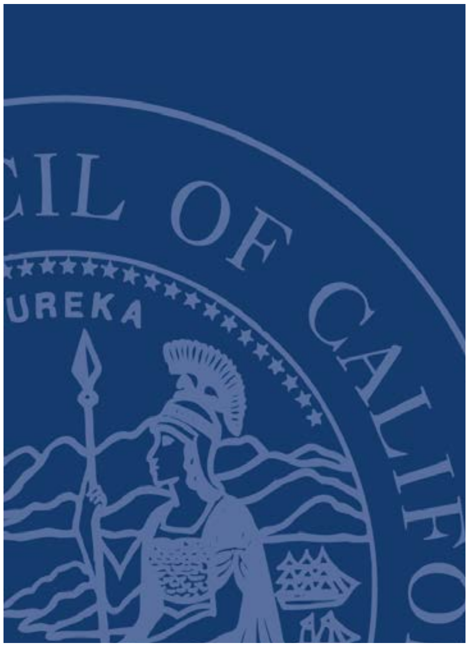

Governor George Deukmejian Courthouse

AN EVALUATION OF PROJECT AGREEMENT DEVELOPMENT, PROCUREMENT PROCESS & PERFORMANCE DURING DESIGN & CONSTRUCTION

A PERFORMANCE-BASED INFRASTRUCTURE PROJECT, LONG BEACH, CALIFORNIA

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF COURT CONSTRUCTION AND MANAGEMENT

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EXECUTIVE SUMMARY

The Governor George Deukmejian Courthouse, in Long Beach, is being developed using a design, build, finance, operate, and maintain 35-year agreement, between the Judicial Council of California and a private-sector consortium. The contract contains significant performance risks and incentives for the private party to operate the facility in accordance with the specifications set by the Judicial Council. The new Long Beach court building is the first government building in the United States to be developed using this delivery method, which has been termed "performance-based infrastructure."

This evaluation report provides information, for interested parties, about process that the Administrative Office of the Courts (the staff agency for the Judicial Council) followed to create the legal and commercial structure; to determine the design and construction standards; to solicit and select the private sector consortium; and to reach an executed master contract or Project Agreement.

This report also provides an appraisal of the design period and the first year of the construction period by examining the implementation of terms and conditions of the Project Agreement by the parties.

The California State Budget Act of 2007, Senate Bill 77 (enacted in July 2007) granted the authority for the Judicial Council and Administrative Office of the Courts (AOC) to investigate the use of a public-private partnership in the development of the Long Beach project. Furthermore, pursuant to section 70391.5 of the Government Code, the Judicial Council was authorized to enter into a public-private partnership agreement for the delivery of the new Los Angeles County-Long Beach Courthouse subject to notice to the Legislature and approval by the Director of Finance that the agreements has met established performance expectations.

This project would be using a type of public-private partnership developed in Canada, the United Kingdom, and Australia. As such, no established benchmarks for acceptable financial performance, or prototype contracts for a public-private partnership, existed in California government. Preparation, review, and approvals of benchmarks, project requirements, and contract agreements began in late July 2007 culminating with Project Agreement execution on December 20, 2010.

Following approval of SB 77, the AOC assembled a project team (Project Team) to deliver the project. The Project Team comprised personnel from within the AOC who were assigned to the project together with a number of external advisors to the AOC. The Superior Court, County of Los Angeles (Superior Court) provided extensive input on the court building design requirements and the functional and space program, and participated in the selection of all principal external advisors, as well as the proposer, preferred proposer, and eventual project company. As a result of the innovative nature of the project in the U.S. and California markets, the AOC undertook a selection process for external advisors across North America to ensure that it had an advisory team with experience with similar types of transactions.

As described in Part 2 of this evaluation: design and construction of the court building and renovation of the parking structure has proceeded smoothly since a definitive Project Agreement was signed in late December

2010. Construction is on schedule, and within budget. The project has surpassed the design and construction progress normally achieved by traditional delivery methods.

Part 1: Development of the Project Agreement

Evaluation of alternative methods of delivery

The Project Team and Department of Finance concluded the metric to be applied in evaluating any alternative procurement method would be the ability of that method to deliver a "value for money" (VfM) when compared to a traditional procurement method. Value for money would be achieved if the net present value of the whole life-cycle cost of an alternative procurement method was less than the net present value of the whole life-cycle cost of the project as procured under a "traditional" approach.

The Project Team identified four options to adopt as the alternative procurement approach:

- Design, build, finance, operate, maintain (with third party development);
- Design, bid, build (with tax-exempt financing);
- Design, build, finance (with take-out on construction completion); and
- Design, build, operate (with or without tax-exempt financing).

Through a qualitative analysis of each of these procurement options' ability to meet the objectives of the AOC in terms of project delivery schedule and risk transfer, the design, build, finance, operate, maintain with third party development (DBFOM) was identified as the preferred option.

Given the principle of compensating a private party based on its performance in managing an asset and related transferred risk under a DBFOM, the Project Team adopted the term "performance-based infrastructure (PBI)" in place of the "alternative procurement" or public-private partnership (PPP) labels.

Value for Money – Purpose

The adopted value for money (VfM) analysis is a comparison of the risk-adjusted whole life-cycle cost of the project procured as a PBI compared with the risk-adjusted whole life-cycle cost of the project as if it had been procured as a DBB (the public sector comparator or PSC). The comparison is made on a net present value basis to facilitate a comparison of costs on a consistent basis as the costs to the State occur at different points in time under each procurement option. The net present value (NPV) of each of the procurement methods is compared to that for each of the other methods to determine which would provide the best value to the State.

The VfM analysis of the project served a number of purposes:

- It assisted in the decision-making process establishing that this project was a suitable candidate for PBI and had potential to deliver value for money. This was considered prior to releasing the request for proposals when the cost of the PBI was not known and an estimate (called a "shadow bid") of the project cost under the PBI scenario was prepared;

- The PSC provided a benchmark against which proponents were measured. Comparison of each proposal against the PSC provided an indication of the value for money of each proposal as well as a deeper understanding of the factors contributing to the price of each proposal;
- The VfM analysis was a negotiating tool following selection of the preferred proponent. The preferred proponent realized the price that they needed to commit to in order to present value for money compared to the PSC, a condition placed on the project by the Department of Finance;
- The VfM analysis was a means of enabling stakeholders to comprehend the implications of the PBI and the argument that the PBI option has potential to provide value to the State over the whole life of the project.

Value for Money – Risk Analysis

One of the key components to the cost of delivering major infrastructure projects is the cost associated with addressing unforeseen circumstances or risks and the additional time to remedy such situations. To capture the full cost of the project under each procurement option, the Project Team undertook a risk identification and risk quantification process (a risk analysis) for each procurement option.
Through computer simulation modeling, the mean value of each risk is determined, and then the risk values are grouped into categories corresponding to the period in which each risk is likely to arise in the procurement. The risks are categorized into the three respective periods so that they can be recognized within the corresponding parts of the project's life cycle. These periods are: planning, construction, and operating.
The risk analysis addresses the fact that under the traditional procurement, the construction price does not account for some construction risks and therefore is not a fixed price turnkey contract. In the PBI, however, the private party takes on these risks and is committed to delivering the project with no recourse to the State if those transferred risks materialize. The Project Agreement established the responsible party for each category of risks.

Property and Site for the New Court Building

Based on experience on other public private partnership projects, site selection was not left open to the project proponents. It was preferable for the AOC to select the site for the proponents to use. The benefit of this approach is that it places all of the proponents on a level playing field and removes a key, potentially distorting variable from the evaluation process.
Subsequently the AOC negotiated a property exchange with the City of Long Beach – the 2.66-acre existing court site (and building) for the two blocks plus intervening street (approximately six acres). The City agreed to pay $5 million for the differential in value between the sites, and to pay $2 million for relocation of underground utilities in the abandoned street at $2 million, agreeing to pay this amount toward this work.

CEQA and Entitlements

The AOC, undertook a study of environmental impacts of the new court building, according to requirements of the California Environmental Quality Act (CEQA). This is typically a part of site acquisition activities preformed by the AOC, as lead or responsible agency.
The CEQA Environmental Impact Study Mitigated Negative Declaration was certified in July 2009.

Performance (Design) Standards

The OCCM Design and Construction unit led the development of design-build criteria, a functional and space program, and the urban and architectural design requirements for the new court building and parking structure renovation; these facility Performance Standards, which were issued with the RFP, are incorporated in the Project Agreement.

Management (Facility Operations and Maintenance) Standards

Selection of a design, build, finance, operate, and maintain (DBFOM) proponent required that OCCM develop standards to define the scope and requirements for daily operations, preventative maintenance, and life-cycle repair and replacement for the project. Since payment for DBFOM services throughout the term of the contract is conditioned on successful performance and the availability of court spaces, it was necessary to include in these Management Standards key performance indicators, facility condition metrics, court and building space availability standards, and a mechanism for deductions related to performance below the various contractual standards. The Management Standards also include procedures for customer services, facility modifications, energy consumption monitoring, and continuous quality assurance.

Department of Finance and Joint Legislative Budget Committee Reviews

Government Code section 70391.5 and provision 8 of item 0250-301-3037, Budget Act of 2007 required certain approvals by the Department of Finance at the beginning and just prior to executing a PBI transaction. The key milestones were the approval of the court facility proposal by the Director of Finance at the beginning of the solicitation for proposals, and approval that the PBI agreements meet established performance expectations immediately prior to executing the contract. Accordingly, as discussed more fully in the report, in addition to the formal submission required by section 70391.5 and provision 8, the AOC and its advisors periodically met with and provided information to the Department of Finance, and other executive and legislative branch staff, throughout the transaction.

The AOC submitted the performance expectations and benchmark criteria for the proposal to JLBC on April 4, 2008 pursuant to Government Code section 70391.5. The AOC subsequently provided the financial model to the Legislative Analyst's Office (LAO) for analysis. There were discussions with LAO and legislative staff on specific follow-up questions on the performance expectations and benchmark criteria. The AOC ultimately received a letter from the JLBC dated August 13, 2008 that expressed concerns for AOC consideration while proceeding with solicitation of court facility proposals from private consortiums.

Drafts of the RFQ, RFP, and the Project Agreement were provided to the Department of Finance as these were developed as well as various analyses and explanatory material. In addition, a number of meetings were held with Department of Finance throughout the transaction to discuss key structuring and business terms. The AOC provided additional information responsive to JLBC's concerns and made changes to the request for proposals that were presented to the Department of Finance, which then reaffirmed its initial approval of the court facility proposal and proceeding with the solicitation.

The final Project Agreement was provided to the Department of Finance (DOF) and a number of meetings were held with Department of Finance staff to discuss the DOF's issues and questions on the Project Agreement. On December 16, 2010 the Director of Finance approved that the agreements met the established performance expectations and benchmark criteria as required by provision 8 of item 0250-301-3037, Budget Act of 2007.

Tax-Exempt Financing

From the initial feasibility study, the AOC's qualitative analysis had suggested that the Long Beach court building replacement project was a strong candidate for alternative procurement rather than traditional procurement because:

- A new Long Beach court building was sorely needed and speed of delivery could be expedited;
- The PBI approach freed up funds in the other court construction funds allowing the Judicial Council to undertake another court building;
- There was an expectation that real estate developers would be interested in Long Beach; and
- The project was large enough to interest the international DBFOM market.

A primary procurement objective – specifically endorsed by the Department of Finance – was the reduction of the impact on the credit rating of the State. While such an objective could result in a higher cost of finance when compared to traditional procurements, it was anticipated that there would be potential savings in the projects development and operations.

Given this, the AOC did not anticipate the use of a tax-exempt financing solution. However, on the request of JLBC, the AOC included the option for a tax-exempt solution as a possible response to the RFP for the project. Of the three shortlisted proponents, all submitted proposals that included tax-exempt financing as a possible alternative.

Tax-Exempt Financing Conclusion

The suggested tax-exempt solutions showcased how the underlying objectives of tax-exempt/ municipal financing were not neatly aligned with some of the basic principles of the PBI model and the desired risk transfer objectives of the AOC, in that:

- A tax-exempt structure would require the project company to be isolated from owner-like risks such as risk of loss or detailed hand-back conditions.
- A tax-exempt structure would not allow any risk capital or equity to reside in the project company, fundamentally limiting the potential for transferring performance risk.
- A tax-exempt structure has a limiting effect on the length of management contracts (i.e., operating and maintenance, rehabilitation, and life cycle) whereby the contracts cannot exceed 15 years.

Project Structure

With the specific objectives of the AOC for the project and the language in section 70391.5, the AOC defined the PBI delivery method for the project as the State entering into a service agreement with a private party for the design, build, and financing of the construction and the operation and maintenance of the building for a period of 35 years in exchange for an annual service fee payment from the State. The State's payment to the private party for the design, construction, and financing would be fixed (not escalated with inflation), with the payment representing the costs of ongoing operation and maintenance being adjusted annually to reflect changes in an agreed-upon inflation index. The DBFOM delivery method would allow the State to identify its annual obligation per year with certainty and greatly reduce its exposure to unexpected cost increases.

Performance-Based Compensation

One of the key drivers behind the contract is that the AOC compensates the Project Company on the basis of the performance of the company in providing an agreed level of services to the AOC. The payments do not start until these services are being received to the agreed standard. Through the Project Agreement the AOC has the ability to make deductions against its payments to the private party for unavailability of portions of the building or substandard performance.

The performance-based compensation will not vary based on the actual costs incurred by the Project Company. If they intentionally low bid their costs, there would be no mechanism for such a shortfall to be claimed back through the Project Agreement.

County and Commercial Lease Space

The project includes 73,000 square feet for county justice agencies (within the secured court perimeter), 31,400 square feet for commercial office space (eventually leased by Los Angeles County probation services), and 9,600 square feet for retail space. The commercial office space was included to provide additional space in the building, into which the Superior Court space could expand as the need for additional judgeships increased the need for court space in future years. The AOC has the option to take space in increments, or not at all. Financial risk for the design, construction, financing, operation, and maintenance of the expansion space stays with the Project Company until the AOC decides to expand court occupancy into that space. The Project Company retains 100 percent of the risk and financial responsibility for leasing the entire justice agency, commercial, and retail spaces.

Including additional space in the project for future needs was suggested by the authorizing legislation and, the private Project Company retains most risks for the space. The Legislature enacted section 70391.5 of the Government Code (FY 2007-2008 budget trailer bill SB 82) in order to implement several findings and declarations including "…Using lease-purchase with the option to acquire any non-court space for future growth needs."
Section 1.14 of this report provides a summary of some of the key terms within the Project Agreement.

Part 2: Implementation of the Project Agreement

This is the first of several regular evaluations of implementation of the Project Agreement, during the design and construction phases. This report covers the period from the Notice to Proceed in December 2010 through

March 31, 2012. Subsequent evaluation reports will be provided throughout the construction phase; a final evaluation, of implementation of the Project Agreement in construction phase will be issued shortly after the court building is occupied by the Superior Court.

While the evaluation topics were developed in collaboration with the AOC OCCM, it is an independent, objective evaluation. The observations are derived from monitoring of the project and stakeholder interviews by the independent building expert (IBE).[1]

Overall the project is going extremely well in comparison with other PPP and design-build projects, on a scale of 1 to 10, with 10 being best, the six stakeholders that were interviewed have rated the project with an average score of 8.5. The project is receiving a very high level of attention by all those involved to deliver a quality project, on time, within budget, and to the expectations of the AOC. The success thus far is attributed to a well-selected team of professionals with strong spirit to work together.

The project has thus far surpassed the design and construction progress normally achieved by traditional AOC delivery methods. Within four days of one year from the Notice to Proceed, steel erection began on the site. Traditional AOC delivery methods would have taken at least two years to accomplish this same major milestone. There have been key lessons learned that should be taken into consideration with any follow-on projects using this delivery method; these are discussed in the report.

The design and construction phases of the project overlap – design activities were completed in March 2012 but construction began in May 2011. As of March 31, 2012, the overall construction is approximately 30 percent complete on the Main Building and 60 percent complete on the parking structure.[2] While the design was ongoing, the design-builder excavated the site, poured the basement slab and foundations, and began the steel erection. Progress has been quick and efficient, the design is excellent, and there have been minimal change orders.

The project is on schedule with a few items that may be a few days ahead. The project critical path is being closely monitored. The project construction schedule is officially issued on a monthly basis and, as a 30-day look-ahead, on a biweekly basis in the owners' review meeting.

Major equipment elements with long lead times have been purchased (e.g. generators, cooling towers). The design-builder is aggressively pursuing material procurement to keep the project on schedule.

[1] The lead author of this section is Ron Sheldon P.E., a principal with TMAD Taylor & Gaines, the independent building expert for the project.
[2] As of August 31, 2012, the parking structure renovation is complete and the Main (Court) Building construction is 60 percent complete.

Quality of Materials and Workmanship

Quality is as good as expected for a typical design-build project, maybe even a little bit better. This is indicative of a solid QA/QC program along with the design-builder's effective preparation and initial and follow-up meetings with all subcontractors. Any identified problems are quickly remedied.

Project Change Orders

The change order process is decent, honest, and complicated because it involves issues related to the operation and maintenance of the building as well as the design-build construction contract. There have been very few change orders for a project of this size and cost and approximately 75 percent of those processed for approval have been AOC or Superior Court requested. The other 25 percent is comprised of designer recommendations, or updating the Performance Standards. As of March 31, 2012, there have been a total of 21 change orders approved (additive and deductive) totaling $771,463 or 7.7 percent of $10 million owner change order allowance established in the Project Agreement.

Design-Build Governmental Approvals and Governmental Agencies

The design-builder was proactive in building a positive relationship with the regulating agencies up front, which paid dividends in obtaining permits. Under the Project Agreement, the governmental agency approvals of the documents are the sole responsibility of the Project Company. The plan reviews have been aggressively pursued and have progressed better than what was expected. Agencies involved include the State Fire Marshal (SFM), DSA, and CSA. The interaction with the SFM both in Sacramento and on site has been a cooperative process. The City of Long Beach was cooperative with respect to the project schedule in the review of off-site construction documents within their public rights-of-way, street light issues, and landscaping.

Design and Construction Risk Allocations

Relocation of Utilities: The Project Agreement transferred the utilities relocation risk to the Project Company and, thence, to the design-builder who relocated municipal and private utilities. Relocations cost more than $5 million against a $2 million reimbursement from the City of Long Beach carried in the Project Agreement for those relocations. The additional cost was absorbed by the Project Company.

Environmental: During the RFP stage the AOC made hazardous material reports available, and in the Project Agreement transferred these risks to the Project Company. While these reports stated that lead paint and asbestos were likely not present in the construction materials of the parking structure, the Performance Standards and the Project Agreement required abatement procedures as prescribed by California law. Transite pipe and planters with asbestos were found in the parking structure; this was handled by the design-builder with appropriate action and disposed of with proper precautions and with no impact with no impact to the construction schedule and at no additional cost to the AOC.

Geotechnical: The Project Agreement suggests that the Project Company perform its own additional geotechnical testing where the design-builder thought necessary. These tests were performed with no impact to construction schedule and at no additional cost to the AOC.

Archaeological/Cultural Discoveries: Nine turn-of-the-nineteenth-century privies were found on the site during excavation and grading, and were professionally observed and remediated according to all CEQA requirements. The design-builder retained archaeologists for on-site observation in order to expedite the excavation schedule. This professional service is the responsibility of the AOC per the Project Agreement; therefore, the AOC agreed to pay for these services using a portion of the owner's design change contingency. The design-builder's proactive approach mitigated schedule delay that might have occurred if the AOC had been responsible for the procurement of an archaeology consultant.

County and Third Party Leases: The Project Agreement requires the Project Company to negotiate all lease agreements with Los Angeles County and with commercial and retail/restaurant entities, thereby transferring the risk from the AOC. Lease negotiations with the County for justice agency space and the Probation Department (for the majority of the commercial space) began in January 2011, and the leases were executed in May 2012. The Project Company handled all negotiations, bore the risk of an unsuccessful conclusion, and absorbed added expenses resulting from the final lease terms.

This is neither an abstract of the Project Agreement nor a comprehensive technical appraisal of the design or construction; rather it is an evaluation of principal elements of this project in order to provide others, who may consider a similar alternative building-delivery method, with useful information.

1.0 Part 1: DEVELOPMENT OF PROJECT AGREEMENT

1.1 Abbreviations and Definitions

The following abbreviations and terminology used in this report are defined as follows:

AECOM – architect of record, designer of record (DOR), and lead design team member
AOC – Administrative Office of the Courts, the staff agency to the Judicial Council of California; actions or responsibilities attributed to the AOC, in this report, are on behalf of the Judicial Council
AQMD – Air Quality Management District
ARUP – technical advisor to the lender
BIM – Building Information Modeling, which is a computer program that provides three-dimensional drawings for coordination of all systems and constructions.
BMPs – best management practices (construction methods and techniques implemented to comply with the project's Storm Water Pollution Prevention Plan (see SWPPP below)
BOMA – Building Owners & Managers Association
BPS – Basic points. A unit that is equal to 1/100th of 1%, and is used to denote the change in a financial instrument, such as interest rates or yield of fixed income securities
CEQA – The California Environmental Quality Act is a California statute passed in 1970 to institute a statewide policy of environmental protection. It requires following a protocol of analysis and public disclosure of environmental impacts of proposed projects and adopting all feasible measures to mitigate those impacts.
City – City of Long Beach
Clark Construction – general contractor and design-builder
Constructware – proprietary software used to monitor design and construction activity, document files, and provide project historical documents
Cost of finance – costs of arranging and carrying private financing incurred by bidders for a P3 project. These usually include interest costs, arrangement fees, commitment fees, etc.
Critical path – the longest path of planned activities to the completion of construction
CSA – Corrections Standards Authority (replaced by the BSCC, Board of State and Community Corrections, effective July 1, 2012)
CSCDA – California Statewide Community Development Authority
CT Energetics – commissioning subconsultant to the design-builder
C&W – Cushman and Wakefield
DBB – design, bid, build
DBFO – design, build, finance, and operate
DBFOM – design, build, finance, operate, and maintain; "operating services" frequently referred to in the narrative, include maintenance
DCN – design change notice
Design, Build – delivery method by which Clark Construction is responsible for both the design by AECOM and the construction of the facility
DI – Development Industries Inc., quality management subconsultant to the design-builder
DSA – Division of State Architect (reviewing agency for access compliance)

EIS – environmental impact study (required under CEQA)
EYA – Ernst & Young Advisory Inc.
FFE – furniture, fixtures, and equipment, low-voltage systems **–** building systems pertaining to security and access control, fire alarm, audiovisual systems, unified communications, and other technical infrastructure
HDW – Hawkin, Delafield and Wood, LLP
IBE – independent building expert, consultant to the AOC and the Project Company jointly, providing peer and code document review, permitting, and field inspection (performed by TTG with subcontractors)
IOR – inspector of record (performed by TTG with subcontractors)
JCI – Johnson Controls Inc. (building operator for operations and maintenance and low-voltage sub-contractor)
JLBC - California Legislature's Joint Legislative Budget Committee
JLBC Letter – Letter issued by JLBC, listing suggested issues to address during the alternative procurement process. The letter did not oppose the AOC to the court facility proposal.
JPA – Joint Power Authority. It is an entity permitted under the laws of some states of the USA whereby two or more public authorities (e.g. local governments or utility or transport districts) can operate collectively.
LAO – Legislative Analyst's Office
LBJP – Long Beach Judicial Partners (Project Company); known as California Judicial Partners prior to February 2010.
LEED – Leadership in Energy and Environmental Design (program administered by the U.S. Green Building Council (USGBC) to measure and certify the level of construction with respect to energy and the environment)
Main Building – five-story component of the courthouse that contains the majority of Superior Court operations, including basement holding
Management Standards – Appendix 6 to the Project Agreement, which outlines the responsibilities of the Project Company with respect to facilities maintenance, operations, and repair; infrastructure management; and janitorial services
MEP – mechanical, electrical, and plumbing
North Building – four-story component that includes the majority of county justice agency offices, the jury assembly area, and retail lease spaces
NPV – net present value
NTP – notice to proceed
NYA – Nabih Youssef and Associates (structural engineer of record)
OCCM – Office of Court Construction and Management (a division of the AOC)
Off site – elements performed outside the property line of the site, typically within public rights-of-way
On site – elements performed within the property line of the site
P3 or PPP – public-private partnership (delivery method in which project is designed, financed, constructed, operated, and maintained under a comprehensive Project Agreement (see part 1 of this report); used interchangeably with performance-based infrastructure;

Parking structure – Existing parking structure (built with the existing court building), located one-half block south of court building site, and which is receiving seismic upgrades, remediation for the leaking top deck, a new elevator/stair tower, a new entrance, and both an internal and external renovation as a part of the project requirements.

PBI – performance-based infrastructure (see P3 entry, above); through the Project Agreement the AOC has the ability to make deductions against its payments to the private party for unavailability of portions of the building (hence a “performance-based” project).

Performance Standards – Design-build criteria, a functional and space program, and the urban and architectural design requirements for the new court building and parking structure renovation. These are defined further in detail in Appendix 3 to the Project Agreement, specific design build requirements, incorporates the *California Trial Court Facilities Standards* (2006 edition) as additional project requirements

PLA – A Project Labor Agreement is a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project. The terms of the agreement apply to all contractors and subcontractors who successfully bid on the project, and supersede any existing collective bargaining agreements

Project Agreement – a design, build, finance, operate, and maintain agreement executed between the AOC and LBJP including the transaction forms, ground lease, sub-lease, appendices, proposal extract documents, related agreements, and Performance and Management Standards

Property Exchange Agreement – a real property conveyance agreement between the City of Long Beach and the Judicial Council of California that provided the court building site; see section 1.7

PSC – public sector comparator

QA/QC – quality assurance, quality control

QM – quality management

RFI – request for information

RFP – request for proposal

SEOR – structural engineer of record

SFM – State Fire Marshal (also known as OSFM, the Office of the State Fire Marshal) is the California agency responsible for fire department approval

Shadow bid – cost of delivery of the project under a PBI approach, the hypothetical estimation of private sector bid in response to PBI RFP

Superior Court – Superior Court of California, County of Los Angeles; primary project participants included the Court Executive Office; Facilities Department, and the supervising staff at the Long Beach Court building.

SWPPP – Storm Water Pollution Prevention Plan (plan filed with the Regional Water Quality Control Board to prevent polluted water from exiting the site into waters of the United States)

TTG – TMAD Taylor & Gaines (IBE/IOR)

UT – ultrasound testing for soundness of welding

VfM – value for money. This is a comparison of the risk-adjusted whole life-cycle cost of the project procured as a PBI compared with the risk-adjusted whole life-cycle cost of the project as if it was procured as a DBB (the public sector comparator). The comparison is done on a net present value (NPV) basis to facilitate a comparison of costs on a consistent basis as the costs to the State occur at different points in time under each procurement option. The NPV of each of the procurement methods

is compared to that for each of the other methods to determine which would provide the best value to the State.
West Building – two-story component that is lease space, currently leased to County Probation

1.2 Need for Action

The existing court facility in the City of Long Beach is a shared-use county building that is functionally and physically deficient.

It is among the worst in the State of California in terms of security and overcrowding. The extreme lack of security, overcrowded conditions, and the public's hindered access to court services supported a decision to prioritize this project as an "immediate need priority" within the trial court capital–outlay plan. This plan was adopted by the Judicial Council in April 2007.

As a result, a feasibility report was prepared and finalized in June 2007, see Appendix 1. The report recommended the development of a new Long Beach court building through a public-private partnership (PPP) to meet the court facility needs for the Superior Court of California, County of Los Angeles that would accommodate 31 courtrooms along with all of the required support functions (collectively, "the project"). The feasibility report proposed that the new courthouse would replace the existing building with 27 replacement courtrooms and provide 4 new courtrooms for new judgeships, secure parking for judicial officers and key administrative staff, a sallyport, and in-custody holding located at the basement level and short-term surface parking at the street level.

The June 2007 Feasibility Report recommended the development of a new Long Beach court building over the option to renovate and/or expand the existing facility due to the age of the existing building, its current physical condition, and the inherent functional issues related to a renovation of an existing operational asset (disruption of services, additional external lease space requirements, etc.).

The report recommended that the project utilize a public-private partnership – build-to-suit/lease-purchase option – as it was most likely to provide a greater benefit to the state when compared with any state-financed options.

1.3 Authority to Act

Through the California State Budget Act of 2007, Senate Bill 77 granted the authority to California's Administrative Office of the Courts (AOC) to investigate the use of a public-private partnership in the development of the project. Furthermore, pursuant to section 70391.5 of the Government Code, the Judicial Council was then given authority to enter into a public-private partnership agreement for the delivery of the new Los Angeles County-Long Beach Courthouse subject to notice to the Legislature and the Department of Finance's approval that the agreements meet established performance expectations. These performance expectations include benchmark criteria for total project life-cycle costs, project cost comparisons to traditional delivery and financing options, project risk assessments and allocations, utility and energy conservation requirements that meet or exceed state standards, and court security operations cost controls and reduction goals.

1.4 Project Team

Following approval of SB 77, the AOC set about assembling a project team (Project Team) to deliver the project. The Project Team comprised personnel from within the AOC who were assigned to the project together with a number of external advisors to the AOC. The Superior Court, County of Los Angeles (Superior Court) provided extensive input on the court building design requirements and the functional and space program, and participated in the selection of all principal external advisors, as well as the proposer, preferred proposer, and eventual project company.

After execution of the Project Agreement, the Superior Court was fully engaged, with the AOC and the Design Builder, in the development of the building design; the Superior Court also coordinated regular and substantive input to this process from the Los Angeles County Sheriff, Court Services Division.

The AOC Executive Office and Office of Governmental Affairs provided ongoing strategic direction to the Office of Court Construction and Management (OCCM), which directed the project in concert with the AOC Office of the General Counsel. The internal project team comprised personnel from across the AOC with specialist skills relating to the delivery of the project as follows:

- The OCCM Business and the Design and Construction units took the lead in day-to-day project management, directing consultant work, and coordination with the Superior Court, the Department of Finance, Joint Legislative Budget Committee, Legislative Analyst's Office, and the City of Long Beach (City);
- The OCCM Real Estate unit directed site investigations as well as real estate negotiations with the City Redevelopment Agency, directed the environmental impact study, and assisted in determining real estate terms of the Project Agreement;
- The OCCM Facilities Management unit was responsible for the facility Management Standards and performance/availability deductions regime in coordination with the Superior Court;
- The OCCM Design and Construction unit was responsible for the facility Performance Standards; functional and space program in coordination with the Superior Court; the construction cost model, and the building design RFP preparation and evaluation process;
- The AOC Office of the General Counsel was responsible for project legal advice, selection and management of outside counsel, and, in concert with outside counsel, drafting, development, and negotiation of procurement documentation including the Project Agreement;
- The AOC Office of Emergency Response and Security assisted in developing security and detention requirements in coordination with the Superior Court.

The external advisors were selected following a competitive selection process during which the experience of the advisors in delivering similar projects was assessed. The advisory team comprised the following firms performing the briefly described roles:

- Ernst & Young Advisory Inc. (EYA) – financial, real estate, and procurement advisors. The role of EYA was to work with the AOC and its other advisors to assist in:
    - Developing the procurement process for the project, including undertaking a market sounding of potential participants, assisting in the drafting of the procurement documents (RFQ/RFP), and assisting the evaluation of the responses from potential private parties;
    - Developing the risk allocation between the AOC and the private party, which was encapsulated in the Project Agreement, including facilitating risk workshops and developing a payment regime;
    - Developing the performance expectations to be used by the AOC in evaluating the project across the procurement options, including developing a public sector comparator (PSC) and shadow bid;
    - Developing a highest and best use valuation of the existing site and completing a market analysis/site selection for the site for the project; and
    - Providing support and assistance on financial and procurement issues throughout the term of the procurement process.

- Hawkins, Delafield and Wood (HDW) – legal counsel. The role of HDW was:
    - Prime author of the Project Agreement;
    - Assistance in discussions with the California Legislature and executive branch staff;
    - Advisor during the evaluation of proposals; and
    - Negotiator with the preferred proposer on the final Project Agreement.

- Bingham McCutchen was the prime author of the Property Exchange Agreement and advisor on the environmental impact study.

- Ross Drulis Cusenbery Architecture, with Rutherford & Chekene Structural Engineers, and Flack + Kurtz served as architectural, engineering, and construction cost estimation consultants; prime responsibility for development of design-build requirements and the function and space program – collectively the Performance Standards.

- Davis Langdon construction cost consultants developed the construction cost model used in modeling the shadow bid for the public sector comparator.

- Cushman and Wakefield (C&W) – real estate broker. C&W provided real estate brokerage services in site selection and for the Property Exchange Agreement between the AOC and City of Long Beach Redevelopment Agency.

As a result of the relatively innovative nature of the project in the U.S. and California markets, the AOC undertook a selection process including advisors across North America to ensure that it had an advisory team with experience with similar types of transactions.

1.5 Gathering Information for a Public-Private Partnership (PPP)

This section summarizes the major components and factors that constitute a PPP and that the Project Team developed in order to determine and confirm the potential benefits from procuring the project through a PPP. Through this process the Project Team also agreed and confirmed with the Department of Finance the key variables that would be used to evaluate the alternative methods of delivery against the traditional capital-outlay approach used by the state.

Variables to evaluate the alternative method of delivery

Pursuant to Provision 8 of Item 0250-301-3037, Budget Act of 2007, the AOC was required to gather information for a public-private partnership agreement for the Long Beach Court replacement, specify a process and criteria for developing alternative methods of project delivery, and identify variables that would be used to evaluate the alternative methods of delivery. The Project Team and Department of Finance concluded the metric to be applied in evaluating any alternative delivery method would be the ability of that delivery method to deliver a “value for money” (VfM) solution when compared to a traditional procurement method. Value for money was said to be evidenced if the net present value of the whole life-cycle cost of an alternative procurement method was less than the net present value of the whole life-cycle cost of the project as procured under a “traditional” approach.

1.6 Defining the PPP

Following the enactment of SB 77 and Government Code section 70391.5, the AOC began a process of identifying alternative delivery methods for the project as required by the legislation. The AOC defined ‘alternative procurement’ for the Judicial Council of California as the involvement of the private sector in the delivery of the infrastructure and referred to such an arrangement as performance-based infrastructure (PBI), consistent with the concepts of a PPP.

In connection with the requirement of SB 77 that the AOC specify a process and criteria for developing alternative methods of project delivery, the Project Team identified four potential PBI models as possible options to adopt as the alternative procurement approach:

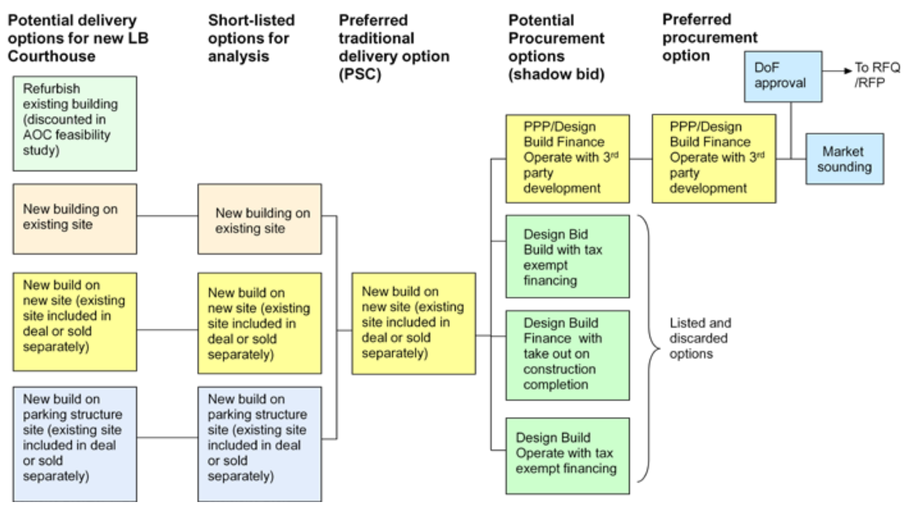
- Design, build, finance, operate, maintain (combined with an element of third party development on the site);
- Design, bid, build (with tax-exempt financing);

- Design, build, finance (with return of the asset to government on construction completion); and
- Design, build, operate (with or without tax-exempt financing).

Through a detailed qualitative analysis of each of these procurement options' ability to meet the objectives of the AOC in terms of project delivery schedule and risk transfer, the design, build, finance, operate, maintain (with third party development) (DBFOM) was identified as the preferred option. Key benefits of the DBFOM approach identified included:

- The State can identify its annual obligation per year with certainty and greatly reduce its exposure to cost increases.
- The delivery method can provide measurable benefits to the State through the competitive tension the procurement process inherently instills on costing: the designer, builder, operator, and financial parties collaborating on project development and implementation, and being responsible for the long-term maintenance and operations, results in the project being developed with a strong focus on long-term costs and operations to minimize the likelihood of reductions to the service payment.
- The State is provided with a single point of contact and responsibility.
- The State continues to own both the project site and the building from the beginning of construction through the entire term of the service agreement – eventually known as the Project Agreement.
- The State is not obligated to make any payments for the project until the building is completed.
- The project can proceed without committed State funding and accelerate project delivery.

The chart below sets out the options considered by the Project Team leading to the selection of the DBFOM route:



It was decided, based on experience on other PPP projects, that site selection should not be left open to the proponents. It was preferable for the AOC to nominate the site for the proponents to use. The benefit of this approach is that it places all of the proponents on a level playing field and removes a key, potentially distorting variable from the evaluation process.

The existing site was not considered feasible for the development given that the existing courthouse would need to continue in operations during the construction of the new facility. Also, the site of the current parking structure was not optimal, because alternative provisions for parking would need to be made during construction following demolition of the parking structure. It was decided that the best option was to provide proponents with a new site upon which to propose their project.

The option was then also tested through a market sounding with a focused set of private sector developers to ensure the objectives of potential private sector developers who might bid to undertake this project could also be met. With market confirmation of the preferred option, it was then adopted as the alternative procurement method to be used in a VfM comparison with the traditional procurement option.

Given the principle of compensating a private party based on its performance in managing an asset and related transferred risk under a DBFOM, the Project Team adopted the term “performance-based infrastructure (PBI)” in place of the “alternative procurement” or “PPP” labels.

1.7 Site Selection and Acquisition

Two basic approaches to acquisition of a site were considered: (a) each proposer/developer selects and provides a site, or (b) the Judicial Council selects and provides a site. Both approaches had been used in other PPP procurements. The AOC and its advisors concluded that one site should be selected and acquired by the Judicial Council, and all proposers be required to prepare proposals only for that site.

The single site option, common to all proposals, was believed to have several advantages: focuses the proposals on services and the building design (rather than real estate attributes); reduces complexity of the proposals, and due to the time necessary to prepare and submit, avoids the dilemma of receiving a superior proposal with an unacceptable site (or the reverse). Further, since the AOC is active in selecting and acquiring sites for new court buildings in Los Angeles, it was believed that attaining a site and related entitlements would be relatively straightforward.

The AOC engaged a commercial real estate broker, C&W (Long Beach office), to augment the strategic real estate advice from EYA with local real estate knowledge, property research, and transaction assistance. Approximately a dozen sites were evaluated in and around Long Beach using criteria developed by the AOC and C&W. This wide-ranging site search focused the attention of the

City of Long Beach officials on keeping the Superior Court in the downtown civic center and on providing a suitable property proposal to the AOC.

There was no appropriation of funds for site purchase in the authorizing legislation for this project.[3] However the existing court property had some real estate value, although limited because it was located on one corner of the City of Long Beach's government center super-block containing the police headquarters, main fire station, library, parking structure, and City Hall. The existing court property would have value to the city as a site for a replacement City Hall or other city facility.

The existing court property value was reduced by the constriction of credit markets at this period (2007–2008), which severely curtailed high density housing and speculative commercial office development. The City Redevelopment Agency had two full blocks of cleared land near the existing Long Beach court building, which was planned for apartment/condominium buildings thorough a development agreement that had recently fallen through. The individual blocks were less than the three-acre minimum size that the AOC sought; the City offered to abandon the street between the two blocks to create a six-acre site.

Subsequently the AOC negotiated a property exchange with the City of Long Beach – the 3.8-acre existing court property for the two blocks plus the intervening street (approximately 5.9 acres). The City agreed to pay $5 million over time to the AOC, plus $2 million towards the cost to relocate underground utilities, and to lease-back the existing court property to the AOC for basically no rent[4], for up to five years from closing on the transfer of the court properties. The free rent is difficult to quantify because it depends upon the assumptions in defining its value. Certainly the Superior Court could not lease space for less than $200,000 per month, therefore if one assumes that the lease-back will run 3 years, the value of the existing court property lease-back is $7.2 million.

The new court building site was a half block from the existing parking structure that served the Long Beach court building. This proximity meant that parking for the new court building could be provided though renovation of the existing 900+ car parking structure rather than construction of a new parking structure.

The Property Exchange Agreement was negotiated concurrent with other project activities: request for PBI consortium qualifications (RFQ), shortlist of PBI proposers, environmental impact studies, release of the request for PBI proposals (RFP), etc. This proved to be an efficient overlapping of activities.

A key objective, articulated in the RFP, was to allow future site use flexibility. RFP section 2.7:

[3] SB77 appropriated $5.889 million for purchase of County's equity in the existing court building. See Schedule 1.6 under 0250-301-3037

[4] $1 per year for the building and site

> … Proposals will be judged in part on how the Court Building Site is used to provide expansion capacity for the AOC, to reduce the AOC's Service Fee, or to utilize the space for related complementary activities that will reduce the overall cost of the Project to the AOC. The Parking Structure Site and Parking Structure may be similarly optimized.

Ultimately each proposal simply reserved about two acres of the court building site for future development and renovated the parking structure exclusively for parking.

Given the uncertainty of reaching a successful outcome, the close of escrow and transfer of titles to the properties was conditioned on approval of the Project Agreement between the AOC and the Project Company by the Department of Finance. The property exchange escrow period closed, with titles conveyed on October 5, 2010.

1.8 CEQA and Entitlements

The AOC, acting on behalf of the Judicial Council, undertook a study of environmental impacts of the new court building, according to requirements of the California Environmental Quality Act (CEQA). This is typically a part of site acquisition activities preformed by the AOC, as lead or responsible agency.

For the Long Beach PBI Project it was concluded that attaining clearance under CEQA – prior to or during the proposal stage – would remove uncertainty and establish restrictions and entitlements about the project. In addition, it was believed that having the AOC (rather than a selected proposer) completing the required CEQA study prior to or during the proposal stage would shorten the overall project schedule.

The AOC and City Redevelopment Agency agreed upon the following parameters for the development and CEQA study:

- The Judicial Council would be the lead agency for CEQA, an approach that gave the AOC the most control of the schedule;
- The City would remove that last building on the site – prior to commencement of the CEQA study;
- This state project will not seek, nor be required to have planning, zoning, or building approvals/permits from the City;
- The Property Exchange Agreement would stipulate that the AOC and the City will work together cooperatively during the RFP stage and in the PBI company selection to ensure that the PBI proposers understand the City's urban design expectations and standards, and to ensure that the selected PBI proposal is the highest design quality;
- However, all selection decisions would be made by the AOC, and further, the facility Performance Standards for the New Long Beach court building and the *California Trial Court Facilities Standards* (April 2006 edition) shall govern the design of the project;

- The City would to be responsible for off-site traffic mitigations (if any) required by this project; and
- The City would set up public outreach that the AOC and the City would jointly pursue to apprise the community of the development.

