



## Travis County Commissioners Court Agenda Request

**Meeting Date:** August 7, 2012

**Prepared By/Phone Number:** Belinda Powell, Strategic Planning Manager  
(512) 854-9506

**Elected/Appointed Official/Dept. Head:** Leslie Browder, County Executive, PBO, (512) 854-9106

A handwritten signature in black ink, appearing to be "LB", written over the printed name of Leslie Browder.

**Commissioners Court Sponsor:** County Judge Samuel T. Biscoe

### **AGENDA LANGUAGE:**

RECEIVE PRESENTATION FROM THE CIVIL AND FAMILY COURTHOUSE RECOMMENDATION COMMITTEE AND TAKE APPROPRIATE ACTION.

### **BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:**

The members of the Travis County Civil and Family Courthouse Recommendation Committee were appointed by the Commissioners Court in May 2012 to assist with the selection of a delivery method for a new Travis County Civil and Family Court House. The Committee was asked to return to the Commissioners Court with a recommendation in mid-June or as soon as the completion of their deliberations would allow.

The Committee completed their work in July and has prepared the attached report for the Commissioner Courts consideration and deliberation.

### **STAFF RECOMMENDATIONS:**

Please see attachment.

### **ISSUES AND OPPORTUNITIES:**

Please see attachment.

### **FISCAL IMPACT AND SOURCE OF FUNDING:**

N/A

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.

## **REQUIRED AUTHORIZATIONS:**

N/A

## **ATTACHMENTS:**

Please see the attached report prepared by members of the Recommendation Committee.

### Copies to:

The Honorable John Dietz, 250<sup>th</sup> District Court

The Honorable Lora Livingston, 261<sup>st</sup> District Court

The Honorable Eric Shepperd, County Court at Law #2

Peg Liedtke, Civil Court Administrator

Cyd Grimes, Purchasing Agent

James Collins, First Assistant County Attorney

Roger Jefferies, County Executive Justice and Public Safety

Leslie Browder, County Executive Planning & Budget

Jessica Rio, Budget Director

John Hille, Assistant County Attorney

Tom Nuckols, Assistant County Attorney

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## Travis County Civil and Family Court House Recommendation Committee

July 2012

### Background

The members of the Travis County Civil and Family Courthouse Recommendation Committee were appointed by the Commissioners Court to assist with the selection of a delivery method for a new Travis County Civil and Family Court House with the following charges:

1. The Committee is to provide a written recommendation to the Commissioners Court on a delivery method for a new Civil and Family Court House based on the analysis of options completed by Ernst & Young, as well as the individual expertise of the committee members.
2. The recommended delivery method should be vetted for feasibility within financial and legal parameters and overall practicality.
3. The work of the Committee should be collaborative, informative, transparent, objective, and should instill confidence in the soundness of the recommended delivery method for the Travis County Commissioners Court and the residents of Travis County.
4. The recommended delivery method should be presented to the Commissioners Court no later than June 12, 2012.

The Committee was not able to meet this target deadline due to scheduling difficulties among its membership and with the County's outside consulting team, but proceeded with their task as expeditiously as possible.

The following Committee Members participated in the discussions and contributed to the findings included in this report. Each Committee Member represented a key stakeholder organization or provided expertise in an important subject matter area.

1. **Financial Expertise** – *Betty Dunkerley*, Chair of the Committee and former Austin Mayor Pro Tem
2. **Austin Bar Association** – *Martha Dickie*, Vice Chair of the Committee and partner in the law firm of Almanza, Blackburn & Dickie
3. **Downtown Austin Alliance (DAA)** – *Charles Heimsath*, Chair of the DAA Policy Committee, President of Capitol Market Research
4. **Original Austin Neighborhood Assoc.** – *John Horton*, Horton Investments, Government Liaison for the neighborhood association
5. **Greater Austin Chamber of Commerce** – *Shaun Cranston*, Brookfield Residential

6. **City of Austin – Rodney Gonzales**, Economic Growth & Redevelopment Services Office
7. **Capital City African American Chamber of Commerce – Natalie Cofield**, President and CEO of the Chamber
8. **Austin Asian American Chamber of Commerce – Peter Shen**, Board of Directors of the AAACC and Chair of the Greater Austin Chinese Chamber of Commerce
9. **Civil Court Judges – Judges John Dietz, Lora Livingston, and Eric Shepperd**
10. **Real Estate Expertise – Art Cory**, former Chief Appraiser, Travis Central Appraisal District
11. **Public Finance Expertise – Charles Jennings**, former Director at Macquarie Capital USA
12. **Real Estate Council of Austin – Rebecca Bray, P.E., AICP**, Brown Gay Engineering

Membership positions representing the Greater Austin Hispanic Chamber of Commerce and Downtown Austin Neighborhood Association (DANA) were not able to be filled over the course of the discussions.

