, maps, studies, reports, field notes, statistics, computations, information, resources and assistance (including access to records, premises and people). The County will not unreasonably withhold any of the information described above. The CONSULTANT must make copies of needed information and promptly return all originals. Subject to CONSULTANT’S right to maintain data back-ups and copies of its working papers in accordance with professional requirements, the CONSULTANT’S copies of the foregoing material must be returned to the COUNTY upon completion of the PROJECT if the PROJECT EXECUTIVE so instructs the CONSULTANT.

To the best of the COUNTY’S knowledge, all information provided by COUNTY or on COUNTY’S behalf (“Client Information”) will be accurate and complete in all material respects. CONSULTANT may rely on Client Information made available to it, and unless CONSULTANT expressly agrees otherwise, CONSULTANT will have no responsibility to evaluate it. The COUNTY cannot guarantee the accuracy of all information that it provides

to the CONSULTANT. The COUNTY acknowledges and agrees, however, that withholding of information or provision of information that is not accurate and complete in all material respects may impair or preclude CONSULTANT's ability to perform its Services in accordance with this Agreement. The CONSULTANT shall notify the COUNTY if CONSULTANT determines there are any material errors, inconsistencies or ambiguities in information provided by the COUNTY, based upon the CONSULTANT'S professional judgment.

- 5.4 To the extent reasonably within the scope of the SERVICES, the CONSULTANT must be available, upon request, to consult with the COUNTY and the COUNTY's officials, employees, agents, representatives, and other consultants regarding the CONSULTANT's services.
- 5.5 The CONSULTANT must notify the COUNTY in writing within 5 working days of any change in the CONSULTANT'S legal name or business structure that would have a material adverse effect on CONSULTANT's performance hereunder, or any material change in personnel engaged in providing services under this AGREEMENT. Personnel engaged in providing services under this AGREEMENT that are named as "Key Personnel" in this AGREEMENT may not be substituted on the PROJECT without the COUNTY's prior written approval, which shall not be unreasonably withheld or delayed.
- 5.6 The CONSULTANT must cooperate and coordinate with the COUNTY'S staff and other consultants and contractors as reasonable and necessary in the performance of this AGREEMENT and as required by the PROJECT EXECUTIVE.

## **6. COMPENSATION**

- 6.1 The CONSULTANT will be paid by the COUNTY a fixed fee for all services performed pursuant to and in accordance with the terms of this AGREEMENT in accordance with the payment schedule set forth in Exhibit 2. The CONSULTANT will receive no compensation for work made necessary by the CONSULTANT'S errors or omissions. In addition, if CONSULTANT is required by applicable law, legal process or government action to produce information or personnel as witnesses with respect to the SERVICES or this Agreement, COUNTY shall reimburse CONSULTANT for any professional time and expenses (including reasonable external and internal legal costs) incurred to respond to the request, unless CONSULTANT is a party to the proceeding or the subject of the investigation.
- 6.2 Hourly rates for the performance of Additional Services are set forth in Exhibit 3.
- 6.3 The CONSULTANT and its contractors, subcontractors, and vendors must provide goods and services using the purchase order method. A purchase order number will be assigned by the designated representative of the Travis County Purchasing Office. The CONSULTANT and its contractors, subcontractors, and vendors must reference the AGREEMENT number and the purchase order number on all invoices to:

Roger Jefferies (or his successor)  
County Executive  
Justice and Public Safety  
P.O. Box 1748  
Austin, Texas 78767

- 6.4 The terms and conditions contained elsewhere in this AGREEMENT prevail over different or contrary terms in any purchase order. The COUNTY will not pay invoices that are more than the amount authorized by the purchase order.
- 6.5 Payment will be made by check or by warrant upon delivery and acceptance of items and submission of a correct and complete invoice to the address provided in Paragraph 6.3 above for orders placed by the CONTRACT ADMINISTRATOR.
- 6.6 In order to be considered "correct and complete," an invoice must include at least the following information:
- (a) name, address, and telephone number of the CONSULTANT and similar information in the event payment is to be made to a different address,
  - (b) AGREEMENT, Purchase Order, or Delivery Order number,
  - (c) identification of items or services as outlined in the AGREEMENT,
  - (d) quantity or quantities, applicable unit prices, total prices, and total amount, and
  - (e) any additional payment information which may be called for by this AGREEMENT.
- 6.7 In accordance with Section 154.045 of the Local Government Code, if notice of indebtedness has been filed with the Travis County Auditor or the Travis County Treasurer evidencing the indebtedness of the CONSULTANT to the State, the COUNTY, or a salary fund, a warrant may not be drawn on a COUNTY fund in favor of the CONTRACTOR, or an agent or assignee of the CONSULTANT until:
- (1) the Travis County Treasurer notifies the CONSULTANT in writing that the debt is outstanding; and
  - (2) the debt is paid.
- (b) "Debt" includes delinquent taxes, fines, fees, and any indebtedness arising from written agreements with the COUNTY.
- (c) The COUNTY may apply any funds COUNTY owes the CONSULTANT to the outstanding balance of debt for which notice is made under section 11.10.2(a) above if the notice includes a statement that the amount owed by the COUNTY to the CONSULTANT may be applied to reduce the outstanding debt.
- 6.8 Accrual and payment of interest on overdue payments is governed by Chapter 2251 of the Texas Government Code.

- 6.9 If the CONSULTANT is delinquent in the payment of property taxes collected by Travis County at the time of providing services under this AGREEMENT, the CONSULTANT assigns any payments to be made for services rendered under this AGREEMENT to the Travis County Tax Assessor-Collector for the payment of the delinquent taxes.
- 6.10 The CONSULTANT must provide the COUNTY with an Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code and its rules and regulations and a statement of entity status in a form satisfactory to the Travis County Auditor before any funds are payable under this AGREEMENT.

## 7. PERIOD OF SERVICE; TERMINATION

- 7.1 The CONSULTANT must perform the professional services described in this AGREEMENT, whether "Basic Services" or "Additional services," in accordance with the Scope of Services set forth in Paragraph 4 of this AGREEMENT and any negotiated modifications to this AGREEMENT.
- 7.2 This AGREEMENT becomes effective on the EFFECTIVE DATE, as defined herein, and will remain in full force and effect until completion of services.
- 7.3 If the performance by the CONSULTANT or the COUNTY of either party's obligations under this AGREEMENT is interrupted or delayed by any occurrence not occasioned by its own conduct, whether the occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this AGREEMENT, then it will be excused from performance for a period of time as is reasonably necessary after the occurrence to remedy the effects of the occurrence. Upon the discovery of the occurrence, the party whose performance is affected under this section must notify the other party, and a special meeting will be called by the PROJECT EXECUTIVE to propose a program for a solution to the problem, and if necessary, to establish an estimated period of time of suspension or extension of the Delivery Date. A written request for an extension of time, when properly documented and justified by the circumstances, may be granted by the PROJECT EXECUTIVE.
- 7.4 SUSPENSION. The COUNTY may suspend performance of this AGREEMENT at any time for any reason without terminating this AGREEMENT by giving the CONSULTANT written Notice of Suspension (a "Notice of Suspension"). The effective date of the suspension is the date on which the CONSULTANT receives the Notice of Suspension, and this date begins the Suspension Period. Performance may be reinstated and this AGREEMENT resumed in full force and effect within 60 days of receipt by the CONSULTANT of written notice of reinstatement from the COUNTY. Upon the effective date of the suspension, the CONSULTANT must follow the procedures described below:
- 7.4.1 Upon receipt of a Notice of Suspension, the CONSULTANT must, unless the Notice otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this AGREEMENT and must

prepare a statement detailing the services performed under this AGREEMENT before the effective date of the suspension. Copies of final Work Product and, to the extent in draft form, reasonably determined by CONSULTANT to be suitable for provision to COUNTY, all data collected or assembled in the CONSULTANT'S performance of services under this AGREEMENT and copies of all completed or partially completed designs, plans, specifications, studies, reports, and analyses prepared under this AGREEMENT before the effective date of the suspension, must be prepared for possible delivery to the COUNTY upon the COUNTY'S request. If CONSULTANT delivers any partly-completed WORK PRODUCT to COUNTY as required by COUNTY pursuant to this Agreement: (a) COUNTY acknowledges that partly-completed WORK PRODUCT has not been subject to CONSULTANT's quality control processes, and COUNTY may not rely on any draft or partly-completed Work Product; (b) CONSULTANT shall have no liability with respect to such Work Product; and (c) such Work Product shall not be attributed to CONSULTANT, and CONSULTANT's name shall be removed from such Work Product.

7.4.2 During the Suspension Period, the CONSULTANT may submit the above-referenced statement to the COUNTY for payment of the approved services actually performed under this AGREEMENT, less previous payments.

7.5 TERMINATION FOR CONVENIENCE. The COUNTY reserves the right to terminate this AGREEMENT for reasons other than default by the CONSULTANT, including for any reason deemed by the Commissioners Court to serve the public interest or resulting from any governmental law, ordinance, regulation, or court order, by delivering to the CONSULTANT a written notice (a "Notice of Termination"), which will take effect on the tenth day following receipt by the CONSULTANT ("Termination for Convenience").

7.5.1 Upon receipt of a Notice of Termination and before the effective date of termination, the CONSULTANT must, unless the Notice of Termination otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this AGREEMENT and must proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this AGREEMENT. Within 30 days after receipt of a Notice of Termination, the CONSULTANT must submit a statement showing in detail the services performed under this AGREEMENT prior to the effective date of termination.

7.5.2 Copies of all WORK PRODUCT prepared under this AGREEMENT prior to the effective date of termination must be delivered to the COUNTY as a precondition to any final payment due under this AGREEMENT.

7.5.3 Upon the above conditions being met, the COUNTY will pay the CONSULTANT for services actually performed under and in accordance with the terms of this AGREEMENT prior to termination, less previous payments.

7.5.4 Failure by the CONSULTANT to submit the required statement described in paragraph 7.5.1 and to comply with the above stated conditions constitutes a

waiver by the CONSULTANT of any and all rights or claims to collect the fee to which the CONSULTANT may rightfully be entitled for services performed under this AGREEMENT.

- 7.6 TERMINATION FOR DEFAULT. Either party may terminate this AGREEMENT for the failure of the other party to perform any provisions of this AGREEMENT, through no fault of the terminating party ("Termination for Default") by delivering written notice of termination (a "Notice of Termination for Default") to the defaulting party. The Notice of Termination for Default takes effect on the tenth business day following receipt by the defaulting party, if the defaulting party has not cured the default by such tenth business day. In the event of Termination for Default, neither the COUNTY nor its officials, agents, or representatives will be liable for loss of any profits. In addition, CONSULTANT may terminate this AGREEMENT immediately upon written notice to COUNTY if CONSULTANT reasonably determines that CONSULTANT can no longer provide the Services in accordance with applicable law or professional obligations, provided that CONSULTANT will use its best efforts, consistent with its legal and professional obligations, to provide transitional services to the COUNTY.

Termination by CONSULTANT:

- 7.6.1 In the event the CONSULTANT exercises its right to terminate for default by the COUNTY, within 30 days after receipt by the COUNTY of the CONSULTANT's Notice of Termination for Default, the CONSULTANT must submit a statement detailing the services performed under this AGREEMENT prior to the effective date of termination.
- 7.6.2 Copies of all completed or partially completed WORK PRODUCT prepared under this AGREEMENT prior to the effective date of termination must be delivered to the COUNTY as a pre-condition to any final payment due under this AGREEMENT.
- 7.6.3 Upon the above conditions being met, the COUNTY will pay the CONSULTANT for approved services actually performed under this AGREEMENT prior to termination, less previous payments.
- 7.6.4 Failure by the CONSULTANT to submit the required statement described in paragraph 7.6.1 and to comply with the above stated conditions constitutes a waiver by the CONSULTANT of any and all rights or claims to collect the fee to which the CONSULTANT may rightfully be entitled for services performed under this AGREEMENT.

Termination by COUNTY:

- 7.6.5 Upon receipt by the CONSULTANT of a Notice of Termination for Default and prior to the effective date of termination, the CONSULTANT must, unless the Notice of Termination otherwise directs, immediately begin to phase out and discontinue all services in connection with the performance of this AGREEMENT and must proceed to promptly cancel all existing orders and

contracts insofar as such orders and contracts are chargeable to this AGREEMENT. Within 30 days after receipt of a Notice of Termination for Default, the CONSULTANT must submit a statement showing in detail the services performed under this AGREEMENT prior to the effective date of termination.

- 7.6.6 Copies of all WORK PRODUCT prepared under this AGREEMENT prior to the effective date of termination must be delivered to the COUNTY as a pre-condition to any final payment due under this AGREEMENT.
  - 7.6.7 Upon the above conditions being met, the COUNTY will pay the CONSULTANT for approved services actually performed under this AGREEMENT prior to termination, less previous payments.
  - 7.6.8 Failure by the CONSULTANT to submit the required statement described in paragraph 7.6.5 and to comply with the above stated conditions constitutes a waiver by the CONSULTANT of any and all rights or claims to collect the fee to which the CONSULTANT may rightfully be entitled for services performed under this AGREEMENT.
- 7.7 If either no funds or insufficient funds are appropriated for a PROJECT task, this AGREEMENT will terminate without penalty to the COUNTY. COUNTY will give CONSULTANT prompt notice of any such failure of appropriation of funds, in which instance CONSULTANT shall be released from any further obligation under this AGREEMENT.
- 7.8 All references to time in this AGREEMENT will be measured in calendar days unless otherwise specified.
- 7.9 If CONSULTANT delivers any partly-completed WORK PRODUCT to COUNTY as required by COUNTY pursuant to this Agreement: (a) COUNTY acknowledges that partly-completed WORK PRODUCT has not been subject to CONSULTANT's quality control processes, and COUNTY may not rely on any draft or partly-completed Work Product; (b) CONSULTANT shall have no liability with respect to such Work Product; and (c) such Work Product shall not be attributed to CONSULTANT, and CONSULTANT's name shall be removed from such Work Product.
- 8. WORK PRODUCT**
- 8.1 The CONSULTANT must submit the WORK PRODUCT for each task specified in the Scope of Services and any negotiated modifications to this AGREEMENT. Upon receipt of the WORK PRODUCT, the COUNTY will check the submission for completion. A submission will be considered complete if the COUNTY finds that all of the required items have been included in the WORK PRODUCT in compliance with the requirements of this AGREEMENT.
- 8.2 If the submission is substantially complete, the COUNTY will notify the CONSULTANT, and the COUNTY'S technical review process will begin.



- 8.3 The COUNTY will notify the CONSULTANT if a submission is incomplete, and the CONSULTANT must perform any professional services that are necessary to complete the work and resubmit it to the COUNTY. This process will be repeated until a submission is complete.
- 8.4 The COUNTY will review the completed WORK PRODUCT for compliance with the Scope of Services. If the COUNTY determines that the completed WORK PRODUCT does not comply with the Scope of Services, the COUNTY will return the completed WORK PRODUCT to the CONSULTANT for the CONSULTANT to perform any work necessary to bring the WORK PRODUCT into compliance and resubmit it to the COUNTY. This process will be repeated until the WORK PRODUCT is accepted. WORK PRODUCT will be considered accepted if rendered so that it is acceptable to the PROJECT EXECUTIVE such that substantial compliance with the requirements of this AGREEMENT has been achieved, or if the COUNTY fails to reject WORK PRODUCT within 30 days after CONSULTANT's submission.
- 8.5 After the WORK PRODUCT is considered accepted by the COUNTY, the CONSULTANT must perform any required modifications, changes, alterations, corrections, and additional work described in section 8.6 and necessary to receive final approval by the PROJECT EXECUTIVE. In this AGREEMENT, "final approval" means that the PROJECT EXECUTIVE has given formal written recognition that the WORK PRODUCT required in a Task has been fully carried out.
- 8.6 The CONSULTANT must, without additional compensation, promptly perform any necessary corrections to any WORK PRODUCT that is in error or incomplete and so notified to CONSULTANT within 30 days after submission of the WORK PRODUCT to COUNTY. However, after the COUNTY's final approval of a WORK PRODUCT, any revisions, additions, or other modifications made at the COUNTY's request for the convenience of the COUNTY that involve extra services and expenses to the CONSULTANT will be paid for as Additional Services.

## **9. CONSULTANT'S RESPONSIBILITY AND LIABILITY**

- 9.1 The CONSULTANT must perform all services and exercise all discretionary powers in a manner consistent with applicable canons of professional ethics and in the CONSULTANT'S professional judgment in accordance with the standards of the American Institute of Certified Public Accountants. In addition, the CONSULTANT must comply with all applicable federal, state, and local laws, statutes, rules, and regulations applicable to CONSULTANT.
- 9.2 The CONSULTANT covenants to undertake no task in which a professional license or certificate is required unless the CONSULTANT or someone under the CONSULTANT'S direction is appropriately licensed. If any necessary certification or license expires, is suspended, is revoked, or is canceled, the CONSULTANT must inform the COUNTY of such event within 5 working days.
- 9.3 The CONSULTANT warrants that the services to be rendered pursuant to this AGREEMENT, as well as all responsibilities of the CONSULTANT arising under this AGREEMENT, will be performed in accordance with the standards customarily provided

by an experienced and competent consultant rendering the same or similar services in Travis County, Texas. The CONSULTANT must perform the duties set forth in this AGREEMENT in a professional manner in accordance with the applicable standards of the American Institute of Certified Public Accountants, and nothing in this AGREEMENT will be construed to relieve the CONSULTANT of this duty.

