

Item 12



Travis County Commissioners Court Agenda Request

Meeting Date: July 9, 2013

Prepared By/Phone Number:

Belinda Powell, Strategic Planning Manager, Planning & Budget 854-9506

Elected/Appointed Official/Dept. Head:

Leslie Browder, County Executive Planning & Budget 854-9106

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Roger Jefferies, County Executive Justice & Public Safety, 854 4759

Commissioners Court Sponsor: Samuel T. Biscoe, County Judge

AGENDA LANGUAGE:

CONSIDER AND TAKE APPROPRIATE ACTION ON REPORT FROM URS REGARDING THE CIVIL AND FAMILY COURT HOUSE, DELIVERY METHODS FOR THE DEVELOPMENT OF THE FACILITY, AND OTHER RELATED ISSUES.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

On May 14, 2013, the Commissioners Court gave staff direction to develop a short-form scope of work with URS to assist members of the Court with making the determination of delivery method for the development of a new Civil and Family Court House. A scope of work was developed for this initial work with URS to include the following:

1. review various reports already developed for Travis County
2. interview members of the Commissioners Court
3. discuss reports with key staff as necessary
4. discuss findings and issues in a work session with the Commissioners Court
5. develop a presentation of pros and cons of various delivery methods to include:
 - a. Design-Bid-Build
 - b. Construction Manager at Risk
 - c. Design-Build
 - d. Public-Private-Partnership

On June 6, 2013, URS discussed their work to date with the Commissioners Court regarding the proposed project. Several factors were

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials should be submitted as a pdf to the County Judge's office, agenda@co.travis.tx.us by **Tuesdays at 5:00 p.m.** for the next week's meeting.

discussed, which are highlighted in the attached summary of the pros and cons for each delivery method as they relate to the Commissioners Court's objectives for the project.

STAFF RECOMMENDATIONS:

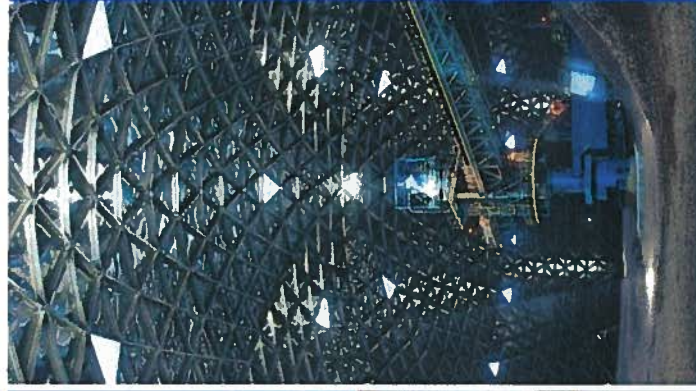
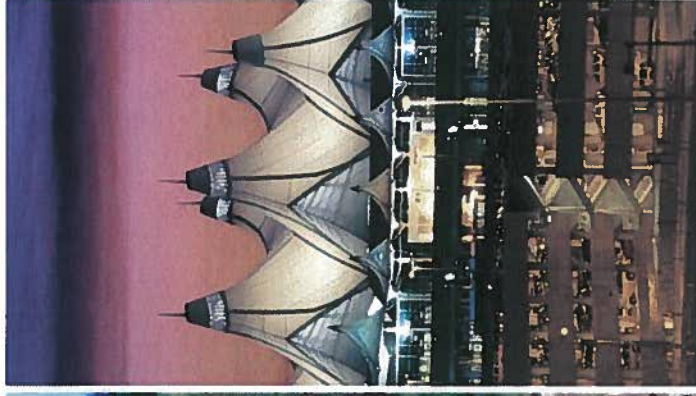
Staff request that the Commissioners Court provide direction regarding the specific delivery method(s) to be included for consideration in the development of the Phase I scope of work with URS. Further discussion related to the specifics of the Civil and Family Court House project definition, scope, costs and delivery method(s) will be developed by URS in conjunction with the Commissioners Court and key stakeholders as they execute Phase I of the pending contract. With direction from the Commissioners Court on which delivery options to include in the scope of work, staff anticipates a final contract with URS could be posted for Commissioners Court action on September 3, 2013, subject to scheduling with the Commissioners Court.