Each party carried out its obligations in general conformance with the agreement.

The environmental impact study (EIS) and public comments allowed the AOC to understand community concerns and to communicate these to the proposers through the EIS or the facility Performance Standards. Principal concerns were:

- Control of construction noise, particularly pile driving;
- Location of the building's public entrance at Magnolia and Broadway as far as possible from the nearby school and as close as practical to the parking structure;
- Ensuring that the new court building not block sunlight on the existing school building; and
- Consistency of the building's bulk and height with the City's civic center plan.

The CEQA Environmental Impact Study Mitigated Negative Declaration was certified in July 2009.

1.9 Performance (Design) Standards

The OCCM Design and Construction unit led the development of design-build criteria, a functional and space program, and the urban and architectural design requirements for the new court building and parking structure renovation; taken together these are the facilities' Performance Standards (the Performance Standards), which were issued with the RFP and incorporated in the Project Agreement as an appendix.

Ross Drulis Cusenbery Architecture and their engineering consultants were retained by OCCM to assemble and draft the Performance Standards. The Superior Court had an active role and strong influence in refining the functional and space program, as well as certain design-build criteria (i.e. for security and security electronic systems).

These Performance Standards include information specific to the Long Beach replacement court building and incorporated, by reference, the *California Trial Court Facilities Standards* (2006 edition)[5] (Trial Court Standards) to supplement project-specific information. While incorporating the Trial Court Standards by reference was expedient for the authors of the Long Beach Performance Standards, using two documents as design standards proved cumbersome for the proposers, as well as evaluators of the proposals.

The urban design requirements in the Performance Standards are generally responsive to the City of Long Beach's design standards for downtown, as well as the Superior Court's stated desire for a horizontal building that it perceived could handle large numbers and surges of people more

[5] Adopted by the Judicial Council, pursuant to Government Code section 70391, and governing the design requirements for all trial court buildings under the council's responsibility.

successfully than a vertical building. The site design requirements included a provision that a portion of the property be reserved for development by the Judicial Council in the future. A fair amount of care was needed to craft urban design requirements that conveyed the desired outcomes without prescribing solutions.

The functional and space program was based on the Project Feasibility Report (September 8, 2006; revised June 28, 2007) for court departments, prepared by the OCCM. The Superior Court worked with OCCM and its consultants to refine and elaborate on the program requirements. Separately the OCCM and the County of Los Angeles reached an understanding concerning space in the building for the County's justice agencies; provision for this office space with basic leasing terms was documented in a letter offer from the County Chief Administrative Officer, which was included in the RFP.

The space program for commercial leasable office space and for retail space was largely an approximation by the OCCM of the amount of space that would be economically viable; proposers were instructed that commercial or retail space in excess of the amount listed would be acceptable. The RFP stated that leasable office space was to be the same dimensions as courtroom spaces, to allow future conversion to court occupancy, and indicated that "an additional floor" of leasable office space be provided – which some proposers took too literally, while others exercised commercial real estate judgment in proposing alternate arrangements.

Design-build criteria were assembled from many sources, by many authors, and expressed in a variety of formats in the Performance Standards; more rigorous editing and format consistency would have improved the Performance Standards document.

Specific areas where the Performance Standards could have been improved included the design-build criteria for security and detention elements, which were based, in large part, on a design guide from the Los Angeles County Sheriff that, while useful and reflective of past practice, did not reflect current technology or detention construction materials. Therefore the criteria for security electronics and information technology network design were underdeveloped in the Performance Standards, which led to an involved design development effort with the selected Project Company and design-builder.

1.10 Management (Facility Operations and Maintenance) Standards

Selection of a design, build, finance, operate, and maintain (DBFOM) party required that OCCM develop standards to define the scope and requirements for daily operations, preventative maintenance, and life-cycle repair and replacement for the Long Beach court building (Management Standards). Since payment for DBFOM services throughout the term of the contract is conditioned on successful performance and the availability of court spaces, it was necessary to include in these Management Standards key performance indicators, facility condition metrics, court and building space availability standards, and a mechanism for deductions related to performance below the various contractual standards. The Management Standards also include procedures for customer services, facility modifications, energy consumption monitoring, and continuous quality assurance.

The OCCM Facilities Management unit uses private sector contractors to operate and maintain all other new and existing court buildings, under contracts that include performance evaluations and financial incentives. This previous knowledge, and the procedures in those contracts, was a significant asset to the OCCM as it promoted the efficient assembly of the Management Standards based around the existing mechanisms used by OCCM on the facilities. Requirements for life-cycle repair and replacement of building components were determined using the *Trial Court Standards*[6] and BOMA[7] and Whitestone[8] guides. The deduction mechanism for unavailability was adapted by EYA, based largely on examples used by the Provinces of British Columbia and Ontario in public-private partnerships for the development of public buildings. The deduction mechanism was reviewed, amended, and approved in partnership with the all key stakeholders including the Superior Court, sheriff's department, and OCCM in order to ensure that the highest operational priorities were jointly incorporated into the service delivery model.

The Management Standards assign almost complete responsibility for operation and maintenance to the Project Company; Primary exceptions are: building and site security, moveable furniture, and energy consumption, which are responsibilities of the AOC and the Superior Court. These were not passed to the Project Company as the AOC and the Superior Court determined that the Los Angeles County Sheriff (under its MOU for court services) was in the best position to provide security within and around the new building as it does for all other court facilities in the County of Los Angeles. Furniture management, repair, and replacement would be most efficiently provided by the Superior Court (as it does in all other court buildings). The Project Company was given responsibility to contract for utilities and energy, but the responsibility for consumption should be a joint Project Company and AOC responsibility with a predictive annual energy target set initially in the Project Agreement and thereafter monitored regularly and updated on a five-year basis. The Project Agreement provides the parties share 50 percent of the benefit of under-consumption or the penalty for over-consumption.

[6] Table 1.1. Functional Life of Building Components or Assemblies
[7] Building Owners & Managers Association – public and institutional guidelines for facility management.
[8] The *Whitestone Facility Maintenance and Repair Cost Reference*, a source of building maintenance and repair cost models.

1.11 Selection Process

a. General

Government Code section 70391.5 and provision 8 of item 0250-301-3037, Budget Act of 2007 required certain approvals of Department of Finance at the beginning and at the end of a PBI transaction. The key approaches were the approval of the court facility proposal by the Director of Finance at the beginning of the transaction and Department of Finance's approval that the various PBI agreements meet established Performance Expectations immediately prior to executing the contract. Accordingly, as discussed more fully below, in addition to the formal submission required by section 70391.5 and provision 8, the AOC and its advisors periodically met with and provided information to the Department of Finance, and other executive and legislative branch staff, throughout the transaction.

b. Joint Legislative Budget Committee

Government Code section 70391.5 only required notification of the Joint Legislative Budget Committee (JLBC) of the Performance Expectations and benchmark criteria for the proposal at least 30 days prior to the release of initial solicitation documents for a court facility project following approval of the court facility proposal by the Director of Finance. Section 70391.5 further provides that if the Joint Legislative Budget Committee did not express any opposition or concerns, the Judicial Council could proceed with the solicitation 30 days after giving that notice. Accordingly, as discussed more fully below, the JLBC did express concerns and most of the AOC's interaction with the JLBC was at the beginning of the transaction in connection with addressing these concerns prior to the issuance of the JLBC Letter.

The AOC submitted the performance expectations and benchmark criteria for the proposal to JLBC on April 4, 2008 pursuant to Government Code section 70391.5. The AOC subsequently provided the financial model to the Legislative Analyst's Office (LAO) for analysis. A number of discussions were had with LAO staff on specific follow-up questions on the performance expectations and benchmark criteria. On May 5, 2008 the LAO sent a letter to the JLBC recommending that the JLBC express its opposition to and concerns with the performance expectations and benchmark criteria submitted by the AOC in connection with the project. On June 9, 2008 the AOC made a supplemental submission to JLBC in connection with the project. A number of meetings and discussions were subsequently conducted with LAO staff and legislative representatives on the performance expectations and benchmark criteria in June and July 2008.

The AOC ultimately received a letter (the "JLBC Letter") from the JLBC dated August 13, 2008 that expressed the following concerns: (1) the comparison methodology of the procurement comparison analysis used subjective judgments to assess comparative risk and assign costs based on probably of risk occurrence without objective basis; (2) the assumption that the traditional delivery method would take almost three years longer to start than the PBI alternative delivery method was unsupported; (3)

the AOC should have used a discount rate that best reflects the VfM from the state's perspective in comparing the traditional delivery method and the PBI delivery method; and (4) the AOC should have used a competitive selection process that encourages participation from a broad group of interested firms, including firms that propose accessing tax-exempt financing. As discussed below, the AOC attempted to meet each of the JLBC's concerns that were presented to the Department of Finance in seeking reaffirmation of its initial approval of the court facility proposal.

On January 6, 2011 the AOC provided a report to the JLBC as required by the JLBC Letter describing the outcome of the procurement, including the performance expectations, benchmark criteria used to evaluate bids, and the final VfM analysis for the project.

c. Department of Finance

Department of Finance Approval and Reaffirmation of Approval: The AOC submitted its court facility proposal to the Department of Finance pursuant to Government Code section 70391.5 on February 15, 2008 and received an approval letter dated April 1, 2008. Various changes were subsequently made to the court facility proposal after the Director of Finance's April 1, 2008 approval prompting the AOC to request the Director of Finance to reaffirm his initial approval. The changes fell into two major categories. First, drafts of the RFP and Project Agreement had been developed that more fully set out the performance expectations and benchmark criteria for the project. Further, the RFP and draft Project Agreement reflected a number of transaction changes. For example: (1) the arrangements regarding the court facility site had changed whereby proposals to take advantage of development opportunities on the existing court building site or to allow proposer to propose alternative sites had been dropped in favor of the land exchange with the City; (2) the project now included the rehabilitation and operation of a separate AOC/County court parking structure; (3) the transaction as initially structured contemplated that there would be no lease of the court building or court building site, but due to security concerns from the lenders, it was now anticipated that both the court building or court building site would be leased to and then leased back from the Project Company. Second, the AOC took a number of steps in response to the concerns raised in the JLBC Letter, such as: (1) commissioning an independent academic review of the methodology used in the Procurement Comparison Analysis, (2) developing certain evaluation benchmarks consisting of both the Procurement Comparison Analysis and certain qualitative criteria in order to assist the AOC in evaluating the PBI delivery method as an alternative delivery method, and (3) revising the RFP to allow selected proposers to propose the use of tax-exempt financing subject to specified limitations intended to minimize risk to the State's credit ratings. On April 30, 2009 the Director of Finance reaffirmed his approval of the court facility proposal based on the modifications to it, including those in response to the JLBC Letter.

Submissions to and Meetings with Department of Finance: Drafts of the RFQ, RFP, and the Project Agreement were provided to the Department of Finance as these were developed as well as various analyses and explanatory material. In addition, a number of meetings were held with Department of

Finance throughout the transaction to discuss key structuring and business terms. The Department of Finance suggested three principles for the project that were endorsed by AOC:

- The project would not result in a structure that would create State debt;
- Annual service payment to the Project Company must be "subject to appropriation"; and
- The service payment would be appropriated from the state General Fund rather than the existing court building capital improvements funds.

Department of Finance Approved of Agreements: The final Project Agreement was provided to the Department of Finance (DOF) and a number of meetings were held with Department of Finance staff and, in one meeting, with the DOF's financial advisor to discuss the DOF's issues and questions on the Project Agreement. On December 16, 2010 the Director of Finance dtermined that the agreements met the established performance expectations and benchmark criteria as required by provision 8 of item 0250-301-3037, Budget Act of 2007.

d. Request for Qualifications Process

The AOC released a request for qualifications (RFQ) to the market in November 2008 seeking parties interested in undertaking the New Long Beach Court Building Project as a PBI project and assuming the responsibility to design, build, finance, operate, and maintain the project. Interested parties were given approximately 60 days to submit their response to the RFQ.

A total of 12 consortiums submitted a response to the RFQ and the qualification submittals were evaluated by the AOC's internal project team plus representatives of the Superior Court and of the AOC Finance Division. The evaluators ranked each submittal against criteria published with the RFQ and the five highest ranked consortiums were invited to be interviewed by the evaluators in order to further understand each organization and its approach to this project. Subsequent to the interviews the evaluators recommended to the AOC Executive Office that three teams be selected to participate in the RFP stage of the procurement. The three teams were California Judicial Partners ,[9] Lankford-Phelps, and Balfour Beatty Capital.

This shortlist was approved and announced in June 2009.

e. Request for Proposals

The RFP was issued to these three proponents in June 2009 with a requirement that Design, Construction, and Facilities Management proposals be submitted in late October 2009, and the Financial Commercial proposals submitted in early December 2009.[10]

[9] The California Judicial Partners consortium changed its name to Long Beach Judicial Partners in February 2010, with no change in the member firms.
[10] The RFP defined four categories of materials to be submitted as distinct packages: Design, Construction, Facilities Management, and Financial / Commercial.

The draft Project Agreement was included in the RFP to ensure that the three proponents understood the deal structure, the financial requirements, the commercial terms, and the design, construction, and facility management requirements. Including the draft Project Agreement in the RFP ensured that proposals, when received, would have a common foundation, would meet the AOC's minimum requirements, and could be evaluated on equal terms. The investment in creating a comprehensive RFP document proved to be worthwhile.

Following the issuance of the RFP, the AOC, its advisors, and the Superior Court held a series of confidential working sessions with each proponent consortium. Topics for individual work sessions included financial and commercial terms; facilities management; and building design and engineering. Multiple meetings on each topic were held with each consortium between June and September 2009. The confidential work sessions allowed each proponent to explore ideas, raise questions, and generally develop a deeper understanding of the project requirements (particularly in the design and functional aspects of this court building). The AOC responded to questions that arose during the confidential work sessions. As a result of the meetings, and subsequent questions from the teams, the AOC issued certain amendments to the RFP or Project Agreement; such amendments were issued to all proponents. The confidential workshops and the requests for clarifications were universally[11] judged to be positive and to have contributed to proposals superior to those that would have resulted if the proponents did not have access to the AOC and Superior Court during Proposal preparation.

The AOC received responses from all three proponents, which were evaluated by three panels composed of AOC and Superior Court staff with expertise in each component.

Proposals were evaluated and ranked using criteria published with the RFP, and in accordance with an evaluation procedures handbook developed by the AOC Office of the General Counsel. The evaluation panels were supported by the external advisors (see section 1.4); the design and construction evaluation panel also included two noted architects,[12] in private practice, as voting members and the Presiding Judge of the Superior Court of Los Angeles County as a nonvoting advisor. The financial and facility management components were evaluated in written form, with the financial model submitted as active electronic data. Each proponent presented their design and construction proposal to the evaluation panel, and interested parties (such as the City of Long Beach Redevelopment Agency) in individual two-hour sessions, on a single day. These interviews/presentations were valuable for the evaluators to better understand the visual character of each design and provided an opportunity to question the architects about the how their proposed solutions met or exceeded the project requirements.

[11] Each proponent, in public statements after selection of the Project Company, said that this process was valuable to their consortium.

[12] Craig Hartman, of Skidmore, Owings & Merrill, and Kate Diamond, of NBBJ. Both architects and their firms are engaged by the AOC OCCM for the design of other large urban court buildings in California and as such they are peers to the proponent architects.

The scoring and ranking of proposals by the three panels were combined according to the evaluation weighting published in the RFP and the evaluation procedures handbook. The consensus choice of a preferred proponent – California Judicial Partners – was recommended to the AOC Executive Office, and was subsequently approved and formally announced in June 2010.

f. Process to Close

The AOC selected a preferred proponent; however, with the onset of unstable financial markets through 2008 and 2009, the cost of the proposals had exceeded initial estimates and the AOC worked with Long Beach Judicial Partners (LBJP) (formally California Judicial Partners) to review cost estimates and financing estimates to ensure the most competitive pricing possible was being applied to the project. The AOC concluded that LBJP were applying the most cost-efficient estimates to the project in the current market and instructed the consortium to proceed to financial close, which took place in December 2010.

Following the appointment of LBJP as the preferred proponent, a series of meetings was held between the AOC, together with its advisors, and the LBJP consortium with their advisors. The process to financial close was mapped out, and the outstanding issues identified. Due to the confidential working sessions undertaken by the AOC during the RFP process and the confidential meeting process, the RFP responses were well developed and included few outstanding issues. The key outstanding issues to be resolved following the appointment of LBJP included:

- Reducing the cost of the proposal such that it presented value for money (VfM) against the public sector comparator (PSC);
- Securing committed private financing for the project and addressing any concerns that the lenders had in relation to the draft Project Agreement; and
- Eliminating the AOC's exposure to any risk from refinancing during the project term.

The preferred proponent negotiations were occurring at a time when the financing market was emerging from the global financial crisis. During the period following selection of preferred proponent, LBJP were successful in assembling a group of banks that provided their commitment to lend to the project.

Once the lenders were committed to the project and provided to LBJP their required cost of finance, LBJP was in a position to provide the AOC with a price which they could hold firm (subject to movements in the underlying interest rates) for a period of time. During this hold period, the AOC verified that the price demonstrated VfM compared with the PSC and sought final approval from DOF to proceed to financial close.

At financial close, LBJP entered into a long-term interest rate swap, thereby fixing the underlying interest rate on their bank loans for the duration of the project agreement. At that point the price was fixed and the project agreement was signed.

1.12 Project Structure

With the specific objectives of the AOC for the project and the language in section 70391.5, the AOC defined the PBI delivery method for the project as the State entering into a service agreement with a private party for the design, build, and financing of the construction and the operation and maintenance of the building for a period of 35 years in exchange for an annual service fee payment from the State. This definition of the project is also typically referred to in the market place as a DBFOM delivery model. The State's payment to the private party for the design, construction, and financing would be fixed (not escalated with inflation), with the payment representing the costs of ongoing operation and maintenance being adjusted annually to reflect changes in an agreed-upon inflation index. The DBFOM delivery method would allow the State to identify its annual obligation per year with certainty and greatly reduce its exposure to unexpected cost increases.

The following sections highlight key elements of the PBI arrangement that the AOC and its advisers addressed and took into consideration in developing and delivering on the PBI procurement option.

a. Deal Structure

After obtaining DOF approval, the AOC entered into a project agreement on December 20, 2010, with Long Beach Judicial Partners LLC, a California corporation formed by Meridiam Infrastructure as a special purpose vehicle.

Under the Project Agreement, LBJP's core obligations are to finance, design, build, operate, and maintain the new court building and to improve, maintain, and operate the parking structure to provide for better utilization and structural integrity of the court parking facility.

The AOC's core obligation is to pay a service fee to LBJP from an annual appropriation to be included specifically as a separate line item in the annual Budget Act. The AOC's payments are secured through a lease by the AOC to LBJP of land and improvements.

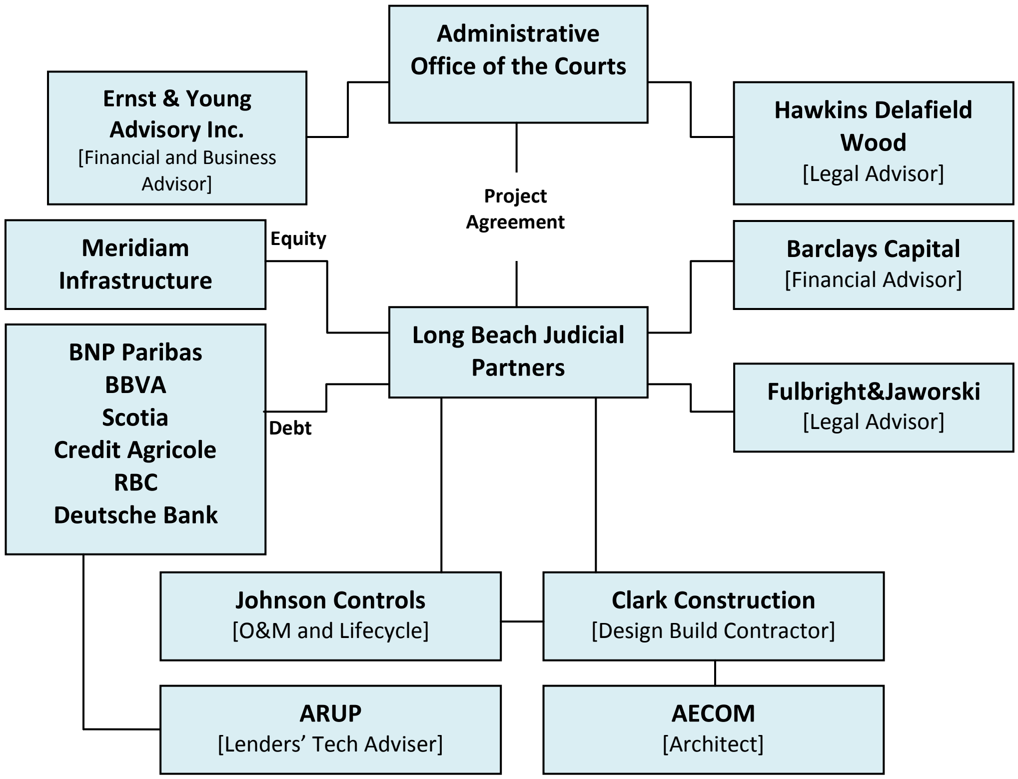
LBJP has financed the project with a combination of taxable bank debt and its own equity. The debt is secured by a pledge to the banks of LBJP's lease. LBJP is solely responsible for all financing throughout the term of the contract.

LBJP has subcontracted design and construction to Clark Construction and operations and maintenance services to Johnson Controls, Inc.

If all parties fulfill their obligations, after 35 years of occupancy, the AOC's duties to make service fee payments will end. LBJP's obligations to finance, operate, and maintain the building will end and LBJP will hand back to the AOC a well-maintained, Class A building. [13]

[13] BOMA classifies office space into three categories: Class A, Class B, and Class C. BOMA states that Class A facilities have "high quality standard finishes, state of the art systems, exceptional accessibility and a definite market presence."

The illustration below highlights the corporate entities involved in the project:



b. Performance-Based Compensation

Article 18 of the Project Agreement provides for the details of the mechanism of payments from the AOC to LBJP. One of the key drivers behind the contract is that the AOC compensates LBJP on the basis of the performance of the company in providing an agreed level of services to the AOC. The payments do not start until these services are being received to the agreed standard. Under the Project Agreement, payments to LBJP will:

- Not commence until the court building has been completed and is available for the Superior Court to occupy;
- Be contingent upon the level and quality of services provided by LBJP;
- Be fixed based on the agreed profile of payments negotiated between LBJP LLC and the AOC. The only adjustments to payments would be for:
    - Annual indexation on those costs that are subject to inflation;
    - A one-time adjustment in the contract year ending June 30, 2011 to reflect changes for the agreed costs for certain operating and maintenance services such as roads and grounds maintenance, exterior janitorial services, elevators and conveyance systems, asset and recycling management, and security electronics;
    - In addition to the two above adjustments, additional adjustments may be made:
        - If there are agreed changes to the Performance Standards or reimbursable costs;
        - If Project Company experiences any uncontrollable (supervening) events;
        - As a result of any deductions based on poor performance or unavailability; or
        - For any energy use adjustments in the event that actual consumption should differ from target.

The performance-based compensation will not vary based on the actual costs incurred by LBJP. If they intentionally low bid their costs, there would be no mechanism for such a shortfall to be claimed back through the Project Agreement.

Through the Project Agreement the AOC has the ability to make deductions against its payments to the private partner for unavailability of portions of the building. The Project Agreement sets out the conditions that the building must meet in order to be considered as meeting the availability criteria (for example, building temperatures, accessibility, etc.). The building will be subdivided into areas that will be weighted according to their importance to the AOC and Superior Court. The weightings will be used for monitoring performance and determining whether the space is “unavailable.”

In addition, the AOC and Superior Court will be able to make deductions from the service payment if the Project Company does not meet its obligations under the Management Standards, Performance Failures. Performance failures will also be measured by reference to the performance and facility condition indicators set out in the output specifications contained in the Management Standards. Each performance failure is assigned a level of importance and will have its own specific standard dollar amount deduction (index linked) that will be applied for each and every performance failure.

The total of all deductions for unavailability or for performance failures will be subtracted from the payment in arrears.

To ensure Project Company is incentivized to take adequate corrective measures, the contract will provide for additional deductions from the performance payment if there are repeated failures.

c. Appropriations

Given the provision of section 25.1 of the Project Agreement that "[a]ll AOC payment obligations subject [are] to appropriation" and the State's historical performance on budget approvals, the three proponents expressed concern with respect to the availability and security of funding to support AOC's payment obligations should there be a delay in the budget approval process. Section 25.1(A) of the Project Agreement states:

> Appropriations Required. All payments due from the AOC to the Project Company under this Project Agreement, including any payments referred to in Section 7.22 (Payment Obligations of the AOC During the Design-Build Period), the Service Fee and any Termination Payment, shall be paid solely from moneys made available to the AOC from an appropriation of funds for the purpose of making all such payments coming due in such State Fiscal Year.

To address this risk, the AOC proposed a differential definition of the billing period for those months immediately following the fiscal year-end of the State. The billing period for the months in the first quarter of the fiscal year (July, August, and September) are as due in arrears on September 30 of that year, and for the balance of the fiscal year (October, November, December, January, February, March, April, May, and June), the billing period is defined as monthly in arrears. This provided the AOC with an additional 60 days to ensure the AOC's payments were appropriated and approved by the Legislature.

Lenders to the proponents also specifically requested the following:

- Line-item appropriation: The senior lenders requested that a service fee or other payment amount request be in the form of a specific line-item appropriation in the AOC's budget request. The AOC agreed to this request and included such detail in the drafting of the Project Agreement. Section 25.1(D) of that agreement states:

  > AOC Budget Requests – Service Fee. The AOC shall request that the Service Fee payable in a particular State Fiscal Year be included in the form of a

line-item appropriation in the Governor's budget to be submitted to the State Legislature for such State Fiscal Year.

- Termination payment request: The senior lenders requested that the AOC take certain steps (submit a Budget Change Proposal to DOF, submit a Budget Change Proposal to the Legislature, or prepare special legislation for a sponsor in the Legislature) to ensure that a termination payment will be made on a timely basis. It was also requested that such an appropriation be continuous even after a failure of the Legislature to so appropriate. The AOC agreed to this request and included such detail in the drafting of the Project Agreement. Section 25.1 (E) of the agreement states:

  > AOC Budget Requests – Other Payments. The AOC shall request an appropriation of funds for the purpose of paying any amount referred to in Section 7.22 (Payment Obligations of the AOC During the Design-Build Period), any Termination Payment, or any other amount due hereunder other than the Service Fee (as to which the AOC shall take the budget request actions referred to in subsection (D) of this Section), including preparing legislation for a sponsor to introduce in the State Legislature that makes an appropriation of funds for the purpose of paying such amount.

- Failure of AOC to follow appropriation: The senior lenders requested that the AOC's failure to follow the steps outlined in article 25 of the Project Agreement constituted an AOC breach under the agreement. The AOC agreed to this request and included such detail in the drafting of the Project Agreement. Section 25.1 (G) of the agreement states:

  > AOC Non-Compliance With Notice and Request Covenant. Non-compliance by the AOC with its obligations under subsections (D), (E) and (F) of this Section shall constitute a breach of this Project Agreement, upon which (I) the Project Company may exercise its options in accordance with Section 23.2 (Project Company Options Upon AOC Event of Default), and (2) the Project Company shall be further entitled to specific performance and injunctive relief as a remedy for any such breach. The AOC further agrees to waive any requirement for the securing or posting of any bond in connection with such remedy.

- Other proposed covenants: The senior lenders requested a number of covenants and provisions to better ensure appropriation of Service Fee, including, covenants that the Service Fee would be paid first if any moneys whatsoever are appropriated to the Judicial Counsel and that the AOC could not undertake or finance other projects if the Service Fee was not appropriated. The

AOC did not agree to any of these requests. The AOC did agree to covenant that upon the failure of the legislature to make an appropriation to pay the Service Fee, the AOC would suspend the commencement of new trials at the court building not already commenced. This covenant has been included in the Project Agreement.

d. Refinancing

In the period when the project was procured (2008 through 2010), the global financial and credit markets went through material changes and fluctuations that not only impacted the cost of financing, but also the length/term of the loan facilities that are typically accessible to availability based[14] PBIs such as this Project. The resulting impact on the structure of the proposed funding solution was a mini-perm bank financing being utilized. A mini-perm bank financing is the use of a short- to medium-term loan funded by major global financial institutions that provide the needed funding to LBJP through the construction period and for several years into operations. Once the project has entered into a predictable and stabilized period of operations, the short- to medium-term loan is refinanced into a longer term loan or bond.

Section 6.7 of the Project Agreement recognizes the use of a medium-term loan structure or facility refinanced in year 7 into a long-term loan facility as the base financing proposal of LBJP and accordingly recognizes this “refinancing” as an exempt refinancing for the purposes of AOC’s approval rights, but a qualifying refinancing for the purposes of sharing in a refinancing gain. This means that no prior consent is required from the AOC before LBJP enters into this refinancing arrangement, but if there is a gain realized from the refinancing, the AOC is entitled to 50 percent of the net gain; conversely, if there was a loss, the AOC would not share in the loss. Section 6.7 captures this aspect – refinancing of mini-perm loan:

> (A) Mini-Perm Refinancing. The parties acknowledge that the Project Company's plan of financing, as reflected in the Financial Model, is based upon a refinancing of a bank loan for the Project having a term of approximately 7 years following the Financial Close date (the Mini-Perm Refinancing); (B) Approval, Gain and Loss. The Mini-Perm Refinancing (i) shall be treated as an Exempt Refinancing for the purposes of AOC approval rights, and accordingly shall not require the consent of the AOC under subsection 6.5(A) (Consent Required for Refinancing), and (2) shall be treated as a Qualifying Refinancing for the purposes of refinancing gain sharing, and accordingly shall entitle the AOC to receive a 50 percent share of any Refinancing Gain under subsection 6.5(13) (AOC’s Share of Refinancing Gain). Any loss resulting from a Mini-Perm Refinancing shall be solely for the account of the Project Company.

[14] “Availability based” PBI means the core measurement of performance is determined by the availability of the facility for use to a certain standard. Failure to have the facility available for use to a given standard will result in appropriate deductions to the annual service payment paid to the private party.

One of the factors impacting the ability of LBJP to successfully execute this exempt financing in year 7 of the project will be the ability of the State to maintain its current credit rating. During the bid phase, LBJP requested for the AOC to bear the risk that the State's credit rating is lower at the time of refinancing This was a concern to them as it would likely lead to an increase in financing costs and a reduction in the potential gain that could be realized from the refinancing or could even negate the benefits of a refinancing entirely.

The AOC expressed concern over the difficulty associated with measuring and demonstrating the effect of a credit downgrade of the State on the refinancing terms obtained by LBJP and distinguishing these effects from those caused by other factors such as the project's performance and conditions of the financial markets generally.

LBJP proposed an alternative solution wherein the AOC and LBJP would share in the upside as well as the downside of any refinancing regardless of the cause, and LBJP proposed to absorb the first 50 basis points (bps) in impact in exchange for the AOC absorbing any impact greater than 50 bps. The AOC rejected both of these proposals on the grounds that financing risk under a PBI is transferred to the private party and the refinancing was a financing solution of the proponent's own design and, therefore, LBJP should bear the risk associated with their chosen solution.

e. Limited Recourse Financing

The PBI model utilized for the project is based on the premise that financing and financing risk for the project is transferred to the private party and lenders do not benefit from a State guarantee of payments or assumption of debt. This model was adopted by the AOC to limit exposure of State's balance sheet to the project and confine lenders' remedies to those contained within the Project Agreement.

f. Possessory Interest Tax

If a private entity has a "possessory interest" (possesses the intent and right to occupy and/or exercise control) in a public property, it is subject to property tax. If a public property is owned by the State, it is exempt from property tax under the existing laws.

The RFP allowed for two possible financing structures for the project:

- The first assumed a ground lease of the land from the AOC to the Project Company, with the Project Company arranging financing and constructing the courthouse. The Project Company would then sublease the courthouse to the AOC, to Los Angeles County (for use by justice system partners such as the district attorney or public defender), and to retail and commercial tenants. Under this structure, referred to as a "lease/lease back," legal title to the land would belong to the AOC.
- The second possible financing structure, referred to as "bond financing," assumed a ground lease from the AOC to a joint powers authority or a tax-exempt 501(c)(3) corporation, which

would finance the construction through the use of tax-exempt bonds. The Project Company would be retained by the AOC under a construction and management agreement to construct, operate and manage the project.

The AOC obtained advice from outside tax counsel indicating that, whether the bidders proposed a lease/lease back structure or a bond financing structure, it would be possible for the transaction to result in the Project Company being deemed to have a possessory interest in public property, making the property subject to taxation. Tax counsel concluded that there would be considerably less likelihood of such a determination if the proposal were for a bond financing structure with a joint powers authority or a 501(c)(3) corporation. However, even with that financing structure the possibility remained that the Project Company could be found to have a possessory interest in the property.

Accordingly, the AOC was advised that the bidders would not take the possessory interest tax risk and some potential bidders might not bid if they were required to take the possessory interest tax risk. Accordingly the RFP expressly provided that should any possessory interest tax apply, that cost would be passed from the private entity to the AOC.

The AOC considered four courses of action to mitigate this retained risk:

- Taking no action;
- Seeking a commitment from the Los Angeles County Assessor that there would be no possessory interest under the proposed agreement;
- Seeking a statutory change specifically providing that no possessory interest would arise under a PBI contract for all infrastructure procured under a PBI;
- Seeking a statutory change specific to the current project providing that no possessory interest would arise under the proposed agreement.

The AOC considered not seeking any change. This approach was rejected; however, as the cost of not ensuring the PBI procurement model was not subject to a possessory interest property tax could be considerable. It was estimated that the potential cost to the judicial branch could be approximately $4 to 5 million annually for the term of the lease or management agreement with the Project Company.

Staff of the AOC Office of the General Counsel considered not pursuing a statutory change but rather securing a commitment from the Los Angeles County Assessor that, whichever financing structure was selected for the delivery of the Long Beach Courthouse, the Los Angeles County Assessor would not deem the Project Company as having a possessory interest in the public property and therefore not find the property taxable. Attempts to reach an agreement with the Los Angeles County Assessor were unsuccessful.

The AOC consequently determined that the only way to obtain certainty on the possessory interest tax issue was to seek a legislative solution. The AOC also considered making the change in statutory language broad enough to cover the Long Beach Courthouse and future projects for the construction of new courthouses that use a PBI delivery model.

The Legislature concluded, however, that at this time the statutory language should be limited to the Long Beach Courthouse Project and that, for other PBI projects undertaken in the future, the contractor should assume the possessory interest tax risk.

On September 29, 2010, the Governor signed Assembly Bill 1341, (Ch.442, Stat. 2010) which provided there is no independent possession or use of land or improvements resulting in a Project Company possessory interest if that possession or use is pursuant to a project agreement and related agreements entered into by the Judicial Council with a nongovernmental entity in accordance with section 70391.5 of the Government Code for the purpose of replacing the Long Beach Courthouse, if certain specified criteria are met.

g. County and Commercial Lease Space

The project scope pro forma includes 73,000 square feet for county justice agencies (within the secured court perimeter), 31,400 square feet for commercial office space (eventually leased by Los Angeles County probation services), and 9,600 square feet for retail space. The commercial office space was included to provide additional space in the building, into which the Superior Court space could expand as the need for additional judgeships increased the need for court space in future years. The AOC has the option to take space in increments, but is not required to take any of the space at all. Financial risk for the design, construction, financing, operation, and maintenance of the expansion space stays with the Project Company until the AOC decides to expand court occupancy into that space. It was reasonable to include additional space in the project for future needs since non-court expansion space is included in the authorizing legislation and since, in the PBI structure, the private Project Company retains most risks for the space. Therefore the AOC is not required to conclusively demonstrate the need for expansion space. Section 70391.5 of the Government Code "permits…Using lease-purchase with the option to acquire any non-court space for future growth needs."

In the interim, LBJP retains 100 percent of the risk and financial responsibility for leasing all of the space not required by the AOC presently, and this includes the county office space, commercial office space, and retail space. LBJP bears the risk of lease termination, re-letting, and rent collection with respect to all the above spaces. LBJP is solely responsible for negotiating market-rate lease terms with the county and other tenants. LBJP provided in its financial data, commitments for income from the county justice agencies of $31/square foot annual rent. The income from this lease, commercial space and retail space leases, and parking operations reduces the annual service fee that the AOC is obligated to pay.

To the extent that actual rent is less than the amount of rent assumed with respect to the above spaces in the financial model, LBJP bears the risk of deficiency. For any period during which actual rent for the above spaces exceeds the rent assumed in the financial model with respect to each such space, the AOC is entitled to receive a 50 percent share of the amount of actual rent in excess of the assumed rent.

h. Ground Lease not License

The land and court building will be owned at all times by the AOC. The AOC has leased the project to LBJP for a term of up to 50 years, and the AOC is subleasing back from the LBJP the AOC's portion of the court building for a period of 35 years.

The Project Agreement allows LBJP to place a mortgage on its interest in the project. This is a leasehold mortgage, and it is granted to the lending banks as security for their project financing loan to LBJP. In the event the loan is not repaid, the lenders have the right to foreclose on the leasehold mortgage and step into the shoes of the LBJP as lessee under the ground lease.

This real estate right parallels the right of the lenders to step into the shoes of LBJP under the Project Agreement and manage the project in the event their loan is not repaid. The leasehold mortgage also gives the lending banks the same rights that LBJP has to refurbish and re-lease the court building in the event that the loan default is caused by the AOC's default or non-payment due to non-appropriation. The permission given by the AOC to LBJP to allow the creation of a mortgage on the leasehold was viewed as essential to making the project financeable.

The additional lease period between the 35-year Project Agreement and the 50-year lease agreement was critical to a successful financing. In addition to LBJP, the lenders are exposed to the risk of the State failing to appropriate monies to pay the annual service fee. In such an event, LBJP has the right under the sublease with the AOC to terminate the AOC's occupancy. If service payments cease because of the State's failure to appropriate the funds, the only way for LBJP and the lenders to recoup their investment is to lease the project to other tenants. Changing tenants would require LBJP and the lenders to extensively rebuild and reconfigure the building to the needs of the new tenants. The cost, delays, and uncertainty as to tenant interest and rent level require an additional period to account for these reuse and re-leasing contingencies. It was agreed that 15 years was a reasonable period. If the AOC makes all required payments under the Project Agreement, the Project Agreement will terminate after 35 years.

1.13 Tax-Exempt Financing

From the initial feasibility study, the AOC's qualitative analysis had suggested that the Long Beach court building replacement project was a strong candidate for alternative procurement rather than traditional procurement because:

- A new Long Beach court building was sorely needed and speed of delivery was attractive to the judicial branch;

- The PBI approach freed up lease revenue bond capacity and funds in the other court construction funds allowing the Judicial Council to undertake another court building;
- There was an expectation that real estate developers would be interested in Long Beach; and
- The project was large enough to interest the international DBFOM market.

As such, in obtaining the necessary approvals to proceed, the AOC positioned the project as one utilizing a new financing approach and not reliant on a traditional procurement, i.e., State issued lease revenue bonds. One of the AOC's objectives for the project's procurement was to minimize the impact on the credit rating of the State. The AOC acknowledged that such an objective could result in a higher cost of finance when compared to traditional procurements, but anticipated potential benefits through other areas of the project's development and operations.

Given this, the AOC did not anticipate the use of a tax-exempt financing solution. However, on the request of JLBC, the AOC included the option for a tax-exempt solution as a possible response to the RFP for the project.

Of the three shortlisted proponents, all submitted proposals that included tax-exempt financing as a possible alternative. Two proponents opted to submit their base case proposals on a taxable financing solution, and one proponent submitted their base case proposal on the basis of a tax-exempt financing solution. The tax-exempt proposals are summarized below. The preferred proponent, LBJP, achieved financial close in December 2010 on the basis of taxable bank debt solution.

a. Lankford-Phelps Long Beach Developers, LLC (Lankford-Phelps)

Lankford-Phelps proposed a 100 percent senior tax-exempt structure[15] utilizing the Industrial Development Authority of Pima, Arizona, as issuer and Long Beach Courthouse, LLC, formed by Community Finance Corporation, a section 501(c)(3) Tucson-based nonprofit corporation, as borrower. The Lankford-Phelps tax-exempt team members included Piper Jaffray & Co. (Piper) as underwriter/financial advisor and Kutak Rock LLP (Kutak) as bond counsel.

[15] Refers to a financing structure in which senior debt (interest) is tax-exempt. Similarly, a junior tax-exempt structure would refer to junior debt (interest).

b. Balfour Beatty Capital, Inc. (Balfour Beatty)

Balfour Beatty proposed an 85 percent senior tax-exempt/15 percent junior taxable or tax-exempt debt structure utilizing the California Statewide Community Development Authority (CSCDA), a JPA unrelated to the State, as issuer and a special-purpose entity or nonprofit formed by CSCDA as borrower. The Balfour Beatty tax-exempt team members included Goldman, Sachs & Co. (Goldman) as underwriter/financial advisor and Orrick, Herrington & Sutcliffe LLP (Orrick) as bond counsel.

c. California Judicial Partners LLC (later changed to Long Beach Judicial Partners – LBJP)

LBJP did not identify a specific issuer or borrower but suggested a structure could be put in place that would utilize “an appropriate municipal bond issuer” and an existing or newly formed section 501(c)(3) nonprofit corporation as borrower. The LBJP tax-exempt team members included Barclays Capital Inc. (Barclays) as underwriter/financial advisor and Fulbright & Jaworski LLP (Fulbright) as bond counsel.

d. General Concerns

As discussed more fully below the tax-exempt proposals raised a number of interrelated general concerns that were not immediately resolvable within the context and time frame of the procurement schedule, including differing views on the ability to use tax-exempt financing and transfer risk to the project company/manager, the need for restructuring requiring some dilution of risk transfer, and questions regarding the deliverability of tax-exempt financing on a timely basis.

e. Ability to Utilize Tax-Exempt Financing

Counsel to the proposers varied in their opinions on the ability to use tax-exempt financing and transfer risk. Kutak and Orrick indicated generally that tax-exempt financing could be used in their respective proposed structures and provided the required forms of opinions.

LBJP noted in its RFP response that the tax-exempt structure would require a governmental issuer or an authorized issuer on behalf of a governmental body, and the project company/manager would need to be isolated from any risk or benefit of the tax-exempt financing (including the structural risk that the financing might, upon Internal Revenue Service examination, be found to have been taxable). They indicated that it would be necessary that all steps be taken to ensure that the overall arrangement could not be re-characterized as a constructive lending of proceeds of the financing to the project company/manager and that changes would be required to the Project Agreement relating to risks that the project company/manager could not retain under a tax-exempt structure.