- 9.4 The CONSULTANT will recommend one or more options for constructing and financing a new civil and family courts building on the SITE, each of which must in the CONSULTANT's professional judgment be PHYSICALLY POSSIBLE and FINANCIALLY FEASIBLE, and in LAW FIRM's legal judgment LEGALLY PERMISSIBLE, if an opinion on legal permissibility is required as described in this AGREEMENT.
- 9.5 Acceptance and approval of WORK PRODUCT by the COUNTY does not release the CONSULTANT of any responsibility or liability for the accuracy and competency of the CONSULTANT'S work performed under this AGREEMENT. Neither acceptance nor approval by the COUNTY constitutes an assumption of responsibility or liability by the COUNTY for any defect, error, or omission in the WORK PRODUCT. CONSULTANT may not claim delay on the part of the COUNTY to make a decision, unless the CONSULTANT has independently requested the County Judge of COUNTY to schedule an item for Commissioners Court consideration of the matter needed by the CONSULTANT, and the Commissioners Court does not provide a timely decision; however, under no circumstances shall CONSULTANT be responsible for any delay not the result of its own fault.
- 9.6 Any employee of the CONSULTANT, who in the opinion of the COUNTY is incompetent or whose conduct becomes detrimental to the work or coordination with the COUNTY, must, upon the COUNTY's request, be promptly removed from association with the PROJECT.
- 9.7 The CONSULTANT expressly acknowledges that this AGREEMENT is a personal and professional services contract and that all duties and responsibilities in it must be performed by the CONSULTANT personally and cannot be assigned or subcontracted, other than as specifically provided in this AGREEMENT, without the prior approval of the Travis County Commissioners Court.
- 9.8 The CONSULTANT represents and warrants that all applicable copyrights, patents, and licenses that may exist on materials used by CONSULTANT in performance of this AGREEMENT or any work connected therewith have been adhered to by CONSULTANT and that the COUNTY will not be liable for any infringement of those rights by CONSULTANT and that any rights granted to the COUNTY will apply for the duration of the AGREEMENT. THE CONSULTANT AGREES TO AND MUST INDEMNIFY AND HOLD HARMLESS THE COUNTY, ITS OFFICERS, AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, AND LIABILITIES OF ANY KIND, WHETHER MERITORIOUS OR NOT, INCLUDING EXPENSES OF LITIGATION, COURT COSTS AND REASONABLE ATTORNEY'S FEES FOR DAMAGES TO ANY PERSON OR PROPERTY TO THE EXTENT CAUSED BY THE INFRINGEMENT OF EXISTING U.S. PATENTS OR COPYRIGHTS APPLICABLE TO WORK PRODUCT DELIVERED BY CONSULTANT UNDER THIS

AGREEMENT. THE FOREGOING WARRANTY AND INDEMNIFICATION SHALL NOT APPLY TO INFRINGEMENT ARISING FROM THE COUNTY'S MODIFICATION OF WORK PRODUCT OR TO THE EXTENT THAT THE INFRINGEMENT ARISES FROM THE CONSULTANT'S USE OR INCORPORATION INTO THE WORK PRODUCT OF MATERIALS PROVIDED BY THE COUNTY OR ANY THIRD PARTY.

9.9 INDEMNIFICATION. THE CONSULTANT AGREES TO AND MUST INDEMNIFY AND HOLD HARMLESS THE COUNTY AND ITS OFFICIALS, AGENTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, ACTIONS, SUITS, AND LIABILITY OF ANY KIND, WHETHER MERITORIOUS OR NOT (INCLUDING WITHOUT LIMITATION ALL REASONABLE EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES) FOR BODILY INJURY TO OR DEATH OF ANY PERSON, OR FOR PHYSICAL DAMAGE TO ANY TANGIBLE PROPERTY, ARISING IN WHOLE OR IN PART FROM ANY NEGLIGENT ACT, NEGLIGENT ERROR, OR NEGLIGENT OMISSION OF THE CONSULTANT OR ANY OF ITS EMPLOYEES, OR SUBCONTRACTORS (OTHER THAN THE LAW FIRM OR OTHER COUNTY-APPROVED SUBCONTRACTORS) ON ACCOUNT OF, ARISING OUT OF, OR RESULTING FROM, DIRECTLY OR INDIRECTLY, THE PERFORMANCE OF THIS AGREEMENT. IN THE EVENT OF ANY CLAIM, ACTION OR SUIT ("CLAIM") FOR WHICH THE COUNTY SEEKS INDEMNIFICATION UNDER THIS SECTION 9.11 OR UNDER SECTION 9.10 ABOVE, THE COUNTY SHALL PROVIDE THE CONSULTANT WITH PROMPT WRITTEN NOTICE OF THE CLAIM AND REASONABLE COOPERATION IN CONNECTION WITH THE CLAIM, AND THE COUNTY SHALL ALLOW THE CONSULTANT THE SOLE CONTROL OF THE DEFENSE AND SETTLEMENT OF THE CLAIM.

9.9.1. If any claim, or other action, that relates to the CONSULTANT'S performance under this AGREEMENT, including proceedings before an administrative agency, is made or brought by any person, firm, corporation, or other entity against the CONSULTANT, the CONSULTANT must give written notice to the COUNTY of the following information:

- (a) the existence of the claim, or other action, within 10 working days after being notified of it;
- (b) the name and address of the person, firm, corporation, or other entity that made a claim, or that instituted any type of action or proceeding;
- (c) the alleged basis of the claim, action or proceeding;
- (d) the court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and
- (e) the name or names of any person against whom this claim is being made.

9.9.2 Except as otherwise directed, the CONSULTANT must furnish to the COUNTY copies of all pertinent papers received by the CONSULTANT with respect to making these claims or actions and all court pleadings related to the defense of these claims or actions.

9.10 LIMITATIONS.

9.10.1 The COUNTY (and any others for whom Services or to whom Reports or other deliverables are provided) may not recover from the CONSULTANT, in contract or tort, under statute or otherwise, any amount with respect to loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Agreement or otherwise relating to the CONSULTANT's services, whether or not the likelihood of such loss or damage was contemplated.

9.10.2 The COUNTY (and any others for whom Services or to whom Reports or other deliverables are provided) may not recover from CONSULTANT, in contract or tort, under statute or otherwise, aggregate damages in excess of three (3) times the amount of fees actually paid for the CONSULTANT's services that directly caused the loss in connection with claims arising out of this Agreement or otherwise relating to the CONSULTANT's services.

9.10.3 The COUNTY may not make a claim or bring proceedings relating to the CONSULTANT's services or otherwise under this Agreement against any other member firm of the global Ernst & Young organization (each an "EY Firm") or CONSULTANT's or its subcontractors, members, shareholders, directors, officers, partners, principals or employees ("EY Persons"). The COUNTY shall make any claim or bring proceedings only against CONSULTANT. The limitations in Section 9.10 are intended to benefit the other EY Firms and all EY Persons, who shall be entitled to enforce them.

9.11 The COUNTY agrees, notwithstanding anything in this Agreement to the contrary, to be responsible to CONSULTANT for COUNTY's breach of its covenants and obligations under Section 10 of this Agreement.

9.12 DISPUTES AND APPEALS. The CONTRACT ADMINISTRATOR acts as the COUNTY'S representative in the issuance and administration of this AGREEMENT in relation to disputes. Any document, notice, or correspondence not issued by or to the CONTRACT ADMINISTRATOR in relation to disputes is void unless otherwise stated in this AGREEMENT. If the CONSULTANT does not agree with any document, notice, or correspondence issued by the CONTRACT ADMINISTRATOR, or other authorized COUNTY person, the CONSULTANT must submit a written notice to the CONTRACT ADMINISTRATOR within thirty calendar days after receipt of the document, notice, or correspondence outlining the exact point of disagreement in detail. If the matter is not resolved to the CONSULTANT'S satisfaction, the CONSULTANT may submit a written Notice of Appeal to the Travis County Commissioners Court, through the CONTRACT ADMINISTRATOR, if the Notice is submitted within ten calendar days after receipt of the unsatisfactory reply. The CONSULTANT then has the right to be heard by Travis County Commissioners Court. If the matter is not resolved to the CONSULTANT'S satisfaction, the dispute shall be resolved in a court having jurisdiction as provided in Section 12.1.

## 10. WORK PRODUCT AND RESTRICTIONS

- 10.1 The CONSULTANT must furnish the COUNTY with WORK PRODUCT as required by this AGREEMENT, whether or not it is complete, at the end of the PROJECT, or upon suspension or termination of this AGREEMENT, as provided in this AGREEMENT. The CONSULTANT has the right to retain copies of the WORK PRODUCT for its records and copies of its working papers in order to comply with professional requirements
- 10.2 CONSULTANT may use data, software, designs, utilities, tools, models, systems and other methodologies and know-how ("Consultant Materials") that CONSULTANT owns or licenses in performing this Agreement. Notwithstanding the delivery of any Work Product, CONSULTANT retains all intellectual property rights in the Consultant Materials (including any improvements or knowledge developed while performing this Agreement), and in any working papers compiled in connection with CONSULTANT's services (but not Client Information reflected in them). Upon payment for particular services, the COUNTY may use any Consultant Materials included in the Work Product relating to those services, as well as the Work Product itself, as permitted by this Agreement.
- 10.3 All WORK PRODUCT, together with all intellectual property and proprietary rights in and to the WORK PRODUCT, but excluding the Consultant Materials and any intellectual property and proprietary rights therein, will, upon creation, receipt, or assembly become the sole and exclusive property of the COUNTY and upon completion of the PROJECT must be delivered to the COUNTY in an organized fashion with the CONSULTANT retaining a copy. If the CONSULTANT is ever held or deemed to be the owner of the WORK PRODUCT, or of any copyright or other intellectual property rights in the WORK PRODUCT (but excluding the Consultant Materials), then the CONSULTANT irrevocably assigns, and shall cause its personnel to assign, to the COUNTY, at the time of creation of any such WORK PRODUCT, without any requirement of further consideration, all such right, title and interest. Any reuse by the CONSULTANT of WORK PRODUCT, other than Consultant Materials, without the specific written consent of the COUNTY will be at the CONSULTANT's sole risk and without liability or legal exposure to the COUNTY.
- 10.4 Any information, advice, recommendations or other content of any reports, presentations or other communications CONSULTANT provides under this Agreement, including any Work Product (collectively, "Reports"), other than Client Information, are for the COUNTY's internal use only (consistent with the purpose of the particular Services). The COUNTY may not disclose a Report (or any portion or summary of a Report), or refer to CONSULTANT or to any other EY Firm in connection with the Services, except:
- 10.4.1 for the Executive Summary that will be produced for the public presentation(s) to the Commissioners Court, which may be posted to the County website at the discretion of the County,
- 10.4.2 to the COUNTY's lawyers (subject to these disclosure restrictions), who may use it only to give the COUNTY advice relating to the Services,

10.4.3 to the extent, and for the purposes, required by subpoena or similar legal process (of which the COUNTY will promptly notify CONSULTANT),

10.4.4 to other persons with CONSULTANT's prior written consent, who have executed an access letter substantially in the form prescribed by CONSULTANT and who may use it only as CONSULTANT has specified in CONSULTANT's consent, or

10.4.5 to the extent it contains Tax Advice, as set forth in Section 10.5.

10.4.6 to the extent required by the Texas Public Information Act as may, if applicable, be limited by exceptions to mandatory disclosure, including Section 552.110 (relating to disclosure of trade secrets and certain commercial or financial information) and Section 552.305 (relating to a request for information that involves a person's privacy or property interests).

Without limiting the foregoing, the COUNTY shall require each potential third party that seeks a financial interest in the PROJECT, including any PRIVATE PARTNER and any representative thereof, to agree as a condition of any application or other submission it may file that it may not rely on CONSULTANT's Reports or bring any claims against CONSULTANT in connection therewith and, if so requested by CONSULTANT, to execute an access letter substantially in the form prescribed by CONSULTANT prior to obtaining access to CONSULTANT's Reports (other than at a public meeting).

10.5 If the COUNTY is permitted to disclose a Report (or a portion thereof), the COUNTY shall not alter, edit or modify it from the form CONSULTANT provided.

10.6 The COUNTY may disclose to anyone a Report (or a portion thereof) solely to the extent that it relates to tax matters, including tax advice, tax opinions, tax returns, or the tax treatment or tax structure of any transaction to which the Services relate ("Tax Advice"). With the exception of tax authorities, the COUNTY shall inform those to whom the COUNTY discloses Tax Advice that they may not rely on it for any purpose without CONSULTANT's prior written consent.

## **11. MAINTENANCE OF AND RIGHT OF ACCESS TO RECORDS**

11.1 The CONSULTANT must maintain appropriate accounting records of expenses billed to the COUNTY and timesheet records of employees working on the PROJECT on a time and materials basis, for a period of five years after final payment for completed services and all other pending matters concerning this AGREEMENT have been closed.

11.2 The CONSULTANT agrees that the COUNTY and its duly authorized representatives are entitled to inspect have access to any and all books, documents, papers, and records of the CONSULTANT solely for the purposes substantiating CONSULTANT's invoices.

## 12. MISCELLANEOUS

- 12.1 VENUE. This AGREEMENT is governed by and is to be construed in accordance with the laws of the United States of America and the State of Texas, and all obligations under this AGREEMENT are performable in Travis County, Texas. Venue for any dispute arising out of this AGREEMENT will lie in the appropriate court of Travis County, Texas or other court located in Texas having jurisdiction thereof, and any court having jurisdiction of any appeal(s) therefrom.
- 12.2 SEVERABILITY. If any portion or portions of this AGREEMENT are ruled invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the remainder of it will remain valid and binding.
- 12.3 EQUAL OPPORTUNITY IN EMPLOYMENT. The CONSULTANT must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, disability, or veteran or military reservist status. The CONSULTANT agrees, during the performance of the services under this AGREEMENT, to comply with the equal opportunity in employment provisions cited in Exhibit 5, attached hereto and made a part hereof.
- 12.4 CERTIFICATE OF CONSULTANT. The CONSULTANT certifies that neither the CONSULTANT nor any members of the CONSULTANT's firm has:
- 12.4.1 Employed or retained for a commission, percentage, brokerage, contingency fee, or other consideration, any firm or person (other than a bona fide employee working solely for the CONSULTANT) to solicit or secure the services provided by this AGREEMENT.
  - 12.4.2 Agreed, as an expressed or implied condition for obtaining this AGREEMENT, to employ or retain the services of any firm or person other than in connection with carrying out the services to be performed under this AGREEMENT.
  - 12.4.3 Paid or agreed to pay to any firm, organization, or person (other than bona fide employees working solely for the CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the services provided under this AGREEMENT.
  - 12.4.4 The CONSULTANT further agrees that this certification may be furnished to any local, state, or federal governmental agencies in connection with this AGREEMENT and for those portions of the PROJECT involving participation of agency grant funds and is subject to all applicable state and federal criminal and civil laws.
- 12.5 BIDDING EXEMPTION. This AGREEMENT is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a contract for professional services.
- 12.6 NOTICE. Any notice required or permitted to be given under this AGREEMENT by one party to the other must be in writing and must be given and deemed to have been given

immediately if delivered in person to the address set forth in this section for the party to whom the notice is given, or on the third day following mailing if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the address set forth in this section.

The address of the COUNTY for all purposes under this AGREEMENT, unless such notice is specifically directed otherwise, is:

COUNTY:           Cyd V. Grimes, C.P.M, CPPO (or successor)  
Travis County Purchasing Agent  
P.O. Box 1748  
Austin, Texas 78767

with copies to (registered or certified mail with return receipt is not required):

David Escamilla  
Travis County Attorney  
P.O. Box 1748  
Austin, Texas 78767  
Attn: File No: 188.390.5

The address of the CONSULTANT for all purposes under this AGREEMENT, unless such notice is specifically directed otherwise, is:

Ernst & Young LLP  
5 Times Square  
New York, NY 10036  
Attn: Deputy General Counsel

With copies to:

Mark Gibson  
Principal  
Ernst & Young LLP  
Suite 1000  
18111 Von Karman Av  
Irvine, Ca, 92612

12.7 INSURANCE. The CONSULTANT agrees during the performance of the services under this AGREEMENT to comply with the insurance requirements set forth in Exhibit 6, which is attached and incorporated into this AGREEMENT.

12.8. FORFEITURE OF AGREEMENT.

12.8.1 The CONSULTANT will forfeit all benefits of this AGREEMENT and the COUNTY will retain all performance by the CONSULTANT and recover all consideration or the value of all consideration paid to the CONSULTANT under



this AGREEMENT if:

- (a) The CONSULTANT was doing business with any Key Contracting Person at the time of execution of this AGREEMENT or had done business during the 365-day period immediately prior to the date on which it is executed; or
- (b) The CONSULTANT does business with a Key Contracting Person at any time after the date on which this AGREEMENT is executed and prior to full performance of this AGREEMENT.

12.8.2 "Was doing business" and "has done business" mean:

- (a) Paying or receiving in any calendar year any money valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for purchase of any property or property interest, either real or personal, either legal or equitable; or
- (b) Loaning or receiving a loan of money; or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;
- (c) But does not include:
  - (1) any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public;
  - (2) any financial services product sold to a Key Contracting Person for personal, family, or household purposes in accordance with pricing guidelines applicable to similarly situated individuals with similar risks as determined by the CONSULTANT in the ordinary course of its business; or
  - (3) a transaction for a financial service or insurance coverage made on behalf of the CONSULTANT if the CONSULTANT is a national or multinational corporation by an agent, employee or other representative of the CONSULTANT who does not know and is not in a position that he or she should have known about this AGREEMENT.

12.8.3 "Key Contracting Person" means any person or business listed in Attachment 1 to Exhibit 7, attached and incorporated into this AGREEMENT.

12.9 SUCCESSORS AND ASSIGNS. This AGREEMENT is binding upon and inures to the benefit of the COUNTY and the CONSULTANT and their respective successors, executors, administrators, and assigns. Neither the COUNTY nor the CONSULTANT may assign, sublet, or transfer their interest in or obligations under this AGREEMENT without the written consent of the other party hereto. IT IS

EXPRESSLY ACKNOWLEDGED THAT NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS AGREEMENT EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT.

12.10 HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) PROGRAM REPORTING REQUIREMENTS.

12.10.1 HUB Program Requirements

- (a) In consideration of award of this AGREEMENT to the CONSULTANT, the CONSULTANT agrees to maintain a subconsultant relationship with any HUB subconsultants identified on the HISTORICALLY UNDERUTILIZED BUSINESS (HUB) DECLARATION Form provided with the CONSULTANT's proposal and attached hereto as Exhibit 8 and made a part hereof. The CONSULTANT will make good faith efforts to meet or exceed the HUB participation goals in the Professional Services category for an overall 15.8% for Minority-Owned Business Enterprises (MBE) and an Overall 15.8% for Woman-Owned Business Enterprises (WBE). (*Sub-goals: 1.9% African-American, 9.0% Hispanic-American, 4.9% Native/Asian-American*) of the Basic Services Fixed Fee. For purposes of this AGREEMENT, all references to "HUB" shall mean "certified HUB." To be considered as a "certified HUB," the subcontractor must have been certified by, and hold a current and valid certification with, any of the following three agencies: (1) The State of Texas; (2) the City of Austin; or (3) the Texas Unified Certification Program. Minimum good faith efforts include, to the extent practical and consistent with standard and prudent industry practices, the following:
- (1) dividing the Work into the smallest feasible portions, to allow for maximum HUB subconsultant participation;
  - (2) providing to HUBs that exhibited genuine interest in bidding on a subcontract adequate information regarding the PROJECT (i.e. plans, specifications, scope of work, bonding and insurance requirements and a point of contact within CONSULTANT's organization);
  - (3) notifying, in writing, three or more HUBs for each scope of work, allowing no less than five working days prior to bid submission, of the planned work to be subcontracted;
  - (4) providing notice of opportunities to minority or women trade organizations or development centers to assist in identifying potential HUBs by disseminating the information to their members/participants.
- (b) The CONSULTANT may go beyond the good faith efforts listed above when soliciting HUB subconsultants.