ISSUES AND OPPORTUNITIES: NA

FISCAL IMPACT AND SOURCE OF FUNDING:

Funding for this initial phase has been transferred from the Civil and Family Court House Planning Reserve to the Planning & Budget Office. The Purchase Order issued for this scope of work is for \$49,885.19 and payment will be made at the completion of this phase, which is anticipated on July 9, 2013.

REQUIRED AUTHORIZATIONS: NA



**Travis County Family and Civil Courthouse
Analysis & Discussion on Project Delivery Methods**



Presentation to the Commissioner's Court

July 9, 2013

As a follow-up to the
Commissioner's Court Work Session
of June 06, 2013



1) Procurement Delivery Option - Discussion



Project Delivery Options

Design Build Finance operate and Maintain (DBFoM)	Design/Build (D/B)	Design Bid Build (DBB)	Construction Manager at Risk (CMAR)
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LEAST	OWNER'S RISK	GREATEST
GREATEST	CONTRACTOR'S RISK	LEAST
LEAST	OWNER'S CONTROL	GREATEST
GREATEST	CONTRACTOR'S CONTROL	LEAST

Design Bid Build (DBB)

Key Parameters:

- Most widely used and known Delivery Method
- County leads both Design and Construction of asset in a sequential manner
- Separate entities (Designer and Constructor) conduct work independently
- Design taken to a 100% completion level before tender
- Design is very prescriptive
- Constructor selection solely based on low-bid basis
- County assumes nearly all risks on design
- High oversight required during construction to ensure quality
- County transfers very limited risks during construction to Contractor
- Contractor's work covered by performance bond
- Life-Cycle (Operations and Maintenance) integration, risks and responsibilities reside with County
- Payment structure is typically progress payments as work is completed

Design Bid Build (DBB)

Benefits:

- Certainty of design via prescriptive nature of procurement documents
- All roles well-defined & understood
- Marketplace acceptance and comfort

Limitations:

- No integration of Design and Construction
- Little to no innovations, ingenuity or value reductions available
- Competitive tension is present, but limited
- Quality factor of Constructor is limited in selection (price based)
- Highly susceptible to cost overruns, claims and litigation
- No or very limited warranty for work performed
- Life-Cycle integration not fully considered
- Little to no Risk Transfer
- Little to no overall price certainty

Design / Build (D/B)

Key Parameters:

- Modern Delivery Method, now widely known and used
- Reference Concept (Design) taken to a 30% by County so to articulate scope of work and provide “proof of concept”
- Designer and Constructor form team during procurement process to take design to a competent “biddable” level (and after selection to Final Design)
- Single point of contact via single contract with Design & Construction Team
- Scope and design is quite prescriptive, but “Alternative Technical Concepts” pathway available to bring value
- 2-step procurement process: (RFQ for Quality of Team, and RFP for Price)
- Design Risk/Responsibility is fully transferred to private sector, and more Construction risks is also transferred to Private Sector than DBB
- Quality of work typically covered by 1-2 year limited warranty, and Contractor’s work during construction covered by performance bond
- Life-Cycle integration, risks and responsibilities reside with County
- Price for work is Lump Sum based

Design / Build (D/B)

Benefits:

- Some price certainty via Lump Sum and procurement documents
- Some schedule certainty as Design/Builder's margins are in completing work in timely manner
- Clear opportunity for innovations to be created, evaluated and implemented
- Overall cost reduction
- Integrated team for design and construction
- Marketplace acceptance and comfort
- Very good competitive tension, which drives value
- Quality of team is evaluated at RFQ Stage
- Limited term warranty provided

Limitations:

- Roles and divisions of responsibilities can cause internal fighting within D/B Team
- County cedes some design control
- Susceptibility to cost overruns, claims and litigation are present, but less than DBB
- Warranty covers only 1-2 year term
- Life-Cycle integration not considered
- Some, but limited, Risk Transfer on construction
- Disputes and litigation are still common
- Selection criteria can be troublesome if not properly structured (Best Value selection – Technical and Cost)

Construction Manager at Risk (CMAR)

Key Parameters:

- CMAR engages the Contractor (CMR) early in the design and development process and entails a commitment by CMR to deliver the project via either a single or multiple Guaranteed Maximum Price (GMP) commitments
- Designer (Architect/Engineer) and CMR (General Contractor) are solicited by the County separately to engage the most qualified entities (and fees)
- Designer and CMR are both agents to the County with the goal of defining, designing against, costing and delivering the determined Scope of Work
- Very open, transparent and collaborative approach between Designer and Contractor that is focused on best GMP
- Risk Management is accomplished by a open discussion and accountability in costing as the scope and design is progressing, and later tallied in the GMP
- Costing of work is a on-going element such that continual updates are available to County before GMP
- Model also is highly interactive as work progresses permitting Scope of Work adjustments to be measured and balanced against costing estimates to optimize design, quality, schedule, scope and cost

Construction Manager at Risk (CMAR)

Benefits:

- Can increase the speed of the project.
- Can strengthen coordination between the Designer and Construction Manager.
- Construction manager hired based on qualifications (and fees)
- Construction Manager, Designer and County all collaborate, creating enhanced synergies
- Transparency is enhanced, because all costs and fees are in the open, which diminishes adversarial relationships between parties working on the project.
- High degree of price and risk certainty via Lump Sum
- Innovations and Best Practices folded into work as scope and costs develop

Limitations:

- Not a proven cost reducer compared to other methods
- Low amount of competitive tension
- Additional cost for CMAR entity
- More complex relationships
- No direct communication between Owner/architect, owner/contractor
- Reduces “Low-Cost” Bid element, which can raise overall costs even with Guaranteed Maximum Price (GMP)
- Lengthy time is possible as design, risks and Construction are measured against costs
- Billing to County by CMAR will seek to protect the CMAR in retaining a positive “cash-flow”

Design Build Finance operate & Maintain (DBFoM)

Key Parameters:

- Project Delivery model that introduces two (2) key elements beyond DBB, D/B and CMAR that the Private Entity is fully responsible for:
 - Private Finance
 - Long Term Operations, Maintenance and Rehabilitation
- Only a portion of Construction Costs are due at Substantial/Final Completion, as Private Entity self-finances remainder over 30 year (typical) Contract Term
- Many ways of conducting this model, but discussion centered on Availability Payment Structure, meaning if asset is “available as required by Project Agreement” repayment of private finance is made in full. If not deductions/penalties are made until performance is returned
- Performance based contracting, resulting in providing a lot of flexibility, innovation and ingenuity to Private Entity
- Availability Payment Structure and Private Finance work as Behavior Tools to increase short-term and long-term (life-cycle) quality, safety and reinvestment into the asset
- Value for Money, when compared to other deliver methods should be apparent

Design Build Finance operate & Maintain (DBFoM)

Benefits:

- Provides price certainty in both short-term (construction) and long-term (life-cycle)
- Provides schedule certainty as internal repayment of lenders to Private Entity have many date “certains”
- Large opportunity for implementation of innovations, ingenuity, and best practices
- Typically provides clear Total Overall Price reduction when model fits the Project
- Highly integrated team that is also highly incentivized for long-term quality
- Excellent competitive tension, which drives value
- Long-Term quality guaranteed against equity investment
- Maximizes risk transfer

Limitations:

- Newest Project Delivery method that can be quite complex as it spans many years
- Loss of control on many traditional elements as delivery is “outcome based” and guided by performance specifications
- One-off nature can drive up internal costs and education for first transaction
- Procurement and evaluation is extremely strict and guided, but can be quite complex
- Cost of private financing for availability equity is greater than equivalent rates for public finance

Comparison Analysis – Project Delivery vs. Objectives

Project Objectives	DBB	D/B	CMAR	DBFoM	Comments
Timeliness	○	●	○	●	
Flexibility	○	○	○	○	
Design	○	○	○	○	
Integration with community	●	●	●	●	Uniform project requirements for all Methods
Maximizes site development	○	●	○	●	
Asset quality & longevity	○	○	○	●	
Maximizes competition	○	●	○	●	
Local participation	●	●	●	○	
Fairness & transparency	●	●	●	●	Procurement quality independent of Delivery Method
Environmental sustainability	●	●	●	●	Uniform project requirements for all Methods
Risk allocation	○	○	○	●	
Cost certainty	○	○	○	●	Considers both Construction and Long-Term
Value-for money	○	●	○	●	Supported by VfM Analysis
Affordable	○	●	●	●	
Parking	●	●	●	●	Uniform project scope for all Methods