In particular, LBJP indicated that the service fee structure effectively transfers owner-like risks and benefits to the project company/manager, and the requirements of the master maintenance plan and the hand-back requirements detailed in the Project Agreement are impermissible under tax-exempt rules as they transfer owner-like risks such as risk of loss and obsolescence and hand these back to the project company/manager. LBJP noted that a key component of the service fee is a capital charge that assumes an equity interest in the project, which is fundamentally inconsistent with tax-exempt financing. In addition, they noted that all service fee deductions and credits that operate to transfer to the project company/manager the risks and benefits of project ownership, including the deductions credit, the energy efficiency charge or credit, and the extraordinary items charge or credits, are also inconsistent with tax-exempt financing.

In light of the foregoing, even where counsel believes that risks can be transferred to the project company/manager in a tax-exempt structure, as in the Lankford-Phelps and Balfour Beatty structures, there is some question about whether risks can be effectively and efficiently transferred in a restructured tax-exempt transaction given that the special-purpose borrower has no equity at risk and, unlike bank lenders, relies on a bond trustee in to protect bond holder interests. Further, the required term limit on any management agreement complicates realizing full management and maintenance benefits as envisioned in the 35-year term of the PBI.

f. Deliverability of Tax-Exempt Financing

The RFP provided that "with respect to any publicly offered Taxable or Tax-Exempt financing, the Proposer must provide evidence of interim financing or a confirmation letter from the Proposer's Financial Advisor stating that such debt can be issued by Financial Close."

Each of the proposals contemplated a public offering of tax-exempt debt. Such a public offering involves the development of a disclosure document, presentations to and securing ratings from rating agencies, a marketing period involving discussion with potential investors on credit and structure, the negotiation and execution of a bond purchase agreement, and financial close. The timing for closing a publicly offered tax-exempt financing varies and generally takes longer for new credit or transaction structures that have not previously been presented to the markets. Lankford-Phelps provided a tax-exempt financing schedule of approximately 6.6 months. Neither Balfour Beatty nor LBJP provided a detailed tax-exempt financing schedule.

None of the underwriters/financial advisors provided a firm underwriting commitment to purchase tax-exempt bonds.

In its RFP response Lankford-Phelps provided a letter from Piper indicating a commitment to underwrite the tax-exempt bonds, provided the obligation to underwrite the bonds and the final terms of such an engagement would be set forth in and subject to the terms of a bond purchase agreement, containing customary representations, warranties, covenants, indemnification provisions, and closing conditions, and subject to the satisfaction of such conditions.

In its RFP response Balfour Beatty provided a letter from Goldman that they were highly confident that the underwriting of the senior bonds could be accomplished subject to the satisfaction of conditions customary for financings of the type contemplated for the project or otherwise deemed appropriate by Goldman for this transaction, including, without limitation, (i) the satisfactory completion of due diligence investigation with respect to the project and such due diligence investigation not disclosing any facts that would alter Goldman's current view with respect to any aspect of the proposer of the project; and (ii) Goldman having reasonable time to market the senior bonds with the assistance of management of the proposer, and the project and market conditions in general and specifically for bonds of the State having not materially changed from current conditions. The Goldman letter noted further that issuing tax-exempt bonds into the capital markets is inherently subject to uncertainties and contingencies beyond its control. Accordingly, they stated that their letter was not a commitment to underwrite, place, or purchase any bonds, and they stated that there can be no assurance that the structuring, marketing, and underwriting of the senior bonds would in fact be accomplished. The letter further stated that any such commitment would be subject to the additional conditions of: (i) receipt of internal Goldman committee approvals; (ii) receipt of at least one investment grade ratings (BBB-/Baa3 or better) by S&P or Moody's; (iii) the terms and conditions of the senior bonds and all related documentation, including acceptable disclosure documentation, with respect to the underwriting being executed and delivered, and satisfactory in form and substance to Goldman, including the delivery of normal and customary legal and tax opinions; (iv) satisfaction of other conditions customary for publically offered tax-exempt financings of the type contemplated hereby or otherwise deemed appropriate by Goldman for this transaction; (v) the purchase of the junior notes by Balfour Beatty or an affiliate; and (vi) no material adverse change in the financial condition of the State of California.

LBJP did not provide a letter from Barclays on the tax-exempt structure.

The lack of firm underwriting commitments from the underwriters/financial advisors raised the concern that the determination of the requirements of the tax-exempt markets would require a substantial and potentially time-consuming marketing effort or require the proposer to actually bring a transaction to market to determine whether the market would accept the transaction as presented. For example, the fact that Lankford-Phelps was proposing a 100 percent senior debt structure while Balfour Beatty proposed a senior/ junior structure to replicate the equity element of the taxable transaction indicated that there could be some element of uncertainty as to what the markets would actually require when the transaction was marketed.

g. Conclusion

The suggested tax-exempt solutions showcased how the underlying objectives of tax-exempt/ municipal financing were not neatly aligned with some of the basic principles of the PBI model and the desired risk transfer objectives of the AOC, in that:

- A tax-exempt structure could require the project company to be isolated from owner-like risks such as risk of loss or detailed hand-back conditions.

- A tax-exempt structure would not allow any risk capital or equity[16] to reside in the project company, fundamentally limiting the potential for transferring performance risk.
- A tax-exempt structure has constraints on the length of management contracts (i.e., operating and maintenance, rehabilitation, and life cycle) whereby the contracts cannot exceed 15 years.

LBJP, the preferred proponent, achieved financial close in December 2010 on the basis of a taxable bank debt solution. LBJP's lenders will have no recourse to the AOC or the State. The lenders will also not have any security interest or mortgage on the new courthouse other than on the lease as set out above. The lenders understand that they will only be repaid once the project is constructed and functional and managed to a pre-agreed specification. As such, they have the same interest as the AOC and the State in the on-time construction of the project and the effective operations and maintenance of the court building and its facilities.

1.14 Summary of the Project Agreement[17]

This section of the report provides a brief summary of some of the key terms used within the Project Agreement.

a. Supervening Events

The Project Agreement identifies various supervening events, or "Relief Events," the occurrence of which may provide the Project Company relief from certain obligations under the Project Agreement. These Relief Events are discussed further below and include Uninsurable Force Majeure Events, Insurable Force Majeure Events, Change in Law Events, and Other Relief Events.

b. Uninsurable Force Majeure Events

Uninsurable Force Majeure Events are generally those events that materially expand the scope or interfere with, delay, or increase the cost of performing the contract services, for which insurance is not generally available, including: (1) earthquakes; (2) war, civil war, or armed conflict; (3) terrorism; (4) nuclear explosion or nuclear, radioactive, chemical, or biological contamination; or (5) epidemics, pandemics, or quarantine or health alerts that result in additional costs. The Project Company is entitled to schedule and performance relief with respect to achieving the occupancy date upon the occurrence of an Uninsurable Force Majeure Event and is also entitled to compensation relief on account of the occurrence of such an event both before and after the occupancy date.

c. Insurable Force Majeure Events

Insurable Force Majeure Events are events that materially expand the scope or materially interfere with, delay, or increase the cost of performing the contract services, and for which insurance coverage

[16] "Risk capital" refers to funds used for investment purposes (which is subject to risk).

[17] Defined terms in this section refer to the defined terms in the Project Agreement.

is generally available. The Project Company is only provided schedule relief in achieving the occupancy date with respect to the occurrence of an Insurable Force Majeure Event, and not compensation relief.

d. Change in Law Events

Generally, the Project Company must comply with all applicable law in effect as of the contract date. The Project Company is relieved of its obligation to perform the contract services to the extent that any failure to perform results from a Change in Law Event, including being entitled for schedule relief with respect to achieving the occupancy date and compensation relief as a result of increased costs incurred by the Project Company in performing the contract services.

e. Other Relief Events

Under the Project Agreement, Other Relief Events include various events that are not Insurable Force Majeure Events, Uninsurable Events, or Change in Law Events, and the response to which, or compliance with which, materially expands the scope or materially interferes with, delays, or increases the cost of performing the contract services. Examples include: (1) the existence of regulated site conditions (subsurface hazardous materials and items of historical or cultural significance); (2) latent structural defects in the parking structure; and (3) compliance by the Project Company with emergency personnel or agencies. The Project Company is relieved of its obligation to perform the contract services to the extent that any failure to perform results from an Other Relief Event. Such relief includes being entitled for schedule relief with respect to achieving the occupancy date and compensation relief due to increased costs incurred by the Project Company in performing the contract services.

f. Insurance

The Project Company is required to provide, or cause to be provided, various insurance coverages during the design-build period and the operating and maintenance period. Whenever the AOC is obligated to pay an amount to the Project Company due to the occurrence of an event or circumstance where an insurance claim may be made by the Project Company, the amount owed by the AOC is reduced by the amount of insurance proceeds and insurance receivables that the Project Company recovers or would have been entitled to recover.

The Project Company must provide the following types of insurance coverage during either the design-build period, the operating period, or both: builder's risk, professional liability, commercial general liability, commercial automobile liability, worker's compensation and employer's liability, contractor pollution liability, pollution legal liability, property, boiler and machinery, business interruption, directors and officers, and employee dishonesty.

The Project Company bears the risk of all insurable events, including deductions and exceedances; AOC bears the risk of carefully defined uninsurable events. In relation to seismic events, there is $25 million in coverage for events during the construction period, providing the AOC with basic protection at reasonable cost.

g. Events of Default and Effect of Termination

The Project Agreement provides the ability for both AOC and Project Company to terminate the agreement under a number of circumstances. These circumstances are described below in more detail. As the transaction proceeded, it became clear that the market would not permit the AOC to terminate the Project Agreement (even upon Project Company default) without paying a termination fee as is common practice on the majority of PPP projects globally. This was primarily because the AOC owned the project and would receive the unencumbered benefit of the project upon any termination. The quantum of compensation payable by the AOC to Project Company depends upon the circumstances of termination.

h. No-Fault Termination and Effect of Such Termination

Upon the occurrence of certain “no-fault” events, the AOC and the Project Company have the right to terminate the Project Agreement. Both parties may exercise such right in connection with an Uninsurable Force Majeure Event, the condemnation or taking by eminent domain of the whole or substantially all of the Project, the issuance of an injunction enjoining the performance of material obligations under the service contract, or the occurrence and persistence of an Other Relief Event. The AOC has the additional right to terminate the Project Agreement if during the term, any required insurance against an Insurable Force Majeure Event or against third party liability is not available.

If either party elects to exercise its “no-fault” termination rights, the Project Agreement requires the AOC to pay the Project Company a termination payment equal to the aggregate of: (1) the senior debt as of the termination date, (2) amounts owed to Project Company employees under collective bargaining or employment contracts and amounts payable to the design-builder or any operating services provider, (3) any accrued but unpaid amounts due to the Project Company, (4) the amount by which the junior debt exceeds the amount of all distributions made in respect of junior debt, and (4) the amount by which the capital contributed by equity investors exceeds the amount of distributions made to such equity investors; less the amount of any other distributions.

i. Project Company Events of Default and Effect of Such Termination

The Project Agreement identifies both Project Company events of default and AOC events of default. Generally, Project Company events of default include uncured breaches such as Project Company bankruptcy, abandonment, or failure to timely complete construction and achieve occupancy readiness; impermissible assignment of the Project Agreement or changes in control over the Project Company; and the accumulation of a certain threshold amount of service failure–related Deductions in any period of 12 consecutive months. Upon the occurrence of most Project Company events of default that remain unremedied, the AOC has a right (subject to the terms of the Lenders’ Remedies Agreement) to terminate the Project Agreement. In addition, the AOC has a right to step in and perform, either by itself or by subcontract, all of the contract services, and the AOC may offset the amounts expended in performing the contract services against the service fee following the exercise of such step-in right.

In the event the AOC terminates the Project Agreement due to a Project Company event of default prior to the occupancy date, the Project Agreement requires the AOC to pay the Project Company a termination payment that is sufficient only to recognize the value to the AOC that the Project Company has delivered whilst offsetting all costs that the AOC incurs in taking back or re-letting the project. The objective is to leave the AOC in a no-worse position.

j. AOC Termination Rights and Effect of Such Termination

In addition to the AOC's right to terminate the Project Agreement upon a Project Company event of default, the AOC has rights to terminate the Project Agreement: (1) for its convenience at any time following the appropriation by the state Legislature of funds to make a termination payment; (2) in connection with the occurrence of an Uninsurable Force Majeure Event; (3) due to the unavailability of required insurance; (4) if the ground lease is terminated on account of condemnation or taking by eminent domain; (5) if an injunction or other final court order is issued that permanently enjoins either party from performing its material obligations; and (6) in connection with the occurrence and persistence of an Other Relief Event.

Upon the exercise by the AOC of its right to terminate the Project Agreement for convenience, the Project Agreement requires the AOC to pay a termination payment that leaves the Project Company in a no-worse position, effectively keeping the senior lenders and equity investors whole.

k. AOC Events of Default and Effect of Termination by the Project Company

AOC events of default include breaches by the AOC of any term, covenant, or undertaking to the Project Company, or warranty made by the AOC, that has a material and adverse effect on the Project Company, as well as during any period following the date on which the state Legislature makes an appropriation of funds for the purpose of paying amounts due to the Project Company under the Project Agreement, a failure by the AOC to pay the service fee within the later of 45 days after the due date for such payment or the effective date of such appropriation. In addition, the failure of the AOC to pay a termination payment on the termination payment due date, following the state Legislature making an appropriation of funds for the purpose of paying a termination payment, also constitutes an AOC event of default under the Project Agreement.

Upon an AOC event of default, the Project Company generally has the right to terminate the Project Agreement within 30 days after providing notice of such default, in the event such default remains uncured. Upon the exercise by the Project Company of its right to terminate the Project Agreement for an AOC event of default, the Project Agreement requires the AOC to pay a termination payment equal to the amount paid by the AOC upon the exercise by the AOC of its right to terminate the Project Agreement for its convenience.

l. AOC Step-in Rights

If the AOC reasonably believes that either a breach by the Project Company of any obligation under the Project Agreement or an event: (a) is likely to create an immediate and serious threat to the health or safety of any person employed at or visiting the project, any property, the environment, or the reputation, integrity of, or public confidence in the project and any related operations, or (b) is prejudicial to the ability of the AOC to carry on its activities to a material degree, then the AOC may, if it considers that there is not sufficient time, or that the Project Company is not likely to be willing and able to take the necessary steps, temporarily step in and take any steps it considers appropriate – including partially or totally suspending the right of the Project Company to provide the relevant contract services – to mitigate or rectify such state of affairs and to ensure performance of the relevant contract services, but only for so long as the relevant circumstances exist. The Project Company is responsible for paying the AOC all costs and expenses reasonably incurred by the AOC in exercising its temporary step-in rights and an additional 20 percent markup of such costs and expenses.

In addition to the temporary step-in rights of the AOC, the AOC has permanent step-in rights upon the occurrence of a Project Company event of default or in the event the Project Company fails to comply with its obligation to repair, replace, or restore the damaged or destroyed portion of the project following the occurrence of an Insurable Force Majeure Event.

m. Commencement

The term of the Project Agreement commenced on December 20, 2010, and will continue until the date that is 35 years following the scheduled occupancy date, unless earlier terminated. The scheduled occupancy date is the date that is 974 days following December 20, 2010, which is August 20, 2013. Therefore, the term of the Project Agreement will expire on August 20, 2048, unless the Project Agreement is earlier terminated pursuant to its terms.

n. Hand-back

At the end of the term, the Project Company must comply with the hand-back requirements included in the Project Agreement, which requires the project and each element thereof to be in a condition that is consistent with: (1) having been designed and constructed in accordance with the applicable design life requirements specified in the Project Agreement and the useful life standards established (on a weighted average useful life basis for all systems and equipment in the aggregate) by the Project Agreement; and (2) the Project Company having performed the operating services in accordance with the Project Agreement.

The Project Agreement states that two years prior to the end of the term, the parties are to conduct a joint inspection and survey of the project, and if the survey determines that any portion of the project will not comply with the hand-back requirements at the expiration of the term, the Project Company is required to produce a performance plan relating to the additional work necessary to remedy any deficiency, and the AOC will determine the cost amount believed to be reasonably necessary to complete such additional work. The AOC is permitted to hold back and retain from the service fee an amount equal to the estimated costs and deposit that amount in an interest-bearing bank account to be paid to the Project Company only upon the submittal of certified requisitions to the AOC by the Project Company for reimbursement of amounts actually expended in performance of the additional work necessary to meet the hand-back requirements.

o. Changes: Capital Modifications

Capital modifications are any material changes to any part of the physical assets constituting the project occurring after the occupancy date, including the alteration, addition, demolition, or extension of the physical assets constituting the project or the installation of new structures, equipment, systems, or technology.

In the event the Project Company requests a capital modification, the AOC shall have the right, in its discretion, to accept, reject, approve, or modify such capital modification. If any repair or replacement that would constitute a capital modification is proposed to be performed by the Project Company arising from its operating services obligations or the need to remedy a breach of the Project Agreement by the Project Company, then the AOC has the right, in its discretion, to accept, reject, approve, or modify such capital modification.

The AOC generally has the right to make capital modifications at any time and for any reason whatsoever, and the design, construction, and any related operation, maintenance, repair, and replacement costs shall also be borne by the AOC.

p. Changes: Operating Services[18]

The AOC generally may at any time during the term, require the Project Company to implement changes to the operating services. The AOC and the Project Company must negotiate the costs or savings associated with any changes to the operating services, and if they cannot agree on the costs or savings, the costs or savings are determined in accordance with requirements set out in the Project Agreement.

In the event the Project Company requests a change to the operating services, the AOC has the right, in its discretion, to accept, reject, approve, or modify such request, and the responsibility for the cost and expense of any changes to the operating services requested by the Project Company shall be determined by the AOC in its discretion.

[18] Operating Services: include, generally, daily building operations, janitorial and regular maintenance, as well as occasional repair and replacement of building elements based on condition or expected functional life.

q. Design and Construction

The Project Company is solely responsible for performance of the design-build work. In its performance of the design-build work, the Project Company is not entitled to relief on account of concealed or latent subsurface conditions at the sites that materially differ from, or are not reasonably inferable from, those described in the geotechnical information included in the Project Agreement based on the investigations conducted prior to the execution of the Project Agreement, and the Project Company bears all cost and schedule and performance risk in connection therewith. However, if the Project Company encounters any regulated site conditions (which include, among other things, subsurface hazardous materials and items of historical or cultural significance), the AOC is responsible to commence and perform any actions that are necessary to dispose of, remediate, rectify, or otherwise correct the regulated site condition in accordance with applicable law.

As part of its design-build work obligations, the Project Company must also make all applications and obtain and maintain all governmental approvals required to perform the design-build work, including the payment of all fees, costs, and charges associated with such governmental approvals.

Allowances were included in the pricing to allow the AOC to make limited design changes and to pay for AOC-designated furniture, fixtures, and equipment.

During the progress of the design-build work through final completion, the AOC must be given every reasonable opportunity for observing all design-build work and may conduct on-site observations and inspections and such civil, structural, mechanical, electrical, chemical, or other tests as the AOC deems necessary or desirable to ensure that the design-build work complies with the Project Agreement. The Project Company must complete, repair, restore, re-perform, rebuild, and correct any design-build work that does not comply with the Project Agreement, unless the AOC elects to accept such nonconforming design-build work.
The Project Company is also required to obtain LEED NC Silver Certification of the project, and if the Project Company fails to achieve such certification, the Project Company is obligated to pay the AOC a payment of $2 million, and following such payment, the Project Company has further obligations in respect to obtaining LEED NC Silver Certification (other than reasonable assistance to the AOC if the AOC pursues such certification) for Operation/Maintenance.

r. Commencing on the Occupancy Date

The Project Company is responsible for performing the operating services, which include operating, maintaining, repairing, replacing, and managing the project on a 24-hours per day, 7-days per week basis in accordance with the terms and conditions set forth in the Project Agreement. The Project Company is required to perform all normal and ordinary maintenance of the mechanical equipment, structures, improvements, grounds, and all other property constituting the project. In addition, the Project Company must prepare, maintain, and comply with its major maintenance, repair, and replacement obligations under a master maintenance plan as required by the Project Agreement. In the event the Project Company fails to provide the operating services in accordance with the Project Agreement, the Project Company may be subject to certain deductions from the otherwise applicable service fee that the AOC is permitted to take as offsets for specified instances of nonperformance.

s. Parking Structure

Management, operating, and maintenance of the parking structure is the responsibility of the Project Company under the Project Agreement. The Project Company is also responsible for renovating the parking structure, in accordance with the design-build requirements, and for providing a specified number of parking spaces for identified individuals (including court and County of Los Angeles personnel) during the course of these renovations. In addition, certain court users (including court and County of Los Angeles personnel) cannot be charged any fee in connection with use of the parking structure except as directed in writing by the AOC. The AOC assumes the risk of any latent defects in the parking structure that are not discoverable through good industry practice.

t. Independent Building Expert

The independent building expert (IBE), TMAD Tyler Gaines, is a consultant appointed jointly by the AOC and LBJP. The responsibilities of the IBE include the following:

- Review of the design documents to confirm compliance of the project with the California building code;
- To conduct structural peer reviews, to test construction materials, and to inspect the project during construction;
- Prior to final completion, the independent building expert is the mediator for purposes of any nonbinding mediation; and
- Upon request by the Project Company, the independent building expert shall inspect the project and determine whether to issue the occupancy readiness certificate. It is the independent building expert's responsibility to determine if the occupancy readiness conditions have been satisfied.

The role of the IBE is critical to the PBI form of contract. With significant capital at stake, it is in the interests of both the AOC and LBJP that there be minimal ambiguity or potential for dispute in the process of determining whether or not the building is complete and ready for occupancy. Occupancy is the point at which the AOC commences service payments; hence there would be inherent conflict on the part of either LBJP or the AOC in determining whether the building is ready for occupancy. An independent view is therefore necessary.

u. Changes in Control

A "change in control," with respect to the Project Company, is generally defined as any direct or indirect change in the ownership or control of any legal, beneficial, or equitable interest in any or all of the shares, units, or equity in the Project Company that results in a person or group of persons, other than the equity holders of the Project Company immediately prior to the change, directly or indirectly: (1) controlling the manager of the Project Company; (2) controlling the decisions made by or on behalf of the Project Company, including by controlling the voting power of the manager of the Project Company; (3) holding equity (either beneficially or otherwise) in the Project Company with a subscribed value of more than half of the subscribed value or equity (either beneficially or otherwise) of that entity with more than one-half of the voting rights; or (4) having the ability to direct or cause the direction of the management, actions, or policies of the Project Company. The Project Agreement limits any permissible change in control of the Project Company to: (1) the exercise of the rights of the senior lenders; (2) any bona fide open market transaction in any shares or other securities of the Project Company or any equity investor (or any holding company of an equity investor); (3) an assignment, sale, or transfer by a shareholder, general party, manager, or member of the Project Company or any legal, beneficial, or equitable interest in any shares, units, or equity of the Project Company to certain affiliates of the Project Company; or (4) any change made with the prior written consent of the AOC.

1.15 Value for Money – Purpose

The value for money (VfM) analysis is a comparison of the risk-adjusted whole life-cycle cost of the project procured as a PBI compared with the risk-adjusted whole life-cycle cost of the project as if it had been procured as a DBB (the public sector comparator or PSC). The comparison is done on a net present value basis to facilitate a comparison of costs on a consistent basis as the costs to the State occur at different points in time under each procurement option. The net present value (NPV) of each of the procurement methods is compared to that for each of the other methods to determine which would provide the best value to the State.

The VfM analysis of the project served a number of purposes:

- It assisted in the decision-making process establishing that this project was a suitable candidate for PBI and had potential to deliver value for money. This was considered prior to releasing the request for proposals when the cost of the PBI was not known and an estimate (called a “shadow bid”) of the project cost under the PBI scenario was prepared;
- The PSC provided a benchmark against which proponents were measured. Comparison of each proposal against the PSC provided an indication of the value for money of each proposal as well as a deeper understanding of the factors contributing to the price of each proposal;
- The VfM analysis was a negotiating tool following selection of the preferred proponent. The preferred proponent was given a strong steer as to the price that they needed to commit to in order to present value for money compared to the PSC, a condition placed on the project by the Department of Finance;
- The VfM analysis was a means of enabling stakeholders to comprehend the implications of the PBI and the argument that the PBI option has potential to save money for the State over the whole life of the project.

1.16 Value for Money – Determination

a. Pre-procurement

A methodology that is commonly employed by many jurisdictions globally was utilized in developing and then comparing the anticipated costs of the PBI procurement to the PSC. The key features of this methodology can be summarized as follows:

- The AOC and its advisors defined the proposed project, including program components and scope.

- For each of the procurement options a financial model was created that is a mathematical representation of the likely costs that the AOC would incur under each of the options:
  - The PSC assumes that the Judicial Council would enter into a design-bid-build (DBB) procurement process for the project, would utilize State bond funding for the capital costs, and would undertake all operations and maintenance itself;
  - The PBI “shadow bid” financial model was prepared to estimate the likely service payments that the Judicial Council would have to pay to a PBI party to design, build, finance, operate, and maintain the project for a predetermined period.

- The core inputs into the financial model included an estimate of all costs that the PSC or PBI procurement options would incur. This included all costs relating to:
  - Design and construction of the facility;
  - Financing the costs of design and construction, including both debt servicing, debt setup costs, and equity returns; and
  - Operation and maintenance of the facility over the term of the analysis. The analysis was over a 35-year period, which is the term of the PBI arrangement.

- One of the key factors to validate the comparison is to ensure that both procurement approaches reflect the cost of delivering and maintaining the infrastructure to identical specifications of construction and operations and maintenance to ensure the level of service obtained from the project by the owner and its stakeholders is consistent regardless of procurement approach;

- The analysis did not include costs of services that the Judicial Council or other state agency will continue to provide and which would be incurred under both options, such as the cost of providing security services to the facility;

- In addition to the core costs of the facility, the financial analysis also took into account an estimate of risks retained by the Judicial Council under each of the procurement options;

- In assessing whether the PBI option is likely to provide greater VfM to the AOC, the net present value of each of these two cashflow models was calculated and compared. The discount rate used to derive the net present value of the costs was 6.06 percent. This rate was adopted by the Project Team in consultation with the Department of Finance and based on the lease revenue bond sale for the Third Appellate District Courthouse – Renovation of the Library and Courts Building issued on December 1, 2009. This rate was revisited prior to financial close and was considered to be still valid;

- The analysis at the pre-procurement stage is undertaken to assess the likelihood of whether the project is a suitable candidate for PBI and is not the *final* assessment.

The initial VfM analysis indicated that the project was a suitable candidate for PBI and had potential to deliver value for money.

b. Preferred Proponent Negotiations and Final Assessment

Once proposals had been received and evaluated, the role of the shadow bid model fell away. The shadow bid was replaced by the cost of the PBI option, or the service payments, as proposed by the preferred proponent. The VfM analysis therefore presented the total cost of the PBI option including the proposed service payments plus AOC retained costs and risks and compared this with the PSC.

The final VfM analysis based on the price of the PBI as contracted at financial close shows a saving of $26 million, or 3.5 percent under the PBI compared with the PSC. The net present cost of the PBI is projected to be $725 million compared with the PSC of $751 million.

1.17 Value for Money – Risk Analysis

One of the key components to the cost of delivering major infrastructure projects is the cost associated with addressing unforeseen circumstances or risks and the additional time to remedy such situations. To capture the full cost of the project under each procurement option, the Project Team undertook a risk identification and risk quantification process (a risk analysis) for each procurement option separately.

The risk analysis was determined through a number of risk workshops. Each risk workshop took the format of a meeting of the Project Team and its advisors, all of whom are experienced in working and advising on the development of major accommodation projects. The attendees included: architects, engineers, cost estimators, construction project managers, risk managers, real estate professionals, financial advisors and legal advisors.

The attendees, all of whom had a detailed understanding of the project, reviewed a draft project risk register and undertook the following steps to determine the final risk matrix and the value of risk to be included in the final risk analysis:

- Discussed the risks and agreed on the definition and applicability of the risks and identified any additional risks that were to be included;

- For each of the risks identified, considered the following:
  - The allocation of the risk to the AOC or the private party under the PBI and PSC scenarios;
  - Probability of the individual risk event occurring; and
  - The effect of the risk should it occur, taking into consideration the likely outcomes across the 10th percentile, 50th percentile, and 90th percentile of an assumed triangular distribution of impacts;

- Used the collective judgment of the team based on their experience of similar schemes.

Once each of the risks had been reviewed in the risk workshops and the risk matrix was populated and agreed to, the range of values for each risk was determined by using the stochastic modeling software @Risk. @Risk is a piece of industry-standard commercial software that undertakes Monte Carlo simulation and is extensively used by major organizations to analyze risk and uncertainty in projects. Through @Risk, the mean value of each risk is determined, and then the risk values are grouped into risk buckets corresponding to the period in which each risk is likely to arise in the procurement. These groupings/periods are: planning period risks, construction period risks, and operating period risks.

The risks are categorized into the three respective periods so that they can be recognized within the corresponding parts of the project's life cycle. As the assumptions underlying the risk analysis are made at a fixed point in time, there is a need to apply escalation to such costs as they are applied over the respective time frames in the project's life cycle.

The following table summarizes the estimated (or mean) net present cost of the risks retained by AOC for this project:

	Net Present Cost @ 6.06% ($ millions)	
Retained Risks	**PSC**	**PBI**
- Planning Period Risks	54.4	17.3
- Construction Period Risks	52.6	7.8
- Operating Period Risks	36.1	3.7
Total Risk Retained by AOC	**143.1**	**28.8**

It should be noted that the planning period risks and construction period risks adjustments do not just include construction risks and planning and approvals risks. They include all process and approvals risks and the risks of changes in scope and design and the additional costs that can result. Through the design-bid-build process there is significantly greater potential for changes in requirements and design rework, particularly when numerous stakeholders are involved.

The risk analysis addresses the fact that under the traditional procurement, the construction price does not account for some construction risks and therefore is not a fixed price turnkey contract. In the PBI, however, the private party takes on these risks and is committed to delivering the project with no recourse to the State if those transferred risks materialize.

The following is an analysis of the project risk categories, risk allocation in this PBI project, and applicable provisions in the Project Agreement. This table, prepared on March 25, 2010, for the Department of Finance is intended to provide general indications of where certain risks are treated in the Project Agreement or related agreements.

No.	Risk Category	Risk Allocation	Risk Category[19] Explanation	Project Agreement Tie-In or AOC Mitigation
2.11	Financial Close Delay	Project Co.	Risk that Commercial / Financial Close is delayed. *In the current schedule, based upon the 60-day delayed financial close to December 21, 2010, the Project Company did not increase the construction duration/date for turnover of the facility to AOC but compressed the Design Readiness period and further absorbed the delay time by overlapping the Design Phase (early bid packages) with construction mobilization and utility relocation work.*	See Article 6 generally for a detailed description of responsibilities of the Project Company in connection with the financing of the Project. There is no relief available should financial close be delayed on the basis that conditions precedent cannot be met (i.e. it is not included in the definition of Other Relief Events)
3.01	Relocation of Municipal Services - Utilities	Project Co.	Risk that a relocation of municipal services could result in delays or additional costs. Risk that existing Utility services are inadequate. If Owner has taken responsibility for provision of services then this could result in a change of scope. *The Project Company has planned and is executing a phasing plan for the building excavation/construction that allows for ongoing utility relocation simultaneously with the excavation process.*	City of Long Beach provided utility survey and conceptual relocation plan (acceptable to City controlled utilities); City will contribute $2 million to pay for underground utility relocations per Property Exchange Agreement Section 7.1(S). The Project Company is responsible for all construction activities required with regard to existing utility services and installations, including any relocation of Utilities.
3.02	Existing Condition Information provided by the State and Title investigation	Project Co.	Risk that reports provided to bidders is inadequate and does not sufficiently describe the existing building conditions. This could result in the contractor having a claim for additional time and costs. *Existing multiple communication companies were not shown but the*	Section 7.4(B). The Project Company acknowledges that it has conducted investigations of the Sites sufficient for the purpose of assuming the risk of Differing Site Conditions. Section 7.4(D). The Project Company is not entitled to relief for a Differing

[19] See Tab 6: Risk Analysis Summary

No.	Risk Category	Risk Allocation	Risk Category[19] Explanation	Project Agreement Tie-In or AOC Mitigation
			Project Company has undertaken relocation of their trunk lines.	Site Condition and takes all cost, schedule and performance risk in connection therewith.
3.03	Geotechnical	Project Co.	Risk that Geotechnical reports provided to bids are incomplete. This could result in the contractor having a claim for additional time and costs. Magnitude of risk will vary depending on particular site conditions and foundation designs. *The Geotech Engineer of Record has been retained by the Project Company to provide additional borings on the Project Site which resulted in changes to the foundation design.*	Section 7.4(D). The Project Company is not entitled to relief for a Differing Site Condition and takes all cost, schedule and performance risk in connection therewith.
3.05	Archaeological / cultural	AOC	Risk that archaeological finds will result in a delay and increased costs. *Archaeological finds were encountered and the excavation phased around these finds while they were being investigated by the Project Company's archaeologists.*	AOC completed Environmental Impact Study of Project, which did not indicate unusual risks, but has mitigation measure should archaeological / cultural elements be uncovered.
4.03	Failure to build to design	Project Co.	Risk that project is not constructed in accordance with the design documents. This could result in a dysfunctional building. *The Project Company has multiple layers of reviewers:* *Arup-Reviewer for the Lenders Independent Building Expert (IBE)-Independent verification of code and Trial Court/Performance Standards compliance* *IBE-Independent Structural peer review. The foundation and foundation wall design were modified following review by the Independent Building Expert* *DI, Inc.-Design Builders' Quality Manager* *IBE-Project Company's Inspector of Record*	Section 7.1(B). The Project Company has control of and the sole and exclusive responsibility and liability for the Design-Build Work. The AOC has no responsibility for the Design-Build Work.

No.	Risk Category	Risk Allocation	Risk Category[19] Explanation	Project Agreement Tie-In or AOC Mitigation
4.05	Construction safety obligations	Project Co.	Risk that the construction contractor does not satisfy its safety obligations resulting in an increased incidence of lost work days for site labor. This could affect the overall schedule and profitability of the project for the construction contractor. The Construction Contractor is Self Insured (CCIP) which is an incentive to them to fully enforce the highest safety standards. *They have fully implemented Safety Plan, full time Safety Inspector and Medic (including Medic trailer) on site.*	Section 7.1(B). The Project Company has control of and the sole and exclusive responsibility and liability for the Design-Build Work.
10.04	County & Third Party Rent Revenue	Project Co.	Risk that the County revenues are less than expected or that the County vacates the space prior to the end of the contract term (Cost base: rental revenue). *Project Company has not yet been able to secure a definitive lease with Los Angeles County, but has incurred more expense due to the length of negotiation time and Tenant Improvement cost than was originally envisioned. However the rent is fixed in the Project Agreement.*	Sublease 12.1(C). The Project Company bears the cost and expense of subleasing the Subleased Space and administering the Sublease Agreements and bears the risk of performance by the Sublessees.

1.18 Project Completion

The AOC's assessment of the likely design and construction schedule indicates that the PBI approach would provide completion of the new Long Beach court building fourteen (14) months earlier than if the project followed a traditional approach (called a public sector comparator (PSC)) used in State capital-outlay building projects.

This time advantage is due to an overlap of CEQA environmental clearance performed by the AOC with early design activities, and fast-track design and construction by the PBI company. Conceptual and schematic design occurred during the PBI proposal stage. Once selected the Project Company immediately began design development, then prepared plans and specifications for sequential bid packages to procure construction contracts in increments as needed for the site work and building assembly. Simultaneous working drawings, bidding, and construction is a proven method used in private sector real estate development to avoid cost escalation and to expedite building completion.

Therefore, the PBI approach to this project could achieve an earlier construction start compared to the traditional design and construction schedule.

The PBI company would be motivated to use fast-track design and construction since payments by the State do not begin until the Superior Court begins activities in the new building.

The courthouse is assumed to be delivered 14 months later under the PSC than under the PBI. In order to bring the two procurement models onto a directly comparable basis, the discounting base date was adjusted such that for both procurement approaches, the base date was a consistent period of time before completion.

This was considered an appropriate and fair adjustment to ensure the two procurement options were compared on a similar basis and the delayed construction start of the PSC did not provide any unwarranted benefit solely arising as a result of the time value of money and the use of the net present cost as the basis of comparison.

End of Part 1

2.0 Part 2: IMPLEMENTATION OF PROJECT AGREEMENT

The section is an evaluation of implementation of the Project Agreement, during the design and construction phases; this report covers the period from the Notice to Proceed date in December 2010 thru March 31, 2012. While the evaluation topics presented herein were developed in collaboration with the AOC OCCM, this report is provided as an independent, objective evaluation. The observations presented herein come from the overall monitoring of the project by the author[20] as the independent building expert (IBE), who has 37 years of experience in the design and construction industry having completed 13 PPP and 37 design-build projects. Interviews were conducted with six key stakeholders consisting of representatives from the AOC, Long Beach Judicial Partners (LBJP) who is the Project Company, Clark Construction (general contractor and design-builder), AECOM (architect and designer of record), and the IOR (inspector of record). Comments received by the author from additional participants, including the professionals who evaluated the design for compliance with codes and Performance and Trial Court Standards, have been incorporated into the narrative as appropriate. A similar evaluation report will be provided quarterly through the end of the project to provide feedback on the implementation of the Project Agreement.

2.1 Construction Status Overview

Overall the project is going extremely well in comparison with other PPP and design-build projects of which the author has knowledge. On a scale of 1 to 10, with 10 being best, the six stakeholders[21] that were interviewed have rated the project with an average score of 8.5.[22] The project is receiving a very high level of attention by all those involved to deliver a quality project, on time, within budget, and to meet the expectations of the AOC. The PPP and design-build delivery has thus far surpassed the overall progress normally achieved by traditional AOC delivery methods. To date, the achievements that have been accomplished are commendable. Within four days of one year from the Notice to Proceed, steel erection began on the site. Traditional AOC delivery methods would have taken at least two years to accomplish this same major milestone. The success thus far is attributed to a well-selected team of professionals with strong team spirit to work together. There have been key lessons learned that should be taken into consideration with any follow-on projects using this delivery method. These are presented herein. The following aerial photographs beginning February 2011 and show construction progress in one month intervals through March 2012 which is the construction period evaluated in this report.

[20] The lead author of this section is Ron Sheldon P.E., a principal with TMAD Taylor & Gaines, the independent building expert for the project.

[21] Stakeholders interviewed: Freddy Rayes: day-to-day Project Manager – Project Company; Chip Hastie: Project Manager– Design Builder; Henry Pittner: Project Manager – Architect/Engineer of Record; Zach Abrego: Lead Construction Inspector (IOR) – IBE; Roberta Lawrence: day-to-day Project Manager – AOC; Clifford Ham: Senior Project Manager – AOC

[22] The question asked: *"On a scale of 1-10 what is your overall rating of design and construction?"* 8.5 is the mean of all of the responses.

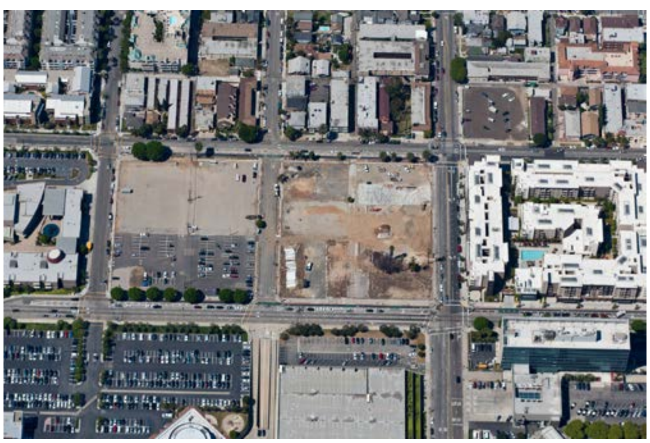
Aerial Photographs


February 2011


June 2011


April 2011


July 2011

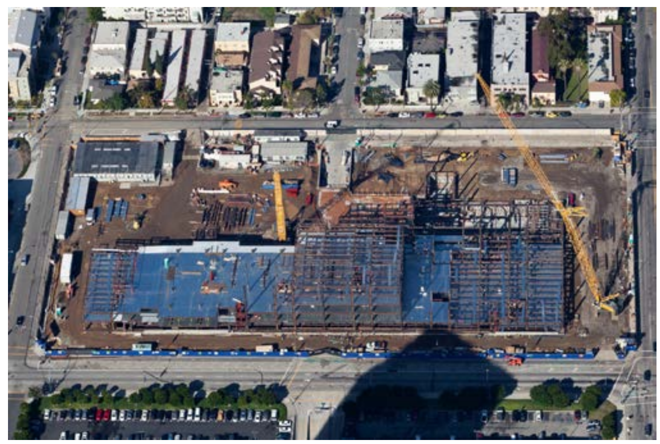

May 17, 2011


August 2011

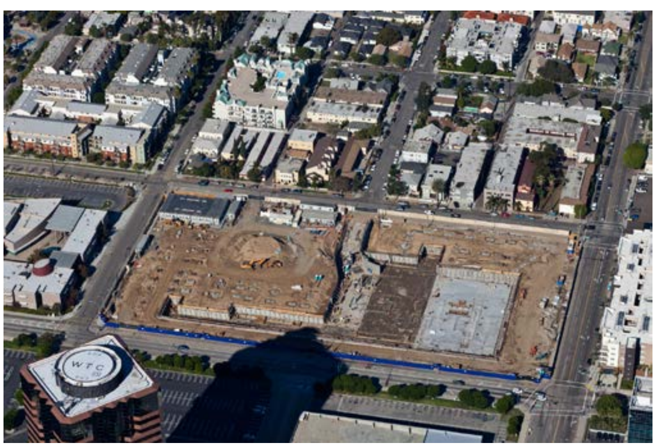
August 2011

December 2011

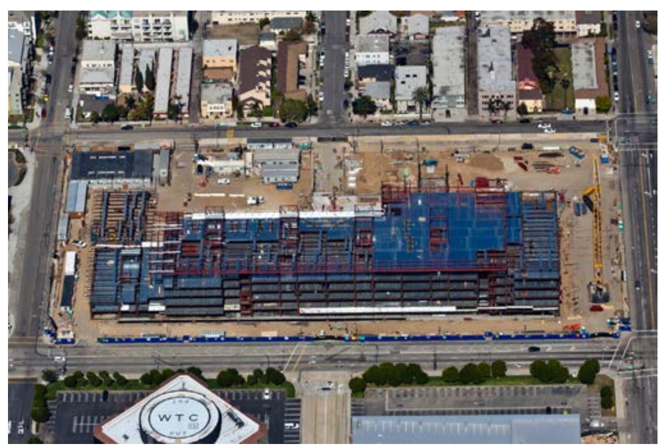
September 2011



January 2012



November 2011



March 2012

2.2 Evaluation Summary: Project Agreement Implementation during Construction

An evaluation summary of the Project Agreement implementation – to date – is presented below; the graphical ratings are derived from the interviews of principal construction phase participants and direct observation of the design and construction process from December 2010 through March 2012. The summary is keyed to paragraphs on the following pages, which provide detail on individual topics.