12.10.2 Subcontractor/Subconsultant Tracking Software System.

- (a) The Travis County Purchasing Office has implemented an electronic subcontracting/subconsulting reporting system (the "Subcontractor Tracking Software System" or the "System") to assist the Travis County Purchasing Office in monitoring, tracking and reporting payments to subcontractors/subconsultants. The COUNTY understands and believes, based on discussions with representatives of the System vendor and review of documentation accompanying the System, that: (i) the System provides a paperless environment in which transactions are electronically stored and routed; "Payment" and "Payment Verification" alerts are provided by e-mail and fax; (ii) the System will facilitate electronic subcontractor/subconsultant diversity management, which in turn will improve auditing while cutting costs and shortening the audit cycle from months to hours; (iii) the System will eliminate standard forms and streamline the current manual process of tracking payments to all first-tier Subcontractors/subconsultants by performing all such tracking procedures electronically; and (iv) the System will serve as a tool to improve efficiency, accountability, data accuracy, transparency, and overall communication.
- (b) The CONSULTANT shall designate, and shall require all subcontractors/subconsultants to designate, a liaison responsible for handling all Subcontractor Tracking Software System reporting. On a monthly basis, the CONSULTANT shall record and submit electronically payments made to all subcontractors/subconsultants for Work completed through the end of the previous pay period; such electronic recording and submission shall be completed no later than the 15<sup>th</sup> day after such payments are made. The CONSULTANT shall contractually require all subcontractors/ subconsultants to verify payments by entering such payment data in the System no later than 10 days following the day on which the CONSULTANT enters the subcontractor/subconsultant payment information as required herein. The CONSULTANT shall attempt to resolve any payment discrepancies or disputes in good faith. The CONSULTANT shall not receive credit towards the HUB, M/WBE and DBE participation goals until reported payments have been verified by entering the payment data into the System as described herein or by providing to the COUNTY payment documentation satisfactory to the COUNTY.
- (c) The CONSULTANT shall report payment information pertaining to each subcontractor/subconsultant that includes, but is not limited to, business name, certification status, work assignment, original subcontract sum, payment number, percentage and dollars paid during the reporting period. A "Comment" field is available for entering additional information and comments and includes the ability to attach documents.
- (d) Failure by the CONSULTANT to furnish the information required of it described in this paragraph 11.15.2 may result in cancellation of the contract award and contract termination in accordance with the

procedures set forth in this AGREEMENT. Additionally, if the CONSULTANT is determined to be in default of these mandatory reporting requirements, it may have such conduct considered against it, in assessment of responsibility, in the evaluation of future contracts with the COUNTY.

- (e) The CONSULTANT shall register, and shall contractually require all subcontractors/subconsultants to register, with a username and password. Training on how to use the System will be provided by Travis County Purchasing Office HUB staff.
- (f) The COUNTY understands and believes that the Subcontractor Tracking Software System will assist the COUNTY in ensuring compliance with the County's HUB Program, and will allow COUNTY staff to closely monitor The CONSULTANT and all subcontractors/subconsultants performing Work on the PROJECT. Travis County Purchasing Office HUB staff will conduct periodic post-award compliance reviews to verify that subcontractors/subconsultants listed by the CONSULTANT performed the work and received payment.
- (g) During the term of this AGREEMENT, the CONSULTANT is encouraged to inform the COUNTY of any problems anticipated or encountered, and of any other concerns, regarding the utilization of HUBs, M/WBEs and DBEs.
- (h) Other information tracked by the System includes increases or decreases in subcontractor/subconsultant Work assignments, percentage of goal achieved, and substitutions. When substituting a subcontractor/subconsultant, the CONSULTANT is highly encouraged to utilize HUBs, M/WBEs and DBEs. The CONSULTANT shall notify the COUNTY of any substitutions or changes to subcontractors/subconsultants in accordance with the procedures described in the System. Such notice shall be sent electronically to the Purchasing Agent or HUB Program Coordinator. The CONSULTANT may be requested to provide evidence that it made a good faith effort to substitute another HUB, M/WBE or DBE subcontractor/subconsultant but was unable to do so. Approval turn around time will be within 24 – 48 hours. If the CONSULTANT has difficulty in locating HUB, M/WBE or DBE subcontractors/subconsultants, it should contact the Travis County Purchasing Office HUB staff at (512) 854-4561 or (512) 854-4852.
- (i) Other notifications, some of which may not be applicable to the work to be performed under this AGREEMENT, that are automatically generated by the Subcontractor Tracking Software System include the following: User Registration/Password, Contract Award Notifications, Audit Reminders, Unresponsive HUB Subcontractors, Discrepancy Notifications, HUB Subcontractor Change Requests, Payment Verifications, Vendor Information Verification Notices, Not Meeting the Goals Notification and Contract Closeout. Some notifications listed may include response deadlines.

12.11 FUNDING OUT. The COUNTY will make reasonable efforts within its power to obtain, maintain and properly request and appropriate funds from which the payments provided for in connection with this AGREEMENT may be paid. Notwithstanding any provision to the contrary in this AGREEMENT, if either no funds or insufficient funds are appropriated for any payments due under this AGREEMENT for the period covered by such budget or appropriation, this AGREEMENT will terminate without penalty to the COUNTY.

12.12 FUNDING LIMITATIONS. Funds for payment on this AGREEMENT will come from the County. County funds for payment on this AGREEMENT have been provided through the COUNTY budget approved by the Commissioners' Court for this fiscal year only. State of Texas statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, COUNTY cannot guarantee the availability of funds, and enters into this AGREEMENT only to the extent funds are made available. The Fiscal Year for COUNTY extends from October 1st of each calendar year to September 30th of the next calendar year.

**THE COUNTY CANNOT GUARANTEE THE AVAILABILITY OF FUNDS FOR COMPLETION OF THE PROJECT AND ENTERS INTO THIS AGREEMENT ONLY TO THE EXTENT THAT FUNDS ARE MADE AVAILABLE FROM THE COUNTY. AS OF OCTOBER 1, 2011, THERE IS SUFFICIENT FUNDING FOR THE FIRST TWELVE MONTHS OF THE PROJECT. FUNDING FOR ADDITIONAL PORTIONS OF THE PROJECT MAY OR MAY NOT BE MADE AVAILABLE BY THE COUNTY. THERE IS RISK INVOLVED WITH THIS AGREEMENT. THE COUNTY'S OBLIGATIONS UNDER THIS AGREEMENT ARE CONTINGENT UPON THE AVAILABILITY OF FUNDS. IF SUFFICIENT FUNDS ARE NOT AVAILABLE, THE COUNTY WILL NOTIFY THE CONSULTANT IN WRITING WITHIN A REASONABLE TIME AFTER SUCH FACT IS DETERMINED. THE COUNTY WILL THEN TERMINATE THIS AGREEMENT AND WILL NOT BE LIABLE FOR THE FAILURE TO MAKE ANY PAYMENT TO THE CONSULTANT UNDER THIS AGREEMENT.**

12.13 NON-WAIVER OF DEFAULT. No payment, act, or omission by a party may constitute or be construed as a waiver of any breach or default of the other party which then exists or may subsequently exist. All rights of a party under this AGREEMENT are specifically reserved and any payment, act, or omission is not to be construed to impair or prejudice any remedy or title to any party under it. Any right or remedy in this AGREEMENT does not preclude the exercise of any other right or remedy under this AGREEMENT or under any law, except as expressly provided in this AGREEMENT, nor will any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

12.14 MEDIATION. When mediation is acceptable to both parties in resolving a dispute arising under this AGREEMENT, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will

not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation are to remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

12.15 OFFICIALS NOT TO BENEFIT. If a member of the Commissioners Court belongs to a cooperative association, the COUNTY may purchase equipment or supplies from the association only if no member of the Commissioners Court will receive a pecuniary benefit from the purchase, other than as reflected in an increase in dividends distributed generally to members of the association.

12.16 CERTIFICATIONS:

12.16.1 The CONSULTANT certifies that the CONSULTANT

- (a) is a duly qualified, capable and otherwise bondable business entity,
- (b) is not in receivership and does not contemplate same,
- (c) has not filed for bankruptcy,
- (d) is not currently delinquent with respect to payment of property taxes within Travis County, and
- (e) is duly licensed in the State of Texas to perform the work described in this AGREEMENT.

12.16.2 The COUNTY certifies that:

- (i) it has the requisite power and authority to execute, deliver and perform this AGREEMENT;
- (ii) the execution, delivery and performance of this AGREEMENT have been duly authorized by all requisite action;
- (iii) the person signing this AGREEMENT is expressly authorized to execute this Agreement on behalf of, and to bind, the COUNTY; and
- (iv) this AGREEMENT constitutes its valid and binding obligation, enforceable against it in accordance with its terms.

12.17 CIVIL RIGHTS/ADA COMPLIANCE. The CONSULTANT must provide all services and activities required in a manner that would comply with the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, Public Law 93-1122, Section 504, and with the provisions of the Americans With Disabilities Act of 1990, Public Law 101-336 [S.933] as if the CONSULTANT were an entity bound to comply with these laws. The CONSULTANT must not discriminate against any employee or applicant for employment based on race, religion, color, sex, national origin, age or handicapped condition.

12.18 GRATUITIES. The COUNTY may terminate this AGREEMENT if it is found that gratuities of any kind, including entertainment, or gifts were offered or given by the CONSULTANT or any agent or representative of the CONSULTANT, to any County

Official or employee with a view toward securing favorable treatment with respect to this AGREEMENT. If this AGREEMENT is terminated by the COUNTY pursuant to this provision, the COUNTY will be entitled, in addition to any other rights and remedies, to recover from the CONSULTANT at least three times the cost incurred by CONSULTANT in providing the gratuities.

- 12.19 INCORPORATION OF EXHIBITS AND ATTACHMENTS. All of the exhibits, attachments, and appendices referred to in this AGREEMENT are incorporated by reference as if set forth verbatim. The COUNTY's Request for Services #S110505-CG, and CONSULTANT's response to it, shall not form part of this Agreement, and such documents are hereby excluded.
- 12.20 TEXAS PUBLIC INFORMATION ACT. Notwithstanding any provision in this AGREEMENT to the contrary, disclosure of any information obtained by the County or any of its officials, employees, agents or representatives in connection with this AGREEMENT is subject to the provisions of the Texas Public Information Act and all legal authorities relating thereto, including but not limited to opinions, decisions, and letter rulings issued by the Texas Attorney's General Office, provided that disclosure of CONSULTANT's Reports shall be subject to Section 10.4, except for redaction to protect Consultant's confidential information or position.
- 12.21 CONFLICT OF INTEREST QUESTIONNAIRE. If required under Chapter 176 of the Texas Local Government Code, the CONSULTANT must file a completed Conflict of Interest Questionnaire in accordance with the requirements of that Chapter. Within the applicable, authorized time period prescribed in Chapter 176, the CONSULTANT must file the completed Conflict of Interest Questionnaire with the Travis County Clerk, Recording Division, 5501 Airport Blvd., Austin, Texas 78751. The CONSULTANT must file an updated, completed questionnaire with the Travis County Clerk not later than the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate. The CONSULTANT should note that the law requires that the County provide access to a filed Questionnaire on the official Travis County Internet website. However, the law does not require that the County release information which is accepted from disclosure under the Texas Public Information Act. The CONSULTANT is solely responsible for the preparation of its Conflict of Interest Questionnaire and the accuracy and completeness of the content contained therein and ensuring compliance with all applicable requirements of Chapter 176 of the Local Government Code.
- 12.22 CERTIFICATION OF ELIGIBILITY. This provision applies if the anticipated contract exceeds \$100,000. By signing this AGREEMENT, the CONSULTANT certifies that it is not on the federal government's list of suspended, ineligible, or debarred contractors. In the event of placement on the list while this AGREEMENT is in effect, the CONSULTANT must notify the Travis Purchasing Agent. Failure to do so may result in terminating the contract for default.
- 12.23 ENTIRE AGREEMENT. This AGREEMENT represents the entire and integrated AGREEMENT between the COUNTY and the CONSULTANT and supersedes all prior negotiations, representations, or agreements, either oral or written.

12.24 ENTITY STATUS. This provision applies if CONSULTANT is a Texas corporation. By my signature below, I certify that the CONSULTANT is a Texas corporation, duly incorporated under Texas law and doing business in the State of Texas.

12.25 ACKNOWLEDGEMENT. As a duly authorized representative of the CONSULTANT, I acknowledge by my signature below that I have read and understand the above paragraphs and that the CONSULTANT has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives.





IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT effective as of the later date set forth below (the "Effective Date").

THE CONSULTANT: ERNST & YOUNG LLP

By:  \_\_\_\_\_

Printed Name Mark Gibson

Title: Principal  
Authorized Representative

Date: 23 DEC 11

TRAVIS COUNTY:

By: \_\_\_\_\_

Samuel T. Biscoe  
Travis County Judge

Date: \_\_\_\_\_

AVAILABILITY OF FUNDS CONFIRMED:

By: \_\_\_\_\_

Susan Spataro  
Travis County Auditor

APPROVED:

By: \_\_\_\_\_

Cyd V. Grimes, C.P.M.  
Travis County Purchasing Agent

APPROVED AS TO FORM:

By: \_\_\_\_\_

Assistant County Attorney

EXHIBIT 1  
TRAVIS COUNTY CENTRAL CAMPUS STUDY CIVIL AND FAMILY COURTHOUSE  
PROGRAM DATED AUGUST 26, 2011 (SPACE PROGRAM)  
(See Appendix A)

Handwritten signature or initials in the bottom right corner of the page.

**EXHIBIT 2  
COMPENSATION FOR PROFESSIONAL  
SERVICES (ACTUAL COST OF SERVICES  
METHOD)**

**SECTION 1 – COMPENSATION FOR BASIC SERVICES**

1.1 Unless this AGREEMENT has been amended or modified as provided herein, the payments for the tasks described below will be tied to the Payment Deliverables identified and described in paragraph 1.2, below:

Phase A – Review and Analysis of RFI Responses:	<u>\$ 57,777.00</u>
Phase B – Develop Objectives and Project Concept	<u>\$ 352,223.00</u>
-Not-to-Exceed (NTE) Amount for Additional Tax Services	<u>\$ 15,000.00</u>
Total Not-to-Exceed Fee for Phases A and B	<u>\$ 425,000.00</u>

**1.2 PAYMENT DELIVERABLES**

**Phase A – Review and Analysis of RFI Responses**

1. RFI evaluation report presented to the Commissioners Court in a public meeting on responses to the RFI which includes analysis described in Task A.1.1. At a minimum, the RFI evaluation report on Task A.1.1 shall include summarization of the analytical review of the responses to the RFI, key themes and concerns, favored delivery models and approaches, potential obstacles or barriers to procurement and mitigation techniques.
2. The presentation backup for the Commissioners Court agenda session.

**Phase B – Develop Objectives and Project Concepts**

Deliverables for Task B.7

1. Option Analysis Report presented in a meeting with the INTERNAL TEAM consisting of data in tasks B.7.1 through B.7.3 and which includes information gathered in Task B.1 through Task B.6.

Deliverables for Task B.8

1. The full VFM analysis presented in a public meeting with the Commissioners Court with recommended best delivery approach for Travis County, any percentage cost savings for the recommendation and recommendations for next steps.

**SECTION 2 - FIXED FEE**

- 2.1 The CONSULTANT and the COUNTY acknowledge the fact that the fixed fee, shown above, is the total cost of the Basic Services to be rendered under this AGREEMENT. This fixed fee is based upon the labor, non-labor costs, and all expenses required in the performance of the various phases of work provided for under this AGREEMENT.
- 2.2 The CONSULTANT and the COUNTY acknowledge that the tax component of the work will be at least \$35,000 and up to a Not-to-Exceed amount of \$50,000. The precise

amount will not be known until the work has been undertaken. Therefore \$35,000.00 has been included in the fixed fee amount of \$352,223.00 with a further \$15,000.00 allocated as a Not-to-Exceed amount.

- 2.3 In the event of any dispute over the classification of the CONSULTANT's services as either "Basic" or "Additional" services, the decision of the PURCHASING AGENT shall be final and binding on the CONSULTANT.

### **SECTION 3 – COMPENSATION FOR ADDITIONAL SERVICES**

- 3.1 For the performance of the Additional Services, the COUNTY shall pay the CONSULTANT under a written amendment to this AGREEMENT. However, the CONSULTANT must not perform any Additional Services until after receiving a written contract modification for those services from the PURCHASING AGENT.
- 3.2 The basis of compensation for the services of principals and employees engaged in the performance of the Additional Services shall be the hourly rates set forth in Exhibit 3.
- 3.3 Work made necessary by the CONSULTANT'S errors or omissions does not constitute "Additional Service," and the CONSULTANT will receive no compensation for any such work.