KEY:	●	Strongly Achieves Objectives
	○	Mostly Achieves Objectives
	○	Achieves Some Objectives



2) Hybrid Project Delivery Solutions and Discussion



Hybrid Project Delivery Solutions and Discussion

Bifurcated/Multiple Project Delivery Methods

Utilization of different Project Delivery methods for key elements of the overall Project vision

Potential Example Structure(s):

- Courthouse Building – (DBB, D/B, CMAR or DBFoM)
- Underground Parking Garage – (Concession Lease (DBFoM) or other Delivery Method)
- Commercial/Retail/Parking Element(s) - (Land-Lease for potential)

Value Adds:

- ✓ Removes Underground Parking Structure Risks, Project Costs and Responsibilities from County's Balance sheet as private entity is responsible for entire element
- ✓ Provides flexibility as opportunity to deliver the site in a stepped manner controlled by the County and market conditions
- ✓ Maximizes value to County as Project Delivery is tailored to each element



3) Project Delivery Options Finalization



A) Recap of June Work Session

- Work Session on June 6th was an in-depth discussion on the 4 (four) Project Delivery Methods that the URS Team was requested to study
- The premise of this discussion was based on delivery of ***both*** the Courthouse and the Underground Parking Structure with the ***same type of delivery*** under one unified Agreement.
- The URS Team also presented a Hybrid Project Delivery Approach whereby the discussion with the Court centered on maximizing the project delivery options for each element of the overall program. The driver behind this discussion and presentation was to include as many of the following key points as possible, where reasonable and appropriate:
 - ✓ Maximize as many of the Project Objectives as possible (See Slide #5);
 - ✓ Minimize the cost and subsequent bond issuance undertaken by the County;
 - ✓ Reduce risks retained by the County; and
 - ✓ Create a robust opportunity suite of options for the Commission to consider.

B) Design, Build, Finance (DBF) Option

Key Parameters:

- ***A hybrid between the DBFoM and the DB approach***
- Project Delivery model that introduces one (1) key element beyond D/B and CMAR that the Private Entity is fully responsible for Private Finance, but only during construction
- Long Term Financing, Operations, Maintenance and Rehabilitation remain the responsibility (and risk) of the County
- The repayment of Construction Costs are committed to at Substantial/Final Completion, but payment is made over a time period of 0 to 3 years rather than all at once
- There is no deduction scheme during operations but construction performance includes a penalty scheme
- Performance based contracting, resulting in the provision of a lot of flexibility, innovation and ingenuity to Private Entity
- Format has been used in other jurisdictions to gain the advantage of risk transfer during construction while reducing the long term cost of private financing

B) Design Build Finance (DBF) Option, continued

Benefits:

- Allows the use of lower cost tax exempt debt during operating period
- Provides schedule certainty during construction as internal repayment of lenders have many date “certains”
- Greater opportunity for implementation of innovations, ingenuity, and best practices during construction
- Typically provides clear Total Overall Price reduction when model fits the Project
- Integrated Design and Construction team reduces conflicts
- Excellent competitive tension, which drives value
- Maximizes construction risk transfer
- Ability to delay the County payment may assist in county budget management

Limitations:

- O&M risk is retained by the county – only construction risk is transferred
- Construction financing is likely to be in the taxable bank market
- Loss of control on many traditional elements as delivery is “outcome based” and guided by performance specifications
- One-off nature can drive up internal costs and education for first transaction
- Procurement and evaluation is more complex than D/B but less than a DBFoM

C) Project Delivery Decision Discussion **(Hybrid Method vs. Single Method)**

Court discussion and consideration of the options as follows:

A. Courthouse & Garage as Single and Identical Project Delivery

Method:

- i. Traditional Design Bid Build (DBB)**
- ii. Design/Build (DB) or Design Build Finance (DBF)**
- iii. Construction Manager at Risk (CMAR)**
- iv. Design Build Finance operate Maintain (DBFoM)**

B. Courthouse & Garage delivered as a Hybrid Procurement Package

- i. Garage (Concession) & Court (DBB)**
- ii. Garage (Concession) & Court (D/B or DBF)**
- iii. Garage (Concession) & Court (CMAR)**
- iv. Garage (Concession) & Court (DBFoM)**