Ratings:
○ Objectives Satisfied
▬ Minor Issues Encountered
▲ Significant Concerns

Paragraph	Title	Rating
2.3	**Project Company LBJP**	○
2.4	**Summary of Design and Construction Activity**	○
a.	Summary of Construction Schedule	○
b.	Quality of Materials and Workmanship	○
c.	Adequacy of Manpower and Progress of the Project	○
d.	Project Change Orders	○
e.	Correction of Deficiencies and Unsatisfactory Work	▬
f.	Testing Results	○
2.5	**Design and Construction (Project Agreement, Article 7)**	
a.	Design-Build Work Generally	○
b.	Access to and Suitability of Sites	○
c.	Design-Build Governmental Approvals and Governmental Agencies	○
d.	Project Company Design– Open Issues	▬
e.	Construction Inspections, Testing, and Observation	○
f.	Correction of Design-Build Work	○
g.	Furniture, Fixtures, and Equipment (FF&E)	▬
h.	Warranties on Design-Build Work	○
i.	Commissioning and LEED NC Silver Certification	○
2.6	**Design-Build Work Review Procedures (Appendix 4)**	
a.	Design Review Process	○
b.	Design Meetings and Reports	○
c.	Design Quality Management	○
d.	AOC Construction Inspection	n/a

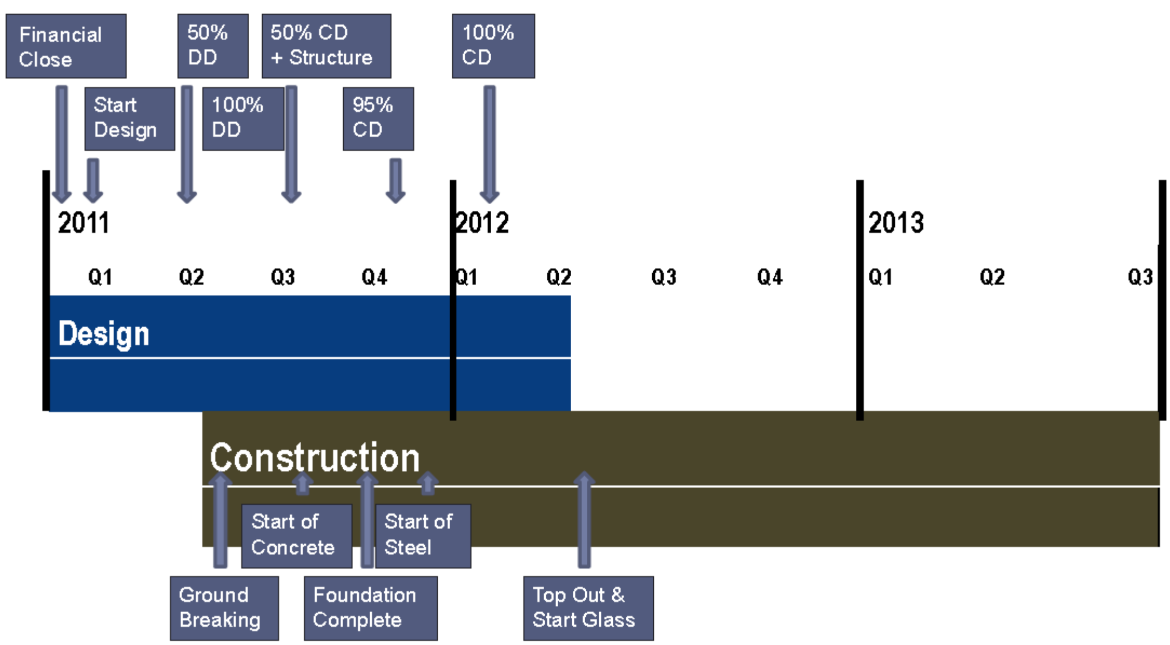
2.7	**Performance Standards (Appendix 3)**	
a.	Space Program and Data Sheets	▬
b.	General Design Criteria	▬
c.	Security Design Process	○
d.	Structural Systems	○
e.	Mechanical, Electrical and Plumbing Systems	○
f.	Technology Systems	▲
g.	Existing Parking Structure	▬
2.8	**Risk Allocation**	
a.	Relocation of Utilities	○
b.	Existing Condition Information, Environmental and Geotechnical	○
c.	Archaeological/Cultural Discoveries	○
d.	County and Third Party Lease Revenue	○
2.9	**Design Development Phase Report**	
a.	Project Company Design Process	▬
b.	Design Quality, QM and Documentation	○
c.	Problems, Conflicts and Observations	○
d.	Adherence to Design Schedule	○
e.	Resolution of AOC and Court Design Review Comments	▬
f.	IBE	○
2.10	**Construction Phase Report**	
a.	Construction Meetings and Reports	▬
b.	Dissemination of Information to AOC	▬
c.	Coordination Between Parties	▬
d.	Quality Management	○
e.	Project Schedule	○
f.	Site Safety	○
g.	Project Company Commissioning Management	○
h.	IOR	○
i.	Project Company Tests and Inspections	○

2.3 Long Beach Judicial Partners

This is a special-purpose entity created just for this project and is staffed by three to four local development and construction professionals. They are managing the effort not only for the equity provider, and for the lenders. In addition, they hold the design-build, maintenance, and operation agreements for the facility. They are doing an excellent job enforcing the Project Agreement with the AOC and with the design-builder.

2.4 Summary of Design and Construction Activity

Although construction has been ongoing since May of 2011, the project has recently completed the design phase. As of March 31, 2012, the overall construction is estimated to be 30 percent complete on the Main Building and 60 percent complete on the parking structure. A proactive approach of utilizing a carefully developed system of phased design approvals and bid package issuing allowed the construction an early start with removal of on-site utilities, improvements within public rights-of-way on adjacent streets, on-site excavation and grading for the below ground level portions of the building, while the design was ongoing, the design-builder excavated the site, poured the basement slab and foundations, and began the steel erection.   The fast-track design and construction schedule for the project is diagramed below:



a. Summary of Construction Schedule

The project is on schedule with a few items that may be a few days ahead. The project critical path is being closely monitored. Having a construction oversight schedule available on the conference room wall within the construction trailer complex, where most of the meetings are being held, has been extremely helpful. While the schedule is aggressive, there are no indications at this point in the project that would suggest any problem with meeting the completion date of August 2013.

The project construction schedule is officially issued on a monthly basis and, as a 30-day look-ahead, on a biweekly basis in the owners' review meeting. Both issues have been effective in keeping the whole team informed and in complying with the requirements of the Project Agreement for design-builder reporting.

Procurement of materials is on schedule and the expected materials are being bought. Major equipment elements with long lead times have been released for purchase (e.g. generators, cooling towers). The design-builder is aggressively pursuing material procurement to keep the project on schedule. Progress has been quick and efficient, the design is excellent, and there have been minimal change orders.

b. Quality of Materials and Workmanship

Quality is as good as was expected for a typical design-build project, maybe even a little bit better. This is indicative of a good solid QA/QC program along with the design-builder's effective preparation, initial and follow-up meetings with all subcontractors. Any identified problems are quickly remedied. An example is that there were two welders who were removed from the project because their welds repeatedly did not pass inspection and testing.

c. Adequacy of Manpower and Progress of the Project

Both the design and construction teams have adequate personnel to achieve the results to date and the project is on schedule. AECOM experienced the loss of two key architects but was able to rebound quickly with no impact to the project. The design-builder's staffing has been outstanding, which has served as a key component to achieve the results to date.

The Design Builder negotiated a Project Labor Agreement (PLA) with Los Angeles/Orange County/ Building and Construction Trades Council that represents construction workers on this project, the PLA was signed on December 9, 2012. The Design Builder reported that the PLA would protect it against work delay caused by disputes between unions and sub-contractors on the project, or in the general Los Angeles construction market

In general, the subcontractors have done a good job. The steel erection subcontractor has performed adequately to keep the Main Building, which is on the critical path, on schedule. Involving the sub-contractors early in the design phase has provided a significant value to the overall project and is a key lesson learned.

d. Project Change Orders

The change order process is decent, honest, and complicated because it involves issues related to the operation and maintenance of the building as well as the design-build construction contract. There have been very few change orders for a project of this size and cost and approximately 75 percent of those processed for approval have been owner requested. The other 25 percent is comprised of designer recommendations, updating the Performance Standards, or constructability issues. Per the Project Change Order Table below, as of March 31, 2012, there have been a total of 21 change orders approved (additive and deductive) totaling $771,463 or 7.7 percent of the allotted owner change order budget of $10 million.

Project Change Order Table:

Description	Amount	Reasons	Comments
Added Ballistic-Resistant Glass and Panels for Future Court Expansion	$63,950	1	Glazing for expansion area added now for continuity of glazing and frame color match and consideration of future cost.
Added Double Jury Box for Courtroom 208D and Added Large Jury Box for Courtroom 208L	$299,971	1	Superior Court expects increase in double and large jury trials. Refine Courtroom types to reflect Court practices.
Increased Structural Loading Capacity to Support High-Density Filing Storage Areas	$48,922	6	Structure as envisioned in the proposal did not account for HD Storage, which was not a requirement of the Standards
Deleted one-way Revolving Doors and Addition of Automated Sliding Glass Doors at Great Room and North Corridor	-$152,802	1	AOC, Court, Sheriff concluded the additional level of security was unnecessary
Enhancements to the Judicial Break Room – Added Restroom, Kitchen, and Upgraded Finishes	$165,523	2	Toilet and Kitchen added to Performance Standards requirements. Finishes upgraded. Space increased by combining with a medium Conf Rm.
Deleted Sinks and Cabinets in the Jury Deliberation Rooms	-$105,050	1	Change to Performance Standards, which included sink, disposal, and microwave for each Room
Added to Number of Lockers (Ground Level Men's and Women's Locker Room Reconfiguration)	$128,123	2	LASD
Added Gun Lockers next to Adult Visitation Area (Basement Level)	$20,437	2	LASD
Additional Exterior Transaction Windows, Counters (includes Low Voltage Infrastructure and Security Equipment)	$76,422	2	Superior Court
Added Sidelights at Family Mediation Rooms (Level 3)	$10,114	1	Security and operation enhancement
Deleted Cages at Detention Elevators	-$40,000	1	
Deleted Clerestories at Level 5 Courtrooms	-$137,279	1	Designers' recommendation not accepted
Add, Then Delete Light Monitors at Level 5 Judicial Administration Area	$12,529	1	
Provide Electronic Lighting Controls for Courtrooms to Allow for Inter-Operability with AV System	$59,604	1	
Added Vestibules for Courtrooms 208D	$40,950	1	Courtroom reconfigurations done in PCO #810004

Description	Amount	Reasons	Comments
and 208L			
Revisions in Seating Due to Courtroom Reconfigurations Based on the 100% CD Documents	-$61,591	1	Reconciliation of number of Spectator seats due to Courtroom reconfigurations done in PCO #810004
Enlarge CSO Desk at Courtrooms	$92,511	2	Superior Court -functional improvement
Revisions to Attorney/Client Meeting Rooms	-$12,893	3	2 were deleted – Courtroom reconfigurations done in PCO #810004
Archaeological and Paleontological Finding Monitoring	$136,057	1	AOC responsibility but Clark provided service
Security Camera Revisions – add and subtract	$69,499	9	Sheriff input
Added Wood Wall Paneling in Courtrooms 201, 202 & 203	$56,466	2	All Courtrooms to have the same finishes
March 31, 2012 Total	**$771,463**		

Change Order Reasons Code Key:

1. Owner Request
2. Superior Court Request (Court/Sheriff)
3. Designer Recommendation
4. Project Company Request for Change to Design Requirements
5. Due to Code Update/Request from Code Authorities
6. Constructability Issues
7. Field Changes Reviewed by IBE/IOR
8. Changes Due to Relief Events
9. Update/Change to Performance Standards

e. Correction of Deficiencies and Unsatisfactory Work

During this period the project had a total of eight construction corrective notices to date, which is less than 1 percent of the total inspection requests issued, an excellent record. Some of the key items have been as follows:

Parking structure renovation related to the connections between floor beam and girders and re-sloping of the top deck surface where the correct installation sequence of the initial solution was performed but intermediate design-builder QC inspections to preserve slopes could have been pursued and were not. The design-builder will perform the required re-work of the top deck to ensure proper drainage. It was discovered that in the process of removing the old deck topping surface, the concrete underneath was over-ground. This created pockets in the new surface that did not have adequate drainage. A new study, survey, and design are being implemented by the design-builder using additional drains and crickets to solve the ongoing drainage problem.

To date, few unsatisfactory items of work in the court building construction have required correction. Two of note are: (a) an elevation correction of approximately ¾-inch at steel column gridline B.2 due to the fabricator’s having used an incorrect elevation mark in fabricating the columns, and (b) cracks in some of the welds at the columns. These items were caught at the right time by the QM process, and successfully addressed by the design-builder in a prompt fashion. A key to the overall success of the complex structural frame has been retention of the independent surveyor by the design-builder;

the surveyor is performing QA/QC surveys to check that the steel frame is being constructed in line and plumb. This is best construction management practice and is a valuable lesson learned.

f. Testing Results

Testing results to date can only be described as phenomenal for a project of this magnitude and size. Concrete has been excellent, often reaching more than design strength. Steel and welding have also been excellent, with only a few minor welding issues.

2.5 Design and Construction (Project Agreement, Article 7)

a. Design-Build Work Generally

To date the design-build work has met the requirements of the Project Agreement. During design there was significant emphasis put on design reviews. Deviations were noted and have been tracked. The process has been highly interactive among all team members and the overall performance has been impressive especially considering the fast track nature of the project.

b. Access to and Suitability of the Sites

Initiative was taken by the design-builder to ensure access to the site by proactively relocating utilities and having archeologists on site during excavation and grading. The only challenge, because the building occupies a large portion of the site, is the storage of materials on site. This is being well handled by the design-builder. Many of the access and suitability issues were eliminated by the AOC up front by the site selection and completion of the CEQA process and other studies prior to the execution of the Project Agreement. This has provided an environment during design and construction that has been relatively without issues. See section 1.8 for a discussion on CEQA and other site access issues.

c. Design-Build Governmental Approvals and Governmental Agencies

Under the Project Agreement, the governmental agency approvals of the documents are the sole responsibility of the Project Company. See section 1.14.qfor additional discussion on this topic.

Adequate storm water pollution prevention program (SWPPPs) and best management practices (BMPs) are being used on site. Appropriate permitting from the Air Quality Management District (AQMD) for site emergency generators is underway with no anticipated problems or delay in schedule.

The plan reviews have been aggressively pursued and have progressed better than what was expected. Agencies involved include the State Fire Marshal, DSA, and CSA. The interaction with the State Fire Marshal both in Sacramento and through SFM,s weekly presence on site has been a cooperative process.

The CSA signed off on the detention facilities on schedule. AECOM's proactive approach of inviting the CSA authorities to view the holding cell mockup helped to achieve prompt finalization of comments and approval from the CSA.

The DSA review is known as one of the more difficult governing agency processes to coordinate with respect to the schedule. It is currently underway and consensus is being achieved by the team in working closely (both by phone and in multiple face-to-face meetings) with DSA reviewers. There has been, as yet, no impact to the schedule.

Another is the location of bike racks and requires a presently being-pursued in order to comply with the California Green Building Standards Code which is part of the overall California Building Code.

The design-builder was proactive in building a positive relationship with the regulating agencies up front, which paid dividends in obtaining permits. The City of Long Beach was quite cooperative with respect to the project schedule in the review of off-site construction documents within their public rights-of-way, street light issues, and landscaping. Working with local agencies is one area that is most challenging in California, but on this project it has been handled remarkably well. There are still a couple of off-site signage issues and a bike rack location item that need to be resolved. Overall the Performance Standards have been met but took additional effort by the design-builder to bring to fruition.

d. Project Company Design – Open Issues

Parking operations and provision for court expansion are the only two open issues at this time. The Project Agreement requires an operations plan for the parking structure, which has not yet been agreed upon. However, the Project Company and the AOC are close to finalizing the negotiations to arrive at a mutually acceptable operations plan agreement.

Court expansion as a condition of the Project Agreement includes a raised floor elevation behind the courtrooms and all stairs and mechanical shafts in place for the future. The Project Company has decided not to construct the raised floor elevation in place at present because it would interfere with the 15-year lease spaces presently planned for these areas. The AOC and the Project Company are negotiating the issue of the requirements for the raised floor elevation and are in the process of validating whether the structure can support the additional weight when the steps are added in the future. Also being investigated is whether the mechanical shafts are properly sized for the future and where the future stair will be located. See section 1.9 for additional discussion on AOC expansion space.

e. Construction Inspections, Testing, and Observation

As of March 31, 2012, there have been approximately 420 inspection requests from the inspection team, with re-inspections completed where issues were documented. Some areas that required re-inspection included welding and waterproofing. The drilled piles process required ongoing inspection by the manufacturer so that in spite of initial equipment and process failure, these were monitored and tested until they passed.

With more field time and less paperwork by the design-builder's critical QA/QC personnel and by the IBE inspection team these statistics will improve. Testing as previously mentioned is way better than normal expectations in terms of positive results.

f. Correction of Design-Build Work

Corrections being noted by the IOR are being tracked until the item is completed to conform to project documents and code. There has been a very cooperative and proactive process by the design-builder and their subcontractors to correct identified issues promptly and professionally. A perfect example of this was in how they addressed the placement of the new foundation piles for the new elevator/stair tower at the existing parking structure. These were moved (on paper and structurally recalculated) 10 inches away from the existing structure prior to starting construction because the rig could not get close enough to the existing building.

g. Furniture, Fixtures, and Equipment (FF&E)

Compliance with the Project Agreement for FF&E has been a long, arduous process. Meeting minutes are not always timely and are problematic in form and content. This may be because of the volume of items to be reviewed. There is a $31 million allowance for the FF&E, for which a completed schematic design has essentially been completed within the allotted allowance.

h. Warranties on Design-Build Work

All warranties for materials and installation work are being pursued by the design-builder through the QM consultant. Any that have already been received were filed in Constructware as soon as they were received; others will follow as work progresses to sign-off. Various warranty requirements in the terms/conditions have undergone a team review process. This process provided an added level of protection to identify and verify warranties required up front, communicating with manufacturers and installers up front to verify the warranty requirements ahead and to mitigate any later surprises.

i. Commissioning and LEED NC Silver Certification

The Project Company must (by the Project Agreement and by LEED certification requirements) prepare and utilize a commissioning plan. See section 1.14.q for additional discussion on the LEED certification. To that end, CT Energetics was retained to prepare the commissioning plan and to act as the commissioning agent on the project. The plan was developed using the Performance Standards as a basis but, basically, the LEED requirements for Silver Certification dictate the basis for the plan. The AOC, LBJP, JCI, Clark, and DI all participated in the review of the plan.

The IBE was involved in the selection of the firm and oversaw the preparation of the commissioning plan. Their LEED specialist will also oversee the physical commissioning to be conducted later in the project. Their participation is a plus both for the Project Company and for the AOC. Enhanced commissioning is a LEED requirement to achieve the Silver classification.

Proper and timely project registration was provided to the U.S. Green Building Council. The design submittal to USGBC is imminent and the project is on track for the LEED Silver rating. The second submittal will be made at the end of construction and commissioning. In the RFP the AOC ensured that Silver Certification was closely adhered to by providing for $2 million in liquidated damages if it is not obtained. The latter is not a standard process and mitigates risk to the AOC.

2.6 Design-Build Work Review Procedures (Project Agreement, Appendix 4)

a. Design Review Process

The expectations of the Project Agreement with respect to the design review process could not have gone better, especially given the volume of comments (over 7,000), the number of reviewers, and the fast-track phased approval process. The design-builder has set up a two-tiered review process as follows: Tier 1 is performed by the design-build team (Clark/DI/AECOM) and Tier 2, by the IBE/LBJP/JCI/AOC/and ARUP teams. All comments have been tracked using Constructware.

The OCCM and the Superior Court have daily interaction with the Project Company advising on, and reviewing building design and project management matters. Extensive, regularly scheduled Design Development finalization sessions were the primary forum to complete outstanding design issues, topics included, but were not limited to: courtroom plan and millwork details, low-voltage electronic systems, interior design (including furniture, fixtures and equipment), detention & security, and landscape design.

The AOC had limited staff to conduct reviews and, by Project Agreement, relied heavily on the IBE for thorough design reviews. Also, managing the internal review of comments from within the AOC was a "daunting process" and was assisted by requesting that the design-builder provide page-by-page presentations of documented design changes that had occurred since the previous submittal. The intention of the Project Agreement in terms of design review by all reviewers was met.

b. Design Meetings and Reports

Weekly design meetings and workshops have been held with representatives of the Superior Court, AOC, and design-builder, and are the prime forum to consider and resolve design options and issues. These have been well run; however, meeting minutes have lagged behind. The monthly progress report, issued by the design-builder, contains a section on design status and includes activities completed, a list of action items, and deviations from the standards. This has been effective in consolidating all of the design information in one place.

c. Design Quality Management

The Project Agreement requires that the design-builder include an independent QM consultant on their full-time team. This has had an extremely positive effect on the design construction and inspection effort. The lead QM manager and the IOR have been able to plan and coordinate the schedules of the work with the inspection and special testing requirements thereby facilitating the inspection efforts and reducing the number of required re-inspection requests.

Quality management is one area that can easily be sacrificed on a fast-track schedule, so the engagement of the QM consultant is significantly positive, inspires the whole team to excellence, and the result is much better documentation and a facility that complies with the Performance Standards. Constructware, a construction/project management database software program, has been used to monitor design review comments and responses and for the filing of all documentation. This tool has proven to be effective given the size and magnitude of this project but, given that it is a data-based program, is acknowledged as cumbersome and using it efficiently initially comes with a steep learning curve.

d. AOC Construction Inspection

Under the Project Agreement, the AOC is not required to do construction inspection. This requirement is performed by the IBE/IOR, the special inspectors, testing labs, and the IBE specialist plan checkers. The AOC maintains a regular presence on the construction site to monitor construction progress and relies on the IBE/IOR(the Project Agreement designated entities for field inspections) and also attends weekly RFI/DCN, QM, owner’s meetings, and other pertinent meetings. This portion of the Project Agreement has been a valuable assistance to the AOC in staying actively informed on the progress of the project. See Section 1.14.q for additional discussion on AOC site visits.

2.7 Performance Standards

(Project Agreement-Appendix 3 and California Trial Court Facilities Standards)

a. Space Program and Data Sheets

The Performance Standards established the architectural program for the project. The area of each space is listed for the design-builder to develop the building design. Area configurations and sizes were negotiated with the Project Company, the proposal that was accepted by the AOC; the resulting schematic design contained approximately 11percent more net area than the architectural program. In working out the details of the plans during design development, the design-builder, the AOC and the Superior Court met weekly to ensure that functions, configurations, and locations were optimally designed; the entire net area of the building (including commercial lease and county justice agency space) at completion of design development is 16percent larger than the architectural program. The increase in net area from the project architectural program to the proposed design, to the in-place building did not increase the overall gross size of the building thus increasing the efficiency of the building; change in building size – after the Project Agreement was executed – is a risk borne by the Project Company and does not change the AOC's costs.

Reconciliation of space and area tabulations with the architectural program is an outstanding item; initial submittals of the draft reconciliation had numerous inconsistencies, which are now resolved; the final draft area reconciliation is an excellent analysis that clearly describes the progression of the changes; the AOC is waiting for the final space and area tabulation document. Partially due to the fast-track project delivery, the accounting of programmed spaces against the actual designed spaces has lagged behind submittals of completed drawings.

b. General Design Criteria

General design criteria as provided in Appendix 3 to the Project Agreement were generally well-written but were ambiguous and/or subject to interpretation in certain areas. More coordination of the document would have been helpful to the designer of record. A better approach by the AOC might have been to synthesize the *California Trial Court Facilities Standards* and project Performance Standards in Appendix 3 into one volume, and to organize these requirements in the Construction Specifications Institute format.

c. Security Design Process

Talking to the sheriff and CSA during the proposal stage was helpful in understanding the project security needs and in the interpretation of the security standards. Ongoing meetings of the design-builder, LBJP, the AOC, the Superior Court, and the Sheriff's Court Services Division during the design phase helped to refine the security requirements. Mocking up a typical holding cell helped to gain focus on a finally acceptable solution.

d. Structural Systems

In the opinion of the IBE's structural team (who peer-reviewed the structural construction documents), Nabih Youssef and Associates, structural engineer of record (SEOR), has done an outstanding job to date given that the Performance Standards requirement for enhanced seismic performance, which provides a much stiffer structural solution, and in this building increased beam depths and decreased MEP clearances. The AOC's requirement that the IBE conduct a structural peer review has resulted in a well-crafted structure.

e. Mechanical, Electrical and Plumbing Systems

The MEP systems are designed using BIM, which helps with system (ducts, sprinkler pipes, lights, structure) conflict detections. Subconsultants in the trades were active during the design, but this created a bit of a problem between their varying software systems interacting with BIM. Clark solved this by incorporating their information into the BIM model they were using. The involvement of JCI, the building operator, during the design of the project helped to ensure compliance with Performance Standards that are real and achievable.

f. Technology Systems

Low voltage design as a whole (including security) was a challenge for all. See Section 1.9 for additional discussion on the Performance Standards. The AOC low voltage Performance Standards had evolved since the first meetings with the proposing teams in 2008. Although there had been little input from the Superior Court at that time, they did participate in all of the design sessions in 2011. Luckily, the design-build team was familiar with the 2011-updated Trial Court Standards, which gave them and the AOC/Superior Court/Sheriff team a frame of reference within which to assess the technical design and "modernize" it. The whole team worked very closely together to ensure that court needs would be met and, at AOC direction, the low voltage design is now more in line with what the Superior Court wanted.

g. Existing Parking Structure

There have been DSA access issues for the parking structure, one of which is the height clearance where current code requirements could not be physically accommodated within the existing height of the structure. The team engaged Rolf Jenson to study the issue and write a request for variance, which DSA granted. DSA also required the raising of all the exit stair handrails to that required by current code. This will be accommodated. The open communication that the design-build team has fostered with the DSA reviewer has allowed the DSA approval process to progress smoothly, without creating delays in the schedule and facilitating the approval of this variance.

2.8 Risk Allocation

a. Relocation of Utilities

The Project Agreement transferred this risk to LBJP and, thence, to the design-builder who relocated municipal and private utilities. Relocations cost to the Project Company totaled more than $5 million against a $2 million reimbursement from the City of Long Beach carried in the Project Agreement for those relocations. This was part of the negotiated settlement that the AOC worked out with the City of Long Beach within the Property Exchange Agreement of the existing court building site for the site of the new court building. There is one issue with a cable company that is still outstanding (see the table of risk categories in section 1.17, item 3.01 for Utility Relocation risk).

The design-builder has ascertained that the existing service is adequate for the new facility and so far the relocation work has proceeded with no impact to the construction schedule and at no additional cost to the AOC. Permanent power is expected to go online in fall 2012.

b. Existing Condition Information, Environmental and Geotechnical

During the RFP stage the AOC made reports available that transferred the risk to the Project Company.

Environmental: While the RFP stated that lead paint and asbestos were likely not present in the construction materials of the parking structure, the Performance Standards and the Project Agreement required abatement procedures as prescribed by California law. Transite pipe and planters with asbestos were found in the parking structure, but this was handled by the design-builder with appropriate action and disposed of with proper certification as part of the Project Agreement, with no impact to the construction schedule and at no additional cost to the AOC (see the table of risk categories in section 1.17, Table 6, item 3.02 for Environmental risk).

Geotechnical: The Project Agreement suggests that the Project Company perform its own additional geotechnical testing where the design-builder thought necessary. These tests were performed with no impact to construction schedule and at no additional cost to the AOC.

c. Archaeological/Cultural Discoveries

There were nine (9) turn-of-the-nineteenth-century privies found on the site during excavation and grading, which were professionally observed and remediated according to all CEQA requirements. The design-builder retained archaeologists for on-site observation in order to expedite the excavation schedule. This professional service is the responsibility of the AOC per the Project Agreement; therefore, the AOC agreed to pay for these services using a portion of the owner's design change contingency. The design-builder's proactive approach mitigated schedule delay that might have occurred if the AOC had been responsible for the procurement of an archaeology consultant. (See the table of risk categories in section 1.17, Table 6, item 3.05 for Archaeological/Cultural risk and section 1.14.q for discussion of AOC responsibility for mitigation).

d. County and Third Party Lease Revenue

The Project Agreement requires the Project Company to negotiate all lease agreements with Los Angeles County and all retail/restaurant entities, thereby transferring the risk from the AOC. In addition, they will design, construct, and maintain all lease spaces.

2.9 Design Development Phase Report

a. Project Company Design Process

The design process went well. Weekly design meetings were held at AECOM's office with participation of the Project Team from the OCCM, the Superior Court, Los Angeles County, and the Los Angeles Sheriff. Comments were reviewed, documented, and responded to in a timely fashion. Meeting notes during the design process could have been more precise and delivered faster. The designer of record would have preferred a short, intense workshop to address concepts at the beginning of the design, followed by weekly design meetings. The AOC and the Superior Court were not able to meet in a condensed workshop, which took the design process into weekly meetings from January 2011 through October 2011. The requirement to have design meetings in the AECOM Los Angeles office was an unknown and caused the design team to shift resources from the Orange

County office to Los Angeles. This was a costly and time-consuming process due to the logistics of having many design team members attend the meetings. The design-builder produced the document packages with no impact on the schedule and at no additional cost to the AOC.

b. Design Quality, Quality Management and Documentation

The overall quality of the design is excellent. Nothing in the original proposal was lost and there was a good adherence to the design vision. A dedicated team under good leadership by AECOM worked around the clock to produce outstanding design and documentation of the project.

The entire design-build team did an excellent job maintaining quality during the design process especially given the rapid pace of the design while construction had already begun. An internal review process performed by DI at milestones helped to provide overall quality management. Also as an integral part of the team, the design-builder and the subcontractors provided ongoing constructability review of the design while it was taking place. This helped to ensure a good quality and cost management of the design.

The overall quality of the design documents is good. The AOC is comfortable with what was produced. One indication of the quality is the pricing for the project, which has come in within budget. The true test of the quality of the documents will be realized as the project lives through the construction. To date, there have been very few issues in the field resulting from incomplete design documents or errors and omissions. Those that have been found are quickly responded to by the designer of record for prompt resolution. One issue that could have been better tailored to the project and coordinated during the design was the construction specifications. Boilerplate specifications for certain components or work was not completely tailored to this project, which triggered numerous RFIs to incorporate the tailoring of those sections into the final documents.

c. Problems, Conflicts and Observations

There have been very few problems or conflicts during the design process and those that did occur were rapidly attended to by the design team and the reviewers to come to a resolution. This is attributed to having many of the issues ironed out prior to bidding and helped to prevent impacts on the construction schedule. Additionally, a dedicated team under good leadership by AECOM worked around the clock to respond to issues and to produce an outstanding work product.

d. Adherence to Design Schedule

The design process adhered closely to the design submittal schedule with major milestone submittals of the documents being delivered on time. The only deliverable that was not submitted on schedule was the 100 percent construction documents conformed set. It was late to ensure that all loose ends were addressed, all coordination completed, and all constructability issues solved so that the best product was delivered. In spite of the fact that it was a few weeks late, this did not affect the construction schedule. With over 7,000 comments, adherence to schedule was a major achievement.

Use of Constructware during the design process helped to keep all the reviewers and the design team on schedule.

e. Resolution of AOC and Court Design Review Comments

Resolution of some of the AOC comments took a lot more time than expected but overall comments were resolved in a satisfactory manner. AOC low voltage comments resolution was a challenge because the AOC reviewer's comments were based on a very early Low Voltage Basis of Design document and were never updated to subsequent drawing submittals. This is in part due to the development of the low voltage standards and design trailing the remainder of the design documents.

f. Independent Building Expert

Review by the IBE team of the construction documents for code and AOC Performance and Trial Court Standards compliance went very well. A total of 10 different packages were reviewed which facilitated phased approvals allowing the design-builder to move forward with approved portions of the work before final approval of all documents was granted. Reviewers were timely in meeting deadlines. The enormous list of comments was tracked in Constructware and are all closed out.

2.10 Construction Phase Report

a. Construction Meetings and Reports

There is a series of construction meetings being held: QM meetings; RFI/DCN meetings, and project change order meetings are held weekly; owner's meetings are held bi-weekly, and construction subconsultant prep meetings, along with start-up and follow-up meetings, occur on an as-needed basis. While some of the players feel that there are too many meetings, others feel that a project of this magnitude being done under a fast-track schedule warrants the number of meetings being held to ensure constant communication and ongoing problem-solving by team members. Construction meetings and reports typically take on characteristics of being reporting- and/or solution-oriented. Some attendees feel that the meetings are too reporting in nature and are in need of a solution look-forward approach. A project of this nature needs both. This situation is already changing as construction moves forward.

b. Dissemination of Information to AOC

Dissemination of information to the AOC has been pretty good. Meetings are working well as part of the process to keep the AOC informed. Historical filing of project documents using Constructware is proving to be an invaluable tool to catalog and record events during the construction process. A design/construction/schedule status report is issued monthly.

c. Coordination Between Parties

Team coordination is excellent; the design and construction results to date could not have been achieved without close coordination and teamwork. The higher level of commitment required for a design-build process is definitely present on this project.

d. Quality Management

An independent quality manager, DI, has been retained by the design-builder, in accordance with the Project Agreement. This group, located on site, is dedicated to administrating and documenting the contractor's quality assurance program; as such the documentation and follow-though on the completion of quality measures has been superior – relative to a typical design-build, fast-track project, where OA/QM is assigned to a member of the design-builder's staff. The quality manager is responsible for subcontractor pre-construction QA/QC meetings and the weekly project QM meetings, which have been useful. In addition they are enforcing the IBE-approved project construction documents. One concern is that the quality manager should be more focused on field review of construction to ensure that construction is per the construction documents and ready for inspection so that the IOR is not tasked with determining if a construction element is ready for inspection.

Nonetheless, an independent QM, retained by the design-builder to administer the QA/QM program, is a construction management best practice, which has benefited this project to date.

Construction quality and workmanship in general have been excellent. A few minor issues related to welding, as previously presented herein, have been and/or are being addressed.

The design-build team and subcontractors have been cooperative and responsive in solving field issues. The team members are also working together very closely which has been a key element to the overall success of the project thus far.

e. Project Schedule

The project construction is right on schedule with all major milestones to date having been met. The desired goal by the Project Company and the design-builder is to have the building completely waterproofed with exterior glazing curtain wall and roofing prior to the next rainy season (October/November), which will allow for the immediate start of critical path interior walls and finishes. This schedule is extremely ambitious. Having steel erection begin one year from the Notice to Proceed was a major achievement. The next major milestone is the beginning of hanging the glass curtain wall on the exterior of the Main Building. From there it will progress to the remainder of the buildings on site.

f. Site Safety

Job site safety is taken very seriously on the site. The safety program in place has been given high praise by everyone asked about it. To date there has been only one recordable incident, which is now under review to determine if it might be a preexisting condition. All safety briefings are well done and the paperwork is complete.

Site safety has, to date, been outstanding. The design-builder has a rating of 0.7 Recordable Incidents on the job, which is well below the national average of 3.5. (See table of risk categories in section 1.17, item 4.05 for further discussion of Site Safety risk).

Site safety includes a hazardous substances management plan, which is in place, but there has been no emergency event that has really tested it. It has functioned in accordance with appropriate compliance.

g. Project Company Commissioning Management

As stated previously, the commissioning agent has been selected and the commissioning plan has been prepared and accepted by all team members. Actual commissioning of systems is scheduled to start in fall 2012 with IBE oversight of the commissioning process.

The AOC maintains a regular presence on the construction site to monitor construction progress and relies on the IBE/IOR, the Project Agreement designated entities, for field inspections.

h. Inspector of Record (IOR)

The IOR and inspection team members are providing comprehensive reviews/inspection in the field. The team, especially the IOR, is working very hard as a team player to ensure the project is built per code and approved construction documents.

i. Project Company Tests and Inspections

Under the management of the IOR, testing and inspections have been going well and are being completed with adequate resources involved to ensure the project schedule is not impacted. Lack of timely review of reports was addressed and corrected. Key to the inspection process has been the involvement of those IBE technical professionals who performed the plan review being available during construction to assist the IOR with field observations and thereby providing continuity from design through field execution. As stated before, testing results have been excellent.

END OF PART 2

This report covers the period from the Notice to Proceed in December 2010 through March 31, 2012. Subsequent evaluation reports will be provided throughout the construction phase; a final evaluation, of implementation of the Project Agreement in construction phase will be issued shortly after the court building is occupied by the Superior Court.

Appendices

1) Project Feasibility Report (Revised June 2007)
2) RFQ Table of Contents
3) RFP Table of Contents
4) Project Agreement Table of Contents
5) Risk Analysis Summary
6) Chronology of Procurement Process

Appendix 1

Superior Court of California

County of Los Angeles

New Long Beach Court – Phase I (S)

PROJECT FEASIBILITY REPORT

SEPTEMBER 8, 2006

Revised: JUNE 28,2007

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF COURT CONSTRUCTION AND MANAGEMENT

Contents

I. EXECUTIVE SUMMARY

A. Introduction

This Project Feasibility Report for the proposed new Long Beach Court - Phase I (S) for the Superior Court of California, County of Los Angeles has been prepared as a supplement to the Judicial Council's *Five-Year Infrastructure Plan Fiscal Year 2007–2008.* This report documents the need for the proposed new 31-courtroom facility, describes alternative ways to meet the underlying need, and outlines the recommended project.

B. Statement of Project Need

The South District of the County of Los Angeles is served by four court facilities: Long Beach, the Beacon Street Annex, San Pedro, and Catalina. The court in the city of Long Beach operates out of a shared-use county building that is functionally and physically deficient and is among the worst in the state in terms of security and overcrowding. This outdated and undersized building is and will remain incapable of meeting the region's growing demand for court services. The existing court space provides limited court services, as a result of its constrained size. Consequently, the court has had to utilize a modular building to hold its traffic court. The deplorable conditions of the facilities, the extreme lack of security and overcrowded conditions, and the public's hindered access to court services are among the reasons why a New Long Beach Court – Phase I (S) is needed. This project—ranked in the Immediate Need priority group of the Trial Court Capital-Outlay Plan, adopted by the Judicial Council in April 2007—is one of the highest priority capital-outlay projects for the judicial branch.

In June 2001, the Administrative Office of the Courts (AOC) began a capital planning process to develop a facility master plan for each of the 58 trial courts in California. Each master plan was guided by a steering committee or project team composed of members of the local court, county administration, county justice partners, and the AOC. The master plans confirmed the Task Force on Court Facilities (Task Force) findings related to physical and functional conditions, refined the caseload projections for each court, considered how best to provide court services to the public, developed judicial and staffing projections, and examined development options for how best to meet goals related to court service, operational efficiency, local public policy, and cost effectiveness.

The project, as was identified in the Facilities Master Plan (master plan) prepared for the Superior Court of Los Angeles County, is summarized in Appendix A. Renovating and expanding the existing court building is not a viable option to address and resolve these issues.

C. Options Analysis

Three project alternatives for the construction of a new facility were evaluated, based on their ability to meet current and projected need for new judges, programmatic requirements, and their short and long-term cost to the state. The three project alternatives studied are:

- Project Alternative 1 (recommended): Complete construction of all courtrooms and related support space for current judges and four new judgeships using a public private partnership development method.
- Project Alternative 2: Complete construction of 29 courtrooms and related support space and leave unfinished space for two new judgeships and related support space.
- Project Alternative 3: Renovate and expand the existing court facility for 31 courtrooms.

Each project alternative involves providing 31 courtrooms to provide replacement space for the 27 existing courtrooms in the current facility, and provide 2 courtrooms for new judgeships which were approved for FY 2006–2007 in Senate Bill 56 (Dunn), and 2 courtrooms for 2 additional new judgeships proposed for FY 2007-2008 (Assembly Bill 159) and FY 2008-2009.

In addition to the project development alternatives, three financial alternatives for delivering a new facility were evaluated based on ability to meet the programmatic requirements and economic value. These three financing alternatives studied for the recommended project alternative are:

- Financing Alternative 1: Public/Private Partnership—Build-to-Suit/Lease-Purchase-Operate
- Financing Alternative 2: State Financing
- Financing Alternative 3: Pay-As-You-Go

The recommended financing and delivery method is Financing Option 1: Public/Private Partnership upon confirmation that this approach will provide a greater benefit to the state than the state financing and traditional state delivery method under Option 2. The public/private partnership is recommended for the following reasons:

- A competitive proposal process could result in the lowest cost to the state;
- Capital costs for the state are amortized over a period of time; and
- This method can deliver a completed project faster than the other two options, resulting in lower capital costs.

D. Recommended Option

The recommended solution for meeting the court facility needs for the Superior Court of California, County of Los Angeles is to construct a new seven-story courthouse with 31 courtrooms in the Long Beach area using a public-private partnership development method. The proposed courthouse would replace the existing building with 27 courtrooms and provide four new courtrooms for new judgeships. Secure parking for judicial officers and key administrative staff, a sallyport, and in-custody holding will be located at the basement level. Short-term surface parking will be provided at street level.

An updated space program for the proposed project, which has been created in collaboration with the court, outlines a need for approximately 306,480 building gross square feet and 338 staff. Based on a site program developed to accommodate the new facility, the court should acquire a site with a minimum of 3.0 acres.

This option is recommended as the most cost-effective solution for meeting current and mid-term needs of the court by leveraging the economic value of the existing property by using a public-private partnership development method. By replacing the existing court building, this project will solve the current space shortfall, increase security, and replace an inadequate and obsolete building. This option will best serve the current needs of the public and the justice system, as well as provide the foundation for long-term needs. Solicitation of development proposals is necessary to identify the annual cost to the state under a public-private partnership development agreement. The estimated project cost to construct the recommended project using traditional design-bid-build methods is $296.6 million, without financing costs but including equity buy-out costs. This cost is based on constructing a 7-story building with a basement and partial penthouse, 10 surface parking spaces, and 35 secure parking spaces within the basement.

Preliminary project schedules have been developed assuming that initial funding is included in the 2007–2008 State Budget Act.

<u>Proposed Project Schedule</u>

Site Selection/Land Acquisition (including CEQA)	July 2007–December 2008
Preliminary Plans	December 2008–January 2010
Working Drawings	January 2010–May 2011
Construction	May 2011–June 2013

A compressed schedule for all phases will be evaluated during the analysis and negotiation of a public/private partnership.

Impact on the trial court and the AOC's support budgets for FY 2007–2008 will not be material. It is anticipated that this project will impact the AOC facilities operations and trial court support budgets in fiscal years beyond the current year as possible one-time and ongoing costs are incurred.

II. STATEMENT OF PROJECT NEED

A. Introduction

The South District of the County of Los Angeles is served by four court facilities: Long Beach, the Beacon Street Annex, San Pedro, and Catalina. The court in the city of Long Beach operates out of a shared-use county building that is functionally and physically deficient and is among the worst in the state in terms of security and overcrowding. This outdated and undersized building is and will remain incapable of meeting the region's demand for current and near-term need for court services. The existing court space provides limited court services, as a result of its constrained size. Consequently, the court has had to utilize a modular building to hold its traffic court. The deplorable conditions of the facilities, the extreme lack of security and overcrowded conditions, and the public's hindered access to court services are among the reasons why the proposed New Long Beach Court – Phase I (S) project is a high priority for the judicial branch. This section documents the need for replacement of this facility.