**EXHIBIT 3**  
**HOURLY RATES FOR ADDITIONAL SERVICES**

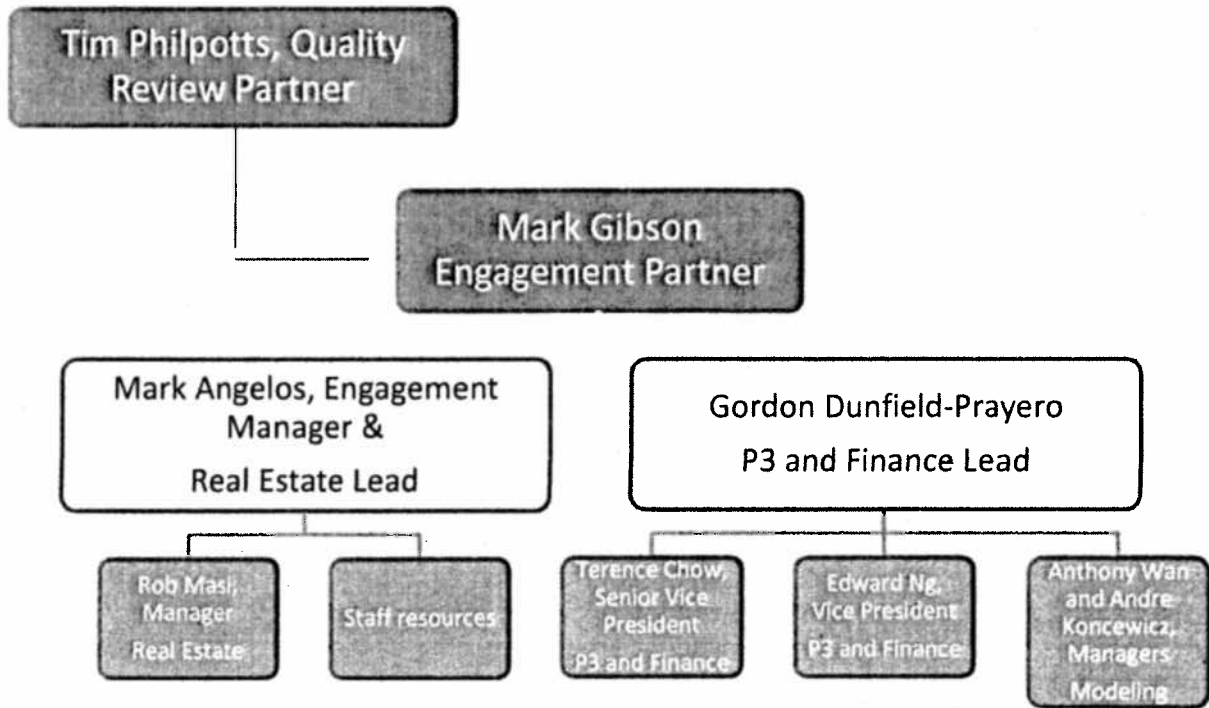
<b>Staff Category</b>	<b>Hourly Rate</b>
Principal	397
Senior Vice President	397
Vice President	350
Senior Manager	248
Manager	198
Senior/Staff	171

**KEY PERSONNEL**

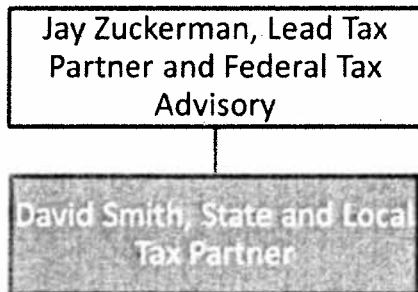
<b>Staff Category</b>	<b>Name</b>
Principal	Mark Gibson
Principal	Tim Philpotts
Senior Vice President	Gordon Dunfield-Prayero
Senior Vice President	Terence Chow
Vice President	Edward Ng
Senior Manager	Mark Angelos

**EXHIBIT 4**

**CONSULTANT'S PROPOSAL EXCERPTS (MANAGEMENT STRUCTURE AND KEY PERSONNEL)**



Additional Tax Team Reporting to Mark Gibson



## Key Administrative Roles

### Role of Engagement Partner

The Engagement Lead will carry out the following:

- Directly participate in the process to co-develop service delivery expectations with the client in order to gain an understanding of the scope of work and engagement protocols.
- Oversee the performance of procedures, as appropriate, and the resolution of important issues.
- Actively participate in and lead the engagement. Attend and lead meetings, liaise with the County, lead any public interactions.
- Review all work products and discuss significant matters with the engagement project team, providing tactical and strategic direction to the team
- Be ultimately responsible to the County for the overall execution of the engagement

### Role of Engagement Manager

This leader will be responsible for:

- Lead the day to day management of the engagement, and review and approval of the work activities prior to the execution
- Coordinate the work of others and act as the day to day single point of contact
- Directly participate in the performance of the procedures, as appropriate, and the resolution of important issues.
- Perform sufficient review procedures of the work so that the data assessment, the calculation of performance metrics/indicators, the financial performance analysis, and the financial model development meet the established objectives and quality standards
- Review our findings and recommendations so that they properly reflect the result of the work completed
- Confirm that the form of our findings and recommendations is consistent with your expectations as described in the contract and the project objectives
- Quickly address any issues with the client

### Role of Quality Review Partner

This senior level resource will be responsible for:

- Adherence to Ernst & Young's rigorous quality and risk management standards, including detailed review of the engagement deliverables
- Advice regarding the P3 deal structure, modeling, and real estate alternatives for Travis County, based on past P3 courthouse experience at Ernst & Young

**EXHIBIT 5**  
**EQUAL OPPORTUNITY IN EMPLOYMENT**

- A. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The CONSULTANT will send to the labor union representative or workers with which he has a collective bargaining AGREEMENT or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or worker's representatives of the CONSULTANT'S obligations under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The CONSULTANT will comply with the Regulations of the Department of Transportation (49 CFR 21 and 23 CFR 710.405) and all provision of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) and of the rules, regulations and relevant order of the Secretary of Labor.
- E. The CONSULTANT will furnish, upon written request, all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto; and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the CONSULTANT'S non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the CONSULTANT may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- G. The CONSULTANT will include the provisions of paragraph (A.) through (F.) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 or Executive Order 11246 of



September 24, 1965, as amended by Executive Order 11375 (41 CFR 60) so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontractor purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the COUNTY or Federal Agency the CONSULTANT may request the COUNTY and United States to enter into such litigation to protect the interest of the United States.



## EXHIBIT 6

### INSURANCE REQUIREMENTS

During the life of this Agreement, the CONSULTANT agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$400,000 per occurrence and \$1,000,000 in the aggregate, including coverage on the same for independent subcontractor(s). TRAVIS COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE OF INSURANCE ISSUED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$400,000 per occurrence and \$1,000,000 in the aggregate.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$1,000,000.

The CONSULTANT shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance has been approved by the COUNTY. Approval of the insurance by the COUNTY shall not relieve or decrease the liability of the CONSULTANT hereunder.

The required insurance must be written by a company approved to do business in the State of Texas at the time the policy is issued. The CONSULTANT shall furnish the COUNTY with a certification of coverage issued by the insurer. The insurance company shall have an A.M. Best rating of at least A-. The CONSULTANT shall not cause any insurance to be canceled nor permit any insurance to lapse. TO THE EXTENT PERMITTED BY THE APPLICABLE POLICY, ALL INSURANCE CERTIFICATES SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED OR REDUCED, RESTRICTED OR LIMITED UNTIL TEN (10) DAYS AFTER THE COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.



**EXHIBIT 7**  
**ETHICS AFFIDAVIT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Date: 23 DEC 11

Name of Affiant: MARK GIBSON

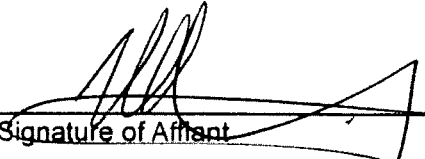
Title of Affiant: PRINCIPAL

Business Name of CONSULTANT: ERNST & YOUNG LLP

County of CONSULTANT: CALIFORNIA

Affiant on oath swears that the following statements are true:

1. Affiant is authorized by CONSULTANT to make this Affidavit for CONSULTANT.
2. Affiant is fully aware of the facts stated in this Affidavit.
3. Affiant can read and understand the English language.
4. CONSULTANT has received the list of Key Contracting Persons associated with this professional services AGREEMENT, which list is attached to this Affidavit as Attachment 1.
5. Affiant has personally read Attachment 1 to this Affidavit.
6. Affiant has no knowledge of any Key Contracting Person on Attachment 1 with whom CONSULTANT is doing business or has done business during the 365 day period immediately before the date of this affidavit.

  
\_\_\_\_\_  
Signature of Affiant

18111 VON KARMEN  
92612 CALIFORNIA  
\_\_\_\_\_  
Address

SUBSCRIBED AND SWORN TO before me by Mark Gibson on 12-23, 2011.

Christine A. Pearce  
Notary Public, State of California

Christine A Pearce  
\_\_\_\_\_  
Typed or printed name of notary

My commission expires: June 9, 2013



**ATTACHMENT 1 TO EXHIBIT 7**  
**LIST OF KEY CONTRACTING PERSONS**  
**October 3, 2011**

**CURRENT**

Position Held	Name of Individual Holding Office/Position	Name of Business Individual is Associated
County Judge.....	Samuel T. Biscoe	
County Judge (Spouse).....	Donalyn Thompson-Biscoe	
Executive Assistant.....	Cheryl Brown	
Executive Assistant.....	Melissa Velasquez	
Executive Assistant.....	Josie Z. Zavala	
Executive Assistant.....	Cheryl Aker	
Commissioner, Precinct 1.....	Ron Davis	
Commissioner, Precinct 1 (Spouse).....	Annie Davis	Seton Hospital
Executive Assistant.....	Deone Wilhite	
Executive Assistant.....	Felicitas Chavez	
Commissioner, Precinct 2.....	Sarah Eckhardt	
Commissioner, Precinct 2 (Spouse).....	Kurt Sauer	Daffer McDaniel, LLP
Executive Assistant.....	Loretta Farb	
Executive Assistant.....	Joe Hon	
Executive Assistant.....	Peter Einhorn	
Commissioner, Precinct 3.....	Karen Huber	
Commissioner, Precinct 3 (Spouse).....	Leonard Huber	Retired
Executive Assistant.....	Garry Brown	
Executive Assistant.....	Lori Duarte	
Executive Assistant.....	Jacob Cottingham*	
Commissioner, Precinct 4.....	Margaret Gomez	
Executive Assistant.....	Edith Moreida	
Executive Assistant.....	Norma Guerra	
County Treasurer.....	Dolores Ortega-Carter	
County Auditor.....	Susan Spataro, CPA	
County Executive, Administrative.....	Vacant	
County Executive, Planning & Budget.....	Leroy Nellis, Interim	
County Executive, Emergency Services.....	Danny Hobby	
County Executive, Health/Human Services.....	Sherri E. Fleming	
County Executive, TNR.....	Steven M. Manilla, P.E.*	
County Executive, Justice and Public Safety.....	Roger Jefferies	
Director, Facilities Management.....	Roger El Khoury, M.S., P.E.	
Chief Information Officer.....	Joe Harlow	
Director, Records Mgmt & Communications.....	Steven Broberg	
Travis County Attorney.....	David Escamilla	
First Assistant County Attorney.....	Steve Capelle	
Executive Assistant, County Attorney.....	James Collins	
Director, Land Use Division.....	Tom Nuckols	
Attorney, Land Use Division.....	Julie Joe	
Attorney, Land Use Division.....	Christopher Gilmore	
Director, Transactions Division.....	John Hille	
Attorney, Transactions Division.....	Tamara Armstrong	
Attorney, Transactions Division.....	Daniel Bradford	
Attorney, Transactions Division.....	Mary Etta Gerhardt	
Attorney, Transactions Division.....	Barbara Wilson	
Attorney, Transactions Division.....	Jim Connolly	
Attorney, Transactions Division.....	Tenley Aldredge	
Director, Health Services Division.....	Beth Devery	
Attorney, Health Services Division.....	Prema Gregerson	
Purchasing Agent.....	Cyd Grimes, C.P.M., CPPO	
Assistant Purchasing Agent.....	Marvin Brice, CPPB	
Assistant Purchasing Agent.....	Bonnie Floyd, CPPO, CPPB, CTPM	
Purchasing Agent Assistant IV.....	Vacant	
Purchasing Agent Assistant IV.....	Lee Perry	
Purchasing Agent Assistant IV.....	Jason Walker	

Purchasing Agent Assistant IV..... Richard Villareal  
 Purchasing Agent Assistant IV..... Vacant  
 Purchasing Agent Assistant IV..... Lori Clyde, CPPO, CPPB  
 Purchasing Agent Assistant IV..... Scott Wilson, CPPB  
 Purchasing Agent Assistant IV..... Jorge Talavera, CPPO, CPPB  
 Purchasing Agent Assistant IV..... George R. Monnat, C.P.M., A.P.P.  
 Purchasing Agent Assistant IV..... John E. Pena, CTPM  
 Purchasing Agent Assistant III..... Vacant  
 Purchasing Agent Assistant III..... David Walch  
 Purchasing Agent Assistant III..... Michael Long, CPPB  
 Purchasing Agent Assistant III..... Elizabeth Corey, C.P.M.  
 Purchasing Agent Assistant III..... Rosalinda Garcia  
 Purchasing Agent Assistant III..... Loren Breland, CPPB  
 Purchasing Agent Assistant II..... C.W. Bruner, CTP  
 Purchasing Agent Assistant III..... Nancy Barchus, CPPB  
 HUB Coordinator..... Sylvia Lopez  
 HUB Specialist..... Betty Chapa  
 HUB Specialist..... Jerome Guerrero  
 Purchasing Business Analyst..... Scott Worthington  
 Purchasing Business Analyst..... Jennifer Francis  
 250<sup>th</sup> Judicial District Civil Court..... Judge John K. Dietz  
 County Court at Law #2..... Judge Eric Sheppard  
 261<sup>st</sup> Judicial District Civil Court..... Judge Lora Livingston  
 201<sup>st</sup> District Court..... Judge Amy Clark Meachum  
 200<sup>th</sup> Judicial District Civil Court..... Judge Gisela D. Triana-Doyal  
 Strategic Planning Mgr., Planning & Budget..... Belinda Powell  
 Sr. Project Manager, Facilities Management..... Leslie Stricklan, AIA  
 First Assistant County Auditor..... Diana Warner  
 Senior Budget Analyst..... Diana Ramirez

**FORMER EMPLOYEES**

<u>Position Held</u>	<u>Name of Individual Holding Office/Position</u>	<u>Date of Expiration</u>
County Executive, TNR.....	Joseph Gieselman	01/31/12
Purchasing Agent Assistant IV.....	Oralia Jones, CPPB	07/31/12
County Executive, Planning & Budget.....	Rodney Rhoades	08/19/12
Purchasing Agent Assistant IV.....	Diana Gonzalez	12/15/12

\* - Identifies employees who have been in that position less than a year.

**EXHIBIT 8  
HUB DECLARATION AND LIST OF CERTIFIED HUB SUBCONTRACTORS**

**Historically Underutilized Business (HUB) Declaration**

It is the policy of the Travis County Purchasing Office to ensure a good faith effort is made to assist Certified HUB vendors and contractors in receiving contracts in accordance with the HUB Program policies and the Minority and Woman-Owned Business (M/WBE) goals adopted by the Travis County Commissioners Court.

The following goals for HUB contractor/vendor participation, as well as HUB subcontractor participation, have been assigned for this particular project and designated with an "X" in the box provided.

Note: to be considered "certified" with the State of Texas, City of Austin or the Texas Unified Certification Program please attach a current and valid certificate. Sub-goals are included to assist you in diversifying your subcontractors.

<input type="checkbox"/> Commodities		<input checked="" type="checkbox"/> Professional Services		<input type="checkbox"/> Non-Professional Services	
Overall MBE Goal: 3.5%	Sub-goals: 0.3% African-American 2.5% Hispanic 0.7% Asian/Native-American	Overall MBE Goal: 15.0%	Sub-goals: 1.0% African-American 9.0% Hispanic 4.0% Asian/Native-American	Overall MBE Goal: 14.1%	Sub-goals: 2.5% African-American 9.9% Hispanic 1.7% Asian/Native-American
Overall WBE Goal: 6.0%		Overall WBE Goal: 15.8%		Overall WBE Goal: 15.0%	

Prime Contractor: Ernst & Young, LLP

Project title: Travis County New Civil and Family Court House

HUB:  Yes  No Indicate Gender and Ethnicity: \_\_\_\_\_

Certifying Agency (Check all applicable):

State of Texas (HUB)  City of Austin (M/WBE)  Texas Unified Certification Program (DBE)

Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

E-mail: \_\_\_\_\_

We are able to fulfill all, or most, of the potential subcontracting opportunities with our own resources.

If circumstances necessitate the use of any subs, I agree to seek the timely authorization by the County and adhere to the submission of any required documentation, including a HUB Declaration, GFE Checklist and subcontractor payment information.

What percentage of the Bid or Proposal is to be subcontracted with Certified HUB sources: 0 %?

(List all subcontractor information below.)

Total MBE: \$ \_\_\_\_\_ % \_\_\_\_\_ Total WBE: \$ \_\_\_\_\_ % \_\_\_\_\_

Please complete all information in its entirety.

Name and title: Mark Gibson

E-mail address: mark.gibson@ey.com Signature: \_\_\_\_\_

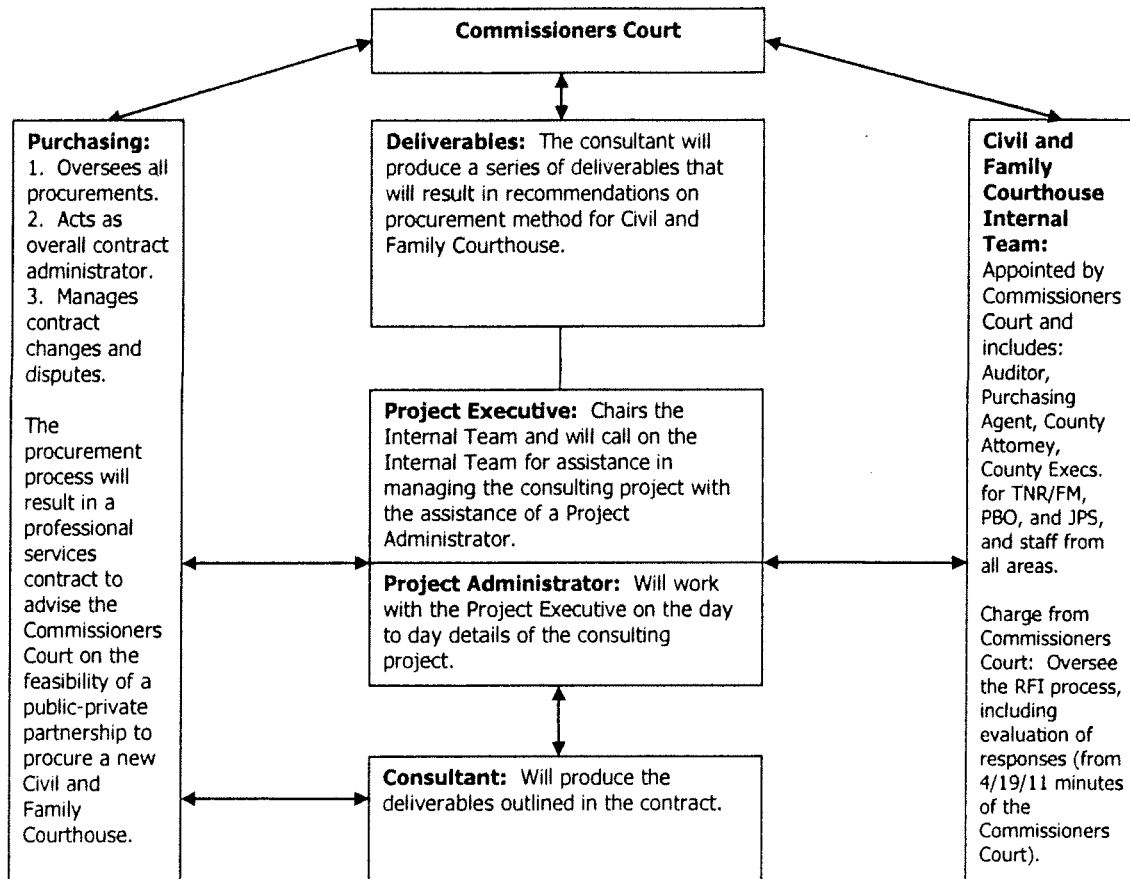
Contact person that will be in charge of invoicing for this project?

Name and title: Mark Gibson, Principal

Phone: +1 949 437 0499 E-mail address: mark.gibson@ey.com



EXHIBIT 9  
PROJECT MANAGEMENT STRUCTURE FOR THE TRAVIS COUNTY CIVIL AND FAMILY  
COURTHOUSE



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EXHIBIT 10

FORM OF LAW FIRM AGREEMENT

**CONTRACT BETWEEN TRAVIS COUNTY AND  
HAWKINS DELAFIELD & WOOD LLP**

This Contract is entered into this day between the following parties: Travis County, a political subdivision of the State of Texas, ("COUNTY") and Hawkins Delafield & Wood LLP ("CONTRACTOR").

WHEREAS, COUNTY desires to obtain legal services on alternatives for construction of a new Civil and Family Courthouse. CONTRACTOR, paid by the COUNTY, will be advising County and Ernst & Young LLP ("the Consultant) on the legal permissibility of the potential project delivery alternatives analyzed by the Consultant pursuant to Consultant's Professional Services Agreement entered into concurrently herewith; and

WHEREAS, CONTRACTOR has the skill and training to provide the professional legal services.