D) Court Direction and Next Steps

For the work and the Project to proceed effectively, the following elements need direction from the Court:

- Decision on Project Delivery Method(s) – (July 9 to July 16, 2013)
- Contract Finalization (September 3, 2013)
- Phase 1 Work Commencement (September 4, 2103), including but not limited to:
 - Develop complete Project Definition
 - Costs
 - Schedule
 - RFQ Preparation and solicitation for A/E services
 - Public Information Process and Education Package
 - Other Key Due Diligence Items
- Completion of Phase I, 6 to 9 months (May 2014)
- Next Phases

URS |

Questions/Discussion





**Materials from June Work Session Presentation
(Provided as Background Information to the Court)**



Three Part Approach for June Work Session

- **Part 1 – Brief Review and Summation of Data Provided by County, including (but not limited to):**
 - E&Y – Feasibility Analysis of Delivery Options and Value-for-Money Analyses
 - Broaddus – Facilities Master Plan
 - 15 Person Committee Recommendation
 - Travis County Risk and Project Cash-flow Model (version 14)

- **Part 2 - Procurement Delivery Option Analysis and Discussion:**
 - Design Bid Build (DBB)
 - Design Build (D/B)
 - Construction Manager at Risk (CMAR)
 - Design Build Finance operate & Maintain (DBFoM)

- **Part 3 – Hybrid Project Delivery Solutions and Discussion**

URS Scope – Phase 1A

URS was engaged by Travis County to conduct Pre-initiation Phase Services to provide assistance in the determination of the Delivery Method for the Project, which includes:

- Review and Analysis of Previous Work Products
- Meet with County Staff and Commissioners Court
- Refine and Finalize Procurement Option Analysis for the 4 specified Project Delivery Methods (DBB, D/B, CMAR, and DBFoM)
- Present Summary of Pros and Cons of Each Delivery Method
- Assist the Commissioners Court, as Required, in Final Project Delivery Method(s)

Project Objectives (*)

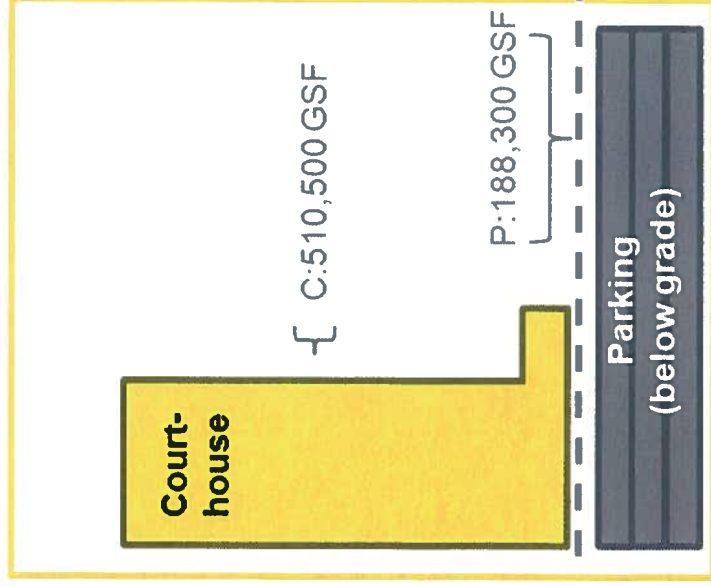
Evaluation Criteria	Description
Timeliness	▶ Achieves delivery of the Courthouse as soon as possible
Flexibility	▶ Supports meeting the County's future needs for additional space
Design	▶ Supports the Project objectives for the design of the building including innovation in design and providing a world-class building of significance
Integration with community¹⁰	▶ Provides a Courthouse that enhances the community
Maximizes site development¹⁰	▶ Captures the value of the commercial/residential development and reduces the cost of the Courthouse to the County
Asset quality and longevity	▶ Supports the construction of a Courthouse that will be of high quality and will be fit for the purpose for the next 50 to 60 years
Maximizes competition	▶ Attracts a broad field of competitors, thereby driving innovation and value
Local participation	▶ Supports and encourages local participation and local employment
Fairness and transparency	▶ Supports the County's requirements for fairness and transparency
Environmental sustainability	▶ Supports the County's objectives for environmental sustainability
Risk allocation	▶ Allocates material risks to the party best able to manage them
Cost certainty	▶ Provides the County with certainty of cost for both the construction and the Project life
Value-for-Money	▶ Achieves delivery of the Courthouse and provides Value-for-Money to the County
Affordable	▶ Ensures profile of contracted payments for the Courthouse is affordable within the funding constraints of the County
Parking	▶ Provides adequate parking to meet the needs of judges, staff and other users of the building