Creation of a new 31-courtroom facility would solve the current space shortfall—by providing a safe and adequately sized building to meet current and near-term needs, would increase security, and would replace an inadequate and obsolete building. In addition this project will provide four additional courtrooms for new judgeships. This new court facility would be an unprecedented full-service location for public access to all judicial services in the south district of the county.

B. Transfer Status

Under the Trial Court Facilities Act, negotiations for transfer of responsibility of all trial court facilities from the counties to the state began July 1, 2004. The County of Los Angeles is undertaking a seismic upgrade project. Per the county, the project is under construction and is scheduled to be completed in January 2009. This upgrade will prevent collapse, but it will not meet the Act's criteria for a rating of Seismic Risk Level IV—it is estimated to cost many millions more to accomplish reach an acceptable risk level rating. The seismic-upgrade project will not solve functional and security problems that exist in the building. Following completion of this project, it is expected that the facility will transfer to the state. Transfer negotiations are underway between the AOC and the county; an Agreement for transfer of responsibility is scheduled to be signed in June 2007, with transfer of responsibility to follow by October 2007.

C. Project Ranking

Since 1998, the AOC has been engaged in a process of planning for capital improvements to California's court facilities. The planning initiatives have gradually moved from a statewide overview to county-level master planning to project-specific planning efforts. On August 25, 2006, the Judicial Council adopted a new, simplified policy for prioritizing trial court capital-outlay projects, entitled *Prioritization Methodology for Trial Court Capital-Outlay Projects* (the methodology).

In April 2007, the council adopted an updated trial court capital-outlay plan (the plan) based on the application of the methodology. The plan identifies five project priority groups to which 175 projects are assigned based on their project score (determined by existing security, overcrowding, and physical conditions). All projects within each group will have the same priority for implementation. Should there be a lack of sufficient funding—within a given capital project funding cycle—to fund all qualifying Immediate Need funding group projects, further project selection will be based on additional subcriteria:

- Rating for security criterion;
- Economic opportunity; and
- Replacement or consolidation of disparate small leased or owned space that corrects operational inefficiencies for the court.

The Superior Court of California, County of Los Angeles has substantial capital improvement needs: 34 total projects in the Trial Court Capital-Outlay Plan, which are estimated to cost as much as $2.3 billion in January 2007 dollars. These needs cannot be met in a reasonable time frame, unless at least one project is submitted for funding in each fiscal year.

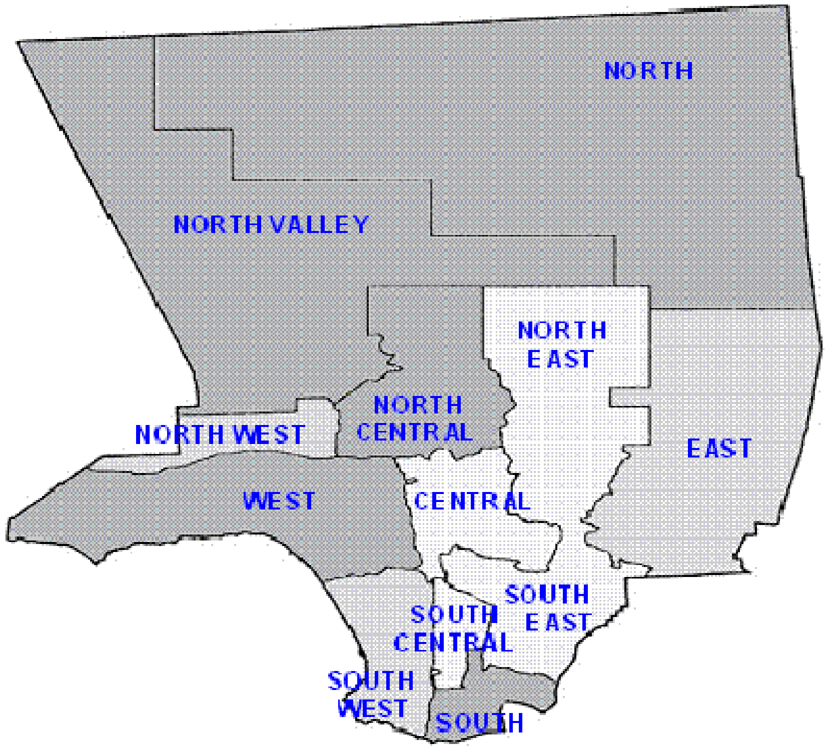
The proposed New Long Beach Courthouse project is in the Immediate Need priority group, making it a high priority trial court capital-outlay project for the judicial branch.

D. Current Court Operations

The Superior Court of California, County of Los Angeles is one of the largest trial court systems in the nation, with more than 600 judicial officers serving approximately 9.8 million county residents. The superior court operates in approximately 52 facilities—including leased facilities—with approximately 600 courtrooms. These facilities represent about 30 percent of all courtrooms and total court occupied area in the state. In 2006, more than 2.7 million cases—of all types—were filed in this court, representing 30 percent of all cases filed in the state of California. In addition to judicial officers, the superior court employs more than 5,400 staff.

As shown below in Figure 1, the superior court is divided into 12 geographical districts, except of the Juvenile and Mental Health courts, which have countywide jurisdiction.

FIGURE 1
Superior Court of California, County of Los Angeles District Map



The existing 27-courtroom Long Beach Courthouse, located in downtown Long Beach, is the main courthouse for the South District; only three other courthouses in Los Angeles have more courtrooms than the Long Beach facility. The court deploys its courtrooms as follows: 13 criminal, 6 civil, 3 multi-purpose, 2 family, 2 juvenile, and 1 traffic. Five of the 27 courtrooms are non-jury capable. Traffic court is currently held in a modular building, which is installed in the parking lot area of the court site.

E. Demographic Analysis

The City of Long Beach is located in the southern part of the County of Los Angeles and is approximately 27 miles from downtown Los Angeles. The city was originally incorporated in 1888 and covers approximately 52 square miles on the south coast of Los Angeles county. Long Beach is the fifth largest city in the state of California, with a population of approximately 490,000. Long Beach is one of the most ethnically diverse cities in the United States.

Per the Department of Finance, the population of Los Angeles County grew by 7 percent from 1990 to 2000. Growth increased to 7 percent per year from 2000 to 2006. The population of Los Angeles County is projected to grow substantially over the next twenty years, from approximately 9,559,635 in 2000 to 11,423,198 in 2050, representing an increase of 19 percent. Table 1 below summarizes the population projections.

TABLE 1
Population Projections in Five-Year Increments for Los Angeles County, 2000 to 2050

	2000	2010	2020	2030	2040	2050
Total County Population	9,559,635	10,461,007	10,885,092	11,236,734	11,380,841	11,423,198

Source: State of California, Department of Finance, Population Projections by Race/Ethnicity for California and Its Counties 2000–2050, Sacramento, California, May 2004.

F. Judicial Projections

The court's master plan includes a projection of JPEs[1]. Current and projected JPEs determine the number of current and future courtrooms needed by each court. Projected JPEs are determined through two methods: the California Judicial Needs Assessment Project (assessment project) and the adjustment to the 2002-2003 facility master plan projections that factor in current funding proposals for new judgeships.

The assessment project provides an estimate of current judicial need through the application of a workload methodology adopted by the Judicial Council in August 2001. On February 23, 2007, the Judicial Council approved an updated workload assessment identifying 361 currently needed new judgeships in addition to identifying the additional 100 judgeships submitted in fiscal years 2007–2008 (Assembly Bill 159) and 2008–2009 for legislative approval.

The initial application of the workload methodology in the 2002-2003 facility master plans resulted in a dramatic increase in JPEs over the master plan's 20-year time frame. The AOC studied these projections given the status of funding requests for new judgeships and determined that the projections should increase more gradually as a basis for facilities planning. The adjustment made to the 20-year facilities master plan projections was performed by the AOC Office of Court Research, which developed the methodology for adjusting the JPEs projections to be more aligned with requested funding for new judgeships. The starting point for the adjusted projections is 2009, based on the proposed 150 new judgeships, 50 of which were authorized in the FY 2006-2007 Budget Act (SB 56). In the methodology, the projections for 2014, 2019, 2024, and 2029 have been established by computing the rate of growth in JPEs projected for each of these five-year increments and applying them to the 2009 projections. The adjusted methodology maintains the different growth rates for each court used in the original master plan projections, and used the last growth rate to develop the 2024-2029 projection.

Table 3 below presents information used to determine the near-term need for this project, including the existing JPEs, the approved new judgeships for FY 2006–2007, and the proposed new judgeships for upcoming fiscal years FY 2007–2008 and FY 2008–2009.

[1] JPEs are defined as the total authorized judicial positions adjusted for vacancies, assistance rendered by the court to other courts, and assistance received by the court from assigned judges, temporary judges, commissioners, and referees.

The Superior Court of California, County of Los Angeles will receive a total of four new judgeships through this updated allocation with all four of those allocated to the new Long Beach Courthouse. The judgeship need is reflected in Table 2.

TABLE 2
Current and Projected 2024 JPEs (Including Proposed New Judgeships)

Location	Existing JPEs	SB56 06–07	Proposed 07–08	Proposed 08–09	Adjusted 2024 JPEs
Countywide	611.5	2	1	1	708.5
Long Beach Allocation	27	2	1	1	-

G. Staffing Plan

The court presently has 227 non-judicial staff at the existing Long Beach court facility. To assist with facility planning, the court estimated a need of 338 staff to support the projected 31 courtrooms. Staff growth includes support of the four new judgeships, growth in limited/general criminal cases, and support staff needed as a result of the increasing number of pro per cases.

H. Existing Facility

The existing Long Beach court facility is located in downtown Long Beach, at the western end of the business district, along Ocean Boulevard. The site is approximately two miles east of the 710 Freeway and accessed from Ocean Boulevard, a six-lane surface street. The court is located within a Civic Center area, bounded by Ocean Boulevard on the south and Magnolia Avenue on the west. Within the Civic Center area, the site contains the City Hall, the Public Safety and Police Department Building, and a library. The Long Beach Court site has one main court building and a small modular building, which is used as Traffic Court. The main courthouse was built in 1959 and is six stories with a basement. This building overlooks the Convention Center and has views of the Queen Mary, the Pacific Ocean, and downtown Los Angeles. Public transportation is available on Ocean Boulevard. Its physical condition was rated marginal-to-deficient by the Task Force. The structure is in immediate need of seismic retrofitting and is non-ADA compliant.

The County of Los Angeles is undertaking a seismic upgrade project estimated to cost $13.9 million. The project is in construction and is scheduled to be completed in January 2009. This upgrade will prevent collapse, but it will not meet the Act's criteria for a rating of Seismic Risk Level IV—it is estimated to cost many millions more to accomplish this condition. The seismic-upgrade project will not solve functional and security problems that exist in the building. Following completion of this project, it is expected that the facility will transfer to the state. At this time, transfer negotiations are underway between the AOC and the county: an Agreement for transfer of responsibility is scheduled to be signed in June 2007, with transfer of responsibility to follow by October 2007.

The main court building is 277,232 building gross square feet (BGSF), with 27 courtrooms. The court is currently operating out of approximately 120,902 departmental gross square feet

(DGSF), including the adjacent modular building. Based on the space program developed with the court and presented in Appendix C, a deficiency of 106,662 DGSF exists. The court shares the facility with following agencies/spaces: Sheriff, Public Defender, District Attorney, Los Angeles City Attorney, Los Angeles Police Department, Probation, County Internal Services Division, a cafeteria, and a children's waiting room.

At present, the existing court building is overcrowded in many staff areas and lacks several necessary support spaces for efficient and effective functioning. The building is subjected to the movement of approximately 225 prisoners through its corridors each day, mostly through those used by judges, staff, and the general public. It is further impacted each day by the average number of jurors it receives—more than 175, except on Mondays when it becomes closer to 215. Furthermore, there are no courtroom waiting areas, non-judicial hearing rooms, attorney/client/witness rooms, or areas for courtroom storage. Court security operations lack a command center and security staff work areas, and the in-custody holding area, which is severely overcrowded, requires a larger sallyport for several buses.

The option to renovate and/or expand the existing facility was not considered viable, due to its age, physical condition, and functional issues. In order to reuse this facility and resolve the lack of circulation and all other physical and functional problems, an entire building renovation would be required. As it stands, the building is too small to meet current needs, and court staff and judicial officers would have to be relocated to other space(s), in order to vacate the building prior to the start of the renovation's construction. Since there is no available, empty court space near this facility, a new lease of space for its 27-courtrooms and all associate spaces would be required, which would be very expensive. The expense to build out the appropriate courtroom space, holding cells, and staff areas would be a sunk cost, non-recoverable to the state. Moreover, the facility is a shared-use building, in which the court currently shares its space with the other agencies listed above.

Figure 2 below is a site diagram of the existing court location within the civic center area. Figure 3 below is a photograph of the existing building.

FIGURE 2
Site Diagram

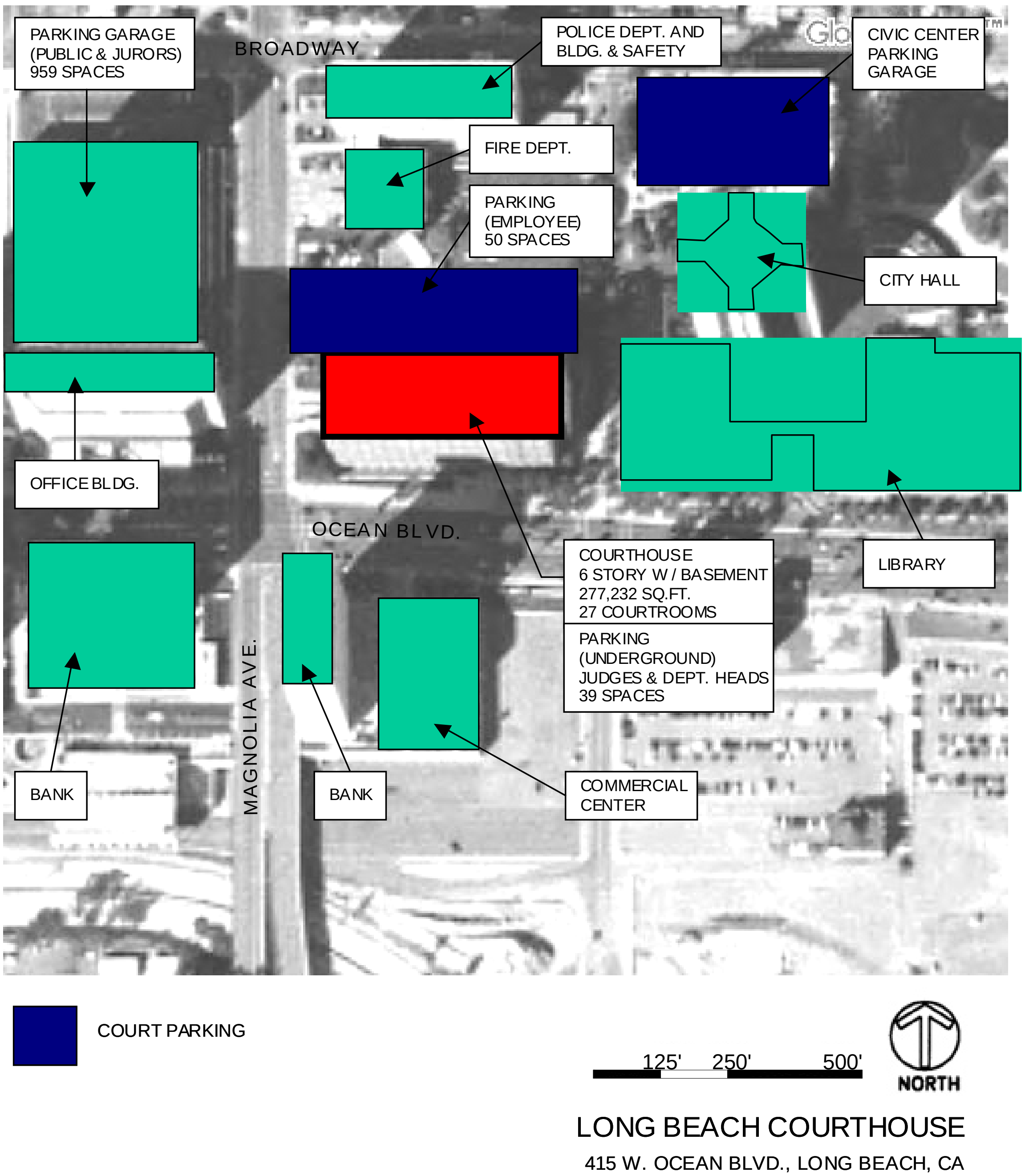


FIGURE 3
Exterior—Long Beach Court Building—415 West Ocean Boulevard

Specific functional and physical problems with the court facility—as well as their impact on all court users—include the following:

Long Beach Court Building

Americans with Disabilities Act

- The building does not have wheelchair accessible bathrooms on most floors.
- There is no public elevator access to the sixth floor, which houses the jury assembly room, the cafeteria, and the Office of the Public Defender.
- Access to and from the sixth floor for persons with disabilities is by security guard escort only, using the security elevator.
- Of the 27 courtrooms, none are ADA compliant.
- Public Impact - In January 2005, prospective jurors with disabilities were notified to either postpone jury service or request it in another court facility, as the security elevator used to transport jurors to the sixth floor jury room was unavailable till May 2005.

Seismic Deficiencies

- Two independent surveys, one by the County of Los Angeles and one by the State of California, concluded that the Long Beach Court Building would collapse in the event of a medium-sized earthquake from a nearby fault.

- The last two area earthquakes have caused a six-inch separation between the east wing and west wing of the courthouse.

- Over time, rainstorms, coupled with high winds, have caused further movement and damage in the east wing. New leaks have developed and court files have been damaged.

- The County of Los Angeles is currently planning a limited retrofit at an estimated cost of $13.9 million.

- After the proposed retrofit is completed, it is estimated that the courthouse would remain standing long enough to evacuate but could not be re-occupied following a medium sized earthquake from a nearby fault.

- Public Impact - If the courthouse is closed, all of the cases would necessarily have to be transferred to remote locations for adjudication. There is presently no single courthouse in Los Angeles County large enough to accommodate all of the criminal cases assigned to the South District.

Inoperable Custody Elevator

- This facility accepts up to 225 prisoners each day, in which these individuals are moved within hallways used by judges, staff, and the general public.

- The elevator used to transport prisoners is <u>not</u> operable approximately 39 percent of the time.

- When the custody elevator is not operable, the Sheriff’s deputies are required to load and unload the buses with prisoners in an unsecured parking lot behind the building.

- The security elevator normally used by judges and court employees is used for the transport of prisoners. Judges and employees are required to use public elevators, escalators, and stairways, thus compromising security.

- When the security elevator is being used to transport prisoners, the prisoners must be walked through hallways with access to judge’s chambers, jury deliberation rooms, and unlocked doors to courtrooms.

- Public Impact - When the security elevator is being used by the Sheriff’s deputies, there is no access to the sixth floor for persons with disabilities.

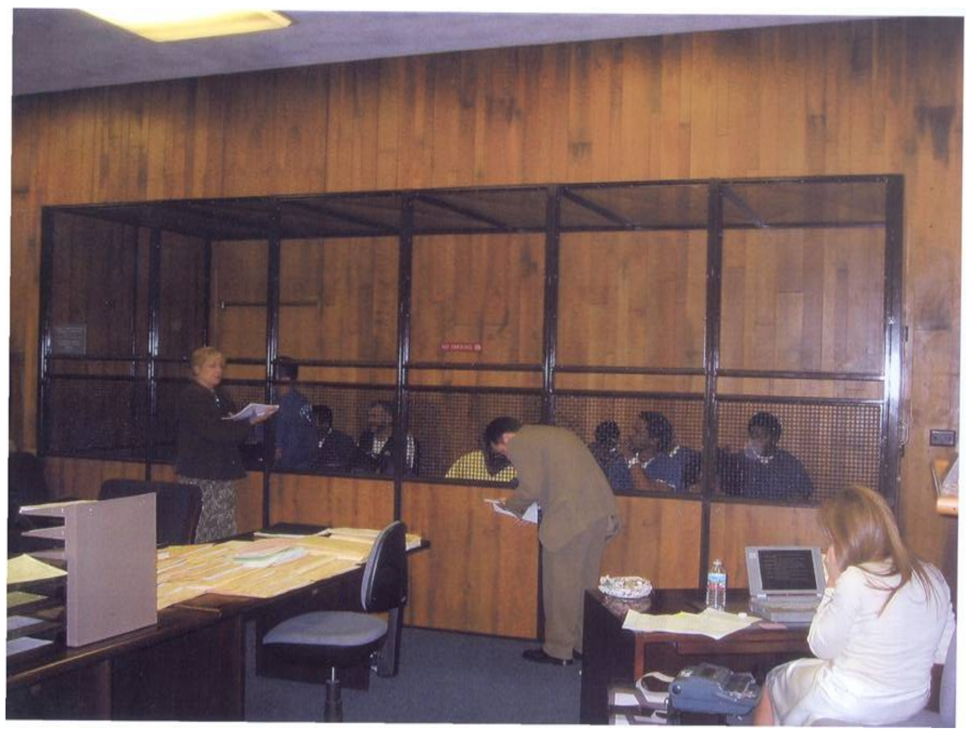
Inadequate Custody Lockup Area

- The in-custody jail cells are located on two floors of the courthouse, which requires additional Sheriff's deputies to manage the inmates.

- There are not enough individual holding cells to segregate gang members, informants, and other "keep-aways" from the general population of inmates, which results in frequent attacks on prisoners by other prisoners.

- Attorney interview areas are used to house "keep-aways," thus eliminating private areas for attorneys to interview criminal defendants. Attorneys are forced to interview their clients in the busy courtrooms, where the cases are scheduled to be heard, as shown below in Figure 4.

FIGURE 4
Defense Attorneys Interviewing Felony Prisoners



- Juvenile prisoners are taken to courtrooms through public hallways, which are often filled with family members, witnesses, and rival gang members. Figure 5 below depicts a typical court business day.

FIGURE 5
5th Floor Public Hallway—Criminal and Juvenile Delinquency Courts

- Public Impact – Delays commencement of court hearings, which affects court staff, witnesses scheduled to testify, increases the security risk for all persons, and increases security costs.

Defective Public Elevators and Escalators

- In January 2005, a juror, while serving jury duty on the sixth floor—inaccessible by public elevator—suffered a heart attack that proved to be fatal. The County Board of Supervisors voted shortly thereafter to request a full investigation into the matter, which is described in Appendix D.

- Frequent elevator and escalator breakdowns pose a hazardous condition, exposing the court and the county government to potential liability.

- Of the 10 escalators in the building, approximately 70 percent are non-functioning on a daily basis, as shown below in Figure 6.

FIGURE 6
Typical Out-of-Service Elevator

- The Office of Risk Management has reported that 26 percent of all escalator injury claims occurring in the Superior Court of Los Angeles County arise from accidents in the Long Beach Court Building.

- Approximately 4,800 people per day enter the Long Beach Court Building.

- The frequent breakdown of the escalators causes overcrowding in the lobby area, which in turn delays entry into the courthouse and results in long lines outside the building. Figure 7 below depicts this regularly occurring condition.

FIGURE 7
Public Entrance Line—Caused by Facility Conditions

- It is not uncommon for at least one of the three public elevators to be regularly inoperable. There are some occasions when all public elevators have ceased functioning.

- Public Impact - Attorneys, litigants, witnesses, and visitors are required to use overcrowded elevators and/or climb up to 10 flights of stairs to make appearances in court, or to access various administrative offices.

Inadequate Number of Courtrooms

- There are only 27 courtrooms available in this building, 8 of which are dedicated to handle civil or family law cases.

- Some of the existing courtrooms were created in spaces designed as clerks' offices. There are structural support columns in the center of the courtroom, as shown below in Figure 8. The judges' chambers do not have restroom facilities.

FIGURE 8
Typical Courtroom with Obstructed Views

- A modular building, installed in the parking area behind the courthouse, serves as a traffic court. This building has leaks, mold, and termite infestation, as shown below in Figures 9 and 10.

FIGURE 9
Modular Building Water Damage to Roof/Ceiling

FIGURE 10
Modular Building Water Damage to Floor

- The traffic court in the modular building is in the parking area, while payments for traffic fine are received on the second floor of the main building.

- Public Impact - The courtrooms are too small to accommodate all of the litigants and witnesses. The public is required to wait outside each courtroom for their turn to enter and have their case heard by a judge or commissioner. If, while waiting in the hallway, they miss hearing their name called, a warrant may be issued, a case dismissed, or a default judgment entered. Often, attorneys, litigants, witnesses, and even jurors are required to travel to distant courthouses to have cases adjudicated.

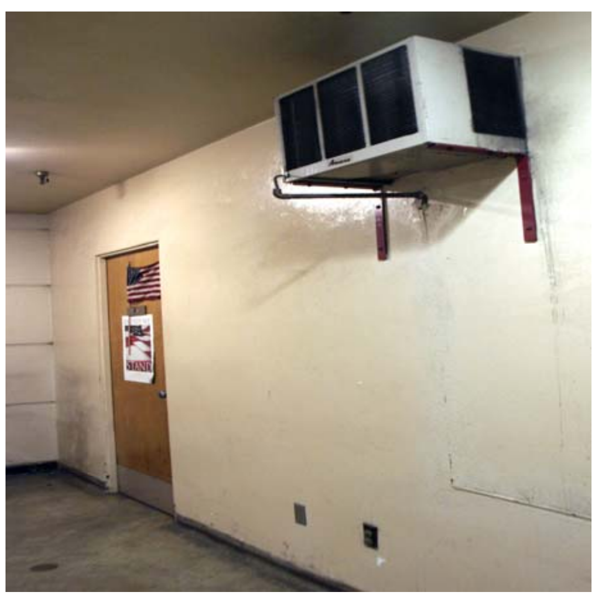
Inadequate Space for Support Functions

- Due to lack of space, private corridors and mechanical/electrical rooms are used for storage. The public lobby in the Office of the Public Defender and the hallways leading to the attorneys' offices are lined with filing cabinets and boxes of files, as shown below in Figure 11.

FIGURE 11
Lobby of Public Defender's Office

- By installing makeshift air conditioning units, spaces originally designed as janitorial supply rooms have been converted to office space, as shown below in Figure 12.

FIGURE 12
Lack of Office Space—Makeshift Conversions



- Long lines, as shown below in Figure 13, are a common occurrence at clerks' counters, as the public attempts to pay traffic fines, file documents, and access criminal and civil case files.

FIGURE 13
Long Lines at Clerk's Counters—Caused and Exacerbated by Lack of Space

- Public Impact – Attorney, litigant, and visitor frustration is apparent—owing to the waiting required to transact court business—which adds to the already difficult task faced by employees of processing matters for litigants and attorneys.

Antiquated Systems

- The heating and cooling systems are 45 years old and were never designed to service the increased number of people who use and visit the building on a daily basis.

- The addition of computers and other electrical devices causes frequent power outages, by overtaxing the outdated electrical system.

- Flooding in courtrooms, jury deliberation rooms, and in the jail cell area is nearly a daily occurrence, as a result of leaking plumbing and overflowing toilets.

- Constant leaks from drinking fountains have caused their removal from nearly every courtroom and jury deliberation room. Bottled water is now provided at the individual expense of the judges.

- Public Impact - In January 2005, one courtroom and the office of the District Attorney closed, due to the failure of the air conditioning system. In 2005, one courtroom had to be closed, due to leaks and mold.

General Lack of Maintenance

- Portions of the ceilings in several courtrooms have fallen down, and even the repair patches have failed, as shown below in Figure 14.

FIGURE 14
Typical Ceiling Tile—Resulting from Poor Maintenance

- Several of the public entrances to the courtrooms have large holes in the walls, where the courtroom doors have struck the walls.

- Vermin infestation is rampant. Rattraps are a permanent fixture in the courtrooms and offices throughout the building.

- The mirrors and walls in the public restrooms are covered in graffiti, as shown below in Figure 15. The furniture in the public hallways and jury waiting areas are also covered with graffiti and markers, as shown below in Figure 16.

FIGURE 15
Typical Public Restroom Mirror

FIGURE 16
Typical Public Seating

- The tiles in the public restrooms have broken or fallen from the walls.

- Public Impact – A public perception of less than professional service and accommodation is projected by the inadequate appearance of the Long Beach Court Building. As a result of this dismal work environment, the public's perception of professionalism, as well as employee morale, is increasingly diminishing.

III. OPTIONS ANALYSIS

A. Introduction

The purpose of this section is to compare three project completion options and three financial delivery options for construction of a new court facility in the Long Beach area for the superior court.

B. Project Development Alternatives

The primary objective of this analysis is to compare alternative methods of developing the proposed capital project to meet the future needs of the court. Three alternatives for the construction of a new facility were evaluated based on their ability to meet current and projected need for new judges, programmatic requirements, and their short and long-term cost to the state.

- **Project Alternative 1: Complete construction of all space.** In this option, all courtrooms and related support space for current judges (i.e., 27), judges for this project in the 50 judgeships approved in the Fiscal Year 2006–2007 budget (i.e., 2), and judges included in the requests for new judgeships planned for FY 2007–2008 and FY 2008–2009 (i.e., 2), which are likely to be approved by the time the project is finished, are constructed and finished at one time. A building of 306,480 gross square feet will be constructed and all 31 courtrooms and associated support space will be completed in this option.

- **Project Alternative 2: Leave space unfinished in new facility for future judgeships.** In this alternative, space for future judgeships proposed for FY 2007–2008 and FY 2008–2009 will be left unfinished and completed as needed. The unfinished courtrooms are for the Los Angeles allocation (two) of the 100 judges recommended by the Judicial Council. This option constructs a building of 306,480 gross square feet, but only 29 of 31 courtrooms will be completed. Two courtrooms, approximately 10,000 departmental gross square feet, will be left unfinished and will be completed as a separate project after the new facility has been occupied; however, the two additional judgeships are likely to be approved before the initial project is complete.

- **Project Alternative 3: Renovate and Expand the Existing Courthouse**
  In this option, the existing court facility in Long Beach would be renovated and expanded. The court shares the existing building with the County of Los Angeles and City of Long Beach. The court occupies approximately 238,230 GSF of the 277,232 GSF Courthouse. The space required by the court is 306,480 GSF.

The approach of a renovation and expansion of the existing Long Beach Courthouse would include renovation of the existing building for reuse with six courtrooms and court support plus an addition with 25 courtrooms and court support. Construction could be phased as follows:

1. Lease 250 parking spaces to replace those lost to the construction site for the new courthouse addition and the addition to the existing parking structure.

2. Construct new addition with 25 courtrooms and new secure holding on adjacent surface parking lot; existing court to remain in operation during construction.

3. Relocate the county and city functions from the existing courthouse including the sheriff, district attorney, public defender, probation, alternative public defender, county internal services, city attorney, and police.

4. Relocate courtroom functions and secure holding to new addition; temporarily relocate court support services to nearby lease space, vacating the existing facility.

5. Remove and demolish the non-functional interiors of the existing courthouse building.

6. Renovate the existing 6-story courthouse for six courtrooms, court support functions, and lease space for county operations.

7. Construct two new floors above existing county parking structure across the street from the existing courthouse for staff, visitors, and jurors; 210 spaces needed to support 6 new courtrooms and 229 spaces are needed to replace displaced parking at the construction site for a total of 439 new spaces. Existing 918 spaces are dedicated to court for a total of 1,357 spaces.

8. Move all court functions from temporary lease space to the renovated Long Beach Courthouse. 30,000 square feet available in the renovated courthouse for lease to county justice agencies.

Project components and costs are summarized below:

Project Component	Square Footage	Estimated Cost	Comments
County & City Equity	39,000	$5,889,000	$151 per SF
Temporary Parking Lease (5 Years Total)	250 Spaces	$637,100	$40 per space/month, including 3 percent annual escalation

Temporary Court Lease (5 Years Total)	120,000	$26,143,540	Support space only, no courtrooms (moved into new addition). Includes tenant improvement budget at $100 per square foot.
Building Renovation	277,232	Included Below	6-story building
Building Addition	178,190	$366,779,000	7-story plus basement (includes renovation and parking structure)
Parking Structure	184,380	Included Above	439 spaces at 420 SF each, 2 new floors on existing parking structure
Total Project Cost		**$396,448,640**	

C. Analysis of Project Development Alternatives

The unique costs, advantages, and disadvantages of each project option are described in the following section. Each option will provide a new court facility that meets the current and long-term needs of the court that is appropriately sited to meet the requirements of both the state and the local community. Land for a 31-courtroom facility will be acquired as part of each project alternative.

Project Alternative 1: Complete construction of all space

Advantages:

- All courtrooms and related spaces are made available to serve immediate and mid-term needs of the court and the community.
- The long-term cost of this option is the lower than Alternative 2 because construction is completed in one phase.
- This option will not result in any future disruption to court operations because construction is completed in one phase.
- As recommended by the Judicial Council, pending legislative approval, the remaining new judgeships are to be allocated in Fiscal Years 2007–2008 and 2008–2009. With this option, the required space will be available when it is needed.

Disadvantages:

- The short-term cost to the state is higher in comparison to the cost of Alternative 2 in which fewer courtrooms are finished or constructed in the initial construction contract.

- The future allocation of new judgeships could be delayed, leaving two of 31 courtrooms vacant for a period of time.

Project Alternative 2: Leave space unfinished in new facility for future judgeships

Advantages:

- The state is not required to complete facility construction for judges not yet approved.

- The overall project cost is higher in comparison to the cost of Alternative 1, but the initial cost to the state is lower than Alternative 1.

- Potential other interim uses by county or others can be explored with rental income to offset operations and some capital costs.

Disadvantages:

- The cost of completing the unfinished space is higher in the future than if the new facility was completely finished in one phase.

- As recommended by the Judicial Council, pending legislative approval, the remaining new judgeships are to be allocated in Fiscal Years 2007–2008 and 2008–2009, prior to the projected tenant improvement completion date of 2017.

- Future court operations will be disrupted by the construction required to finish out the space left unfinished under the first construction contract.

Project Alternative 3: Renovate and Expand the Existing Courthouse

Advantages:

- Court functions will remain at their existing location.

Disadvantages:

- Based on project cost estimates, Alternative 3 is at least $99.8 million more expensive than Alternative 2 and will take longer to construct, cause more inconvenience to staff and users, and will result in a compromised facility when compared to a new facility.

- The existing building is seismically deficient requiring substantial reconstruction throughout. Seismic upgrade of these building results in a higher total project cost than new construction.

- Hazardous materials, such as asbestos and lead-based paint, are present in the existing building and will need to be removed or abated as part of the renovation work.

- Court operations will be greatly disrupted throughout the process. Court will remain in operation while the addition is constructed. Once the courtrooms relocate to the new addition, support space will be relocated to lease space, which will be physically separate from the courtrooms. This will be very disruptive to court operations.

- This option will incur additional costs as swing space to temporarily house the court support will be required for the duration of the renovation construction. A substantial amount of space and parking will need to be leased and lease space must be located in close proximity to the existing court as the courtrooms will remain onsite. All leasing and tenant improvement costs are non-recoverable to the state.

- This option will incur additional moving costs to relocate the court to swing space before construction starts.

- This option will incur additional costs in the form of an equity buyout for the space currently occupied by the County of Los Angeles and City of Long Beach.

Recommended Project Alternative

Based on the analysis of relative costs and the benefits described above, the recommended project alternative is Project Alternative 1**:** Complete construction of all space. This option achieves space for additional judges included in the first 50 and next 100 new judgeships, which are likely to be approved before the project is completed in 2013. This option is the most cost effective in the long term, because the cost of finishing out all 31 courtrooms in the new facility is less expensive than the long-term cost of implementing Project Alternative 2 and does not have all the risks of Alternative 3. This option is the most cost effective solution, and leverages the value of the existing court facility. The new courthouse will address the current space shortfall; increase security; replace a seismically and functionally deficient facility; address accessibility issues; and provide for proposed new judgeships.

D. Finance Options

In addition to the project options, three financial alternatives for delivering a new facility were evaluated based on ability to meet the programmatic requirements and provide economic value.

- Financing Option 1: Public/Private Partnership—Build-to-Suit/Lease-Purchase-Operate
- Financing Option 2: State Financing
- Financing Option 3: Pay-As-You-Go

These options are evaluated based on their short and long-term cost to the state and ability to support AOC objectives for implementing as many capital-outlay projects as possible with limited funds. For purposes of this analysis, a 30-year time frame was evaluated for results that may indicate cost savings to the state in the long-term. The long-term analysis attempts to compare the final costs to what would be considered the life expectancy of new building systems.

It is difficult to predict the economic environment in 30 years so the following assumptions were made:

- The total project cost[2] for phase one construction of the courthouse without financing or parking structure costs, but including equity buy-out costs, is $296.6. For the courthouse, total cost by project phase includes: Acquisition Phase at $39.6 million, Preliminary Plans Phase at $11.0 million, Working Drawings Phase at $14.7 million, and Construction Phase at $296.6 million.

- It is understood that the actual results could change, depending on the economic environment and when the actual solution is implemented. The estimates were done by applying current cost rates and using the best estimated projected cost rates.

- For the purpose of calculating the cost analysis projections, a uniform inflation rate was used throughout the entire 30-year time study.

- The economic analysis is based on a conceptual cost estimate and on a hypothetical building; it does not represent a specific construction type, the use of specific building materials, or a predetermined design. The analysis is based on a series of set performance criteria required for buildings of similar type and specifications.

- The estimates do not include support costs such as utilities and facilities maintenance. Each option is assumed to have similar operating and maintenance expenses.

- Public/Private Partnership costs could not be estimated at this time. Base rent, tenant improvement allowance, and operations and maintenance costs will be subject to negotiations as part of the partnership agreement.

The unique costs, advantages, and disadvantages of each option are described below. Each option will ultimately result in the state owning the real estate asset, and can provide a new court facility that meets the needs of the court and is appropriately sited to meet the requirements of both the state and the local community.

[2] Total project cost is July 2006 cost escalated to start and mid-point of construction based on the construction schedule provided in Section IV of this report.

Finance Option 1: Enter into an Agreement with a Legal Entity for Development and Delivery of a New Courthouse

In this recommended option, the state is requesting authority to enter into an agreement with a legal entity to develop and construct a new courthouse which the state would then occupy and lease for a specific term and then assume ownership at the end of the term. The proposed court facility will be approximately 306,480 gross square feet and include 31 courtrooms and associated support space. This option provides the state an opportunity to receive a new, modern court facility with minimal initial capital costs. The cost of the project is distributed over the length of the agreement term, during which time the state will make periodic lease payments and will own the facility upon conclusion of the term. In addition, the agreement is anticipated to discount the state's total capital and operating costs through benefit of the entity's ability to leverage revenues from non-court uses.

This option recommends the buy-out of the county's and city's share of space in the existing facility to allow for facilitation of negotiations with the provider entity in regards to the disposition of the existing facility and any proceeds over time from it's redevelopment income streams. The court shares the existing building with the County of Los Angeles and City of Long Beach. The court occupies approximately 238,230 GSF of the 277,232 GSF Courthouse. A buy-out of equity in the facility is estimated at $5.889 million for approximately 39,000 GSF at $151 per GSF.

In the event that any such final agreement would be more costly to the state than a self-performed finance -design-construct-operate option, the Administrative Office of the Courts shall not proceed with such an agreement

Advantages:

- Public/Private Partnership shares the investment, risk, responsibility, and rewards of the proposed projects between government and private sector participants. Many risks are transferred to the private sector over the life of the contract.

- Components are bundled (design, construction, financing, operation and maintenance) resulting in integrated, efficient service delivery. The developer is the single point of contact for the procurement and delivery of all services under the contract.

- Public/Private Partnership brings discipline to the costs and maintenance timeline of the project over its lifetime. The cost to the state is distributed over a longer period of time as compared to Finance Options 2 and 3. Payments are made over the life of the asset and can be linked with operational performance amortizing the costs to the many generations that will benefit from use of facility.

- Shifting long-term operations and maintenance responsibilities to the private partner creates incentive to ensure construction quality as the private partner will be responsible for those costs for many years.

- There could be no immediate capital costs to the state; the entire project development cost could be financed by the legal entity.

- The project may be completed in a shorter amount of time. The private entity has strong incentive to complete the project quickly because they need the stream of revenue to repay the capital costs. This may result in savings of 8 percent per year for every year the schedule is reduced.

- A new court facility could be combined with other appropriate and compatible non-court uses that would provide some subsidy to reduce the state's ownership costs.

- Competitive solicitation could give the state the best financing terms and potential for subsidies from redevelopment of current court properties and development of new facilities.

- The state would obtain full equity with options to acquire non-court space for future growth needs, eliminating the current problem of under-building for the future.

- This option provides a means to provide a new facility, within the limited resources currently available, by partnering with an experienced real estate and financing entity for the construction of the new courthouse. AOC staff would ensure that the final design and the subsequent construction of the courthouse meet the requirements stated in the *California Trial Court Facilities Standards* and remedy the inadequacies of the existing facility, and that ongoing operations and maintenance are delivered at a cost effective and asset preserving level.

Disadvantages:

- This option will require the state to enter into a long-term agreement with an entity for an amount sufficient to fund the development, construction, and annual operations and maintenance costs of the new facility.

- The financing costs may be higher that Options 2 and 3.

Cost Impacts:

The estimated cost impacts of delay and savings of this approach are as follows:

- The current FY 2007-2008 COBCP project value is $296.6 million (excluding equity buy-out) assuming a traditional design-bid-build process for project delivery.
  - October 2012 occupancy

- If the COBCP project request is NOT started in FY 2007-2008 as requested, the one year delay :
  - Will increase cost by approximately $36 million to $37 million due to 12 percent annual inflation.
  - April 2013 occupancy

- If the single-source private-financed approach is used and the legal entity already owns suitable land for the new courthouse:
  - Cost decreases by approximately $40 million due to approximately 18-month savings of inflation.
  - Additional savings from profit sharing and land value leveraging are estimated to be approximately no less than $54 million given the prime location of the existing facility.
  - Operations and maintenance costs potentially reduced by owner-operator.
  - October 2011 occupancy

- If the single-source private-financed approach is used and the legal entity needs to acquire suitable land for the new courthouse this may add another 12 months to the project schedule:
  - Cost decreases by approximately $15 million due to about 6-month savings of inflation.
  - Additional savings from profit sharing and land value leveraging are estimated to be approximately no less than $54 million given the prime location of the existing facility.
  - Operations and maintenance costs potentially reduced by owner-operator.
  - October 2012 occupancy.

Finance Option 2: State Financing for Construction
In this alternative the state would pay at each phase for site acquisition, preliminary plans, and working drawings. The construction phase would then be financed with state tax-exempt financing. The state would directly manage all aspects of project development. This is a more complicated transaction requiring slightly greater state agencies resources than Option 3.

The final cost for the courthouse, not include land or parking costs, by the end of the time period 2007–2043 is $525.2 million. With this alternative, the state would make a monthly-amortized payment of $1.3 million or $15.3 million per year for 30 years beginning in 2013 and ending in 2043. The interest rate used for the purpose of this estimate was 5.25 percent.

The main benefit of this alternative is that the total development costs of the project are distributed throughout a longer period.