This Contract is exempted from the bidding requirements of the County Purchasing Act pursuant to Section 262.024(a)(4) of the Local Government Code as this is a Contract for professional services. The CONTRACTOR is an independent contractor to the COUNTY; neither CONTRACTOR nor its employees claim to be employees of the COUNTY nor do they claim any benefits from the COUNTY other than contract payments for services rendered.

1.0 DEFINITIONS

In this Contract,

1.1 "Contract Funds" means all funds paid by COUNTY pursuant to 4.1 of this Contract.

1.2 "Is Doing Business" and "Has Done Business" mean:

1.2.1 Paying or receiving any money or other valuable thing in exchange for personal services or for purchase or use of any property interest, either real or personal, either legal or equitable; or

1.2.2 Loaning or receiving a loan of money, services, or goods or otherwise creating or having in existence any legal obligation or debt;

but does not include:



1.2.3 Any payments, receipts, loans, or receipts of a loan which are less than \$250.00 per calendar year in the aggregate; or

1.2.4 Any retail transaction for goods or services sold to a key contracting person at a posted, published, or marked price available to the general public.

1.3 "Key Contracting Person" means any person or business listed in EXHIBIT 1 to the Affidavit attached to this Contract and marked ATTACHMENT A.

## 2.0 CONTRACT PERIOD

2.1 Initial Contract Term. This Contract shall continue in full force for the Contract Period which commences upon Commissioners Court approval and terminates upon completion of services. This Contract may be renewed for an additional year by a vote of the Commissioners Court of County.

## 3.0 CONTRACTOR PERFORMANCE OF CLIENT SERVICES

3.1 Contractor Responsibilities. During the Contract Period, CONTRACTOR shall advise County and Consultant on the legal permissibility of the various project procurement alternatives for the delivery of a Civil and Family Courthouse that meets the space needs of the Travis County Civil and Family justice system through 2035 with the space for the feasibility of expansion in the future if it is financially feasible, physically possible, and legally permissible. The projected site for the new Courthouse is the city block owned by Travis County at 300 Guadalupe. Legal permissibility shall be defined as complying with federal, state, and local law governing the actions of a county as a subdivision of the State of Texas or it is reasonably probable that federal, state, or local law can be changed within a reasonable time so that an action does comply with federal, state, or local law. CONTRACTOR shall not begin work until it receives a Notice to Proceed from the County Purchasing Agent. The CONTRACTOR, prior to the Consultant's recommendation to the COUNTY, will work with the County and the Consultant to assure that any options analyzed by the Consultant have been reviewed, assessed, evaluated, and approved by the CONTRACTOR as Legally Permissible. CONTRACTOR will prepare a memorandum of law setting forth its analysis and legal opinion as to procurement permissibility COUNTY acknowledges that CONTRACTOR has made no representations or guarantees as to the success of the work. Legal review of local project and real estate law-related matters, including zoning, planning, taxation, environmental and permitting issues, will be subcontracted out to the Law Firm of Brown McCarroll, LLP, with Nikelle Meade providing the services, and the Law Firm of Jackson Walker, LLP.

3.2 Representation and Conflict Waiver. COUNTY acknowledges that by CONTRACTOR'S advising both COUNTY and Consultant a conflict of interest may arise. To the extent that conflict exists, and in consideration of the benefits the COUNTY expects to receive from CONTRACTORS expertise, COUNTY waives the conflict.

3.3. Non-Legal Professional Services. CONTRACTOR is not engaged to provide advice with respect to credit standing, financial statements, commercial real estate considerations

or other similar financial, technical or other non-legal matters, and owes the COUNTY no duty in respect thereof. COUNTY acknowledges that the Consultant has been engaged to provide professional advice concerning such matters under the Consultant's Professional Services Agreement.

3.3 W-9 Taxpayer Identification Form. CONTRACTOR shall provide COUNTY with an Internal Revenue Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations, and a statement of entity status in a form satisfactory to the County Auditor before any Contract Funds are payable.

#### 4.0 COUNTY PERFORMANCE

4.1 Maximum Funds. CONTRACTOR will be earning its posted hourly rates for legal services, but subject to a cap of \$525 per hour for any attorney. COUNTY agrees to pay CONTRACTOR, based upon the number of hours worked, but in no event more than \$65,000 (Sixty-Five Thousand) even if the number of hours necessary to complete the services and activities referred to in Section 3.0 of this Contract would otherwise entitle CONTRACTOR to a greater sum.

In addition to the above-mentioned fees for professional legal services, the County will reimburse the CONTRACTOR for out-of-pocket expenses incurred by the CONTRACTOR in connection with his services rendered including travel, telephone, telegraph, postage, reproduction of documents, and similar expenses, and for all items obtained and paid by CONTRACTOR on behalf of COUNTY. These expenses will be reasonable, and will be billed monthly, and must also remain within the above-described cost not-to-exceed.

4.2 COUNTY Approval. COUNTY shall not be responsible for the costs of any services under this Contract that are not performed to COUNTY'S satisfaction, with COUNTY'S approval, which shall not be unreasonably withheld.

4.3 Payment. COUNTY shall pay CONTRACTOR within thirty (30) days of the receipt of a correct invoice completed acceptable to COUNTY. Invoice shall include the date of service, the number of hours, and the service provided. CONTRACTOR may invoice COUNTY upon delivery of the Consultant's final report to COUNTY.

4.4 Prior Debts. COUNTY shall not be liable for costs incurred or performances rendered by CONTRACTOR before or after the Contract Period.

#### 5.0 EXPRESS ACKNOWLEDGMENT

5.1 Applicable Law. The parties expressly acknowledge and agree that COUNTY and CONTRACTOR shall comply with the Constitution of the United States and the State of Texas and all federal, state, county, and city laws, rules, orders, ordinances, and regulations applicable to performance of this Contract.

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5.2 Written Agreements. Any and all consents and agreements provided for or permitted by this Contract shall be kept in writing and a signed copy thereof shall be filed with and kept by COUNTY.

5.3 Sole Contract. This document contains the sole and only Contract of the parties hereto relating to their agreement and correctly sets forth the rights, duties, and obligations of each to the other(s) as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this document are of no force and effect.

## 6.0 RETENTION AND ACCESSIBILITY OF CLIENT RECORDS

6.1 Records. CONTRACTOR shall maintain all records and documentation for all actions pertaining to this Contract in a readily available state and location until all services are completed and all questions arising from it are resolved satisfactorily or three (3) years after the end of the Contract Period, whichever occurs later.

6.2 COUNTY Access. CONTRACTOR shall give, within limits of the Attorney/Client privilege, the COUNTY, or any of its duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by CONTRACTOR pertaining to this Contract at reasonable times and for reasonable periods. These rights to access shall continue as long as the records are retained by CONTRACTOR.

## 7.0 SUBCONTRACTS

7.1 CONTRACTOR shall not enter into any other subcontracts, other than with Brown McCarroll, LLP, and Jackson Walker, LLP, for any service or activity relating to the performance of this Contract without the prior written approval or the prior written waiver of this right of approval from COUNTY.

## 8.0 BEST EFFORTS

8.1 CONTRACTOR shall use the standard of care expected of an attorney licensed by the State Bar of Texas and practicing law in an urban location, and shall perform with its best efforts to provide COUNTY with a satisfactory result in each case. CONTRACTOR shall have at least one attorney within its organization licensed in the State of Texas and who shall deliver the opinion required in Section 3.0.

## 9.0 TERMINATION

9.1 Reasons for Termination. COUNTY shall have the right to terminate this Contract, in whole or in part, at any time before the date of termination specified in 2.1 of this Contract with reasonable notice, but in no event longer than thirty (30) days.

9.2 Mutual Termination. Either party has the right to terminate this Contract, in whole or in part, when both parties agree that the continuation of the activities funded under this Contract would not produce beneficial results commensurate with the further expenditure of

funds; provided that both parties agree, in writing, upon the termination conditions, including the effective date of the termination and, in the case of partial termination, the portion of the Contract to be terminated.

#### 10.0 NON-WAIVER OF DEFAULT

10.1 Non-Waiver. No payment, act, or omission by COUNTY may constitute or be construed as a waiver of any breach or default of CONTRACTOR which then exists or may subsequently exist.

10.2 Reservation of Rights. All rights of COUNTY under this Contract are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or right to COUNTY under it. Any right or remedy in this Contract shall not preclude the exercise of any other right or remedy under this Contract or under any law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

#### 11.0 FORFEITURE OF CONTRACT

11.1 If CONTRACTOR has done business with a Key Person during the 365 day period immediately prior to the date of execution of this Contract by CONTRACTOR, or does business with any Key Person at any time after the date of execution of this Contract by CONTRACTOR and prior to full performance of this Contract, CONTRACTOR shall forfeit all benefits of this Contract and COUNTY shall retain all performance by CONTRACTOR and recover all considerations, or the value of all consideration, paid to CONTRACTOR pursuant to this Contract, provided, however, that this section may be waived by the Travis County Commissioners Court pursuant to Section 32.004(g) of the Travis County Code. CONTRACTOR may utilize ATTACHMENT A for this purpose.

#### 12.0 AMENDMENTS

12.1 Written Amendment. Unless specifically provided otherwise in this Contract, any change to the terms of this Contract or any attachments to it shall be made in writing and signed by both parties. No modification concerning this Contract shall be of any force or effect, excepting a subsequent modification in writing signed by the Party to be charged.

12.2 IT IS ACKNOWLEDGED BY CONTRACTOR THAT NO OFFICER, AGENT, EMPLOYEE, OR REPRESENTATIVE OF COUNTY HAS ANY AUTHORITY TO CHANGE THE TERMS OF THIS CONTRACT OR ANY ATTACHMENTS TO IT UNLESS EXPRESSLY GRANTED THAT AUTHORITY BY THE TRAVIS COUNTY COMMISSIONERS COURT.

#### 13.0 ASSIGNABILITY

13.1 Written Approval. Neither party may assign any of the rights or duties created by this Contract without the prior written approval of the other party. It is acknowledged by CONTRACTOR that no officer, agent, employee, or representative of COUNTY has any

authority to assign any part of this Contract unless expressly granted that authority by the Travis County Commissioners Court.

13.2 Binding Contract. This Contract shall be binding upon the successors, assigns, administrators, and legal representatives of the parties to this Contract.

#### 14.0 ENTIRE AGREEMENT

14.1 Entire Agreement. All oral and written agreements between the parties to this Contract relating to the subject matter of this Contract that were made prior to the execution of this Contract have been reduced to writing and are contained in this Contract.

#### 15.0 LAW AND VENUE

15.1 THIS CONTRACT IS GOVERNED BY THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS UNDER THIS CONTRACT SHALL BE PERFORMABLE IN TRAVIS COUNTY, TEXAS.

#### 16.0 SEVERABILITY

16.1 If any portion of this Contract is ruled invalid by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

#### 17.0 NOTICES

17.1 Written Notice. Any notice required or permitted to be given under this Contract by one party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the party at the address hereinafter specified.

17.2 COUNTY Address. The address of COUNTY for all purposes under this Contract shall be:

Cyd Grimes, C.P.M., CPPO (or her successor in office)

Travis County Purchasing Agent  
P.O. Box 1748 Austin, Texas 78767

with copy to:

Honorable David A. Escamilla (or his successor in office)  
County Attorney  
P.O. Box 1748  
Austin, Texas 78767  
Attn: File No. 188.390.5

and:

Roger Jefferies (or his successor in office) County Executive, Justice  
and Public Safety  
P.O. Box 1748  
Austin, Texas 78767

17.3 Contractor Address. The address of the Contractor for all purposes and all notices under this Contract shall be:

Hawkins Delafield & Wood LLP  
One Chase Manhattan Plaza  
New York, NY 10005

17.4 Change of Address. Each party may change the address for notice to it by giving notice of the change in compliance with 17.0.

## 18.0 DISPUTE RESOLUTION

18.1 When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or person appointed by a court of competent jurisdiction for mediation as described in the Tex. Civ. Prac. And Rem. Code, 154.023. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation must remain confidential as described in Tex. Civ. Prac. And Rem Code 154.073, unless both parties agree, in writing, to waive the confidentiality.

## 19.0 INTERPRETATIONAL GUIDELINES

19.1 Computation of Time. When any period of time is stated in this Contract, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday or Sunday or a day that County has declared a holiday for its employees these days shall be omitted from the computation.

19.2 Number and Gender. Words of any gender in this Contract shall be construed to include any other gender and words in either number shall be construed to include the other unless the context in the Contract clearly requires otherwise.

19.3 Headings. The headings at the beginning of the various provisions of this Contract have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing this Contract.

## 20.0 CONFLICT OF INTEREST QUESTIONNAIRE

21.1 If required by Chapter 176 of the Texas Local Government Code, you must file and update a completed Conflict of Interest Questionnaire with the Travis County Clerk, Recording Division, 5501 Airport Blvd., Austin, Texas 78751 in accordance with the requirements of that

chapter. You should note that the law requires that we provide access to any filed Questionnaire on the official Travis County Internet website. However, the law does not require that we release information for which there is an exception from disclosure under the Texas Public Information Act.

CONTRACTOR:  
HAWKINS DELAFIELD & WOOD LLP

\_\_\_\_\_

Date: \_\_\_\_\_

TRAVIS COUNTY

By: \_\_\_\_\_  
Samuel T. Biscoe, County Judge

Date: \_\_\_\_\_

**APPENDIX A**  
**Index of Information Travis County Will Provide**

All data needs to be compiled and will be available immediately following contract award.

**Site and Proposed Building Data**

1. Site Analysis Report
2. Geotechnical Report
3. Phase I Environmental Assessment Report
4. Civil and Family Courthouse program
5. Civil and Family Courthouse stacking options
6. Phasing Plan for the Civil & Family Courthouse to 2035
7. Security Analysis (confidential)
8. Master Plan Budget Estimates for the Civil and Family Courthouse
9. Cost of the land
10. Green Building Policy
11. Central Campus Master Plan Space Standards

**Travis County Financial History Information**

1. Travis County Debt Policy
2. Travis County FY 10 CAFR
3. 2011 Rating reports from Moody's and S&P
4. Debt model with historical interest rates from TC debt issuances and debt assumptions
5. Travis County FY 11 Adopted Budget, FY 12 Preliminary Budget, and FY 12 Adopted Budget (when available)

**Maintenance and Operations Costs and Contracts**

1. Travis County Pay scale
2. Range of pay grades and average salary for maintenance staff, custodial staff, security personnel (Facilities Management Department (FMD) and Travis County Sheriff's Office (TCSO)), including TC Livable Wage Policy
3. Current and proposed utility rates
4. Current utility consumption rate by building: 700 Lavaca, CJC
5. Annual maintenance cost for 700 Lavaca, CJC
6. Annual grounds keeping costs for 700 Lavaca, CJC
7. Annual custodial costs for 700 Lavaca, CJC
8. Service agreements/contracts
  - a. Elevator
  - b. Pest Control
  - c. Fire Alarm
  - d. Fire Extinguisher
  - e. Sentinel Property Management
  - f. Etc. – list all others





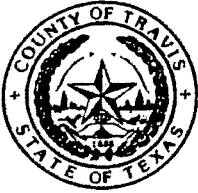
**Process Information**

1. Travis County Purchasing Policy
2. Prevailing wage rates
3. Travis County FY 12 Budget Manual
4. Public Input Process for Central Campus Master Plan
5. Facilities Management Department Work Order Process and Preventive Maintenance Schedule



APPENDIX B  
RFI NO. I041311CG, PUBLIC PRIVATE PARTNERSHIP FOR A NEW CIVIL AND FAMILY  
COURTHOUSE IN TRAVIS COUNTY





# TRAVIS COUNTY PURCHASING OFFICE

*Cyd V. Grimes, C.P.M., Purchasing Agent*

314 W. 11th, Room 400, Austin, Texas 78701 (512) 854-9700 Fax (512) 854-9185

April 22, 2011

Dear Firm:

You are invited to submit information in accordance with the attached packet, Request For Information (RFI) #I041311CG, **Public Private Partnership for a New Civil and Family Courthouse in Travis County**. All information must be submitted with an original and eight (8) copies and an electronic copy (in a Word or searchable PDF format on CD) to the Travis County Purchasing Agent, 314 W. 11th Street, Suite 400, Austin, Texas 78701, no later than 2:00 p.m., June 30, 2011.

**NOTE: During this RFI process, firms are asked NOT to contact individual members of the Travis County Commissioners Court, any other Elected/Appointed Official or Judge, or County staff.**

All responses shall be submitted to the Travis County Purchasing Agent in a sealed envelope marked:

**REQUEST FOR INFORMATION  
Public Private Partnership for a New Civil and Family Courthouse  
RFI # I041311CG**

**DO NOT OPEN IN MAILROOM**

Your consideration of this request is appreciated.

Sincerely,  
TRAVIS COUNTY PURCHASING OFFICE

*Cyd V. Grimes*  
Cyd V. Grimes, C.P.M.  
Purchasing Agent

CVG:jt  
Atch

**TRAVIS COUNTY, TEXAS**  
**RFI# I041311CG**

**Introduction**

The Travis County Purchasing Agent, on behalf of the Travis County Commissioners Court (the "Court" or the "Commissioners Court"), is soliciting informational proposals from developers and development teams (each, a "Respondent") that explore the potential for a Public Private Partnership ("PPP") in the development of a new civil and family courthouse (the "New Civil and Family Courthouse") of approximately 500,000 square feet as well as additional development that will significantly reduce Travis County's cost and deliver the project more quickly and with quality long-term design and construction. The New Civil and Family Courthouse and such additional development are referred to herein collectively as the "Project."

The Court has not limited their vision to a particular methodology for a PPP if it decides to move forward with the Project utilizing a PPP approach. The purpose of this Request is to:

- invite information and ideas on the full scope of the Project as described herein, including without limitation (i) design concepts (including a mix of ground-level retail, commercial office space and other uses compatible with the civic nature of the courthouse), (ii) construction, management and operation concepts, and (iii) financing concepts and methodologies;
- identify what companies or teams are interested in a PPP for the Project on the Site (as hereinafter defined);
- explore potential benefits to the County for utilizing a PPP approach for the Project; and
- explore any and all models to have a developer help design, build, finance, operate, maintain or own part of the Project.

**Background**

Travis County (the "County"), a corporate body and political subdivision of the State of Texas, is located in central Texas and encompasses 1,022.1 square miles. The estimated 2010 population of the County is 1,033,553, with an estimated 785,850 of those people living in Austin—the County Seat.

Austin is the largest municipality in the County and the capital of the State of Texas. The County is the home of The University of Texas at Austin, as well as St. Edwards University, Huston Tillotson University and Concordia University. According to the City of Austin Demographer, the population of the County has a projected net average growth rate for the last eleven years of approximately 22,000 people per year. The Fiscal Year 2011 adopted budget for the County government is \$705,914,164 and includes funding for 4,738 full-time equivalent/employees. The principal drivers of the County's economy are government, education, technology and the creative arts, attracting people and businesses from around the world.