The Committee Members held their first organizational meeting on May 10, 2012, and began meeting weekly on May 29, 2012. The meetings concluded June 27, 2012. During this period, they heard presentations from representatives of the Travis County Purchasing Office and the Planning and Budget Office, as well Ernst & Young and the law firm of Hawkins Delafield.

### **Recommendation of Delivery Method**

Based on the information available at the time of the Committee’s discussion and the choice between a Design Build (DB) procurement and Public-Private-Partnership (P3) procurement, **the Committee Members believe that the P3 approach is the better delivery method for the Civil and Family Court House project.** This recommendation was developed through collaborative and interactive Committee discussions with the goal of ultimately achieving consensus among the Committee Members. These discussions were facilitated by the Chair and Vice Chair of the Committee.

Specifically, the Committee Members believe that the compelling reasons to support the selection of a P3 over DB procurement include the following:

1. **Need** for a new court house cannot be underscored enough, as the Committee Members learned firsthand during a personal tour of the current 82-year old court house conducted by key officials who work in crowded and potentially unsafe facility conditions each day. Further, the **speed** inherent in the P3 delivery method can help the County deliver a new court house more quickly, respond to the current needs and address future growth and demand.
2. **One Provider/One Contract** for design, construction, maintenance and operations for the building will streamline contract management through the single point of contact and accountability that a P3 delivery method provides.

3. **Greater Flexibility** can be gained with a P3 delivery method since more certainty and understanding of the building's design can become known during the contractor selection process. Knowing more about the building's design earlier in the procurement process means more knowledge about the future costs of the building as well, including the level of capital investment and operations and maintenance expenses.
4. **Collaboration** is a key component of a P3 approach, and would occur more readily among the design architect and engineers on the team, the building contractor, and the maintenance contractor. The collaboration that occurs during the design and construction process is a superior approach to the development of a building, helping to ensure synergy in all aspects of development.
5. **Speed** of the delivery of the building under the P3 process is another significant advantage. As the economy begins to recover and development in the Austin area increases, construction prices are likely to rise. Moving forward as quickly as possible, with an expeditious procurement approach is recommended.
6. **Transfer of Risk** to a third party during the design, construction and maintenance of the building is more effective under the P3 process, while recognizing that there is an additional cost associated with this transfer of risk.
7. **Performance and Reliability** of the future operations and maintenance of the building is more assured under a P3 approach, primarily through the legal capacity to enter into a contract that has a longer term with well-defined contractual performance standards and funding requirements for proper maintenance over time.

The Committee Members support a P3 procurement approach. The Committee Members also acknowledge that there is a cost to the P3 process that is difficult to quantify at this early point in the planning process, which needs to be further analyzed by a transaction-oriented P3 advisory team. This team should include legal and financial advisors who would work with the County in the development of a more refined financing strategy and legal framework for the project. The Committee Members recommend that the Commissioners Court hire this team before issuing a Request for Qualifications (RFQ) for a P3 development of the Civil and Family Court House.

The transaction-oriented P3 advisory team, also known as the "owner's representative", would be tasked with the following during the early stages of the project:

1. Drafting the RFQ, which will be used to solicit potential partners for the P3 procurement
2. Assisting the County with the evaluation of qualifications and subsequent contract negotiations
3. Going beyond the financial analysis completed by Ernst & Young to develop a financing plan for the project that will more fully quantify the County's financial commitment over the life of the P3 contract
4. Defining the detailed legal parameters under which the County would pursue a P3 procurement, under the oversight of the County Attorney's Office and coordinating with the County's bond counsel

## **Other Observations/Recommendations**

The Committee Members offer the following observations and recommendations related to the development of a future RFQ for the site, as well as financing of the County's portion of the required capital investment:

1. Offer the entire block for development in some manner with  $\frac{1}{2}$  of the block designated for the court house and the remaining  $\frac{1}{2}$  block available for private development, either through air rights or another arrangement that is beneficial to the County and its taxpayers.
2. Develop the site to include retail spaces at street level as proposed in the Ernst & Young report, and the Master Plan developed for the County by Broaddus and Associates.
3. The use of Certificates of Obligation is most appropriate for financing the County's portion of the project. The development of a new court house represents a critical and pressing operational need for the County, and cannot be considered a discretionary project like many of the projects that are typically included in general bond elections for cities and counties.