Advantages:

- The majority of the costs to the state—the cost of the construction phase—are distributed over 30 years; amortizing the cost of the new courthouse to the many generations that will benefit from use of the facility.

- The upfront costs are lower than Finance Option 3 because the state is funding only the land acquisition and design costs in the first two to three years of the project.

Disadvantages:

- The overall cost, including financing, is higher than Finance Option 3.

Finance Option 3: Pay-As-You-Go Financing for All Phases
Like Finance Option 2, the state would directly manage all aspects of project development. However, in this approach, the state would pay for all project costs. The state would fund site acquisition, design, and construction on a pay-as-you-go basis.

With this alternative, the AOC would pay-as-you-go for all phases of the development of the new court facility. The final cost for this alternative is $296.6 million, not including land or parking costs.

This option is the least expensive of the three alternatives analyzed because there are no financing costs. However, this alternative requires funding for all project phases and greater "one-time" demands on the state budget.

Advantages:

- The overall development cost is lower than all the other alternatives due to the lack of financing costs

Disadvantages:

- The state must fund all development costs of the project within the first four to five years of the project.

- This alternative reduces the number of court projects that can be addressed immediately with the limited state resources available.

E. Recommended Financial Alternative

The recommended financing and delivery method is Financing Option 1: Public/Private Partnership upon confirmation that this approach will provide a greater benefit to the state than the state financed traditional delivery method under Option 2. The public/private partnership is recommended for the following reasons:

- A competitive proposal process could result in the lowest cost to the state;
- Capital costs for the state are amortized over a period of time; and
- This method can deliver a completed project faster than the other two options, resulting in lower capital costs.

A shorter project schedule could result in savings as high as 10 percent; other potential savings are not estimated at this time. Base rent, tenant improvement allowance, operations, and maintenance costs will be subject to negotiations as part of the partnership agreement. For this project, the AOC shall, if it finds it to be to the financial advantage of the state and subject to Department of Finance approval, solicit bids and enter into a multi-year agreement with an entity utilizing public/private partnership that may include but is not limited to the planning, construction, financing, and operation of the court facility.

The AOC's estimated project cost for the traditional state delivery method of design-bid-build is $296.6 million. Financing costs are based on the design/bid/build estimate. The estimated annual debt service (excluding one-time costs for bond issuance/delivery) at an estimated 5.25 percent for a 30-year term is approximately $15.3 million. With an annual estimate for Operations and Maintenance at $5.64 per square foot and $3.28 per square foot for utilities, or $2.8 million annually (excluding 3% annual inflation), the annual estimated cost for the delivered project is $18.0 million, if fully financed at the state financing rate of 5.25 percent. Financing rates for a public/private/partnership will possibly be higher.

In the event that any such final agreement for Finance Option 1 would be more costly to the state than a self-performed finance -design-construct-operate option, the Administrative Office of the Courts shall not proceed with such an agreement.

Prior to any solicitation for solicitation for proposal, the Judicial Branch, with the approval of the Department of Finance, shall develop performance expectations including benchmark criteria for total project life-cycle costs, project cost comparisons to traditional delivery and financing options, project risk assessment and allocations, utility/energy conservation requirements that meet or exceed state standards, court security operations cost controls and reduction goals. The agreement shall require the adherence to State of California Building Codes and the Judicial Council Trial Court Facilities Design Standards. Based on the process and criteria for using public/private partnerships for court facilities developed by the AOC, in consultation with the Department of Finance and the Joint Legislative Budget Committee, this option will proceed only after thorough analysis of the ultimate cost benefit to the state, the risk to the state, and the timeliness of the design and construction process.

A summary of estimated costs and NPV totals is provided in Table 3.

TABLE 3
Summary Total Estimated Cost—2007–2043

	Option 1 Public/Private Partnership	**Option 2 State Financing**	**Option 3 Pay-As-You-Go Financing**
Total Estimated Cost	Unknown	$525,233,881	$296,635,000
Estimated Net Present Value (NPV)	Unknown	$277,348,423	$267,802,631
NPV % of Total Cost	Unknown	53%	90%

See Appendix B for additional financial information.

IV. RECOMMENDED PROJECT

A. Introduction

The recommended solution to meet the court's facilities needs in the Long Beach area is to construct a new courthouse to replace the existing courthouse in downtown Long Beach. The following section outlines the components of the recommended project, including project description, project space program, courthouse organization, parking requirements, site requirements, design issues, estimated project cost and schedule, and estimated impact on the court's support budget.

B. Project Description

The proposed project includes the design and construction of the new Long Beach Court - Phase I (S) for the Superior Court of California, County of Los Angeles. The recommended project consists of a new facility, with 31 courtrooms and all court support space to be located in the Long Beach area. The proposed courthouse would replace the existing six-story building with a basement and its 27 courtrooms and provide four new courtrooms for new judgeships. For purposes of this study, it was assumed that the new Long Beach Court - Phase I (S) will be a new seven-story building. Secure parking for judicial officers and key administrative staff, a sallyport, and in-custody holding will be located at the basement level. An onsite parking structure of 500 spaces will accommodate visitors, staff, and jurors, and short-term surface parking will be provided at street level.

The proposed building will accommodate approximately 306,480 BGSF. Based on a site program developed to accommodate the new facility, the court should acquire a site with a minimum of 3.00 acres.

C. Space Program

The AOC and the Superior Court of Los Angeles County collaborated on developing a detailed space based on the recently adopted *California Trial Court Facilities Standards.* The space program summary is provided below in Table 4.

TABLE 4
Space Program Summary for the New Long Beach Court - Phase I (S)

	Division	Projected Staff Quantity	Projected Square Feet
A.	Court Administration	50	11,309
B.	Court Sets/Judiciary	126	128,438
C.	Criminal Division Staff	57	13,821
D.	Juvenile Delinquency Division	6	2,479
E.	Traffic Division Staff	25	7,776
F.	Civil Division Staff	39	10,103
G.	Family Court Division	10	4,547
H.	Family Court Mediation Unit	8	3,362
I.	Court and Building Operations	17	45,188
	Total Projected Staff and DGSF *	**338**	**227,022**
	Total Projected Building Gross Square Feet (DGSF x 1.35)		**306,480**

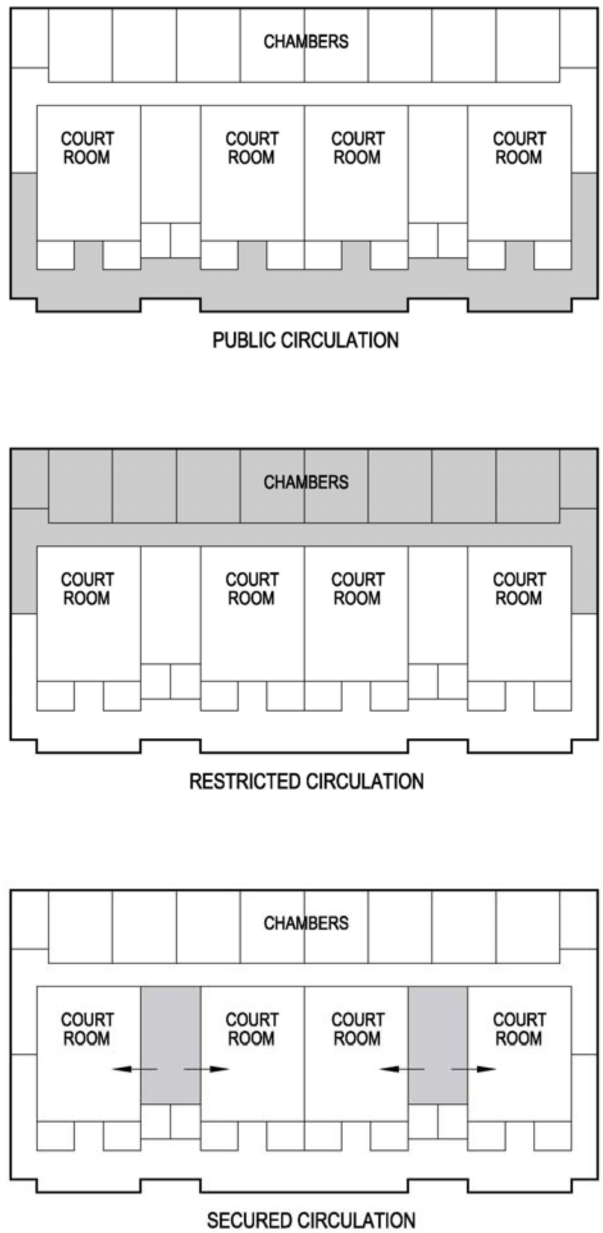
* Total Projected Staff includes JPE (31.0).

Detailed program data is provided in Appendix C.

D. Courthouse Organization

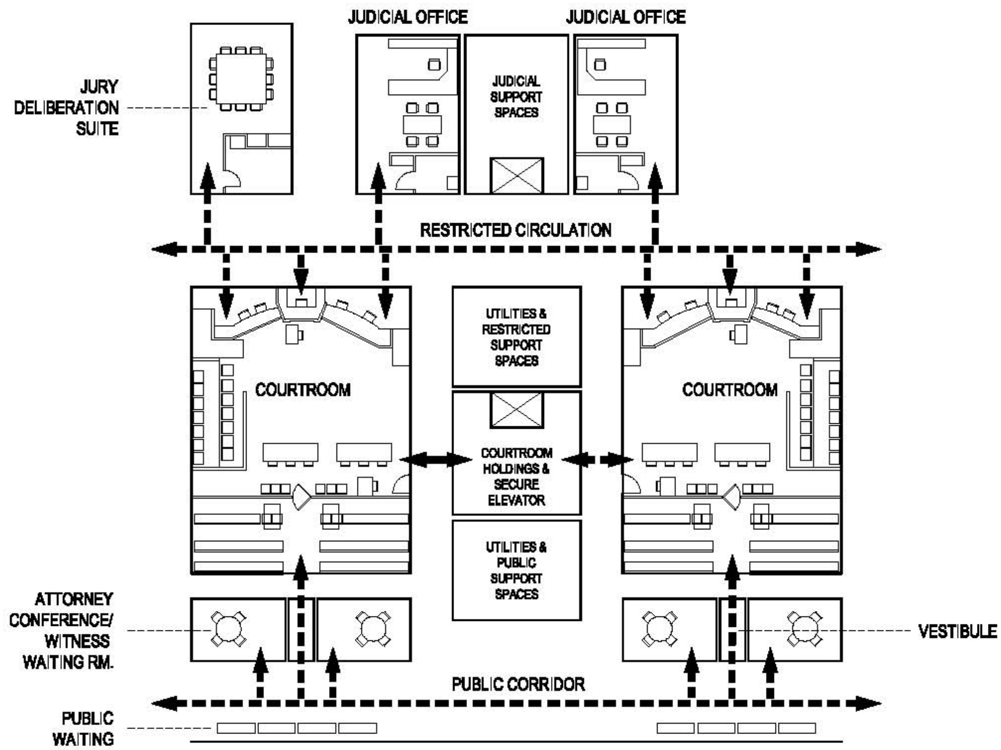
Per the *California Trial Court Facilities Standards*, courthouses that hear criminal cases require three separate and distinct zones of public, restricted, and secured circulation. The three zones of circulation shall only intersect in controlled areas, including courtrooms, sallyports, and central detention. Figure 17 below illustrates the three circulation zones.

FIGURE 17
Three Circulation Zones



The court set includes courtrooms, judicial chambers, chamber support space, jury deliberation room, witness waiting, attorney conference rooms, evidence storage, and equipment storage. A restricted corridor connects the chamber suites with staff offices and the secure parking area. Adjacent to the courtrooms is the secure courtroom holding area, accessed via secured circulation. Figure 18 below illustrates how a typical court floor should be organized.

FIGURE 18
Court Floor Organization



E. Site Selection and Requirements

The selection of an appropriate site for the new courthouse is a critical decision in the development of the project. Several factors, including parking requirements, the site program, site selection criteria, site availability, and real estate market analysis will be considered in making a final site selection.

1. Parking Requirements

The following is a summary of parking conditions at the existing facility:

- A total of 1,048 parking spaces are provided for the court, court-related agencies, and employees;
- There are secure parking areas provided for employees and judges; and
- The court building has a secure sallyport that holds one full-size bus.

The majority of parking dedicated for court use is in a four-story parking structure, located across the street on Magnolia Avenue. The lot contains 959 parking spaces. A separate parking lot, underneath the court building, is dedicated to the judges and department managers. The lot contains 39 parking spaces. The employee parking lot, just north of the building, contains 50 parking spaces. Jurors and the public have found it difficult to cross the street on Magnolia Avenue, since there is no street light or stop sign at mid-block.

For budgeting purposes of the new project, 10 surface parking spaces for short-term use and 35 secure parking spaces within the building's basement have been included. It is assumed that parking structures for staff, visitors, and jurors will be provided by local developers in the area. The AOC will begin a parking study in September 2006, which will result in recommended parking standards for court facilities statewide. The parking required for this project will be reevaluated during the site acquisition phase and may be subject to change. Parking requirements for the new facility are highly dependent upon the selected site.

2. Site Program

A site program was developed for the recommended option. Table 5 below delineates that a minimum site area of 3.0 acres has been identified to accommodate the needs of the court, including site elements, landscaping, and site setbacks. The calculation of site acreage needed has been done on a formula basis, which assumes a flat site. The approach does not take into account any environmental factors, topographical features, or other unique characteristics of a site, and thus should be viewed as a guide to site acreage requirements. The total acreage needed could increase based on the final site selected.

TABLE 5
Site Program

Site Function	Square Footage Provided	Comments
Building and Grounds	51,600	Building footprint, adjacent grounds
Parking and Drives	29,750	Required parking spaces, driveways
Site Requirements and Amenities	18,380	Public plaza, commons, pedestrian circulation, common entry drives, road extension
Easements and Setbacks	29,088	Easements, setbacks, existing slopes, existing trees, encroachments
Total Requirement	128,817	2.95 acres

3. Site Selection Criteria

At this time, a site has not been recommended. However, AOC staff recognizes the support—by the local governments (both city and county)—various justice agencies, the local bar association, and other interested parties for keeping the court within the downtown area of the city of Long Beach. Establishing a site selection committee and developing site selection criteria for this project will be undertaken when funding for this project is secured.

4. Site Availability and Real Estate Market Analysis

Local market analysis revealed no available vacant, for-sale properties to accommodate the new court project within the downtown area. Estimated land prices within this area for properties containing improvements (i.e., existing structure[s], parking area[s], utilities, etc.) run as high as $10 million per acre. As part of the site preparation process for the new facility, costs in addition to the land price would be required for the demolition of all structure(s) and the off hauling of all materials.

F. Design Criteria

Per the *California Trial Court Facilities Standards*, California court facilities shall be designed to provide long-term value by balancing initial construction costs with projected life cycle operational costs. To maximize value and limit ownership costs, the standards require architects, engineers, and designers to develop building components and assemblies that function effectively for the target lifetime. These criteria provide the basis for planning and design solutions. For exact criteria, please refer to the *California Trial Court Facilities Standards,* which were approved by the Judicial Council on April 21, 2006.

G. Sustainable Design Criteria

Per the *California Trial Court Facilities Standards*, architects and engineers shall focus on proven design approaches and building elements that improve court facilities for building occupants and result in cost-effective, sustainable buildings. All courthouse projects shall be designed for sustainability and, at a minimum, to the standards of a LEED ™ "Certified" rating. Depending upon the project's program needs and construction cost budget, projects may be required to meet a higher standard. At the outset of the project, the AOC will determine whether the project will participate in the formal LEED certification process of the United States Green Building Council.

For additional criteria, performance goals, and information on energy savings programs please refer to the *California Trial Court Facilities Standards*.

H. Provision for Correction of Seismic Deficiencies and Disposition of Property

In accordance with the Trial Court Facilities Act of 2002 (Senate Bill 1732 (Escutia)), the Judicial Council will acquire responsibility for, and in some cases, title to existing court facilities through a transfer process that is now underway. This transfer process began July 1, 2004 and must be complete by July 1, 2007. Existing facilities affected by proposed projects must be transferred to the state before the DOF will release funds for new projects.

When a facility has been rated seismically deficient, neither title nor responsibility can be transferred until provision is made for correction of the deficiency. At this time, no agreements as to specific provision for correction of a seismic deficiency have been fully negotiated or executed. Provisions that may be made in lieu of seismic retrofit of an existing building are expected to include:

- Donation of land for a new court facility or parking;
- Financial contribution by lump sum or negotiated payment over time towards the cost of a new court facility, or
- A combination of both land donation and financial contribution.

The County of Los Angeles is undertaking a seismic upgrade project estimated to cost $13.9 million. The project is in construction and is scheduled to be completed in January 2009. This upgrade will prevent loss of life, but it will not ensure that the building's structural integrity is maintained in the event of a major seismic event—it is estimated to cost many millions more to accomplish this condition. The seismic-upgrade project will not solve functional and security problems that exist in the building. Following completion of this project, it is expected that the facility will transfer to the state. At this time, transfer negotiations have yet to begin between the AOC and the county.

Neither the total cost of required corrections nor the valuation of possible provisions for correction has been established for this project. These will be examined further as the transfer process progresses. A court-county working group on seismic issues convened in June and July of 2006. This group established guidelines to allow the AOC to work with the counties to determine what provisions for corrections will be acceptable.

Once a new project is completed, existing court property that has transferred to the state but is no longer needed by the court will be disposed of in accordance with SB 1732 and other applicable laws.

I. Estimated Project Cost

The estimated project cost to construct the recommended project is $296.6 million. This is based on a project of 306,480 gross square feet, 10 surface parking spaces, and 35 basement-level secure parking spaces.

Construction costs are estimated to be $217.3 million and include site grading, site drainage, lighting, landscaping, drives, loading areas, vehicle sallyport, and parking spaces. Construction costs include allowances for furniture, fixtures, and equipment (FF&E) and data, communications, and security. Construction costs are escalated to the start and midpoints of construction and carry a 5 percent contingency.

Project costs are added to the construction costs and include fees for architectural and engineering design services, inspection, special consultants, geotechnical and land survey consultants, materials testing, project management, CEQA due diligence, property appraisals, legal services, utility connections, and plan check fees for the state fire marshal and access compliance.

The detailed cost estimate is provided in Appendix B.

J. Project Schedule

Preliminary project schedules have been developed assuming that funding is included in the 2007–2008 State Budget Act and that acquisition of the site provided by the county is successful. This schedule is based on a traditional design/bid/build project delivery. If the public/private partnership proves to be the most effective delivery method, this schedule can be reduced by approximately 4 months.

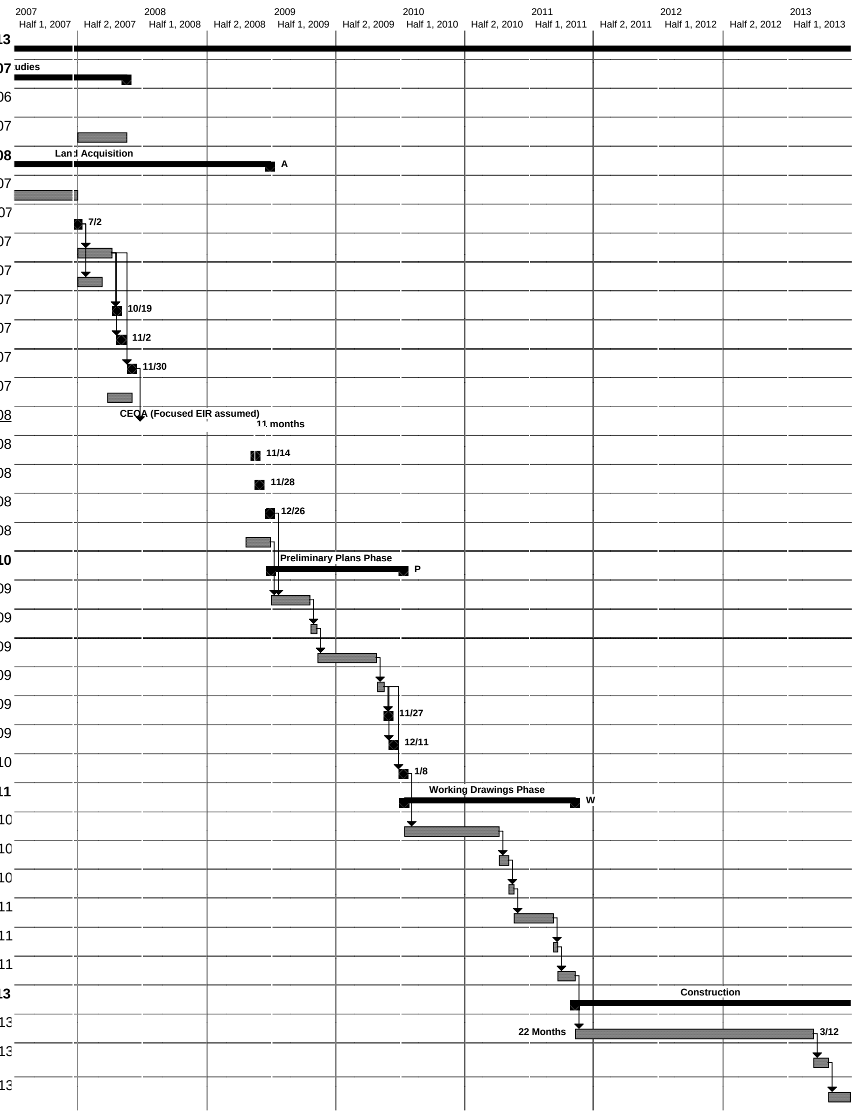
<u>Proposed Project Schedule</u>

Site Selection/Land Acquisition (including CEQA)	July 2007–December 2008
Preliminary Plans	December 2008–January 2010
Working Drawings	January 2010–May 2011
Construction	May 2011–June 2013

A compressed schedule for all phases will be evaluated during the analysis and negotiation of a public/private partnership. The traditional project schedule is provided in Figure 19.

FIGURE 19
Project Schedule

ID	Task Name	Duration	Start	Finish
1	**New Long Beach Courthouse**	**1881 days**	**Mon 4/17/06**	**Tue 6/25/13**
2	**Studies**	**417 days**	**Mon 4/17/06**	**Fri 11/16/07**
3	Project Feasibility Report	90 days	Mon 4/17/06	Fri 8/18/06
4	Advisory Team: Programming Study	100 days	Mon 7/2/07	Fri 11/16/07
5	**Land Acquisition**	**707 days**	**Mon 4/17/06**	**Fri 12/26/08**
6	Transfer of Existing Courthouse before 7/2/07	316 days	Mon 4/17/06	Fri 6/29/07
7	Approved Funding FY 07-08	0 days	Mon 7/2/07	Mon 7/2/07
8	Site Due Diligence Process	70 days	Mon 7/2/07	Fri 10/5/07
9	Advisory Team: Site Selection	50 days	Mon 7/2/07	Fri 9/7/07
10	JC Interim Panel Review - Site Selection	0 days	Fri 10/19/07	Fri 10/19/07
11	Judicial Council Approval - Site Selection Cir Order	0 days	Fri 11/2/07	Fri 11/2/07
12	PWB Approval - Site Selection Approval	0 days	Fri 11/30/07	Fri 11/30/07
13	Negotiation & Acquisition Agreement	50 days	Mon 9/24/07	Fri 11/30/07
14	CEQA (Focused EIR assumed)	240 days	Mon 12/3/07	Fri 10/31/08
15	Judicial Council Interim Panel Review	0 days	Fri 11/14/08	Fri 11/14/08
16	Judicial Council Approval	0 days	Fri 11/28/08	Fri 11/28/08
17	PWB Site Acquisition Approval	0 days	Fri 12/26/08	Fri 12/26/08
18	Acquisition Agreement	50 days	Mon 10/20/08	Fri 12/26/08
19	**Preliminary Plans Phase**	**271 days**	**Mon 12/29/08**	**Fri 1/8/10**
20	Schematic Design	80 days	Mon 12/29/08	Fri 4/17/09
21	OCCM reviews	15 days	Mon 4/20/09	Fri 5/8/09
22	Design Development	121 days	Mon 5/11/09	Fri 10/23/09
23	OCCM reviews	15 days	Mon 10/26/09	Fri 11/13/09
24	JC Interim Panel Review	0 days	Fri 11/27/09	Fri 11/27/09
25	Judicial Council Approval	0 days	Fri 12/11/09	Fri 12/11/09
26	PWB Site Selection Approval-proceed to Working Dwgs	0 days	Fri 1/8/10	Fri 1/8/10
27	**Working Drawings Phase**	**345 days**	**Tue 1/12/10**	**Mon 5/9/11**
28	Construction Documents and Regulatory Approvals	190 days	Tue 1/12/10	Mon 10/4/10
29	OCCM reviews	20 days	Tue 10/5/10	Mon 11/1/10
30	DOF Approval to Bid	10 days	Tue 11/2/10	Mon 11/15/10
31	Bidding	80 days	Tue 11/16/10	Mon 3/7/11
32	DOF Approval to Construct	10 days	Tue 3/8/11	Mon 3/21/11
33	Award Contract	35 days	Tue 3/22/11	Mon 5/9/11
34	**Construction**	**557 days**	**Tue 5/10/11**	**Tue 6/25/13**
35	Construction / FF&E	482 days	Tue 5/10/11	Tue 3/12/13
36	Move in - Acceptance	30 days	Wed 3/13/13	Tue 4/23/13
37	Records Close-out	45 days	Wed 4/24/13	Tue 6/25/13



K. Impact on Court's 2007–2008 Support Budget

Impact on the trial court and the AOC's support budgets for FY 2007–2008 will not be material. It is anticipated that this project will impact the trial court support budget in fiscal years beyond the current year as certain one-time costs and ongoing costs are incurred. These costs that are directly associated with the construction and commissioning of the new courthouse are included in the estimate of project cost that precedes this section. In the long term, a new facility will be more efficient to operate due to improved systems and use of space. This will result in lower operating costs if reviewed incrementally. As staff increases to support increased caseload, staffing costs will increase over current numbers.

The court will assign four new judgeships to this site. Funding for two of the new judgeships and associated staff are included in the FY 2006–2007 Budget Act and authorized in proposed legislation, SB 56. The remaining two new judgeships are recommended for establishment in FY 2007–2008 and FY 2008–2009, pending future legislative approval. Funding for facilities is included in the SB 56 legislation and will be used to offset operations and maintenance costs of the new facility to the extent allocated to the court.

APPENDIX A

A. Executive Summary of the 2003 Master Plan

Introduction

The Lockyer-Isenberg Trial Court Funding Act of 1997 shifted responsibility for funding trial court operations from the counties to the state and established the Task Force on Court Facilities to identify facility needs and possible funding alternatives. It was the overarching recommendation of the Task Force that responsibility for trial court facilities funding and operation be shifted from the counties to the state. The Task Force developed a set of findings and recommendations after surveying the superior court facilities to identify the functional and physical problems of each facility.

In June 2001, the AOC began a capital planning process to develop a facility master plan for each of the 58 trial courts in California. Each master plan was guided by a steering committee or project team composed of members of the local court, county administration, county justice partners, and the AOC. The master plans confirmed the Task Force findings related to physical and functional conditions, refined the caseload projections for each court, considered how best to provide court services to the public, developed judicial and staffing projections, and examined facility reuse options for how best to meet goals related to court service, operational efficiency, local public policy, and cost effectiveness.

The Facilities Master Plan prepared for the Superior Court of California, County of Los Angeles, dated December 19, 2003, built upon the Task Force findings. The goal of the master plan was to develop a practical, cost-effective, 20-year framework for phase facility improvements to meet anticipated operational and service needs. The master plan presented the facilities options and made recommendations.

A summary of the master plan is provided here as a reference document.

Superior Court of California, County of Los Angeles
Court Facilities Master Plan

Below is a summary of the key development actions recommended for each district.

South District

The South District of Los Angeles County includes Long Beach, San Pedro, and Catalina. Projected service demand is met by constructing a new criminal courthouse, vacating, demolishing, and replacing the existing Long Beach Courthouse on its Long Beach Civic Center site with a new civil courthouse, and renovating the San Pedro facility. Leased space on Beacon Street in San Pedro will be vacated. Catalina remains with no capital investment required.

The four-courtroom San Pedro Courthouse functions well for the court, but it does not have adequate support space. It currently handles civil and traffic cases and non-jury criminal cases (jury criminal cases go to the Long Beach Court). The Beacon Street Annex was built in 1928 and contains one courtroom, handling civil and small claims cases. It is located on the 6th floor of an office building two blocks away from the main courthouse. This building also houses a former Federal Magistrate's Court, which shall maintain its historic condition. The one-courtroom Catalina Courthouse functions well for the court and handles civil and small claims cases only.

This master plan documents the need for a two-phase project: the first phase being a 34-courtroom New South Criminal Courthouse—now titled New Long Beach Court – Phase I (S)—and the second phase being a 17-courtroom facility—now titled New Long Beach Court – Phase II (S). Upon completion, the courts will vacate the existing Long Beach Courthouse, which would be demolished and replaced. The Phase I facility would serve as a full-service courthouse, until completion of the Phase II project. At that time, the Phase I facility would handle only criminal cases and the Phase II facility would be used for all civil, family, small claims, and traffic cases.

Juvenile

For juvenile delinquency all three courthouses located at the three juvenile halls will be replaced on their current sites. A new juvenile delinquency courthouse is proposed to be collocated with a future juvenile hall at a site to be determined. The poorly functioning Inglewood and Kenyon juvenile courthouses will be vacated by the court after the new delinquency courthouse is constructed.

For juvenile dependency 16 new courtrooms and associated court support space will be built in one or two buildings. The existing Edelman Children's Courthouse will be renovated and downsized.

The plan for juvenile courts located in multipurpose superior courts is documented as part of the East, North, Northeast, South, and South Central Districts, which will continue their existing juvenile operations in renovated or new courthouses.

Mental Health
The Mental Health Courthouse will be replaced with a new courtroom facility. Video-conferencing is proposed to reduce the trauma to the litigants.

Central District
The master plan presents three options for meeting projected demand for additional courtrooms in the Central District. In option A, the Stanley Mosk Courthouse is retained and renovated for long-term use, either as a civil flagship courthouse (Option A-1), or as a civil annex and family courthouse (Option A-2). In option B, the Mosk Courthouse is vacated, demolished, and replaced. Option C replaces all Central District civil and family law courtrooms. Further study will be required to determine whether the Stanley Mosk Courthouse should be renovated or replaced. The court prefers option B.

East District
A new criminal courthouse will be constructed that consolidates criminal court functions in the district. The Pomona South and West Covina Courthouses will be renovated for civil cases, and the El Monte Courthouse will be renovated and expanded for use as a consolidated family court for the East and Northeast Districts. The Pomona North Courthouse will be vacated in the 10-year plan.

North District
The Lancaster courthouse will be renovated and downsized for juvenile court use. The Michael Antonovich Antelope Valley Courthouse, to be completed in late 2003, provides an opportunity to vacate inadequate modular facilities in Lancaster, close the Palmdale Courthouse, and provide for projected growth over time. Use of both surplus and shelled-in courtrooms and support space in the Antonovich Courthouse will allow the court to consolidate from six to two facilities and meet projected service demand.

North Central District
Criminal proceedings will be consolidated in a new courthouse, Burbank Courthouse will be renovated for non-criminal proceedings, and Glendale Courthouse will be closed.

North Valley District
The plan allows the court to consolidate from four to three facilities. The San Fernando Courthouse will be renovated and downsized, and the Santa Clarita Annex closed. The plan also includes a project for the Santa Clarita Courthouse. The new Chatsworth facility provides surplus capacity, which is used to consolidate and downsize facilities, and meet projected 2022 service demand. Only five of the eight shelled-in courtrooms in Chatsworth are required to meet 20-year needs.

Current and shelled-in surplus court space in the Chatsworth courthouse provides the Los Angeles Superior Court a relatively inexpensive opportunity to either meet unanticipated demand for more courtrooms in this district or neighboring districts and/or provide temporary space for vacating facilities here and in other districts that need to be renovated for long term use.

Northeast District
The Pasadena courthouses and the Alhambra Courthouse will be expanded and renovated. Santa Anita is closed in the 20-year plan.

Northwest District
While there is no need for additional courtrooms, poorly functioning trailers will be replaced at Van Nuys East by an addition and renovation to the building. The plan maintains the consolidation of criminal functions in the Van Nuys West facility, which requires minimal interior renovation.

South Central District
The Compton Courthouse is downsized and renovated into a criminal/traffic only facility and a new non-criminal court is constructed in two phases. Lynwood Courthouse will be reused for juvenile delinquency.

Southeast District
The plan accommodates projected growth, downsizing of the Bellflower and Norwalk facilities and the closure of South Gate and Huntington Park by construction of a new courthouse in the South Gate and Huntington Park area. Downey is renovated for criminal and traffic courts, while Whittier is renovated as a non-criminal courthouse. The plan reduces the number of in-custody sites from four to three. Further consolidation of the number of in-custody sites should be considered by the court.

Southwest District
The plan meets projected growth and vacates obsolete facilities by a combination of reassigning the Airport courthouse from the West District, constructing a new facility in Torrance, renovating the Inglewood and Torrance courthouses, and closing the Beach Cities branch. Criminal cases are moved out of Inglewood and into Torrance and Airport. The district maintains four courthouses in three locations.

West District
The number of courtrooms in the district is reduced by a transfer of cases from the Airport courthouse to the Southwest District and downsizing all other existing facilities, which will be renovated to improve functionality and correct physical problems. Construction of a new criminal courthouse provides an opportunity to consolidate all criminal operations in one location and replace the Airport facility.

Excerpted from:
Court Facilities Master Plan, Jacobs Facilities, Inc.
Superior Court of California, County of Los Angeles—Court Facilities Master Plan

APPENDIX B

A. Options Analysis

Introduction

In order to complete the financial analysis, cost estimates were created for the capital outlay project. Estimates are not provided for the public/private partnership option as the actual cost of this option will be subject to negotiation with the private entity. These estimates and calculations were then used to support the economic analysis. Appendix B includes each of the estimates and calculations created to support Section III of this report.

The following tables include the construction and project cost estimates and financial analysis worksheets.

TABLE B-1
Construction Cost Estimate—Project Alternative 1: Complete Construction of All Courtrooms and Related Support Space

ADMINISTRATIVE OFFICE OF THE COURTS
OFFICE OF COURT CONSTRUCTION AND MANAGEMENT

Project Cost Summary

Los Angeles County - New Long Beach 31 CR New Capital Outlay

		Date Estimated:	4/11/2007	
		Prepared by:	M.Alpay	
Location:	Long Beach			
Project ID:	91.19.001	CCCI (Cost Estimate Basis):	4609	Jul-06
Site - Building ID:	TBD	CCCI (Basis for Adjustment):	4609	Jul-06
AOC Project Manager:	M.Alpay	Construction Start:	5/9/2011	
AOC Planner:	K.Metzker	Construction End:	4/23/2013	
Project Description:				

New courthouse building to be occupied by the Superior Court of California, County of Los Angeles. The proposed project will be located in a new site in the city of Long Beach. The new courthouse is estimated to be 306,480 building gross square feet (BGSF) in area with 31 courtrooms. Parking for the facility will include 10 short term spaces and 35 secure underground parking spaces.

Cost Estimate			Unit Cost	Quantity	Cost	Remarks
Construction Costs						
Site Development						
Off Site Improvements				1 LS	$2,476,358	
Demolition & Grading			$1.50 /sf	128,817 sf	$193,226	
Drainage, Lighting, Landscape, Hardscape			$26.00 /sf	78,760 sf	$2,047,760	
Surface Loading Area, Vehicle Sally Port	N/A					
Basement			$250.00 /sf	63,912 sf	$15,978,000	
Parking						
Surface Parking			$6,000 /sp	10 sp	$60,000	
Secure Surface Parking	N/A					
Public/Juror/Secure Underground Parking	N/A		/sp	35 sp		incl. in line#22
Public/Juror/Secure Parking Structure	N/A					
Building Construction						
New Construction			$404 /sf	306,480 sf	$123,817,920	
Remodel Construction	N/A					
Tenant Improvement	N/A					
Credit for Unfinished Space	N/A					
Construction Cost Subtotal					$144,573,264	
Miscellaneous Construction Costs						
Furniture, Fixtures & Equipment			$32 /sf	306,480 sf	$9,807,360	
Data, Communications & Security			$13 /sf	306,480 sf	$3,984,240	
Miscellaneous Construction Cost Subtotal					$13,791,600	
Estimated Total Current Construction Costs					$158,364,864	
Adjust CCCI	from	4609	to	4609	$0	
Escalation to Start of Construction	57	months	@	0.42%	$37,912,548	
Escalation to Midpoint	13	months	@	0.42%	$10,716,747	
Contingency (including escalations)				5.00%	$10,349,708	
Estimated Total Construction Cost					$217,343,867	

Footnotes:

TABLE B-2
Project Cost Estimate

ADMINISTRATIVE OFFICE OF THE COURTS
OFFICE OF COURT CONSTRUCTION AND MANAGEMENT

Summary of Costs by Phase

Los Angeles County - New Long Beach 31 CR — New Capital Outlay

		Date Estimated:	4/11/2007	
		Prepared by:	M.Alpay	
Location:	Long Beach	CCCI (Cost Estimate Basis):	4609	Jul-06
Project ID:	91.19.001	CCCI (Basis for Adjustment):	4609	Jul-06
Site - Building ID:	TBD	Construction Start:	5/9/2011	
AOC Project Manager:	M.Alpay	Construction End:	4/23/2013	

Estimated Project Cost by Phase ($ 000's)	Study (S)	Acquisition (A)	Preliminary Plans (P)	Working Drawings (W)	Construction (C)	Totals
Construction Costs						
Construction Costs (see prior page for detail)					$158,365	$158,365
Adjust CCCI					$0	$0
Escalation to Start of Construction					$37,913	$37,913
Escalation to Midpoint					$10,717	$10,717
Contingency					$10,350	$10,350
Construction Costs Subtotal	$0	$0	$0	$0	$217,344	$217,344
Architectural and Engineering						
A&E Design Services		$633	$6,651	$8,552	$3,801	$19,637
Construction Inspection					$0	$0
Bid Advertising, Printing and Mailing				$633		$633
A&E Fees Subtotal	$0	$633	$6,651	$9,185	$3,801	$20,271
Site Acquisition						
Equity Buyout (39,000 GSF)		$5,889				$5,889
Purchase Price		$29,628				$29,628
Site Acquisition Subtotal	$0	$35,517	$0	$0	$0	$35,517
Other Project Costs						
Special Consultants		$792	$1,267	$1,647	$1,394	$5,099
Geotechnical Services & Land Surveying		$792	$776	$380	$301	$2,249
Materials Testing Laboratory		$396			$792	$1,188
Commissioning			$475	$475	$475	$1,425
Project/Construction Management		$0	$792	$1,109	$5,543	$7,443
CEQA/Due Diligence/Mitigation/Documentation		$1,029	$950			$1,980
Property Appraisals		$79				$79
Legal Services		$317				$317
Peer Review				$396		$396
Constructability/Value Review				$0		$0
Minimum Code Review				$428		$428
Moving and Relocation Expenses						$0
Plan Checking			$116	$1,043	$206	$1,364
Post-Occupancy Evaluation					$348	$348
Utility Connections/Fees/Other		$0			$1,188	$1,188
Other Project Costs Subtotal	$0	$3,405	$4,376	$5,477	$10,246	$23,504
						$0
A&E Fees plus Other Project Costs Subtotal	$0	$39,555	$11,027	$14,662	$14,047	$79,291
						$0
Total Estimated Project Costs	$0	$39,555	$11,027	$14,662	$231,391	$296,635
Less Funds Transferred						
Less Funds Available not Transferred						
Carryover			$39,555	$50,582	$65,244	
Balance of Funds Required		$39,555	$50,582	$65,244	$296,635	$296,635

Footnotes:

TABLE B-3
Economic Analysis—30-Year Period
Cumulative Summary

Year	Option 2 State Financing	Option 3 Pay-As-You-Go
2007-2011	$65,244,000	$296,635,000
2012-2016	$118,909,486	$296,635,000
2017-2021	$195,574,466	$296,635,000
2022-2026	$272,239,446	$296,635,000
2027-2031	$348,904,426	$296,635,000
2032-2036	$425,569,406	$296,635,000
2037-2041	$502,234,387	$296,635,000
2042-2043	$525,233,881	$296,635,000

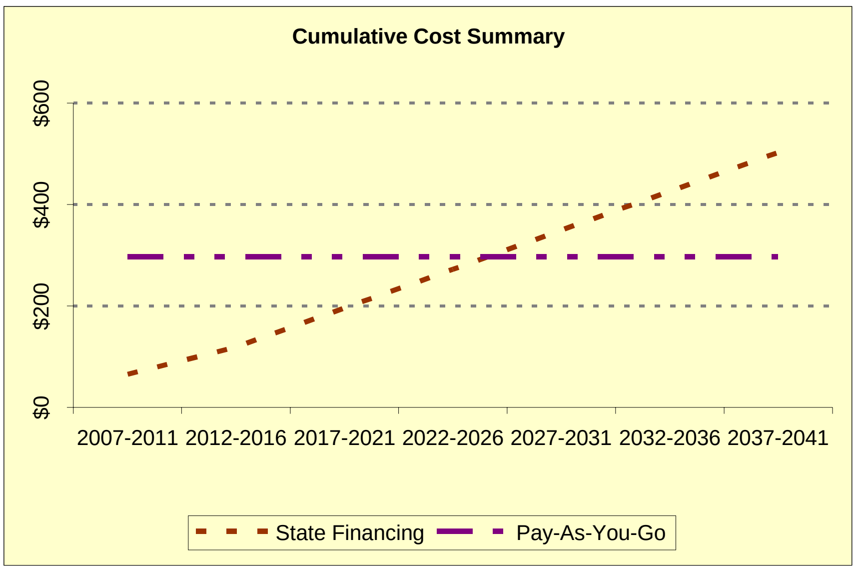


TABLE B-4
Economic Analysis—30-Year Period
Summary 5-Year Increments

Year	Option 2 State Financing	Option 3 Pay-As-You-Go
2007-2011	$65,244,000	$296,635,000
2012-2016	$53,665,486	$0
2017-2021	$76,664,980	$0
2022-2026	$76,664,980	$0
2027-2031	$76,664,980	$0
2032-2036	$76,664,980	$0
2037-2041	$76,664,980	$0
2042-2043	$22,999,494	$0
Total Cost:	**$525,233,881**	**$296,635,000**
NPV Total:	**$277,348,423**	**$267,802,631**
NPV % of total cost	**53%**	**90%**

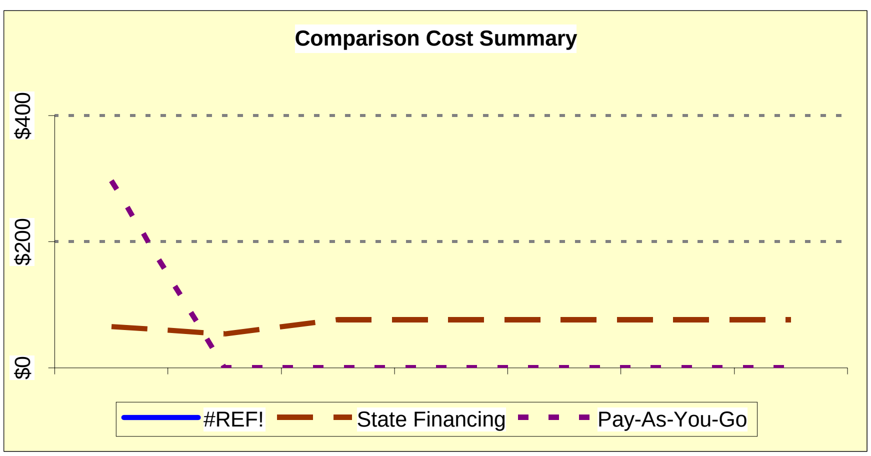


TABLE B-5
Term of Analysis—30 Years
Cost Comparison by Year

Year	Option 2 State Financing	Option 3 Pay-As-You-Go
2007	$39,555,000	$39,555,000
2008	$11,027,000	$11,027,000
2009	$14,662,000	$14,662,000
2010	$0	$231,391,000
2011	$0	$0
2012	$0	$0
2013	$7,666,498	$0
2014	$15,332,996	$0
2015	$15,332,996	$0
2016	$15,332,996	$0
2017	$15,332,996	$0
2018	$15,332,996	$0
2019	$15,332,996	$0
2020	$15,332,996	$0
2021	$15,332,996	$0
2022	$15,332,996	$0
2023	$15,332,996	$0
2024	$15,332,996	$0
2025	$15,332,996	$0
2026	$15,332,996	$0
2027	$15,332,996	$0
2028	$15,332,996	$0
2029	$15,332,996	$0
2030	$15,332,996	$0
2031	$15,332,996	$0
2032	$15,332,996	$0
2033	$15,332,996	$0
2034	$15,332,996	$0
2035	$15,332,996	$0
2036	$15,332,996	$0
2037	$15,332,996	$0
2038	$15,332,996	$0
2039	$15,332,996	$0
2040	$15,332,996	$0
2041	$15,332,996	$0
2042	$15,332,996	$0
2043	$7,666,498	$0
Total	**$525,233,881**	**$296,635,000**

TABLE B-6
Economic Analysis—Financial Option 2: State Financing

Estimated Project Cost (Pay-As-You-Go): $		$65,244,000	Total BGSF:	306,480
Estimated Project Cost (State Financing):		$231,391,000	Interest Rate:	5.25%
Total Project Cost:		$296,635,000		
Term of the Financing: 30 Years			Inflation Rate:	3.00%
	Monthly Payment	**Cost by Year**		
2007	$0	$39,555,000		
2008	$0	$11,027,000		
2009	$0	$14,662,000		
2010	$0	$0		
2011	$0	$0		
2012	$0	$0		
2013	$1,277,749.67	$7,666,498		
2014	$1,277,749.67	$15,332,996		
2015	$1,277,749.67	$15,332,996		
2016	$1,277,749.67	$15,332,996		
2017	$1,277,749.67	$15,332,996		
2018	$1,277,749.67	$15,332,996		
2019	$1,277,749.67	$15,332,996		
2020	$1,277,749.67	$15,332,996		
2021	$1,277,749.67	$15,332,996		
2022	$1,277,749.67	$15,332,996		
2023	$1,277,749.67	$15,332,996		
2024	$1,277,749.67	$15,332,996		
2025	$1,277,749.67	$15,332,996		
2026	$1,277,749.67	$15,332,996		
2027	$1,277,749.67	$15,332,996		
2028	$1,277,749.67	$15,332,996		
2029	$1,277,749.67	$15,332,996		
2030	$1,277,749.67	$15,332,996		
2031	$1,277,749.67	$15,332,996		
2032	$1,277,749.67	$15,332,996		
2033	$1,277,749.67	$15,332,996		
2034	$1,277,749.67	$15,332,996		
2035	$1,277,749.67	$15,332,996		
2036	$1,277,749.67	$15,332,996		
2037	$1,277,749.67	$15,332,996		
2038	$1,277,749.67	$15,332,996		
2039	$1,277,749.67	$15,332,996		
2040	$1,277,749.67	$15,332,996		
2041	$1,277,749.67	$15,332,996		
2042	$1,277,749.67	$15,332,996		
2043	$1,277,749.67	$7,666,498		
Total Project Cost			**$525,233,881**	
Total - Net Present Value			**$277,348,423**	

Notes:

1. Site acquisition, preliminary planning, and working drawings will be funded on a pay-as-you-go basis
2. Construction will be financed by the state, payment to begin at occupancy in June 2013

TABLE B-7
Economic Analysis—Pay-As-You-Go Financing

Estimated Project Cost:		$296,635,000	
Annual Inflation Rate:		3.0%	
Term of the Analysis:		30 Years	
	Total Gross Sq. Ft.	**Cost/yr Project**	
2007		$39,555,000	
2008		$11,027,000	
2009		$14,662,000	
2010	306,480	$231,391,000	
2011		-	
2012		-	
2013		-	
2014		-	
2015		-	
2016		-	
2017		-	
2018		-	
2019		-	
2020		-	
2021		-	
2022		-	
2023		-	
2024		-	
2025		-	
2026		-	
2027		-	
2028		-	
2029		-	
2030		-	
2031		-	
2032		-	
2033		-	
2034		-	
2035		-	
2036		-	
2037		-	
2038		-	
2039		-	
2040		-	
2041		-	
2042		-	
2043		-	
Total - Project Cost			**$296,635,000**
Total - Net Present Value			**$267,802,631**

APPENDIX C

A. Detailed Space Program for the New Long Beach Court - Phase I (S)

Introduction

A detailed space program was developed for the proposed project. The space program included in the 2003 master plan was used as a basis. This program was updated for current staffing and functions and edited per the new facilities guidelines.