The Commissioners Court serves as the chief legislative and governing body of the County's government. The Commissioners Court is comprised of five members: four Commissioners elected from designated precincts within the County and the County Judge, who is elected at large.

For more information on the County, see Appendices A and B.

### **Project Description and Goals**

In December 2010, the County purchased the full city block bounded by 3<sup>rd</sup> Street, 4<sup>th</sup> Street, San Antonio Street and Guadalupe Street in downtown Austin as a site for the New Civil and Family Courthouse (the "Site"). The Site is 76,356 square feet. Travis County is interested in at least reaching 12:1 FAR for approximately 916,000 square feet of development. Travis County is willing to consider pursuing Central Urban Redevelopment (CURE) District zoning or Public (P) District zoning, both of which could afford the degree of flexibility needed to put in place zoning regulations uniquely tailored to the needs and advantages of the Site and its proposed mix of uses.

For additional information regarding the Site, see Appendix C.

The Site was the original Republic of Texas grant of land for a jail and county courthouse in 1839, and the first Travis County courthouse was built on the Site in 1855. The original Waller Plan for the City of Austin referenced the courthouse designation and the block is still referenced on the legal description as the old courthouse and jail site. The Site's downtown location has several benefits, including:

- proximity to county core offices, the new federal courthouse, City Hall and state offices, providing geographic efficiencies to citizens and visitors;
- proximity to retail and restaurants; and
- adjacent to proposed transportation corridors for downtown, making it convenient to all areas with metro transportation service.

Guadalupe Street is slated to be a major transit and Bus Rapid Transit corridor in the City of Austin Downtown Plan as well as the Capital Metro 2020 plan. The City of Austin has on-going plans for improvements to 3rd and 4th Streets as bicycle priority and rapid transit rail priority streets, respectively. The block is currently zoned Central Business District (CBD) and is approved for an 8:1 Floor-to-Area Ratio (FAR) for approximately 610,000 square feet of development. However, the City of Austin Downtown Plan and density bonus programs target the Site to carry the potential of a 25:1 FAR, or approximately 1,909,000 square feet of development. Existing Downtown Parks Overlay District regulations limit height to 120 feet within the first 60 feet of the portion of the Site fronting Republic Square Park, so a lower FAR may be more reasonable to expect on the Site.

The Commissioners Court is interested in the delivery of a state-of-the-art green building on the Site that will reach, at a minimum, a LEED Silver certification and a 12:1 FAR as described above. The New Civil and Family Courthouse is estimated to need approximately

510,000 of gross square feet to accommodate future civil and family court space requirements through the year 2035 with the ability for future expansion into the balance of the Project.

The County offices, departments and support spaces that should be included in the New Civil and Family Courthouse proposed facility include the following:

- District Civil Courts
- Civil County Courts-At-Law
- Attorney General's IV District Child Support Courts
- Civil Court Administration
- Child Support Court Offices
- Travis County Sheriff's Office (court transfer-related functions only)
- County Clerk (civil court related functions)
- District Clerk (civil court related functions)
- Domestic Relations Office
- Office of Parental Representation
- Office of Child Representation
- Law Library and Self Help services center
- Children's waiting area
- Jury Waiting
- Mediation/Dispute Resolution

Parking for the New Civil and Family Courthouse aspect of the Project should accommodate subterranean secured vehicular sally port access for limited inmate movement to and from civil and family court proceedings, secured judicial parking for at least 31 judges and secure deliveries and trash removal for the New Civil and Family Courthouse. Additional parking to support the Project should be provided in accordance with City of Austin Ordinances and in consideration of the current or proposed zoning for the Site.

The Commissioners Court and members of the judiciary are interested in planning for a courthouse that will respond to the demands on the current justice system to provide safe, secure, sustainable and technologically responsive facilities that support the physical and human aspects of their business. Therefore, the County wishes to create the New Civil and Family Courthouse to be responsive to the business of today while looking to the future of a growing, dynamic and adaptable judicial system.

In addition to these needs, the County is inviting information and ideas on the full scope of the Project, including without limitation (i) design concepts (including a mix of ground-level retail, commercial office space and other uses compatible with the civic nature of the courthouse that achieves a viable economically balanced approach to the development of the block), (ii) construction, management and operation concepts, and (iii) financing concepts and methodologies. **Non-Permitted Uses within the same building structure as the Civil and Family Courthouse:** hospitality, hotel, residential and **Non-Permitted Use on the block:** sexually oriented businesses.

## Requirements for Qualified Responses

To achieve a uniform review process and to obtain a maximum degree of comparability, Travis County requires that responses be submitted with an original (**marked "original"**) and **eight (8) copies and an electronic copy (in a Word or searchable PDF format on CD)**.

All responses must be submitted to the Travis County Purchasing Agent, 314 W. 11th Street, Suite 400, Austin, Texas 78701 in a sealed envelope marked:

### **REQUEST FOR INFORMATION**

Public Private Partnership for a New Civil and Family Courthouse

RFI # I041311CG

### **DO NOT OPEN IN MAILROOM**

A statement in response to this RFI must be organized in the following format and sequence:

- a) Cover Letter. A letter on your company letterhead signed by a senior officer formally stating your interest in and qualifications to develop the Project described in this RFI.
- b) Executive Summary. Provide an executive summary of three pages or less that gives a summary of your ideas for this Project.
- c) Description of the Respondent. In your response, please:
  1. Identify your organization or development team, i.e., state the full legal name and address of the respondent, including to the extent possible any currently identified partners, joint venturers and significant consultants and contractors.
  2. Identify the role of each member of the development team, including to the extent possible and currently identified the partners, joint venturers and significant consultants or contractors.
  3. Identify the key persons who will be involved in the development, implementation and operation of the Project for the respondent and the other members of the development team.
  4. Provide the name, title, mailing address, e-mail address and telephone number for the respondent's authorized representative.
- d) Responsive Information and Answers to Key Questions. Provide concepts, information and ideas on the full scope of the Project as described herein, including without limitation (i) design concepts (including a mix of ground-level retail, commercial office space and other uses compatible with the civic nature of the courthouse), (ii) construction, management and operation concepts, and (iii) financing concepts and methodologies. In addition to the foregoing, please provide answers to the following questions:



1. Describe your experience with development, operation and maintenance of high-rise buildings using a PPP approach. What were your specific roles in these projects?
2. Describe your experience with development, operation and maintenance of courthouses and government buildings. Please include the size and cost for the smallest to the largest.
3. What experience do you have incorporating private uses and public uses in the same building project? Explain whether you have been able to reduce the cost to the public entity as a result of the private component. If so, how, by how much and with what type of PPP?
4. What professional resources and expertise do you believe are necessary for this type of project?
5. What project delivery methods and financing approaches to a PPP does your team favor and why? What type of PPP are you interested in exploring with Travis County?
6. Describe concepts on how you would optimize use of the Site for both parties? (See Appendix C)
7. Based on the concepts and ideas presented in your response, please provide a general estimate of the timeline for delivery of the Project?
8. Describe your capacity to access debt and equity capital to move forward expeditiously. Describe your experience in and capacity to finance similar projects, and provide an example of such a financing structure.
9. Discuss financing structures available to finance the Project, including: (a) the use of taxable and tax-exempt debt or a combination of the two and/or (b) the use of special districts, to optimize the financing structure.
10. What can the County learn from past PPPs to help ensure Project success? What suggestions would you give in developing a PPP proposal that increases the likelihood of a successful Project partnership and Project?

### **Proprietary Information**

All material submitted to the County becomes public property and is subject to the Texas Public Information Act upon receipt. If a Respondent does not desire proprietary information in its response to be disclosed, each page and section containing proprietary information must be identified and marked proprietary at the time of submittal. The County will, to the extent allowed by law, endeavor to protect such information from disclosure; provided, however, the Respondent shall be solely responsible to justify its confidentiality claims to the Texas Attorney General. The final decision as to what information, if any, is exempt from disclosure, however



lies with the Texas Attorney General. Failure to identify proprietary information will result in all unmarked sections being deemed non-proprietary and available upon public request.

### **Submission Deadline**

Respondents must submit their responses to this RFI no later than **2:00 p.m. on Thursday, June 30, 2011.**

### **No Pre-Submittal Conference**

Because this is an initial inquiry by the County, no pre-submittal meeting or Site tour will be conducted at this time.

### **Incurred Expenses**

There is no expressed or implied obligation for the County to reimburse respondents for any expenses incurred in preparing responses to this request, and the County will not reimburse anyone for these expenses.

### **Clarifications/County RFI Contact**

The Travis County Purchasing Agent, Cyd Grimes, C.P.M., or Jorge Talavera, CPPO, CPPB, Purchasing Agent Assistant, are authorized as the persons responsible for coordinating communications between Travis County and the Respondents. Questions and requests for clarification should be submitted through the County's third party e-procurement system, BidSync, at [www.bidsync.com](http://www.bidsync.com).

### **Review Process**

This RFI does not constitute a solicitation for bids or proposals and does not guarantee that any Respondent will be awarded a contract in response to this request. The County reserves the right to cancel, revise or supplement this RFI at any time. From this information, the County may develop requirements for issuance of an RFQ or RFP. Should the County elect to release an RFQ following the review of RFI responses, respondents to the RFI will be invited, but not required to participate in any subsequent processes. Vendors are not required to participate in the RFI process as a condition or prequalification relative to the future submission of an RFQ or RFP. Should the County release an RFQ or RFP, respondents to this solicitation will not receive evaluation points by virtue of submitting a response to the RFI. No contract(s) will be awarded as a result of this RFI process.

The County reserves the right to meet with any Respondent to discuss the proposals, concepts or ideas contained in such Respondent's response to this RFI, to obtain additional information regarding public private partnerships generally or to obtain additional information regarding the Respondent.

## Appendix A

### Travis County – Overview

#### Geographic Information

Travis County, a corporate body and a political subdivision of the State of Texas, was created from Bastrop County in 1840 and organized in 1843. Located in central Texas on the edge of the “Hill Country,” the County is approximately 200 miles south of the Fort Worth/Dallas area, 160 miles west of Houston and 80 miles northeast of San Antonio.

The County encompasses 1,022.1 square miles, of which 989.3 square miles (96.8%) are land and 32.8 square miles (3.2%) are water area. The water area comes from the Colorado River, which runs northwest to southeast through the County, and Lake Austin and Lake Travis, parts of the Highland Lakes chain.

The 2010 population of Travis County is estimated to be 1,033,553, an increase of 25,208 people (2.5%) over the 2009 estimated population. The largest city in the County is Austin, the County Seat and State Capital. The estimated 2010 population of Austin, including Full and Limited Purpose Areas, is 785,850 or 76.0% of the total for the County.

#### Governmental Structure

The governing body of the County is the Commissioners Court, which is comprised of the County Judge (who is elected at-large and serves as the presiding officer) and four Commissioners, each of whom is elected for a four-year term (unless filling a predecessor’s unexpired term) from one of the County’s four precincts. The Commissioners Court has powers expressly granted by the State Legislature. These powers are reflected in the following County functions:

**General Government** – This category includes budgets for the County Judge and County Commissioners, administrative, financial, and physical support for the County’s “line” departments/offices, the Tax Office, Risk Management, the Employee Health Benefit Fund, Civil Service Commission, Election Administration and certain recording duties of the County Clerk.

**Justice System** – Activities in this category are associated with the judicial responsibilities of the County. This category includes the costs for the County’s court systems (Civil Courts and Criminal Courts, which include legally mandated fees, Probate Court, Juvenile Court and the Justice of the Peace Courts) and associated offices/departments or parts thereof, including the following: District Clerk, County Clerk, District Attorney, County Attorney, the Dispute Resolution Center, Criminal Justice Planning, which includes the Community Justice Center and the Law Library.

**Public Safety** – Public Safety includes activities associated with the protection of persons and property within the County including direct enforcement of State statutes. Offices included in this category are the Constables (serve warrants and other court papers), the Medical Examiner,

and divisions of the Sheriffs Office dedicated to law enforcement and public safety. Also included are Emergency Services, Fire Marshall, and Criminal Justice Planning, which provide services for the Combined Transportation, Emergency and Communications Center (911 Call Center).

Corrections and Rehabilitation – This category includes activities associated with confinement, probation, counseling and other related programs available for adult offenders. The Sheriff is in charge of the County jail and County corrections center. Also under this classification are the Community Supervision and Corrections Department (adult probation), Pretrial Services and the Counseling and Educational Services Department, which was created to counsel and correct the behavior of offenders.

Health and Human Services – Activities designed to provide healthcare related services to those in need and promote the conservation and improvement of public health are included in this category. The County provides public assistance (assistance with food, rent, and utility expenses) through its Health and Human Services Department to eligible indigents, including military veterans. This category also includes the Agriculture Extension Service and the Emergency Medical Services Department, which is comprised of air (StarFlight) and ground ambulance services.

Infrastructure and Environmental Services – Activities in this category are associated with the development and maintenance of the County's transportation systems, subdivision platting and review, conservation and development of natural resources, and activities associated with providing sanitation services within the County through the Transportation and Natural Resources Department.

Community and Economic Development – Included in this category are activities for providing economic development in the County and cultural, recreational and educational activities for the benefit of County residents and visitors. Specifically, the County owns and operates the Travis County Exposition Center and, in conjunction with the State of Texas, operates the Travis County Historical Commission. In addition, the County operates 46 parks that are either owned or maintained by the County. These parks, which vary from lakes and hills to rivers and prairies, provide facilities for picnics, hiking, camping, swimming, boating, soccer, baseball and equestrian activities.

## Appendix B

### Travis County – Financial Information

#### Long-Term Debt

Neither Travis County nor any road district has ever defaulted on the payment of principal or interest on its bonds or certificates of obligation. During FY2010, the County maintained a triple-A bond rating from both Standard & Poor's ("S&P") and Moody's Investors Services, Inc. ("Moody's") credit rating agencies. The County received its first triple-A rating from S&P in FY2000 and from Moody's in FY2001.

#### Financial Position (as of September 30, 2010)

- The County's financial position is strong, reflecting conservative financial management practices and strong revenue growth.
- The General Fund's unreserved fund balance increased by \$22.8M or 31.9%. This was mainly due to the conservative estimation of tax revenue collections in the FY2010 budget as a result of the slowing economy.
- Even though lower collections were anticipated, the County's tax collection rate still remained strong at 98.8%, in spite of the slowing economy, as taxpayers paid their taxes on time.
- The County's retirement plan has a strong 86.8% funded ratio. This is well within the range that experts recommend for a healthy pension plan.
- The County offers Other Post-Employment Benefits (retiree healthcare) but does not guarantee them, and therefore has no unfunded liability.
- The County has a very diverse tax base, with the ten leading taxpayers accounting for less than 4% of total taxable assessed value. This taxpayer diversity affords the County's total tax base protection in case any of those top taxpayers experience economic difficulty.
- The County's direct debt per capita (excluding Road Districts) is \$586, well under the City of Austin and Austin ISD.
- The County's repayment of debt is rapid, with approximately 64.3% of principal to be retired within 10 years. Bond raters consider the benchmark of 50% to be average.
- In FY2010, Travis County maintained its Reserve Ratio of 11%. This level of reserve has been maintained without fail since fiscal year 1996.
- The Court set the property tax rate at \$0.4215, an increase of \$0.0146 above the effective tax rate, to provide funds for general operations and debt service for FY2010.

Several economic factors for FY2010 indicate a steady recovery is underway for Travis County:

- a) Employment in the County increased 0.9 percent and the unemployment rate fell from 7.0 percent to 6.6 percent, which is below both the state and national averages;
- b) Sales tax receipts for the City of Austin increased 1.1 percent;
- c) Home sales increased 6.0 percent in addition to a 4.2 percent increase in the average selling price; and

d) Taxable property values increased 4.2 percent.

### **Long-Term Financial Planning**

It has been the long-standing intention of the Court to maintain sound financial footing, to preserve the 11% reserve ratio and maintain the County's triple-A bond rating. These accumulated resources allowed the County to avoid massive disruptions in services during the years when the local economy took a downturn.

## Appendix C

### Site Information

The subject property is a city block bounded on the south by West 3rd Street, on the north by West 4th Street, on the west by San Antonio Street and on the east by Guadalupe Street.

Legal Description: The Old Court House Block and Jail Block, Original City of Austin.

Tax Parcel I.D. Number: 02-0601-06-01 and -02

Size: 77,215 square feet, or 1.773 acres.

Frontage Access: 279.17 of frontage along West 3<sup>rd</sup> Street, 279.12 feet of frontage on West 4<sup>th</sup> Street, 276.61 feet of frontage along Guadalupe Street and 276.61 feet of frontage on San Antonio Street.

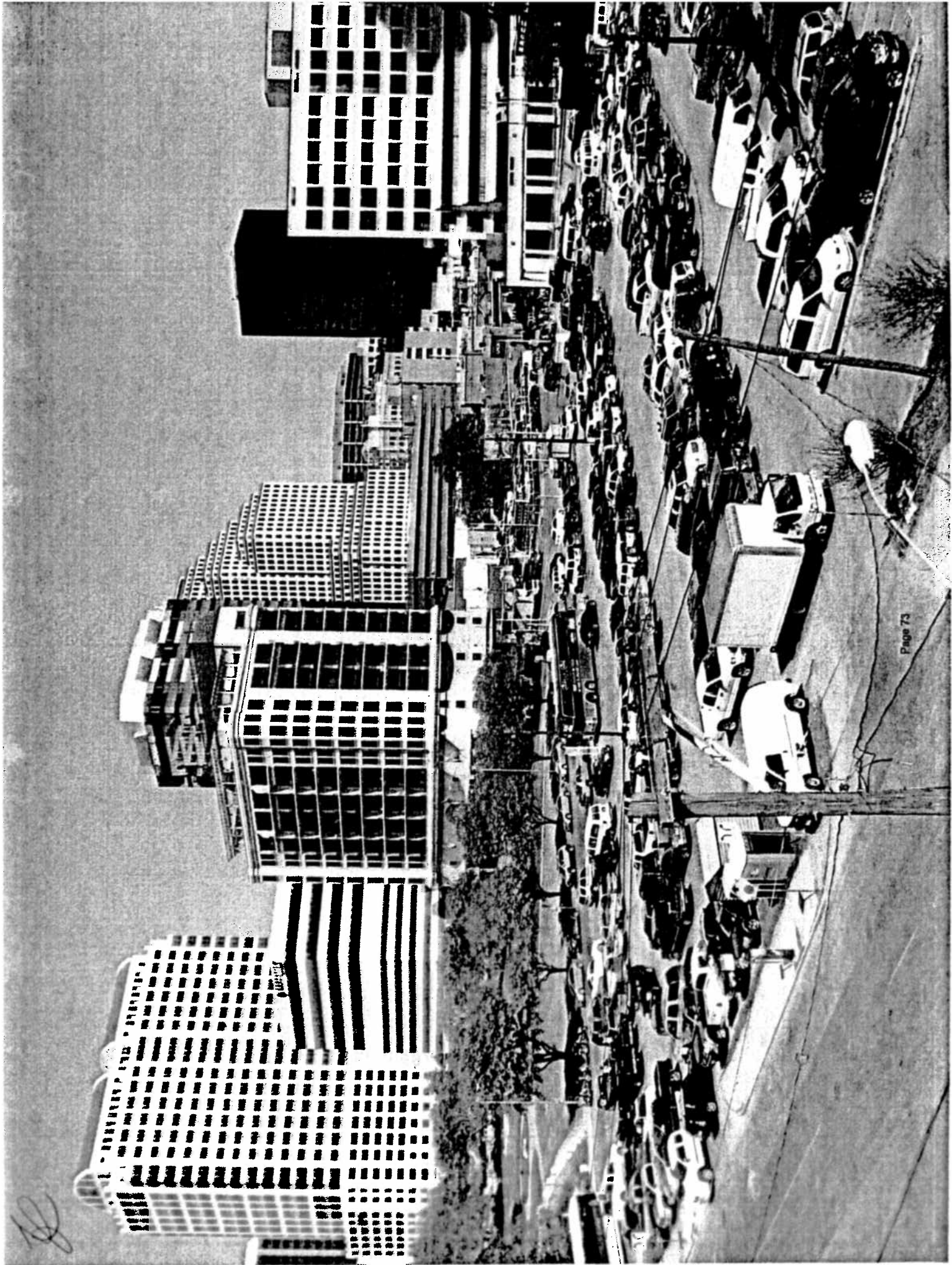
Topography: The topography of the site is level.