(*) - Approved by Commissioners Court on February 28, 2012

Physical Layout Options

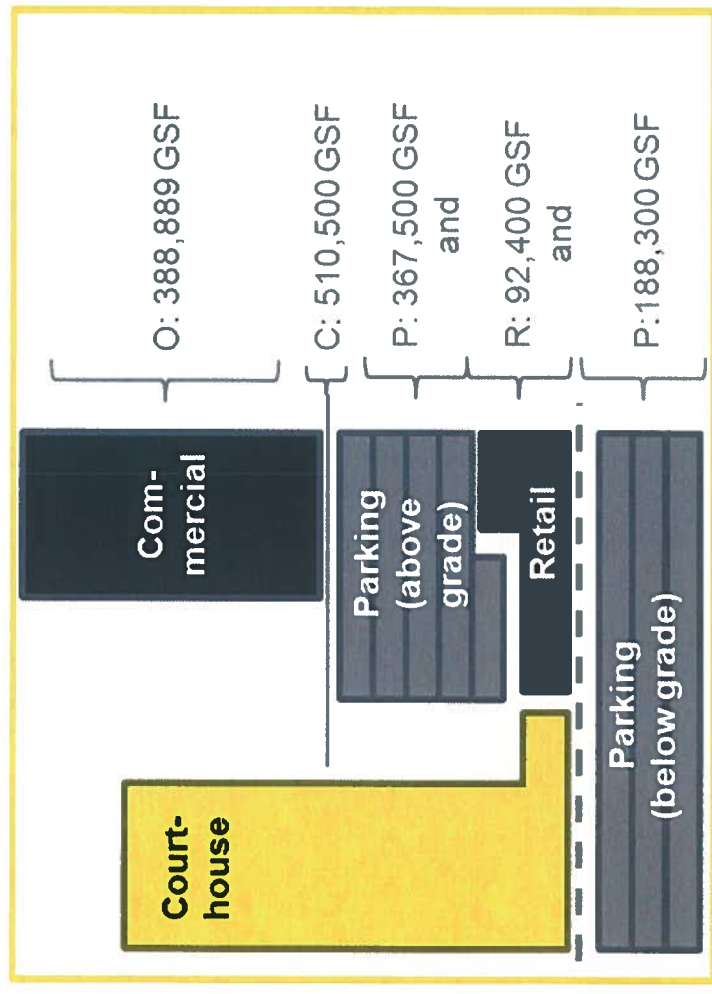
Option 1: Courthouse Only

- Free-standing Courthouse
- 3-story Underground Parking Structure



Option 2: Courthouse + Commercial

- Courthouse and Underground Parking Same as Option 1
- 2nd Structure is Tower with Retail, Commercial Spaces and Parking



- Notes:**
- 1) GSF = Gross Square Feet
 - 2) Option 2 not employed as too speculative

Project Delivery Options – Construction Costs

Total Construction Costs per Option Scenario and Project Delivery Model (1)