The following tables include worksheets for each major court component.

Superior Court of California, County of Los Angeles

Projected Staff and Space Requirements Summary for Long Beach - 31 Courtrooms

Division or Functional Area	Projected Need		
	Courtrooms	Staff	BGSF
Long Beach Courthouse			
Court Administration		50.00	11,309
Court Sets / Judiciary	31	126.00	128,438
Criminal Division Staff		57.00	13,821
Juvenile Delinquency Division		6.00	2,479
Traffic Division Staff		25.00	7,776
Civil Division Staff		39.00	10,103
Family Court Division		10.00	4,547
Family Court Mediation Unit		8.00	3,362
Court and Building Operations		17.00	45,188
Subtotal Staff & Departmental Gross Square Feet	31	338.00	227,022
Interdepartmental Circulation/Restrooms/Bldg. Support[1]		25%	56,755
Building Envelope/Mechanical/Electrical[2]		10%	22,702
Total Building Gross Area			306,480
BGSF Per Courtroom			9,886

Notes:

1. Includes staff restrooms, public restrooms, public telephones, drinking fountains, janitor's closets, etc.
2. Includes telecommunication and electrical closets, mechanical shafts, elevator machine room, etc.

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Court Administration						
Deputy Court Executive Officer	225	1.00		225		
Court Director	175	4.00		700		
Secretary/Administrative Assistant	80	4.00		320		
Administrative Services Staff	80	10.00		800		
Legal Research Staff	140	2.00		280		
Accounting Staff	80	8.00		640		
HR Staff	80	6.00		480		
Purchasing Staff	80	2.00		160		
IT Supervisor	120	1.00		120		
IT Technician	80	4.00		320		
Collection Enhancement Staff	64	4.00		256		
DSA Staff	64	2.00		128		
Records/Facilities Staff	80	2.00		160		
Reception Waiting Area	100		1	100		
Small Conference Room (6 Seats)	150		2	300		
Medium Conference Room (8-12 Seats)	240		4	960		
Large Conference Room (18-20 Seats)	360		1	360		
Video Conference Room	240		1	240		
HR Training Room	800		1	800		
HR Secure File Room	200		1	200		
IT Work Room	300		1	300		
IT Secure Equipment Storage	150		1	150		
Administration Files	12		25	300		
Work/Copy Room	200		2	400		
Total Court Administration / Support Services		50.00		8,699		1.30
Department Gross Square Feet					11,309	

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Court Sets / Judiciary						
Court Sets						
Courtroom Large (ceremonial & high-volume)	2,400		3	7,200		
Courtroom Multi-purpose (jury)	1,750		28	49,000		
Equipment Room	80		15	1,200		
Subtotal Courtrooms		0.00	31	57,400	68,880	1.20
Jury Suite (2 toilets, kitchenette and closet)	470		20	9,400		
Attorney/Client/Witness Rooms	100		62	6,200		
Law Enforcement Waiting	100		2	200		
Shared Courtroom Holding (2 cells, 1 interview)	140		16	2,240		
Courtroom Waiting	220		31	6,820		
Courtroom Technology/Equipment Room	80		31	2,480		
Exhibit Storage Closet	50		31	1,550		
Total Court Sets		0.00		28,890	34,668	1.20
Judiciary/Courtroom Support						
Judicial Chambers (includes toilet and closet)	400	31.00		12,400		
Judicial Secretaries	80	8.00		640		
Courtroom Assistants	80	5.00		400		
Courtroom Clerks[1]	0	32.00		0		
Courtroom Clerks (Roving) [2]	80	6.00		480		
Court Reporters	64	31.00		1,984		
Interpreters	64	13.00		832		
Court Reporter Production Area	250		1	250		
Chambers Waiting/Reception	100		4	400		
Conference Room/Legal Collection	240		4	960		
Judicial Break Room	120		4	480		
Copy/Workroom/Supply Alcove	80		4	320		
Total Judiciary		126.00		19,146	24,890	1.30
Total Court Sets / Judiciary		126.00		105,436		
Department Gross Square Feet					128,438	

Footnotes:

1. Courtroom clerks have workstations in courtroom.
2. Roving courtroom clerks have a workstation in a centralized office.

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Criminal Division Staff						
Court Manager	150	1.00		150		
Legal Process Supervisors	100	6.00		600		
Criminal Clerks	64	50.00		3,200		
Service Counter Area						
Counter workstation (unassigned)	48		16	768		
Queuing Area	14		80	1,120		
Workcounter/Form Storage	100		2	200		
Photocopier/Printers (staff support)	120		4	480		
Public Document Review	400		1	400		
Active Records						
Active Criminal Files; 42" x 7 shelf unit	12		200	2,400		
File Scanning Station	40		4	160		
File Staging Area	60		4	240		
Sorting Workstation	40		4	160		
File Carts	6		10	60		
Copy/Work Room	300		1	300		
Total Criminal Division Staff		57.00		10,238		1.35
Department Gross Square Feet					13,821	

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Juvenile Delinquency Division						
Court Manager	150	1.00		150		
Legal Process Supervisors	100	1.00		100		
Legal Clerks	64	4.00		256		
Service Counter Area						
Counter workstation (unassigned)	48		2	96		
Queuing Area	14		10	140		
Workcounter/Form Storage	50		1	50		
Photocopier/Printers (staff support)	120		1	120		
Public Document Review	120		1	120		
Active Records						
Active Juvenile Files; 42" x 7 shelf unit	12		40	480		
File Scanning Station	40		2	80		
File Staging Area	60		1	60		
Sorting Workstation	40		1	40		
File Carts	6		4	24		
Copy/Work Room	120		1	120		
Total Civil Division Staff		6.00		1,836		1.35
Department Gross Square Feet					2,479	

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Traffic Division Staff						
Court Manager	150	1.00		150		
Legal Process Supervisors	100	3.00		300		
Traffic Clerks	64	21.00		1,344		
Service Counter Area						
Counter workstation (unassigned)	48		10	480		
Queuing Area	14		60	840		
Workcounter/Form Storage	100		2	200		
Photocopier/Printers (staff support)	120		2	240		
Public Document Review	300		1	300		
Active Records						
Active Traffic Files; 42" x 7 shelf unit	12		100	1,200		
File Scanning Station	40		3	120		
File Staging Area	60		3	180		
Sorting Workstation	40		3	120		
File Carts	6		6	36		
Copy/Work Room	250		1	250		
Total Criminal Division Staff		25.00		5,760		1.35
Department Gross Square Feet					7,776	

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Civil Division Staff						
Court Manager	150	1.00		150		
Legal Process Supervisors	100	3.00		300		
Legal Clerks	64	26.00		1,664		
Appeals Staff (Civil & Crim)	64	8.00		512		
Alternative Dispute Resolution Center						
Settlement Conference Room	*240*		*4*	960		
Caucus Room	*120*		*1*	120		
Reception/Waiting	*200*	1.00		200		
Service Counter Area						
Counter workstation (unassigned)	48		8	384		
Queuing Area	14		40	560		
Workcounter/Form Storage	100		2	200		
Photocopier/Printers (staff support)	120		2	240		
Public Document Review	300		1	300		
Active Records						
Active Civil Files; 42" x 7 shelf unit	12		100	1,200		
File Scanning Station	40		3	120		
File Staging Area	60		3	180		
Sorting Workstation	40		3	120		
File Carts	6		4	24		
Copy/Work Room	250		1	250		
Total Civil Division Staff		39.00		7,484		1.35
Department Gross Square Feet					10,103	

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Family Court Division						
Court Manager	150	1.00		150		
Legal Process Supervisor	100	1.00		100		
Family Legal Clerks	64	8.00		512		
Service Counter Area						
Counter workstation (unassigned)	48		4	192		
Queuing Area	14		20	280		
Workcounter/Form Storage	50		1	50		
Photocopier/Printers (staff support)	120		1	120		
Public Document Review	120		1	120		
Active Records						
Active Family Files; 42" x 7 shelf unit	12		100	1,200		
File Scanning Station	40		3	120		
File Staging Area	60		3	180		
Sorting Workstation	40		3	120		
File Carts	6		4	24		
Copy/Work Room	200		1	200		
Total Family Court Staff		10.00		3,368	4,547	1.35
Family Court Mediation Unit						
Attorney-Facilitator	140	1.00		140		
Facilitator Staff	80	2.00		160		
Court Family & Children Services Director	150	1.00		150		
Family Court Mediators	225	2.00		450		
Probate Investigators	80	2.00		160		
Mediation Waiting Area	180		1	180		
Mediation Room	250		2	500		
Workshop Room	360		1	360		
Child Waiting for Family Court Witnesses	120		1	120		
Mediation Files	12		10	120		
Copy/Work Room	150		1	150		
Total Family Mediation Unit		8.00		2,490	3,362	1.35
Total Family Court Staff		18.00		5,858		
Department Gross Square Feet					7,908	

Superior Court of California, County of Los Angeles
Projected Staff and Space Requirements for Long Beach - 31 Courtrooms

Functional Area	Unit Area	Projected Need				Grossing Factor
		Staff	Support	NSF	BGSF	
Court and Building Operations						
Public Area						
Entry Vestibule	200		1	200		
Security Screening Queuing	14		50	700		
Weapons Screening Station	250		3	750		
Secure Public Lobby	2,000		1	2,000		
Information Kiosk or Counter	64		2	128		
Public Vending Area	160		1	160		
Subtotal Public Area		0.00		3,938	4,726	1.20
Court Security Operations						
Central Control Room	300		1	300		
Security Equipment Closet	100		1	100		
Management Office (Lieut., Sergeant)	120		2	240		
Interview/Holding Room	80		1	80		
Men's Locker/Shower/Toilet Room	300		1	300		
Women's Locker/Shower/Toilet Room	200		1	200		
Copy/Supply Alcove	80		1	80		
Total Court Security Operations		0.00		1,300	1,560	1.20
Jury Assembly Area						
Jury Supervisor	120	1.00		120		
Jury Assembly Staff	80	6.00		480		
Jury Processing						
Check-in Counter Station	64		6	384		
Queuing Area (25% of jury call)	14		88	1,225		
Forms Counter (10% of jury call)	5		35	175		
Files	12		8	96		
Copier/Printer/Supplies	240		1	240		
Jury Assembly/Waiting (assume call of 350)						
General Seating	12		314	3,768		
Computer Carrel	20		20	400		
Table Seating	20		16	320		
Vending Area	200		1	200		
Women's Restroom (5 toilets/lactation room)	300		1	300		
Men's Restroom (2 toilets/3 urinals)	264		1	264		
Total Jury Assembly Area		7.00		7,972	10,762	1.35

Self Help Service Center						
Resource Staff	80	8.00		640		
Reception/Waiting Area	14		24	336		
Files	12		8	96		
Copy/Printer/Supplies	120		1	120		
Children's Play Area	120		1	120		
Computer Workstation	40		10	400		
Book Shelving	12		6	72		
Work Table w/Four Seats	72		4	288		
Orientation Room	360		2	720		
Total Self Help Service Center		8.00		2,792	3,630	1.30
Court Support						
Mail Processing and Distribution Center [1]	300		1	300		
Case Retention/Exhibits Storage	400		1	400		
Staff Break Rooms [2]	150		8	1,200		
Staff Lactation Room	64		1	64		
Staff Shower/Restroom (1M/1F)	80		2	160		
Total Court Support		0.00		2,124	2,336	1.10
Related Justice Agency Space						
Multipurpose Rooms (DA, PD, Prob., Heath & Human Svc., etc.)	120		4	480		
Agency Staff Convenience Center	80		1	80		
Volunteer Coordinator	80		1	80		
Total Justice Agency Space		0.00		640	704	1.10
Children's Waiting Room						
Security/Check-in Station	150		1	150		
Reading Area	200		1	200		
Computer Area	25		4	100		
Open Play Area	200		1	200		
Television Viewing Area	200		1	200		
Clerk/Volunteer Workstation	48	2.00		96		
Supply/Toy Storage	60		1	60		
Restroom w/Diaper Changing	80		1	80		
Sink Counter	24		1	24		
Total Children's Waiting		2.00		1,110	1,443	1.30

In-Custody Holding						
Pedestrian Sallyport	250		1	250		
Control Room	180		1	180		
Central Holding						
Group Holding - Male	220		12	2,640		
Group Holding - Female	220		8	1,760		
Individual Holding - Male	80		15	1,200		
Individual Holding - Female	80		8	640		
Group Holding - Juvenile Male	220		4	880		
Group Holding - Juvenile Female	220		2	440		
Individual Holding - Juvenile Male	80		8	640		
Individual Holding - Juvenile Female	80		4	320		
Court Dressing Room	60		4	240		
Attorney/Detainee Interview Rooms	80		10	800		
Attorney Vestibule/Reception/Waiting	80		1	80		
Booking Station	150		1	150		
Storage Room	200		1	200		
Staff Restroom	60		2	120		
Break Area	120		1	120		
Total In-Custody Holding		0.00		10,660	15,990	1.50
Inactive Records Storage						
Inactive Files/Microfilm Storage [4]	1,000		1	1,000		
Total Records Storage		0.00		1,000	1,100	1.10
Support for Building Operations						
Loading/Receiving Area	200		1	200		
Central Storage (paper, office supplies, forms, etc)	600		1	600		
Computer Room	400		1	400		
Telecommunications Equipment Room [5]	200		1	200		
Main Electrical Room [5]	200		1	200		
Media Room	150		1	150		
Trash/Recycling Collection Room	180		1	180		
Housekeeping Office/Storage	200		1	200		
Maintenance Equipment Storage	180		1	180		
Workshop	180		1	180		
Outdoor Equipment Room	180		1	180		
Subtotal Building Operations		0.00		2,670	2,937	1.10
Total Court and Building Operations		17.00		34,206		
Department Gross Square Feet					45,188	

Footnotes:

1. Assumes court will not longer use county mail services.
2. One break room per 40 staff, not including JPE.
3. Sallyport space included in basement program.
4. Storage requirements assume that all documents will eventually be stored in imaged format.
5. Satellite telecommunications and electrical rooms are included in building gross square foot calculation.

APPENDIX D

A. Long Beach Press Telegram: Juror Death Inquiry Ordered

Introduction

In January 2005, a juror, while serving jury duty on the sixth floor of the existing court building—inaccessible by public elevator—suffered a heart attack that proved to be fatal. The County Board of Supervisors voted shortly thereafter to request a full investigation into the matter.

The following press release describes the details of this event and the Board's action.

Long Beach Press Telegram

Juror death inquiry ordered

Officials to review delay in emergency action due to repairs.

By Wendy Thomas Russell

Staff writer

Tuesday, January 18, 2005 - LONG BEACH — The Los Angeles County Board of Supervisors voted unanimously Tuesday to request a full investigation into the circumstances surrounding the fatal collapse of a prospective juror at the Long Beach Courthouse. And it asked for recommendations about "how to prevent another tragic medical occurrence."

The 5-0 vote came six days after the 52-year-old man suffered an apparent heart attack on the sixth floor of the courthouse while serving jury duty. Emergency workers called to the scene encountered problems getting to the man because of a broken elevator and confusion about the best route to the hard-to-access sixth floor.

In his motion, Supervisor Don Knabe asked the county's chief administrative office, Sheriff's Department, internal services department and Superior Court to review emergency response plans that "allow for the most efficient movement" of emergency crews throughout the building.

He said court staff should be trained in such plans, and "backup access paths" should be mapped to address cases where "maintenance issues may present a problem to safety personnel."

The departments were directed to complete the investigation and report back to the board within the next 30 days.

It took paramedics two minutes to get to the courthouse Jan. 12 after receiving a dispatch regarding the fallen juror. It then took seven minutes to get to the sixth floor because the public elevators run only to the fifth floor, and the judge's elevator the one normally used in emergencies was broken at the time.

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PROJECT AGREEMENT

FOR THE
DESIGN, CONSTRUCTION, FINANCING,
OPERATION, MAINTENANCE AND MANAGEMENT
OF THE
NEW LONG BEACH COURT BUILDING

between

THE JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS

and

LONG BEACH JUDICIAL PARTNERS LLC

Dated

December 20, 2010

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Appendix 5

New Long Beach Court Building
Risk Assessment Update

Administrative Office of the Courts

November 2009

Ernst & Young
Quality In Everything We Do

Background - Risk Assessment Process

- A risk assessment was prepared in February 2008 based on Project Team's risk estimations reflecting input received during internal risk workshops and adjusted to reflect Project specific circumstances
- Compilation of risks at this time were developed with input from:
  - AOC staff
  - Ernst & Young Advisory Inc.
  - Hawkins Delafield & Wood LLP
  - Davis Langdon
  - Ross Drulis Cusenbery
- Risk were quantified by the Project Team using statistical basis:
  - Probability of event occurring
  - Effect if event occurred – High, Medium, Low effect
  - @Risk was used to create a stochastic sample based on the cost estimates, impact assessments and probabilities provided
  - From the output of this, the Mean value was determined

Summary of Retained Risk @ February 2008

State's MEAN Risk Value Breakdown		Summary @ February 2008	
		Retained Risk - **Traditional**	Retained Risk - **PBI**
	Risk Category	Value of Retained Risk ($ millions)	Value of Retained Risk ($ millions)
1.	Funding and Approval Process	51	27
2.	Design & Bid	50	2
3.	Site Conditions/Environmental	4	1
4.	Construction	19	0
5.	Permit and Approvals	0	0
6.	Completion Commissioning	0	0
7.	Furniture Fixture & Equipment Risk	0	0
8.	Lifecycle Maintenance	23	3
9.	Operational	13	1
10.	Financial/Other	0	0
Sub Total		**160**	**34**
11.	Risk Shared at 50%	3	2
Total		**163**	**36**

Update to Risk Assessment
through to October 2009

- Starting in the first quarter of 2009 through to October 2009, with further development in the procurement of the project and changes in the credit markets, the Project Team undertook a thorough update to the risk assessment
- This update to the risk assessment included:
  - Reconvening of the same Project Team members to update their views on the allocation of project risks, likely impacts and probability outcomes based on the latest developments
  - Included input from subject matter expert Richard Little, Director at The Keston Institute for Public Finance and Infrastructure Policy at the University of Southern California on the methodology, process and assumptions used in the risk assessment
  - Included updates to capital, operating and major maintenance cost estimates
- The changes of significance to note are:
  - There were no significant updates to the likelihood and probability estimates
  - The addition of two new risks: "Other Relief Events" in Construction and "Other Relief Events" in Operations, both being characterised as a shared risk with a probability of occurring of only 1%
  - Updates to the costing estimates to reflect the latest developments in the Project and the latest market conditions. The key updates in costs are summarised in the table on the following page

Update to Risk Assessment (continued)
through to October 2009

	Feb 08	Oct 09	Change
Design & Construction Contract	335	403	68
Furniture Fixtures & Equipment	20	31	11
Maintenance	42	35	(7)
Operations	55	46	(9)
Add'l Operating Costs	42	24	(18)
Interest Cost	0	0	0
HBU Valuation	26	26	0
Rental Cost (PV)	25	25	0
Fit Out Costs / Tenant Improvement Cost	15	15	(0)
Insurance Cost	0	0	0
Total Contract Value	560	605	45

- Note: Facility increased to 487,700 ft2 plus parking of 399,052 ft2 from 353,000 ft2
- The Design & Construction Contract value was updated based on more recent QS estimates and designs and this has increased by $ 68 million. The break down of this is detailed below:

	Feb 08	Oct 09	Change
Construction Cost (see note 5)	291	346	55
Architectural & Engineering	21	25	4
Site Acquisition	11	6	(5)
Other Project Costs	22	31	9
Total Estimated Project Costs	346	409	63
less: Site Acquisition	(11)	(6)	5
Total Design & Contstruction Contract	335	403	68

Update to Risk Assessment (continued)
through to October 2009

- The assumption on the Furniture Fixtures & Equipment was increased by $11 million to reflect the latest cost estimate per the RFP
- Maintenance cost estimates were updated to reflected an average Cost/Bldg Per Age of $4.89 per ft^2 over years 0 to 10, $7.26 per ft^2 over years 11 to 20, $8.44 per ft^2 over years 21 to 30
- Operations costs cost estimates were updated to $5.03 per ft^2 for the building and $1.16 per ft^2 for the parking structure
- Additional Operating Costs amended to represent cost of staff and service cost in additional space from 2014 through to 2044. Estimates range from ~$1 million in 2014, and increases to ~ $3 million by 2044

- On the basis of the updates above the risk assessment was revised and @Risk was again used to create a stochastic sample based on the cost estimates, impact assessments and probabilities provided
- From the @Risk sample the Mean values on the following page were calculated
- The Mean of the Total Retained Risk for the Traditional procurement increased from ~$163 million to ~$177 million
- The Mean of the Total Retained Risk for the PBI procurement increased from ~$36 million to ~$39 million

Summary of Retained Risk @ October 2009

State's MEAN Risk Value Breakdown		Summary @ February 2008		Summary @ October 2009		Increase / Decrease	
	Risk Category	Retained Risk - **Traditional** Value of Retained Risk ($ millions)	Retained Risk - **PBI** Value of Retained Risk ($ millions)	Retained Risk - **Traditional** Value of Retained Risk ($ millions)	Retained Risk - **PBI** Value of Retained Risk ($ millions)	Retained Risk - **Traditional** Value of Retained Risk ($ millions)	Retained Risk - **PBI** Value of Retained Risk ($ millions)
1	Funding and Approval Process	51	27	55	29	4	2
2	Design & Bid	50	2	60	2	10	0
3	Site Conditions/Environmental	4	1	5	1	1	0
4	Construction	19	0	23	0	4	0
5	Permit and Approvals	0	0	0	0	0	0
6	Completion Commissioning	0	0	0	0	0	0
7	Furniture Fixture & Equipment Risk	0	0	0	0	0	0
8	Lifecycle Maintenance	23	3	19	3	(4)	(1)
9	Operational	13	1	11	1	(2)	(0)
10	Financial/Other	0	0	0	0	0	0
Sub Total		**160**	**34**	**173**	**36**	**13**	**2**
11	Risk Shared at 50%	4	2	4	3	1	1
Total		**163**	**36**	**177**	**39**	**14**	**3**

Update to Risk Assessment
November 2009

- The same Project Team members reconvened in early November 2009 to review the October 2009 update and had the opportunity to review and update their views on the allocation of project risks, likely impacts and probability outcomes based on the latest RFP provisions
- In terms of risk items – two risks that previously went un-quantified were:
  - Financing risk – the ability to raise sufficient finance given the current credit market conditions and
  - Adequacy of insurance during the operating period
- An estimate was made for interest rate risk in the latest risk calculations given the current credit environment. The value of this risk is reflective of the estimated cost of finance from the shadow model and is treated as a risk that is retained by the State under the Traditional procurement model
- An estimate of $0.16 per ft2 was assumed for the Adequacy of Insurance
- In terms of likely outcomes and probability of occurrence, the table on the following page summarizes the major changes that were made to these assumptions

Update to Risk Assessment
November 2009

		Oct 2009 Likelihood and Probability %					Nov 2009 Likelihood and Probability %			
Risk	Description	P10	Typical	P90	Probability %		P10	Typical	P90	Probability %
1.01	Planning, process and allocation practices	4.00%	10.00%	20.00%	75.00%		4.00%	10.00%	20.00%	66.67%
2.01	Technology Selection (of Equipment)	1.00%	5.00%	10.00%	25.00%		0.10%	0.50%	1.00%	25.00%
2.04	Incomplete RFP Bid Documentation	2.00%	4.00%	8.00%	75.00%		2.00%	3.00%	4.00%	75.00%
2.06	Financial capability of Proponent	5.00%	10.00%	20.00%	1.00%		5.00%	10.00%	20.00%	10.00%
2.07	Bidding Competition Available - GCs & Subtrades	3.00%	5.00%	20.00%	50.00%		3.00%	5.00%	20.00%	15.00%
2.08	Disputes Between Architects and Contractors	0.50%	1.00%	5.00%	15.00%		0.00%	0.00%	0.00%	0.00%
3.04	Environmental Condition of Site	1.00%	3.00%	6.00%	15.00%		1.00%	3.00%	6.00%	10.00%
3.07	CEQA Documentation Cost	0.05%	0.30%	0.70%	5.00%		0.00%	0.00%	0.00%	0.00%
3.08	CEQA Delay	0.01%	3.00%	6.00%	30.00%		0.01%	3.00%	6.00%	3.00%
3.09	Impact Mitigation (Zoning)	0.01%	0.30%	0.70%	40.00%		0.01%	0.30%	0.70%	5.00%
4.02	Construction Delays	1.00%	3.00%	10.00%	90.00%		1.00%	3.00%	10.00%	75.00%
4.11	The Project Team also undertook a review of the likelihood and probability estimates and the significant change was the addition of two new risks:	1.00%	2.00%	3.00%	50.00%		1.00%	2.00%	3.00%	15.00%
4.12	General Strike	1.00%	3.00%	5.00%	5.00%		0.00%	0.00%	0.00%	0.00%
6.02	Deficiencies/ Punch List Items	0.05%	0.10%	0.50%	15.00%		1.00%	3.00%	5.00%	50.00%
8.02	Change in risk estimate primarily driven by update in underlying cost estimates to reflect last positions in the RFP	5.00%	15.00%	20.00%	75.00%		0.00%	0.00%	0.00%	0.00%
8.08	Replacement Capital	5.00%	10.00%	15.00%	65.00%		0.00%	0.00%	0.00%	0.00%
8.11	Additional New Space - Different Cost (rental cost)	1.00%	10.00%	20.00%	20.00%		0.00%	0.00%	0.00%	0.00%
9.13	Adequacy of Insurance	0.00%	0.00%	0.00%	0.00%		100.00%	100.00%	100.00%	100.00%

Summary of Retained Risk @ November 2009

- On the basis of the updates above the risk assessment was revised with @Risk
  - The Mean of the Total Retained Risk for the Traditional procurement decreased from ~$177 million to ~$149 million
  - The Mean of the Total Retained Risk for the PBI procurement decreased from ~$39 million to ~$30 million

State's MEAN Risk Value Breakdown		Summary @ October 2009		Summary @ November 2009		Increase / Decrease	
	Risk Category	Retained Risk - **Traditional** Value of Retained Risk ($ millions)	Retained Risk - **PBI** Value of Retained Risk ($ millions)	Retained Risk - **Traditional** Value of Retained Risk ($ millions)	Retained Risk - **PBI** Value of Retained Risk ($ millions)	Retained Risk - **Traditional** Value of Retained Risk ($ millions)	Retained Risk - **PBI** Value of Retained Risk ($ millions)
1	Funding and Approval Process	55	29	57	17	2	(12)
2	Design & Bid	60	2	40	5	(21)	3
3	Site Conditions/Environmental	5	1	3	2	(2)	1
4	Construction	23	0	17	0	(6)	0
5	Permit and Approvals	0	0	0	0	0	0
6	Completion Commissioning	0	0	0	0	0	0
7	Furniture Fixture & Equipment Risk	0	0	0	0	0	0
8	Lifecycle Maintenance	19	3	13	3	(6)	0
9	Operational	11	1	12	1	1	0
10	Financial/Other	0	0	1	0	1	0
Sub Total		**173**	**36**	**142**	**28**	**(31)**	**(8)**
11	Risk Shared at 50%	4	3	7	2	3	(1)
Total		**177**	**39**	**149**	**30**	**(28)**	**(9)**

The New Long Beach Courthouse
The California Adminstrative Office of the Courts
Risk Allocation Worksheet

		Performance Based Infratructure Model								
		October 2009 Version			Revised Risk Meeting (with Academics)			JLBC / DOF Submission		
		Risk Allocation			Risk Allocation			Risk Allocation		
No.	Description	Contractor	State	Shared	Contractor	State	Shared	Contractor	State	Shared
Project Budget										
1.00	**Funding and Approval Process**									
1.01	Planning, process and allocation practices	0	16,255,509	0	0	32,511,017	0	0	28,708,021	0
1.02	Deal termination due to government policy changes	0	929,630	0	0	1,200,464	0	0	1,060,039	0
1.03	Subtotal	**0**	**17,185,139**	**0**	**0**	**33,711,481**	**0**	**0**	**29,768,060**	**0**
Design, Bid and Construction										
2.00	**Design & Bid**									
2.01	Technology Selection (of Equipment)	109,379	0	0	1,093,792	0	0	909,198	0	0
2.02	Owner's Project Management Team Capacity	2,664,626	0	0	2,664,626	0	0	2,214,930	0	0
2.03	Sign off by user groups incl. FF&E/IT	0	935,691	0	0	935,691	0	0	777,779	0
2.04	Incomplete RFP Bid Documentation	734,381	0	0	2,334,683	0	0	1,940,670	0	0
2.05	Regulatory Changes in Design	0	354,140	0	0	354,140	0	0	294,373	0
2.06	Financial capability of Proponent	3,671,906	0	0	4,895,874	0	0	4,069,621	0	0
2.07	Bidding Competition Available - GCs & Subtrades	5,685,464	0	0	5,685,464	0	0	4,725,956	0	0
2.08	Disputes Between Architects and Contractors	0	0	0	0	0	406,928	0	0	338,252
2.09	Scope Changes by Owner - includes equipment scope changes	0	404,642	0	0	404,642	0	0	336,352	0
2.10	Contract Award / Commercial Close	0	664,380	0	0	664,380	0	0	552,256	0
2.11	Financial Close Delay	1,240,059	0	0	892,349	0	0	741,751	0	0
2.12	Subtotal	**14,105,814**	**2,358,853**	**0**	**17,566,787**	**2,358,853**	**406,928**	**14,602,126**	**1,960,761**	**338,252**
3.00	**Site Conditions/Environmental**									
3.01	Relocation of Municipal Services - Utilities	512,289	0	0	512,289	0	0	425,833	0	0
3.02	Existing Condition Information provided by the State and Title investigation	576,772	0	0	576,772	0	0	479,433	0	0
3.03	Geotechnical	0	0	3,051,958	3,051,958	0	0	2,536,894	0	0
3.04	Environmental Condition of Site	0	1,381,849	0	2,072,773	0	0	1,722,961	0	0
3.05	Archaeological /cultural	0	381,313	0	0	381,313	0	0	316,961	0
3.06	Construction activity results in contamination	101,732	0	0	101,732	0	0	84,563	0	0
3.07	CEQA Documentation Cost	0	0	0	73,423	0	0	61,032	0	0
3.08	CEQA Delay	0	0	242,093	0	0	3,631,397	0	0	3,018,544
3.09	Impact Mitigation (Zoning)	77,772	0	0	622,175	0	0	517,174	0	0
3.10	Subtotal	**1,268,565**	**1,763,162**	**3,294,051**	**7,011,122**	**381,313**	**3,631,397**	**5,827,889**	**316,961**	**3,018,544**
4.00	**Construction**									
4.01	Weather	51,229	0	0	51,229	0	0	42,583	0	0
4.02	Construction Delays	5,198,024	0	0	8,316,838	0	0	6,913,246	0	0
4.03	Failure to build to design	118,047	0	0	118,047	0	0	98,124	0	0
4.04	Acceleration to maintain schedule	2,883,858	0	0	2,883,858	0	0	2,397,163	0	0

The New Long Beach Courthouse
The California Adminstrative Office of the Courts
Risk Allocation Worksheet

		Performance Based Infratructure Model								
		October 2009 Version			Revised Risk Meeting (with Academics)			JLBC / DOF Submission		
		Risk Allocation			Risk Allocation			Risk Allocation		
No.	Description	Contractor	State	Shared	Contractor	State	Shared	Contractor	State	Shared
4.05	Construction safety obligations	74,614	0	0	74,614	0	0	62,022	0	0
4.06	Force Majeure	0	0	253,539	0	0	253,539	0	0	210,750
4.07	Other Relief Events	0	0	253,539	0	0	253,539	0	0	210,750
4.08	Adequacy of Insurance	507,077	0	0	507,077	0	0	421,500	0	0
4.09	Latent Defects	1,267,693	0	0	1,267,693	0	0	1,053,751	0	0
4.10	LEED Performance Requirements	122,397	0	0	122,397	0	0	101,741	0	0
4.11	Impact on Schedule due to FF&E	350,965	0	0	0	0	350,965	0	0	291,734
4.12	General Strike	0	0	0	0	0	604,368	0	0	502,372
4.13	Labour Difficulties	241,747	0	0	241,747	0	0	200,949	0	0
4.14	Subtotal	**10,815,651**	**0**	**507,077**	**13,583,500**	**0**	**1,462,410**	**11,291,080**	**0**	**1,215,607**
5.00	**Permit and Approvals**									
5.01	Utilities Company Fees	9,792	0	0	9,792	0	0	8,139	0	0
5.02	Subtotal	**9,792**	**0**	**0**	**9,792**	**0**	**0**	**8,139**	**0**	**0**
6.00	**Completion Commissioning**									
6.01	Commissioning Delays	0	0	292,494	0	0	292,494	0	0	243,131
6.02	Deficiencies/ Punch List Items	906,552	0	0	152,598	0	0	126,845	0	0
6.03	Subtotal	**906,552**	**0**	**292,494**	**152,598**	**0**	**292,494**	**126,845**	**0**	**243,131**
7.00	**Furniture Fixture & Equipment Risk**									
7.01	Owner Procurement	0	0	0	0	0	0	0	0	0
7.02	Equipment Selection Changes	0	0	0	0	0	0	0	0	0
7.03	Cost of equipment	0	0	0	0	0	0	0	0	0
7.04	Schedule for equipment installation	0	0	0	0	0	0	0	0	0
7.05	Subtotal	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Maintenance & Operation										
8.00	**Maintenance**									
8.01	General Capital Maintenance	954,915	0	0	954,915	0	0	865,618	0	0
8.02	Planned Preventative Maintenance	0	0	0	2,460,819	0	0	2,230,700	0	0
8.03	Unscheduled Emergency Maintenance	1,095,618	0	0	1,095,618	0	0	993,164	0	0
8.04	Overlooked Defects	306,069	0	0	306,069	0	0	277,448	0	0
8.05	Technology Changes	597,242	0	0	597,242	0	0	541,392	0	0
8.06	Major Building Reconfiguration and Improvements	0	898,490	0	0	898,490	0	0	814,470	0
8.07	Occupancy Requirements	0	1,796,980	0	0	1,796,980	0	0	1,628,939	0
8.08	Replacement Capital	0	0	0	1,218,774	0	0	1,104,803	0	0
8.09	Default of Property Management	219,124	0	0	219,124	0	0	198,633	0	0
8.10	Incomplete RFP Bid Documentation	360,146	0	0	360,146	0	0	326,468	0	0
8.11	Additional New Space - Different Cost (rental cost)	0	0	0	0	0	0	0	0	0
8.12	Fit out cost more than expected (actual tenant improvement cost)	0	0	0	0	0	0	0	0	0

The New Long Beach Courthouse
The California Adminstrative Office of the Courts
Risk Allocation Worksheet

		Performance Based Infratructure Model								
		October 2009 Version			Revised Risk Meeting (with Academics)			JLBC / DOF Submission		
		Risk Allocation			Risk Allocation			Risk Allocation		
No.	Description	Contractor	State	Shared	Contractor	State	Shared	Contractor	State	Shared
8.13	Operating cost greater than expected (staffing and screening costs for leased space)	0	0	0	0	0	0	0	0	0
8.14	Subtotal	3,533,116	2,695,471	0	7,212,709	2,695,471	0	6,538,225	2,443,409	0
9.00	Operational									
9.01	Supplier / Contract Management / Outsourcing and Building Structure and Systems including Maintenance	286,643	0	0	286,643	0	0	273,349	0	0
9.02	Technological Obsolescence and Upgrade	1,827,387	0	0	1,827,387	0	0	1,742,638	0	0
9.03	Operation of Building for Occupant Use	286,643	0	0	286,643	0	0	273,349	0	0
9.04	Safety and Security/Environmental/Accessibility	1,366,559	0	0	1,366,559	0	0	1,303,181	0	0
9.05	Quality Risk	0	911,039	0	0	911,039	0	0	868,788	0
9.06	Un-anticipated Operating Costs	1,003,250	0	0	1,003,250	0	0	956,722	0	0
9.07	Other Relief Events	0	0	28,664	0	0	28,664	0	0	27,335
9.08	Labor Relations - Disputes	913,694	0	0	913,694	0	0	871,319	0	0
9.09	Recruiting, Retention And Employee Satisfaction	913,694	0	0	913,694	0	0	871,319	0	0
9.10	Professional and Legal Liability	130,416	0	0	130,416	0	0	124,368	0	0
9.11	Incomplete RFP Bid Documentation	439,920	0	0	439,920	0	0	419,518	0	0
9.12	Client / Customer / Public Satisfaction	800,759	0	0	800,759	0	0	763,622	0	0
9.13	Adequacy of Insurance	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a
9.14	Subtotal	7,968,964	911,039	28,664	7,968,964	911,039	28,664	7,599,385	868,788	27,335
Finance and Capital Markets										
10.00	Financial/Other									
10.01	Inflation - construction/ops and major maint	0	0	0	0	0	0	0	0	0
10.02	Interest Rate Change (after financial close)	0	0	0	0	0	0	0	0	0
10.03	Tax Treatment	524,947	0	0	524,947	0	0	463,541	0	0
10.04	County & Third Party Rent Revenue	452,706	0	0	452,706	0	0	0	0	0
10.05	Timely Appropriation	0	0	0	0	0	0	0	0	0
10.06	Value of Disposal of Existing Site & Parking Structure	0	0	0	0	0	0	0	0	0
10.07	Timing of Disposal of Existing Site & Parking Structure	0	0	0	0	0	0	0	0	0
10.08	Demolition of buildings on existing site	0	0	0	0	0	0	0	0	0
10.09	Property risks and acquisition of new site	0	0	0	0	0	0	0	0	0
10.10	Utility usage	0	0	0	0	0	0	0	0	0
10.11	Subtotal	977,653	0	0	977,653	0	0	463,541	0	0
9.00	SUBTOTAL WITH FUNCTION SUM	39,586,106	24,913,663	4,122,286	54,483,124	40,058,157	5,821,893	46,457,230	35,357,978	4,842,869