Floodplain: Per the City of Austin GIS website, the subject property is not located within the 100 year floodplain.

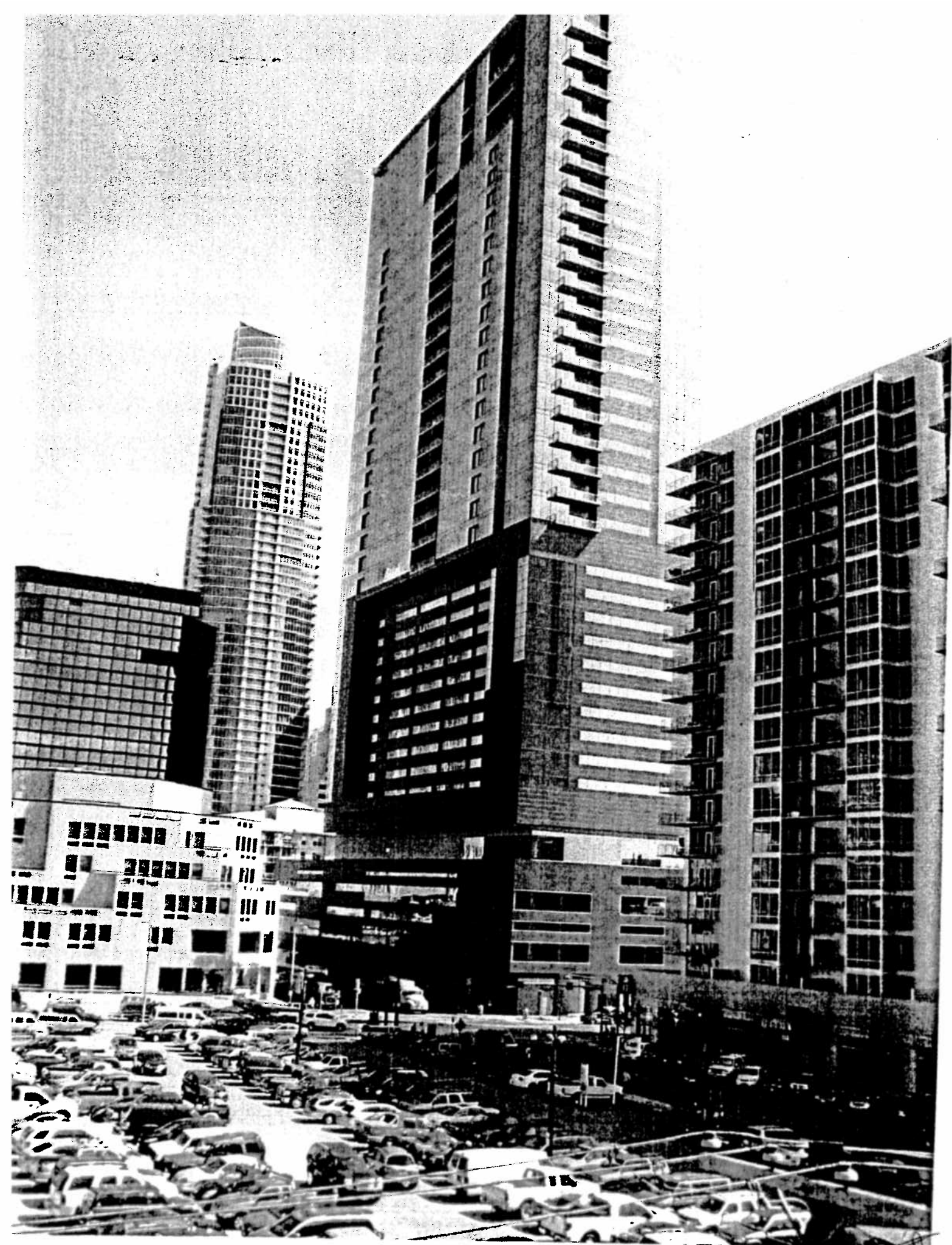
Zoning: Zoned "CBD" - Central Business District and CBD-CURE (Central Urban Redevelopment Combining District)

Capital View Corridor Restrictions: None

(See attached map and description of Downtown Austin Emerging Projects and Site Photographs)

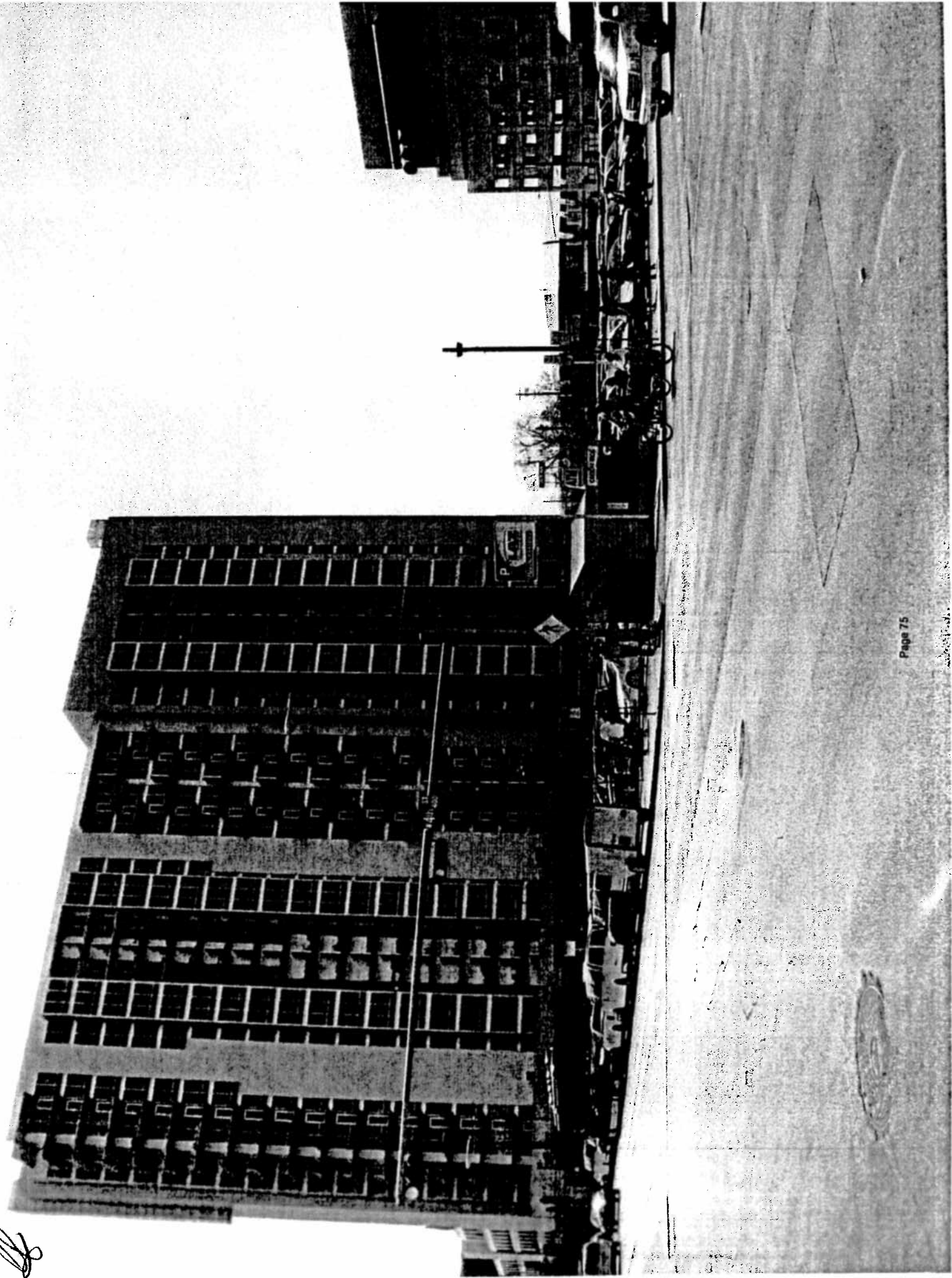


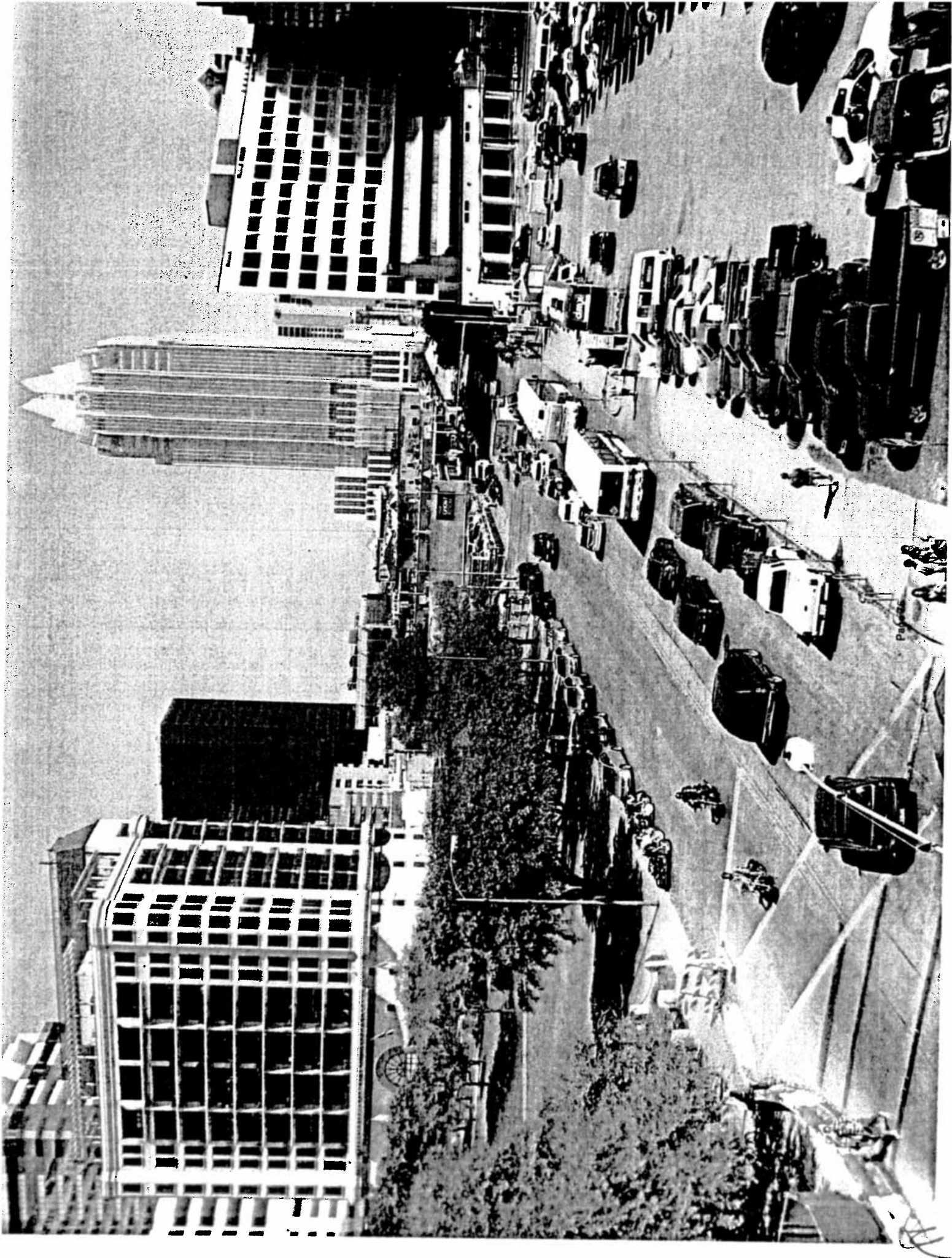
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28





# Downtown Austin Emerging Projects

February 15, 2011

## Under Construction

### Commercial

#### **C43 W Austin Hotel and Residences (Block 21)**

Completion: December 2010 (hotel), February 2011 (venue) Construction was completed in December 2010 on the hotel portion of this project that transformed the block just north of Austin City Hall into a 36-floor high-rise featuring a 250 room luxury W Hotel, 159 luxury condominiums, and a 2,700-seat "ACL Live" music venue that opened in February 2011. The project cost \$260 million and encompasses 780,000 square feet.

Contact: Belinda D. Wells  
Stratus Properties  
512-478-5788  
[www.block21residences.com](http://www.block21residences.com)

#### **C52 Cirrus Logic**

Completion: Fall 2012  
Contact:

Construction on the 135,000-square-foot office building at W. 6th St. and West Avenue began early this year and is expected to be completed by late of 2012. The new headquarters building for the company's 350 Austin area workers is expected will be six stories tall, with a restaurant at street level. Cirrus Logic develops a variety of audio processors for products such as home theater systems, portable media players, smart phones, car audio systems and some computers. Apple Inc. is a leading customer.

#### **C58 Starr & Buttrely Buildings**

Completion: 2011  
Contact: Bill Ball  
Kemp Properties  
441-1062

Construction is wrapping up on this redevelopment of a 1950's bank building and an adjacent 1940's department store for office, ground-floor retail/restaurant and structured parking.

### U.S. Government

#### **US1 Federal Courthouse**

Completion: Fall 2012  
Contact: Dale Sherman  
U.S. General Services Administration  
(817) 978-3452

Ground was broken in 2009 on this project, a new 250,000 sq. ft. Federal Courthouse in downtown Austin the U.S. General Services Administration is developing. The site is the former Intel site, a full block just west of Republic Square. The Austin City Council has agreed to close the one block section of San Antonio Street between Republic Square and the site of the new Federal Court House, and efforts are being made to coordinate and link the design of the two sites.

Transportation/Infrastructure

**T6 Lance Armstrong Crosstown Bikeway**

Completion: December 2008 (Downtown section 2011)

Contact: Annick Beaudet  
City of Austin  
974-6505

This project, named for seven-time Tour de France winner and cancer survivor Lance Armstrong, will provide a continuous bike route for over 6 miles, beginning at Levander Loop at US 183, following 5th Street, passing through downtown along 4th and 3rd streets, and terminating near Deep Eddy pool just west of Mopac. The project includes both separated, paved bicycle path and bike lanes on city streets. The route is needed to provide non-motorized access to and through downtown, on bike facilities that are free of both cars, parked cars and crowds of joggers (as is the case of the Lady Bird Lake Hike and Bike Trail which is a recreational facility).



## Planned

### Commercial

#### C2c East Block / Shoal Creek Walk

Start Construction: undetermined

Contact: Brad Schlosser, David Vitanza  
Shoal Creek Walk, Ltd.  
472-7774

This project as currently envisioned is a 490,000 sq. ft. retail / office building topped with 90 condo units.

#### C21 501 Congress

Start Construction: undetermined

Contact: Tom Stacy  
T. Stacy & Associates  
476-9999

<http://www.tstacy.com/>

T. Stacy & Associates Inc., and Walton Street Capital are planning a 500,000-square-foot office and retail tower at 501 Congress that would be slightly taller than the 26-story Bank of America Center building the partnership owns at 515 Congress next door.

#### C36 501 Brazos

Start Construction: undetermined

Contact: Tom Stacy  
T. Stacy & Associates  
476-9999

<http://www.tstacy.com/>

Developer Tom Stacy's plan for the half-block between Brazos and San Jacinto streets calls for a 1,200-space parking garage atop about 8,500 square feet of retail/restaurant space and a new Bank of America drive-through.

#### C39 Westin Hotel

Start Construction: undetermined

Contact: Michele Hausmann  
Drenner & Golden Stuart Wolff, LLP  
512-404-2233

San Antonio-based Hixon Properties Inc. and Hines, a Houston developer, are planning a 18-story, 303-room hotel with a restaurant on the street level and a pool deck and bar on the third floor overlooking Third Street. Other amenities will include 15,000 square feet of meeting space and a spa.

#### C42 Hotel Van Zandt

Start Construction: undetermined

Contact: Greg Clay  
JMI Realty LLC  
(214) 346-3823

<http://www.hotelvanzandt.com/>

San Diego-based JMI Realty have plans for a hotel project on Lady Bird Lake. The hotel, which would have 307 rooms, is expected to be operated by San Francisco-based Kimpton Hotels.

#### C46.1 2nd and Congress Hotel Site

Start Construction: undetermined

Contact: Michael Whellan  
Graves, Dougherty, Hearon & Moody  
480-5734

This site has recently been re-zoned to allow for a potential 700+ room convention hotel.

#### C48 Stubb's Expansion

Start Construction: Summer 2011

Contact: Jeff Waughtal  
Stubb's Austin Restaurant Co., L.C.  
(512) 480-8341

Stubb's is planning to increase the capacity of the outdoor amphitheater from 2,200 to 3,500 and reorient it to the south, and expand the restaurant.