Procurement Option	Design Bid Build (DBB)		Design Build (D/B)		Construction Manager At-Risk (CMAR) (3)		Design Build Finance operate (DBFoM)	
	DBB (Public Finance)	DBB (Public Finance)	DB (Public Finance)	DB (Public Finance)	CMAR (Public Finance)	CMAR (Public Finance)	DBFoM (Private Finance)	DBFoM (Private Finance)
Physical Options	Courthouse Only	Courthouse Only	Courthouse Only	Courthouse Only	Courthouse Only	Courthouse Only	Courthouse Only	Courthouse Only
- Courthouse (hard costs + earthwork)	196,890,439	196,890,439	196,890,439	196,890,439	200,828,248	200,828,248	196,890,439	196,890,439
- Parking (above + below + excavation)	12,065,970	12,065,970	12,065,970	12,065,970	12,307,289	12,307,289	12,065,970	12,065,970
- Soft Costs	82,651,277	82,651,277	75,480,784	75,480,784	84,304,303	84,304,303	59,871,271	59,871,271
Total Construction Costs	\$291,607,685	\$291,607,685	\$284,437,193	\$284,437,193	\$297,439,840	\$297,439,840	\$268,827,680	\$268,827,680
GSF (including parking)	698,800	698,800	698,800	698,800	698,800	698,800	698,800	698,800
Cost/GSF (including parking)	\$417	\$417	\$407	\$407	\$426	\$426	\$385	\$385
FAR (2)	9:1	9:1	9:1	9:1	9:1	9:1	9:1	9:1

NOTES:

- (1) As set out in Project Funding section below, the Construction costs are assumed to be funded 100% by the County for the DB and DBB options and 60% by the County in the case of the DBFM(O).
- (2) Floor-to-area ratio accounts for applicable parking square footage both above and below grade
- (3) Costs for CMAR not included in E&Y Reports. Information extrapolated for purposes of discussion only, and requires detailed analysis.

Total Project Costs & Value for Money (VfM)

Total Costs to the County		DBB	D/B	CIMAR	DBFoM
Projected Discount Rate	7.00%	Total (\$'000s)	Total (\$'000s)	Total (\$'000s)	Total (\$'000s)
Construction Phase Costs (NPC)		NPC	NPC	NPC	NPC
Design & Construction Costs	207,822	201,592	211,978	0	0
County Funding for DBFoM Design & Construction Costs	0	0	0	115,615	115,615
Risks Transferred (incl. Escalation)	2,780	3,887	3,767	0	0
Retained Risks	14,206	7,610	13,220	3,870	3,870
Owner's Costs	27,765	26,855	27,765	26,001	26,001
Honorarium	0	763	763	763	763
	252,573	240,706	257,493	146,249	146,249
Operating Phase Costs					
Operating Costs	49,021	49,021	49,021	0	0
Retained Operating Costs Risks	5,925	6,260	6,260	362	362
Maintenance Costs	16,873	16,873	16,873	0	0
Total Service Payments under DBFoM	0	0	0	165,740	165,740
	71,819	72,154	72,154	166,101	166,101
Total NPC of County Costs	324,393	312,860	329,647	312,351	312,351
Value for Money Results		11,533	(5,254)	12,042	
		3.6%	-1.6%	3.7%	

SOURCE OF INFO: E&Y Feasibility Analysis with exception of CIMAR analysis, which was extrapolated using assumptions developed by E&Y.

Total Project Costs & Value for Money (VfM), cont.

Key Points & Notes:

- Value for Money (VfM) is a process and evaluation tool whereby a Baseline Project Delivery Method (Public Sector Comparator) is compared against the overall (whole-life) costs of an alternative Project Delivery Method to gauge which is the better overall value proposition.
- Net Present Cost (NPC) is the sum of the present value of all costs of the Project. In determining the present value, the costs have been discounted by the Discount Rate back to a common date to enable a comparison of the costs to the County of a series of costs over a long time period.
- Costs for CMAR not included in E&Y Reports. Information extrapolated for purposes of discussion only, and requires detailed analysis.
- All four of the selected Project Delivery Method options (DBB, DB, CMAR and DBFoM) are viable, feasible and offer the necessary opportunity for the County to successfully complete the development of the new Courthouse.
- DB and DBFoM both have the ability to provide value for VfM when compared to DBB. In addition the qualitative benefits of DB and DBFoM also make these options attractive compared to DBB. CMAR indicates at this point of time to have a “negative” VfM.
- The commercial development could offer up to \$23m of value to the County, but that value has not been included as indicated in the E&Y Report.

Legality Review

- Hawkins Delafield & Wood LLP have analyzed current legislation and advised that DBB, D/B and DBFM(O) are permitted and legal Project Delivery Methods available for use by the County and on the Courthouse Project
- Travis County Attorney's Office has reviewed and confirmed the above analysis
- Travis County Attorney's Office has also advised that CMAR is a legal and available Project Delivery Method for use by the County and on the Courthouse Project