- C50 The Park**  
 Start Construction: undetermined  
 Contact: David Honeycutt  
 Texas American Resources Co.  
 512-480-8700  
 The project is an 8-story mixed use building with a ground floor restaurant and 86,000 sq. ft. of office space,
- C51 21c Museum Residences and Hotel**  
 Start Construction: undetermined  
 Contact: Matthew Hooks  
 REI Poe, LLC  
 512-477-2225  
<http://www.urbanspacerealtors.com/>  
 The project will have 209 guest rooms and 202 condos (including 12 artist lofts) as well as a world-class contemporary art museum that would offer free admission year-round to allow the public to experience original art in a nontraditional setting. Plans also call for a restaurant with a menu to be created by restaurateur Michael Bonadies. Unit prices are expected to start in the \$300,000 range and top \$2 million.
- C54 5th and Brazos**  
 Start Construction: undetermined  
 Contact: Tom Stacy  
 T. Stacy & Associates  
 476-9999  
<http://www.tstacy.com/>  
 T. Stacy & Associates Inc., and Walton Street Capital are planning a project that will feature a 300-room hotel and about 200 condo units in a slender tower that could rise as high as 830 feet.
- C55 Seaholm Power Plant Redevelopment**  
 Start Construction: undetermined  
 Contact: John Rosato  
 Southwest Strategies Group, Inc.  
 Seaholm Power, LLC  
 458-8153  
 On April 28, 2005 the Austin City Council selected Seaholm Power, LLC, led by Southwest Strategies Group, to redevelop the circa 1950 Art Deco Seaholm Power Plant and adjacent property, into a high quality, mixed-use attraction. This project is still under negotiation. Once complete, the site will feature a mix of office space, local retail shops, contemporary condos, a boutique hotel, special event space and an outdoor terrace that overlooks Lady Bird Lake.
- C56 Thomas C. Green Water Treatment Plant**  
 Start Construction: undetermined  
 Contact: Greg Kiloh, Economic Growth & Redevelopment Services Office  
 City of Austin  
 974-7836  
 On June 18, 2008 the Austin City Council selected a development team led by the Trammell Crow Company to redevelop the Thomas Green Water Treatment Plant (GWTP) and Austin Energy Control Center (Project R74). The GWTP site, as originally proposed, would consist of seven buildings, up to 51 stories tall. The project would have 320 apartments, 140 condos and 235 senior independent living units, as well as 588,000 sq. ft. of office space, a 375 room hotel 10,000 sq. ft. of civic/non-profit space, and 160,000 sq. ft. of retail.
- C59 1 Hotel - Starwood Capital**  
 Start Construction: undetermined  
 Contact: Michele Haussmann  
 Drenner & Golden Stuart Wolff, LLP  
 404-2200  
 The project is a 4-star "eco-luxury" hotel that will feature a green rooftop deck.
- C60 Hyatt Place**  
 Start Construction: summer 2011  
 Contact: Lynn Ann Carley  
 Armbrust & Brown, LLP  
 435-2300  
 The proposed 300 room Hyatt Place hotel, a block west of the Austin Convention Center, is expected to break ground in mid-2011.



**C61 Capitol Terrace**

Start Construction: undetermined

Contact: John Donisi  
Drenner & Golden Stuart Wolff, LLP  
404-2232

The project is a 12-story mixed-use building with 62,000 sq. ft. office, 30 apartments and a 6,000 sq. ft. restaurant.

**C63 416 Congress**

Start Construction: undetermined

Contact: Mike McHone  
Mike McHone Real Estate  
481-9111 cell 554-8440

Houston investor Dan Benditz is considering building a 26-story boutique hotel at the site of the James H. Robertson Building, one of Congress Avenue's oldest buildings. As currently planned, the historic facade of the existing 21,000-square-foot 1893 building would be preserved and enhanced, and a 90,000-square-foot hotel, which would include 130 guest rooms and a bar, restaurant and private dining rooms, would rise in a slender glass tower stepped back sixty feet from Congress Avenue.

**Residential****R34 AquaTerra**

Start Construction: undetermined

Contact: Steven Brandt  
Crescent Resources  
302-1500

This project is a nineteen-story building with 163 condominiums, on the south shore of Town Lake. The site is in the middle of the block that includes the 17-story Hyatt Regency Austin and an office building that houses the Greater Austin Chamber of Commerce. The land is now being used for parking.

**R45.1 Block 51 Development**

Start Construction: undetermined

Contact: James McCann  
Longaro & Clarke, LP  
306-0228

The project, as planned would have 250 residential units, 156,000 sq. ft. of office 15,000 sq. ft. bank, 14,000 sq. ft. retail and a 5,000 sq. ft. restaurant.

**R60 7RIO**

Start Construction: undetermined

Contact: Ron Cibulka  
CLB Partners  
(972) 980-5020

Plans are on hold for a 32-story condominium tower at W. 7th Street and Rio Grande by Dallas-based development company CLB Partners. The 158-unit project will also have about 7,400 square feet of new retail space on the ground floor. The project, being designed by local architectural firm Rhode Partners, is expected to cost more than \$50 million.

**R63 Block 52**

Start Construction: undetermined

Contact: Taylor Andrews  
Novare Group Holdings LLC / Andrews Urban  
LLC  
499-8832  
info@andrewsurban.com

The project, as currently envisioned, would be an approximately 40-story tower that will include 550 condos, 150 hotel rooms and ground-floor retail.

**R65 Gables Republic Park**

Start Construction: undetermined

Contact: Jennifer Wiebrand  
Gables Residential  
502-6017

Gables is developing plans for a mixed-use tower with 210 apartments above ground floor retail/restaurant, on the current site of the Ginger Man pub, the former Fox and Hound Smokehouse and a surface parking lot.

**R74 Energy Control Center**

Start Construction: undetermined

Contact: Greg Kiloh, Economic Growth & Redevelopment  
Services Office  
City of Austin  
974-7836

On June 18, 2008 the Austin City Council selected a development team led by the Trammell Crow Company to redevelop the Austin Energy Control Center (ECC) and the Thomas Green Water Treatment Plant. The ECC site, as currently proposed, will have two condos towers with 482 units, and 15,000 sq. ft. of first floor retail.

**R75 1717 Toomey Road**

Start Construction: undetermined

Contact: Ronnie Brooks  
Kurt Simons Co.

Austin-based developer Kurt Simons Co. is planning a five-story apartment building on the northern two-thirds of the site, facing Toomey. A restaurant is planned for the south side, which fronts Barton Springs Road.

**R81 Bremond**

Start Construction: undetermined

Contact: Ron Pritchard  
Hanrahan Pritchard Engineering, Inc.  
459-4734

A 12-story, 70-unit condominium project is being planned at 805 Nueces St., between 8th and 9th streets downtown.

**R82 Gables at Park Plaza, Building B**

Start Construction: undetermined

Contact: Jennifer Wiebrand  
LG Lamar, LP, LG Park Plaza LP  
502-6017

As currently envisioned, the 15- to 18-story tower will have up to 185 residential units, class A office space, and over 10,000 square feet of ground-floor retail space.

## City of Austin

**A1 Austin Energy Seaholm Substation**

Contact: Austin Energy (City of Austin)

This project is the proposed reduction in size of the existing Austin Energy substation just east of the Seaholm Power Plant.

**A14 New Central Library**

Start Construction: January 2013

Contact: John Gillum, Facilities Planning Manager  
City of Austin Library Department  
974-7495

<http://www.ci.austin.tx.us/library/newcentlib.htm>

Work by the architectural team of Lake/Flato Architects and Shepley Bulfinch Richardson & Abbott is continuing on the design of the new central library. Lake/Flato is designing a 250,000 sq. ft. library to replace the John Henry Faulk Central Library. The new library site is on West Cesar Chavez Street, between Shoal Creek and soon-to-be-redeveloped the Seaholm Power Plant.

**A16 Town Lake Park, Phases III & IV**

Start Construction: June 2011

Contact: Marty Stump  
City of Austin  
Parks and Recreation Department  
974-6727

Design work is continuing on park improvements for an area bounded by Lady Bird Lake to the north, Riverside Drive to the South, the UPRR railroad on the west and South 1st street on the east. The project includes improvements to Auditorium Shores and, potentially, additions of art to Phase 2 of the park.



Travis County

**TC2 New Travis County Civil & Family Courthouse**

Start Construction: undetermined

Contact: Rodney Rhoades, Executive Manager  
 Planning & Budget Department  
 Travis County  
 854-9106

Travis County has recently purchased a full block just south of Republic Square, to construct a 500,000 sq. ft. civil and family courthouse.

Transportation/Infrastructure

**T2 Lone Star (Austin-San Antonio Corridor) Rail**

Start Construction: undetermined

Contact: Alison Schulze, AICP  
 Sr. Planner/Administrator  
 Lone Star Rail District  
 558-7367

<http://www.lonestarrail.org/>

Linking the Austin-San Antonio corridor via commuter rail has been under discussion for several years. It has always been envisioned that the existing Union Pacific freight line could be used as a shared corridor for passenger rail service in the early years of commuter operation.

**T5 Waller Creek Flood Diversion Tunnel**

Start Construction: 2010

Contact: Gary Jackson  
 City of Austin, Public Works Department  
 974-7115

The Waller Creek Tunnel Project is a stormwater bypass tunnel from Waterloo Park to Lady Bird Lake near Waller Beach. The tunnel will be 22-feet in diameter and almost one mile long. The project will remove an estimated 1,243,000 square feet of land from the floodplain of the lower Waller Creek watershed, will allow denser development in a very desirable area of downtown, and divert floodwaters that create erosion problems and safety concerns. Construction started in 2010 and will be completed in 2014.

Non-Profit-Arts-Other

**O3 Austin Museum of Art (AMOA)**

Start Construction: undetermined

Contact: Jack Nokes, Interim Chief Operating Officer  
 Austin Museum of Art  
 495-9224

<http://www.amoa.org/site/PageServer>

The Austin Museum of Art has recently sold their site just south of Republic Square Park to Travis County, for the construction of a new county civil and family courthouse (see TC2). AMOA continues to look for a permanent location in downtown.

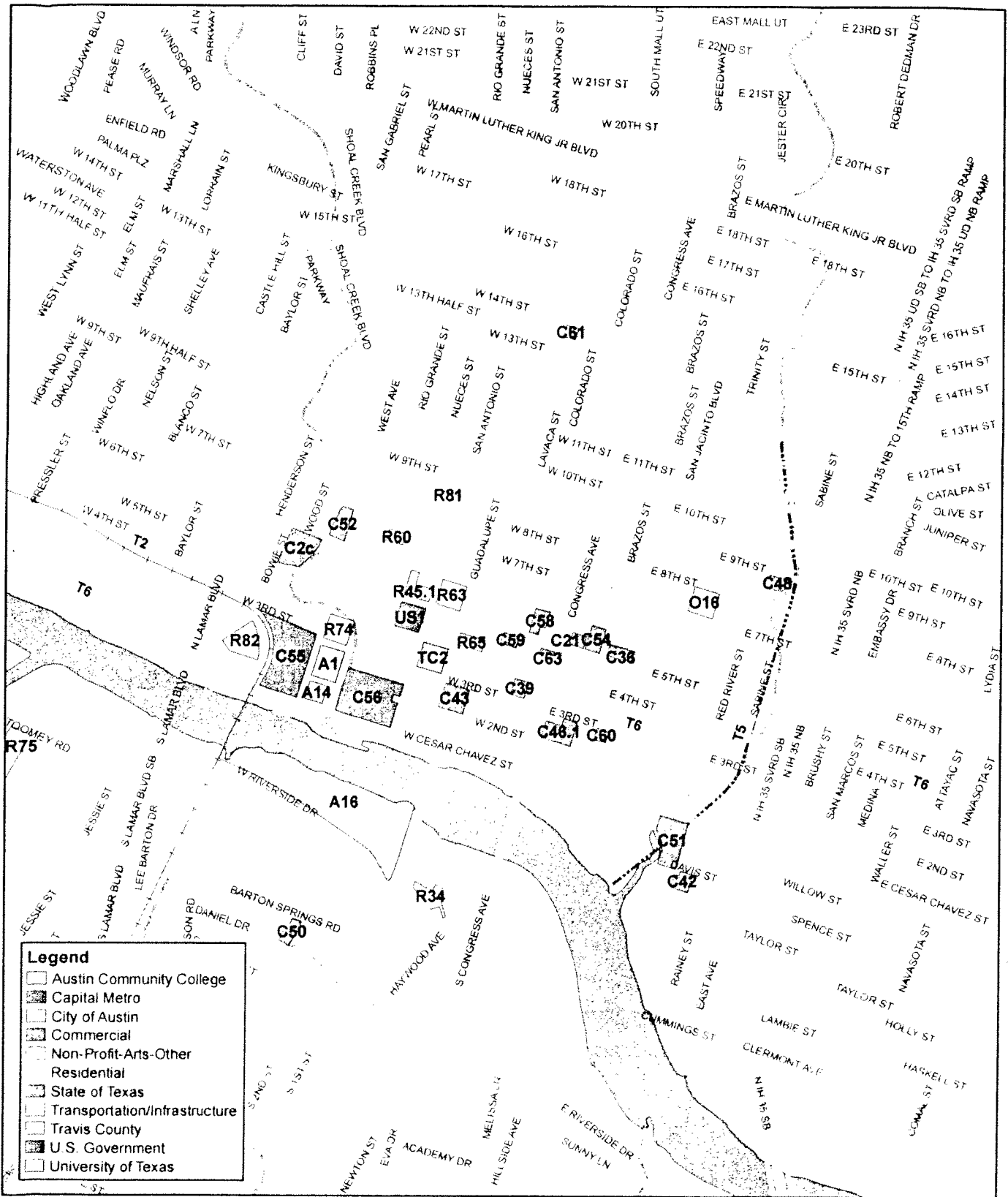
**O16 Episcopal Church National Archives**

Start Construction: undetermined

Contact: Mark Duffy, Director  
 The Archives of the Episcopal Church

512-472-6816

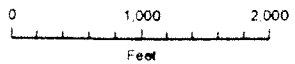
The Episcopal Church has bought a full downtown block, where it plans to build a facility to house its national archives, as well as space for meetings and research. The building probably will be five stories, with up to 70,000 square feet and a garage with some public spaces



# Downtown Austin Emerging Projects

February 15, 2011

NOTE: This map has been produced by the City of Austin for the sole purpose of aiding planning decisions and is not warranted for any other use. No warranty is made by the City regarding its accuracy or completeness.



City of Austin  
Economic Growth & Redevelopment Services

APPENDIX C  
ESTIMATED PROJECT DURATION



		C																																																																																			
		Travis County Courthouse Project																																																																																			
		Schedule																																																																																			
		16-Dec-11																																																																																			
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		Travis County Civil and Family Courthouse																																																																																			
		Phase 0																																																																																			
		Task 0																																																																																			
		Work prior to project kickoff																																																																																			
		Request complete set of RFI responses from Travis County in electronic format and other data as identified by TC as available																																																																																			
		Receive RFI responses from County in electronic format																																																																																			
		Request availability schedules for commissioners judges, internal team and public meetings																																																																																			
		Obtain availability schedules for commissioners, judges, internal team and public meetings																																																																																			
		Submit revised Work plan to Travis County based on availability schedule																																																																																			
		Review revised Work plan with Travis County and remove conflicts																																																																																			
		Submit updated and agreed upon Work plan to Travis County based on availability schedule resolution																																																																																			
		Task A.1																																																																																			
		Review and report on responses to the RFI																																																																																			
		Review RFI responses for concepts, pattern and ideas expressed by the respondents																																																																																			
		Synthesize responses to the RFI's																																																																																			
		Prepare high level RFI Evaluation Report																																																																																			
		Review draft of high level RFI Evaluation Report with Travis County Internal Team																																																																																			
		Prepare material for Public meeting of Travis County Commissioners Court. Material will be combination of RFI responses and a description of the project's scope of work																																																																																			
		Present RFI report overview and project scope overview at Public meeting of Travis County Commissioners Court. Final the meeting date, location, and RFI materials are available. This will be a meeting of Travis County Commissioners Court.																																																																																			

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		Task 1: Develop Objectives and Project Concepts																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 2: Conduct Kick-off meeting with Travis County external team and other participants requested by the Travis County project manager. Monday, 13th Monday, 14th																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 3: Update the Work plan based on the results of Public Meeting and other factors that developed during Phase A of the project																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 4: Conduct meetings with each Commissioner and the County Judge. Total of 5 meetings																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 5: Prepare summary of confidential minutes of meetings with Commissioners and County Judge																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 6: Submit summary of confidential minutes of meetings with Commissioners and County Judge to Travis County Project Manager for his records																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 7: Conduct 21 meetings with Civil Court Judge Livingston and Civil Court Judge Diaz																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 8: Conduct 11 group meeting session with other Civil Court Judges and other civil and family justice officials																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 9: Conduct first of two general public information gathering workshops																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 10: Conduct second of two general public information gathering workshops and feedback information gathered to date																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 11: Update written summary of findings from interviews and workshops with an addendum																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 12: Deliver addendum to written summary of findings from interviews and workshops. The addendum includes information from the second meeting public information gathering meeting.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 13: Prepare written summary of findings from interviews and workshops																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 14: Deliver written summary of findings from interviews and workshops. (This will not include feedback from the second meeting public information gathering meeting, but will be updated in the future.)																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
		Task 15: Facilitate Development of Stakeholder Objectives and Evaluation Criteria																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					

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The presentation in task B2.1 is a critical meeting both from a content and timing point of view. In addition this schedules assumes that we will progress on with the project even if revisions and a further approval of our Objective and Criteria Report by a Commissioners Court vote is required.



		O	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH	AI	AJ	AK	AL	AM	AN	AO	AP	AQ	AR	AS	AT	AU	AV	AW	AX	AY	AZ	BA	BB	BC	BD	BE	BF	BG	BH	BI	BJ	BK	BL	BM	BN	BO	BP																																	
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A	B	Travis County Courthouse Project Schedule 18-Dec-11																																																																																																	
4	Travis County Civil and Family Courthouse																																																																																																		
5	Travis County Courthouse																																																																																																		
6	Present information on local real estate market conditions in a report to Travis County. Discuss with Travis County the findings in the report.																																																																																																		
7	Perform real estate analysis to support VFM financial analysis, developing cash flows for a minimum of 2 and a maximum of 3 different scenarios.																																																																																																		
8	Provide the results of the real estate cash flow analysis to VFM modeling team.																																																																																																		
9	Perform any necessary updating to real estate cash flow analysis for the VFM modeling team.																																																																																																		
10	Develop components to analyze project concepts - Supply/Potential Revenue																																																																																																		
11	While this scope is not part of EY's responsibilities, preliminary commentary regarding legal issues should be provided by week 6 for review.																																																																																																		
12	While this scope is not part of EY's responsibilities, Real commentary regarding legal issues should be provided by week 7, so the analysis can be included in the second analysis report.																																																																																																		
13	Develop components to analyze project concepts - Options Analysis Report																																																																																																		
14	Develop Options Analysis Report based on the market analysis, objectives, evaluation criteria, a cost cap, and OAM analysis conducted to date including input from the law firm responsible for Task B.5.																																																																																																		
15	Outline approach to the Quantitative Value for Money analysis which will be included in the Options Analysis Report.																																																																																																		
16	EY employees review and agree to qualification to VFM analysis.																																																																																																		
17	Presentation of Options Analysis Report to internal Team.																																																																																																		
18	Develop components to analyze project concepts - Value for Money Analysis																																																																																																		
19	Develop model inputs, Project Cost Model and OAM Cost Model, lifecycle costs.																																																																																																		
20	Develop model inputs, Risk quantification and financing costs.																																																																																																		