	Performance Based Infratructure Model					
	Expected Value	Mean	Expected Value	Mean	Expected Value	Mean

The New Long Beach Courthouse

The California Adminstrative Office of the Courts

Risk Allocation Worksheet

		Performance Based Infratructure Model								
		October 2009 Version			Revised Risk Meeting (with Academics)			JLBC / DOF Submission		
		Risk Allocation			Risk Allocation			Risk Allocation		
No.	Description	Contractor	State	Shared	Contractor	State	Shared	Contractor	State	Shared
	State Retained Risk	24,913,663	24,932,085		40,058,157	40,133,246		35,357,978	33,570,735	
	State Shared Risk	2,061,143	2,044,377		2,910,946	2,896,510		2,421,434	2,317,139	
	Total State Risk Under PBI	26,974,806	26,976,462		42,969,104	43,029,756		37,779,413	35,887,874	
	Risk Transferred to Contractor	39,586,106	39,647,138		54,483,124	54,493,182		46,457,230	50,622,146	
	Risk Shared with Contractor	2,061,143	2,044,377		2,910,946	2,896,510		2,421,434	2,317,139	
	Total Risk Transferred to Contractor	41,647,249	41,691,515		57,394,071	57,389,692		48,878,665	52,939,285	

The New Long Beach Courthouse
The California Adminstrative Office of the Courts
Risk Allocation Worksheet

		Traditional Model								
		October 2009 Version			Revised Risk Meeting (with Academics)			JLBC / DOF Submission		
		Risk Allocation			Risk Allocation			Risk Allocation		
No.	Description	Contractor	State	Shared	Contractor	State	Shared	Contractor	State	Shared
Project Budget										
1.00	**Funding and Approval Process**									
1.01	Planning, process and allocation practices	0	54,684,737	0	0	61,520,329	0	0	54,323,951	0
1.02	Deal termination due to government policy changes	0	1,900,108	0	0	1,900,108	0	0	1,677,842	0
1.03	Subtotal	**0**	**56,584,845**	**0**	**0**	**63,420,437**	**0**	**0**	**56,001,793**	**0**
Design, Bid and Construction										
2.00	**Design & Bid**									
2.01	Technology Selection (of Equipment)	0	546,896	0	0	5,468,958	0	0	4,545,989	0
2.02	Owner's Project Management Team Capacity	0	6,043,679	0	0	6,043,679	0	0	5,023,717	0
2.03	Sign off by user groups incl. FF&E/IT	0	5,468,958	0	0	5,468,958	0	0	4,545,989	0
2.04	Incomplete RFP Bid Documentation	0	9,065,519	0	0	14,687,622	0	0	12,208,864	0
2.05	Regulatory Changes in Design	0	354,140	0	0	354,140	0	0	294,373	0
2.06	Financial capability of Proponent	0	4,895,874	0	489,587	0	0	406,962	0	0
2.07	Bidding Competition Available - GCs & Subtrades	0	21,475,627	0	0	21,475,627	0	0	17,851,291	0
2.08	Disputes Between Architects and Contractors	0	0	0	0	0	1,525,979	0	0	1,268,447
2.09	Scope Changes by Owner - includes equipment scope changes	0	6,043,679	0	0	6,043,679	0	0	5,023,717	0
2.10	Contract Award / Commercial Close	0	664,380	0	0	664,380	0	0	552,256	0
2.11	Financial Close Delay	0	0	0	0	0	0	0	0	0
2.12	Subtotal	**0**	**54,558,752**	**0**	**489,587**	**60,207,044**	**1,525,979**	**406,962**	**50,046,197**	**1,268,447**
3.00	**Site Conditions/Environmental**									
3.01	Relocation of Municipal Services - Utilities	0	512,289	0	0	512,289	0	0	425,833	0
3.02	Existing Condition Information provided by the State and Title investigation	0	576,772	0	0	0	576,772	0	0	479,433
3.03	Geotechnical	0	0	3,051,958	0	0	3,051,958	0	0	2,536,894
3.04	Environmental Condition of Site	0	1,381,849	0	0	0	2,072,773	0	0	1,722,961
3.05	Archaeological /cultural	0	381,313	0	0	381,313	0	0	316,961	0
3.06	Construction activity results in contamination	101,732	0	0	101,732	0	0	84,563	0	0
3.07	CEQA Documentation Cost	0	0	0	0	73,423	0	0	61,032	0
3.08	CEQA Delay	0	363,140	0	0	3,631,397	0	0	3,018,544	0
3.09	Impact Mitigation (Zoning)	0	69,955	0	0	559,643	0	0	465,195	0
3.10	Subtotal	**101,732**	**3,285,318**	**3,051,958**	**101,732**	**5,158,066**	**5,701,502**	**84,563**	**4,287,565**	**4,739,288**
4.00	**Construction**									
4.01	Weather	51,229	0	0	51,229	0	0	42,583	0	0
4.02	Construction Delays	0	15,594,071	0	0	18,712,885	0	0	15,554,803	0
4.03	Failure to build to design	118,047	0	0	118,047	0	0	98,124	0	0
4.04	Acceleration to maintain schedule	568,282	0	0	568,282	0	0	472,376	0	0

The New Long Beach Courthouse
The California Adminstrative Office of the Courts
Risk Allocation Worksheet

No.	Description	October 2009 Version – Contractor	October 2009 Version – State	October 2009 Version – Shared	Revised Risk Meeting (with Academics) – Contractor	Revised Risk Meeting (with Academics) – State	Revised Risk Meeting (with Academics) – Shared	JLBC / DOF Submission – Contractor	JLBC / DOF Submission – State	JLBC / DOF Submission – Shared
		Traditional Model								
		Risk Allocation			Risk Allocation			Risk Allocation		
4.05	Construction safety obligations	74,614	0	0	74,614	0	0	62,022	0	0
4.06	Force Majeure	0	0	253,539	0	0	253,539	0	0	210,750
4.07	Other Relief Events	0	0	253,539	0	0	253,539	0	0	210,750
4.08	Adequacy of Insurance	507,077	0	0	507,077	0	0	421,500	0	0
4.09	Latent Defects	0	0	3,803,080	3,803,080	0	0	3,161,253	0	0
4.10	LEED Performance Requirements	0	0	122,397	122,397	0	0	101,741	0	0
4.11	Impact on Schedule due to FF&E	0	1,208,736	0	0	4,029,119	0	0	3,349,145	0
4.12	General Strike	0	0	0	0	0	604,368	0	0	502,372
4.13	Labour Difficulties	241,747	0	0	241,747	0	0	200,949	0	0
4.14	Subtotal	1,560,996	16,802,807	4,432,554	5,486,473	22,742,004	1,111,445	4,560,548	18,903,948	923,872
5.00	Permit and Approvals									
5.01	Utilities Company Fees	0	9,792	0	0	9,792	0	0	8,139	0
5.02	Subtotal	0	9,792	0	0	9,792	0	0	8,139	0
6.00	Completion Commissioning									
6.01	Commissioning Delays	0	0	292,494	0	0	292,494	0	0	243,131
6.02	Deficiencies/ Punch List Items	0	0	6,043,679	152,598	0	0	126,845	0	0
6.03	Subtotal	0	0	6,336,173	152,598	0	292,494	126,845	0	243,131
7.00	Furniture Fixture & Equipment Risk									
7.01	Owner Procurement	0	0	0	0	0	0	0	0	0
7.02	Equipment Selection Changes	0	0	0	0	0	0	0	0	0
7.03	Cost of equipment	0	0	0	0	0	0	0	0	0
7.04	Schedule for equipment installation	0	0	0	0	0	0	0	0	0
7.05	Subtotal	0	0	0	0	0	0	0	0	0
Maintenance & Operation										
8.00	Maintenance									
8.01	General Capital Maintenance	0	3,882,074	0	0	3,882,074	0	0	3,519,049	0
8.02	Planned Preventative Maintenance	0	0	0	0	3,355,662	0	0	3,041,863	0
8.03	Unscheduled Emergency Maintenance	0	1,643,428	0	0	1,643,428	0	0	1,489,745	0
8.04	Overlooked Defects	0	783,498	0	0	783,498	0	0	710,230	0
8.05	Technology Changes	0	1,095,618	0	0	1,095,618	0	0	993,164	0
8.06	Major Building Reconfiguration and Improvements	0	898,490	0	0	898,490	0	0	814,470	0
8.07	Occupancy Requirements	0	1,796,980	0	0	1,796,980	0	0	1,628,939	0
8.08	Replacement Capital	0	0	0	0	2,263,438	0	0	2,051,777	0
8.09	Default of Property Management	0	328,686	0	0	328,686	0	0	297,949	0
8.10	Incomplete RFP Bid Documentation	0	1,530,347	0	0	1,530,347	0	0	1,387,240	0
8.11	Additional New Space - Different Cost (rental cost)	0	0	0	0	0	0	0	488,104	0
8.12	Fit out cost more than expected (actual tenant improvement cost)	0	317,729	0	0	317,729	0	0	320,401	0

The New Long Beach Courthouse
The California Adminstrative Office of the Courts
Risk Allocation Worksheet

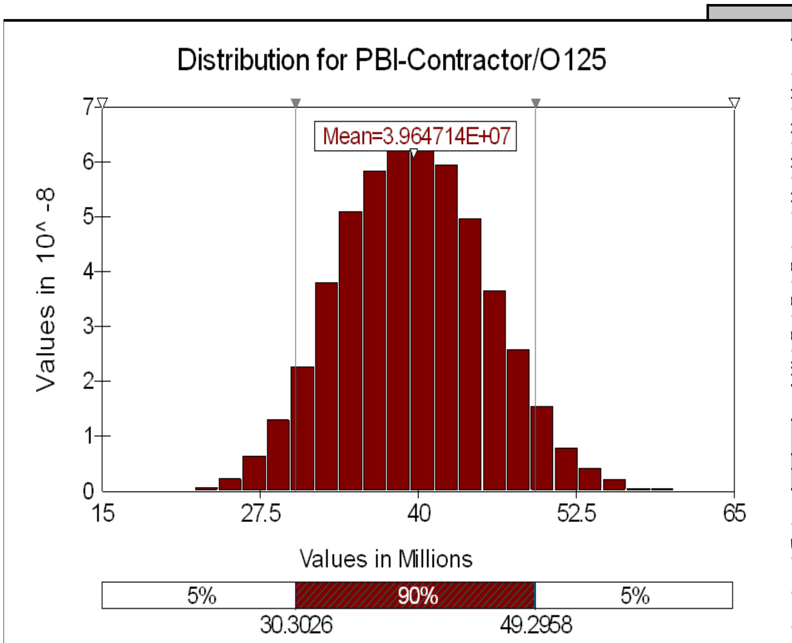
		Traditional Model								
		October 2009 Version			Revised Risk Meeting (with Academics)			JLBC / DOF Submission		
		Risk Allocation			Risk Allocation			Risk Allocation		
No.	Description	Contractor	State	Shared	Contractor	State	Shared	Contractor	State	Shared
8.13	Operating cost greater than expected (staffing and screening costs for leased space)	0	501,467	0	0	501,467	0	0	507,925	0
8.14	Subtotal	0	12,778,317	0	0	18,397,417	0	0	17,250,856	0
9.00	Operational									
9.01	Supplier / Contract Management / Outsourcing and Building Structure and Systems including Maintenance	0	429,964	0	0	429,964	0	0	410,024	0
9.02	Technological Obsolescence and Upgrade	0	2,741,081	0	0	2,741,081	0	0	2,613,957	0
9.03	Operation of Building for Occupant Use	0	286,643	0	0	286,643	0	0	273,349	0
9.04	Safety and Security/Environmental/Accessibility	0	1,366,559	0	0	1,366,559	0	0	1,303,181	0
9.05	Quality Risk	0	911,039	0	0	911,039	0	0	868,788	0
9.06	Un-anticipated Operating Costs	0	1,863,178	0	0	1,863,178	0	0	1,776,769	0
9.07	Other Relief Events	0	0	28,664	0	0	28,664	0	0	27,335
9.08	Labor Relations - Disputes	913,694	0	0	913,694	0	0	871,319	0	0
9.09	Recruiting, Retention And Employee Satisfaction	913,694	0	0	913,694	0	0	871,319	0	0
9.10	Professional and Legal Liability	0	0	130,416	0	0	130,416	0	0	124,368
9.11	Incomplete RFP Bid Documentation	0	2,001,897	0	0	2,001,897	0	0	1,909,055	0
9.12	Client / Customer / Public Satisfaction	0	800,759	0	0	800,759	0	0	763,622	0
9.13	Adequacy of Insurance	0	0	0	n/a	n/a	n/a	n/a	n/a	n/a
9.14	Subtotal	1,827,387	10,401,120	159,080	1,827,387	10,401,120	159,080	1,742,638	9,918,745	151,703
Finance and Capital Markets										
10.00	Financial/Other									
10.01	Inflation - construction/ops and major maint	0	0	0	0	0	0	0	0	0
10.02	Interest Rate Change (after financial close)	0	975,545	0	0	975,545	0	0	981,781	0
10.03	Tax Treatment	0	0	0	0	0	0	0	0	0
10.04	County & Third Party Rent Revenue	0	0	0	0	0	0	0	0	0
10.05	Timely Appropriation	0	0	0	0	0	0	0	0	0
10.06	Value of Disposal of Existing Site & Parking Structure	0	0	0	0	0	0	0	0	0
10.07	Timing of Disposal of Existing Site & Parking Structure	0	0	0	0	0	0	0	0	0
10.08	Demolition of buildings on existing site	0	0	0	0	0	0	0	0	0
10.09	Property risks and acquisition of new site	0	0	0	0	0	0	0	0	0
10.10	Utility usage	0	0	0	0	0	0	0	0	0
10.11	Subtotal	0	975,545	0	0	975,545	0	0	981,781	0
9.00	SUBTOTAL WITH FUNCTION SUM	3,490,116	155,396,496	13,979,764	8,057,777	#######	8,790,500	6,921,556	157,399,024	7,326,440

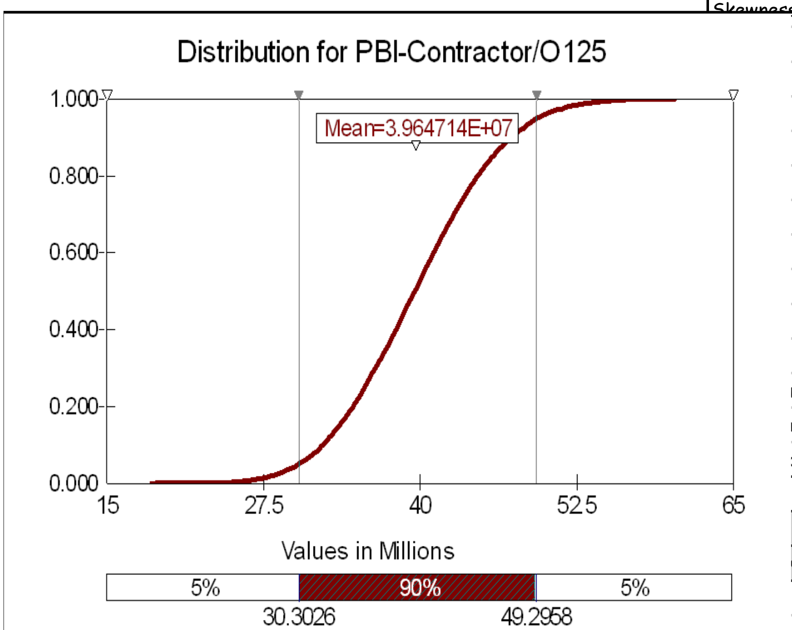
	Traditional Model					
	Expected Value	Mean	Expected Value	Mean	Expected Value	Mean

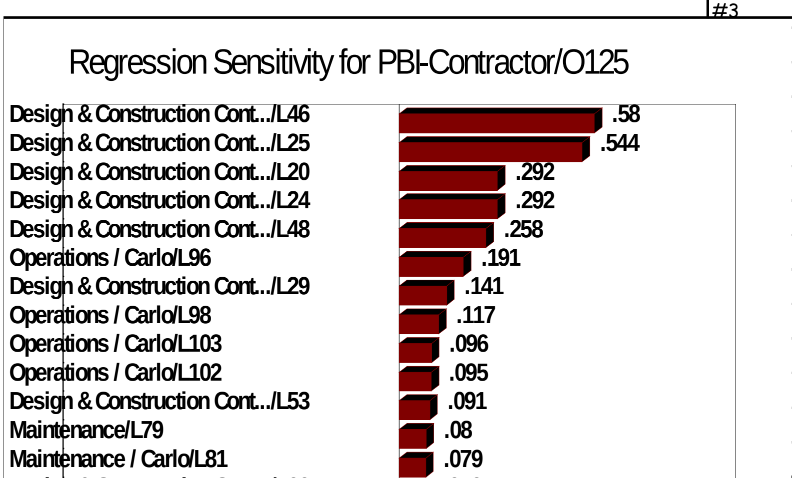
The New Long Beach Courthouse
The California Adminstrative Office of the Courts
Risk Allocation Worksheet

			Traditional Model								
			October 2009 Version			Revised Risk Meeting (with Academics)			JLBC / DOF Submission		
			Risk Allocation			Risk Allocation			Risk Allocation		
	No.	Description	Contractor	State	Shared	Contractor	State	Shared	Contractor	State	Shared
		State Retained Risk	155,396,496	155,543,635		181,311,427	181,614,199		157,399,024	159,640,708	
		State Shared Risk	6,989,882	7,002,836		4,395,250	4,378,035		3,663,220	3,566,099	
		Total State Risk Under PBI	162,386,378	162,546,471		185,706,676	185,992,234		161,062,244	163,206,806	
		Risk Transferred to Contractor	3,490,116	3,485,570		8,057,777	8,052,234		6,921,556	7,397,112	
		Risk Shared with Contractor	6,989,882	7,002,836		4,395,250	4,378,035		3,663,220	3,566,099	
		Total Risk Transferred to Contractor	10,479,998	10,488,406		12,453,027	12,430,269		10,584,776	10,963,210	

Simulation Results for
PBI-Contractor / O125





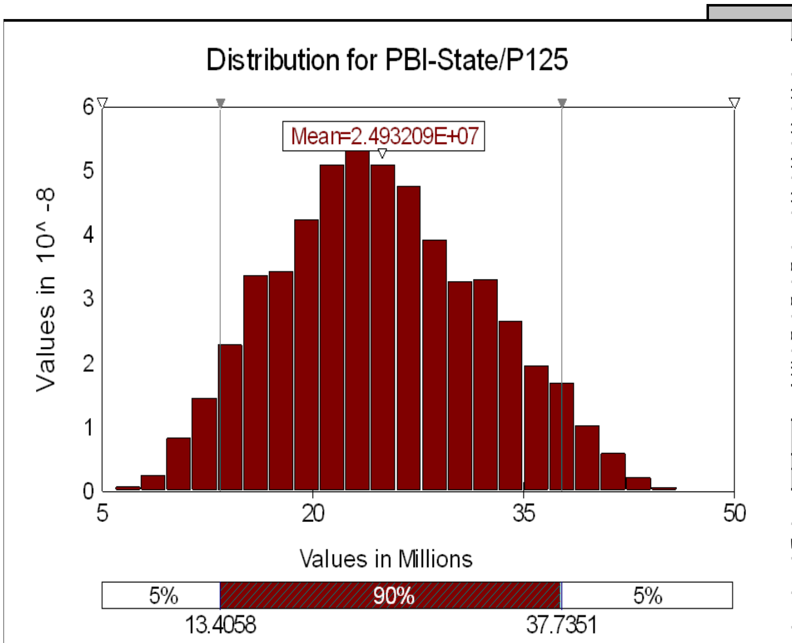


Summary Information	
k Name	urthouse Risk v4.4-Oct19(
f Simulations	1
f Iterations	10000
f Inputs	156
f Outputs	6
Type	Monte Carlo
n Start Time	10/20/2009 9:37
n Stop Time	10/20/2009 9:37
n Duration	00:00:22
eed	1

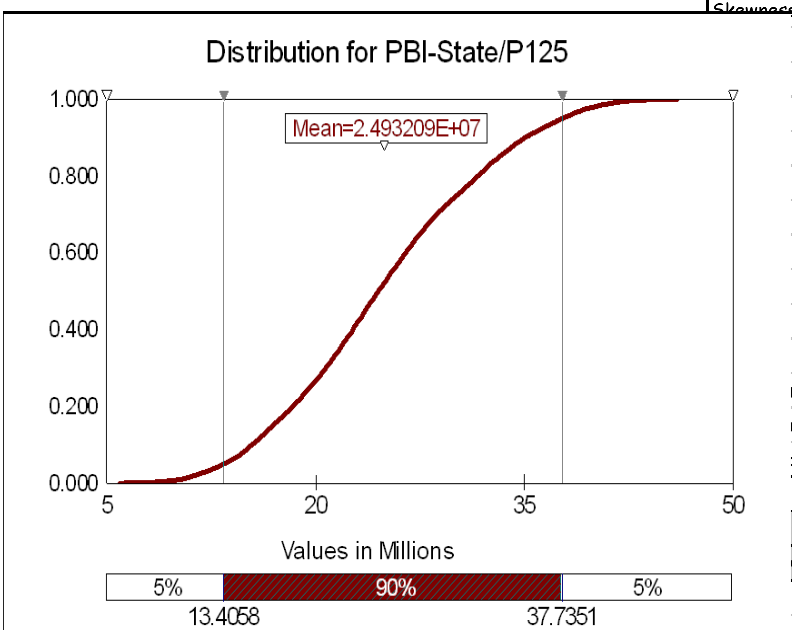
Summary Statistics			
tic	Value	%tile	Value
	18,544,088	5%	30,302,612
	60,302,332	10%	32,219,550
	39,647,138	15%	33,529,626
	5,798,663	20%	34,640,496
Variance	3.36245E+13	25%	35,547,468
Skewness	0.102584286	30%	36,422,700
	2.838905035	35%	37,280,292
	39,552,408	40%	38,059,732
	39,947,370	45%	38,778,840
	30,302,612	50%	39,552,408
	5%	55%	40,283,104
	49,295,828	60%	41,074,380
	95%	65%	41,840,696
	18,993,216	70%	42,659,808
	90%	75%	43,569,160
	0	80%	44,605,780
n		85%	45,738,836
x		90%	47,226,020
d	0	95%	49,295,828

Sensitivity			
	Name	Regr	Corr
	Design & Constru	0.580	0.560
	Design & Constru	0.544	0.534
#3	Design & Constru	0.292	0.280
	Design & Constru	0.292	0.275
	Design & Constru	0.258	0.234
	Operations / Car	0.191	0.166
	Design & Constru	0.141	0.139
	Operations / Car	0.117	0.112
	Operations / Car	0.096	0.095
	Operations / Car	0.095	0.068
	Design & Constru	0.091	0.100
	Maintenance / $L	0.080	0.072
	Maintenance / Ca	0.079	0.076
	Design & Constru	0.076	0.060
	Operations / Car	0.071	0.058
	Operations / Car	0.071	0.061

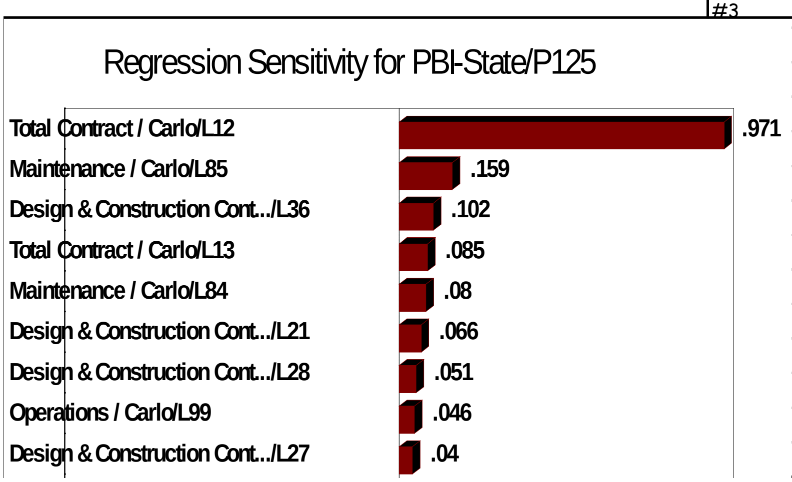
Simulation Results for
PBI-State / P125



Summary Information	
k Name	urthouse Risk v4.4-Oct19(
f Simulations	1
f Iterations	10000
f Inputs	156
f Outputs	6
Type	Monte Carlo
n Start Time	10/20/2009 9:37
n Stop Time	10/20/2009 9:37
n Duration	00:00:22
eed	1

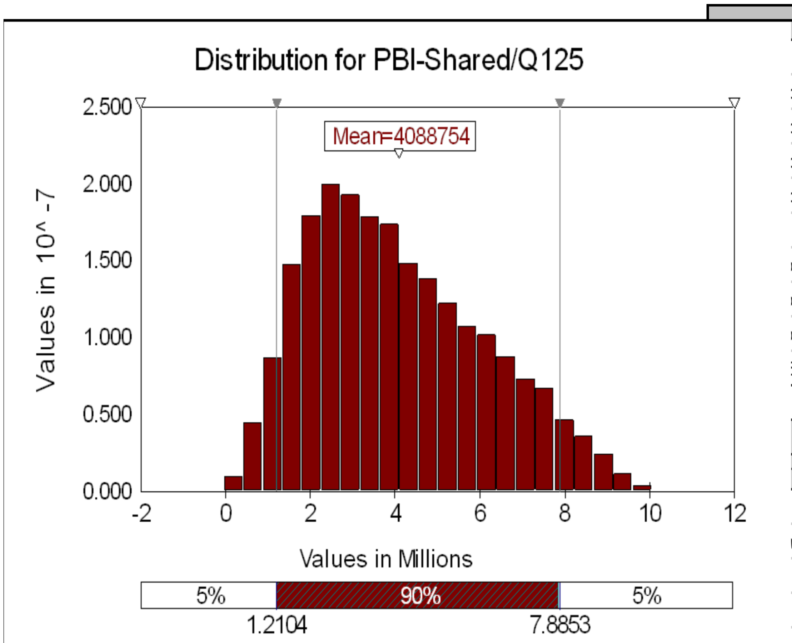


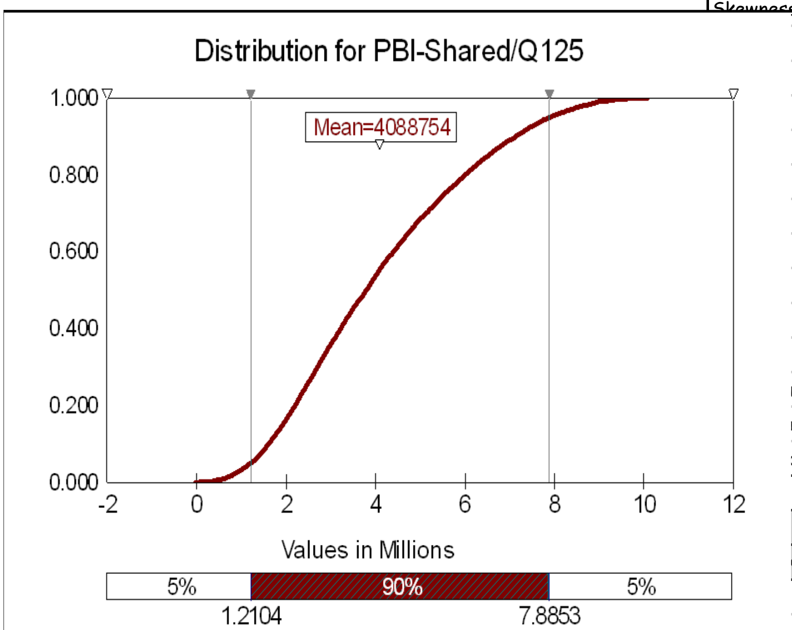
Summary Statistics			
tic	Value	%tile	Value
	5,973,152	5%	13,405,751
	45,950,192	10%	15,413,545
	24,932,085	15%	16,881,154
	7,326,334	20%	18,335,874
Variance	5.36752E+13	25%	19,584,000
Skewness	0.174496223	30%	20,716,630
	2.457658818	35%	21,740,350
	24,516,606	40%	22,661,486
	23,649,323	45%	23,578,380
	13,405,751	50%	24,516,606
	5%	55%	25,471,110
	37,735,112	60%	26,456,880
	95%	65%	27,507,122
	24,329,361	70%	28,678,334
	90%	75%	30,161,874
	0	80%	31,659,284
n		85%	33,200,092
x		90%	35,068,476
	0	95%	37,735,112

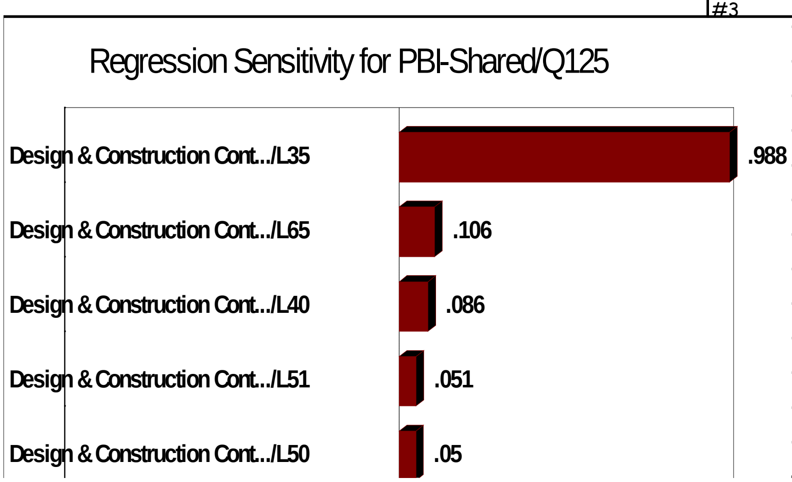


Sensitivity			
	Name	Regr	Corr
	Total Contract /	0.971	0.969
	Maintenance / Ca	0.159	0.143
#3	Design & Constru	0.102	0.103
	Total Contract /	0.085	0.061
	Maintenance / Ca	0.080	0.066
	Design & Constru	0.066	0.057
	Design & Constru	0.051	0.030
	Operations / Car	0.046	0.050
	Design & Constru	0.040	0.044
	Design & Constru	0.039	0.042
	Design & Constru	0.024	0.013
	Operations / Car	0.000	-0.001
	Design & Constru	0.000	0.020
	Design & Constru	0.000	0.017
	Design & Constru	0.000	0.011
	Operations / Car	0.000	0.003

Simulation Results for
PBI-Shared / Q125







Summary Information	
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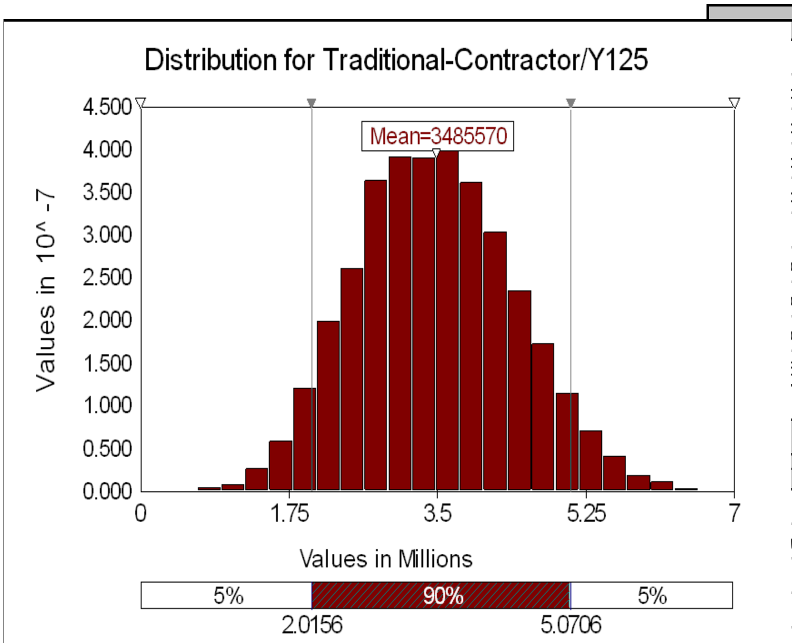
f Simulations	1
f Iterations	10000
f Inputs	156
f Outputs	6
Type	Monte Carlo
n Start Time	10/20/2009 9:37
n Stop Time	10/20/2009 9:37
n Duration	00:00:22
eed	1

Summary Statistics			
tic	Value	%tile	Value
	(22,344)	5%	1,210,402
	10,071,032	10%	1,605,506
	4,088,754	15%	1,934,723
	2,065,001	20%	2,198,869
Variance	4.26423E+12	25%	2,443,661
Skewness	0.474981854	30%	2,697,218
	2.440211649	35%	2,944,742
	3,796,190	40%	3,218,759
	2,630,929	45%	3,482,258
	1,210,402	50%	3,796,190
	5%	55%	4,073,115
	7,885,330	60%	4,398,647
	95%	65%	4,743,250
	6,674,928	70%	5,136,994
	90%	75%	5,541,186
	0	80%	5,998,994
n		85%	6,508,328
x		90%	7,124,839
d	0	95%	7,885,330

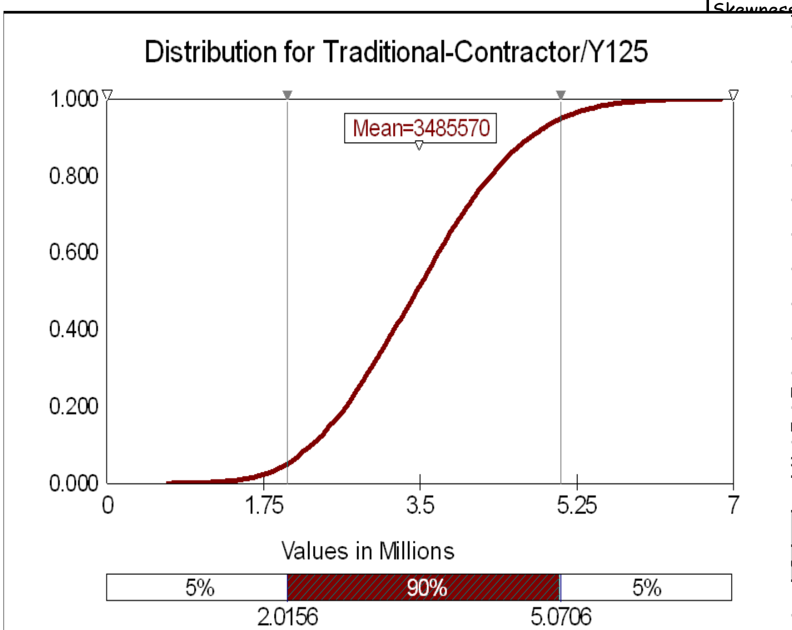
Sensitivity			
	Name	Regr	Corr
	Design & Constru	0.988	0.987
	Design & Constru	0.106	0.106
#3	Design & Constru	0.086	0.076
	Design & Constru	0.051	0.053
	Design & Constru	0.050	0.046
	Operations / Car	0.006	0.030
	Design & Constru	0.000	0.003
	Design & Constru	0.000	-0.016
	Design & Constru	0.000	-0.002
	Add'l Operating	0.000	-0.001
	Design & Constru	0.000	0.008
	Operations / Car	0.000	0.013
	Interest Cost / (	0.000	-0.002
	Operations / Car	0.000	0.005
	Design & Constru	0.000	0.004
	Design & Constru	0.000	0.005

Simulation Results for
Traditional-Contractor / Y125

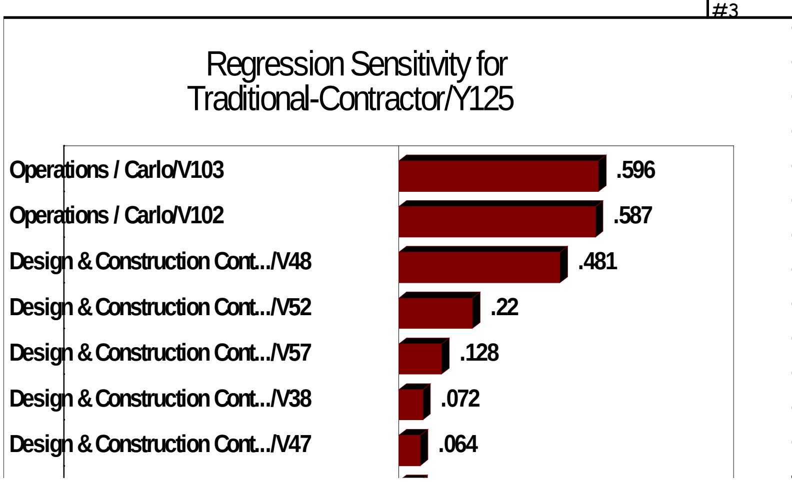


Summary Information	
k Name	urthouse Risk v4.4-Oct19(
f Simulations	1
f Iterations	10000
f Inputs	156
f Outputs	6
Type	Monte Carlo
n Start Time	10/20/2009 9:37
n Stop Time	10/20/2009 9:37
n Duration	00:00:22
Seed	1

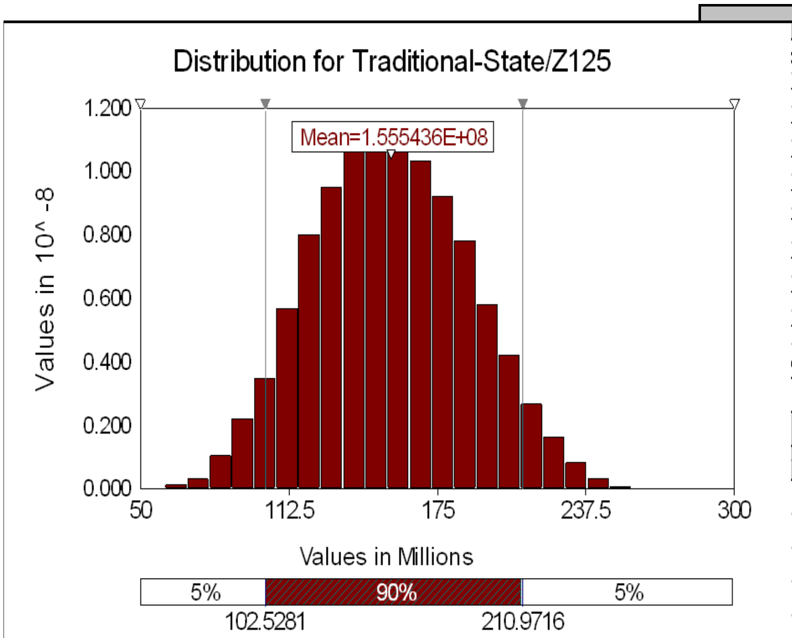
tic	Value	%tile	Value
	680,824	5%	2,015,600
	6,859,525	10%	2,288,249
	3,485,570	15%	2,488,788
	935,218	20%	2,675,584
Variance	8.74632E+11	25%	2,811,142
Skewness	0.176117044	30%	2,950,394
	2.797786949	35%	3,082,388
	3,457,479	40%	3,202,935
	3,815,253	45%	3,340,255
	2,015,600	50%	3,457,479
	5%	55%	3,584,800
	5,070,649	60%	3,702,154
	95%	65%	3,825,044
	3,055,049	70%	3,967,056
	90%	75%	4,116,217
	0	80%	4,285,963
n		85%	4,471,189
x		90%	4,724,137
	0	95%	5,070,649

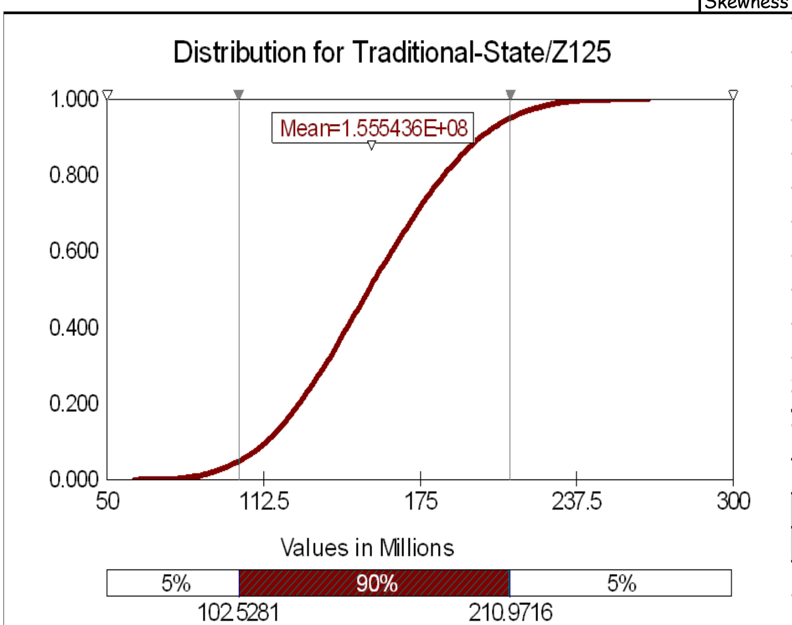


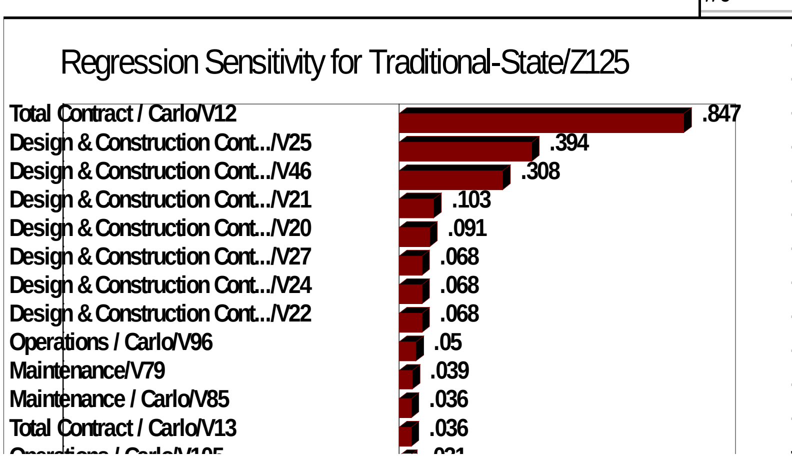
	Name	Regr	Corr
	Operations / Car	0.596	0.575
	Operations / Car	0.587	0.566
#3	Design & Constru	0.481	0.461
	Design & Constru	0.220	0.217
	Design & Constru	0.128	0.126
	Design & Constru	0.072	0.065
	Design & Constru	0.064	0.060
	Design & Constru	0.063	0.053
	Design & Constru	0.039	0.048
	Design & Constru	0.000	-0.027
	Design & Constru	0.000	0.002
	Design & Constru	0.000	-0.018
	Design & Constru	0.000	0.001
	Design & Constru	0.000	0.014
	Design & Constru	0.000	0.024
	Operations / Car	0.000	-0.014



Simulation Results for
Traditional-State / Z125







Summary Information	
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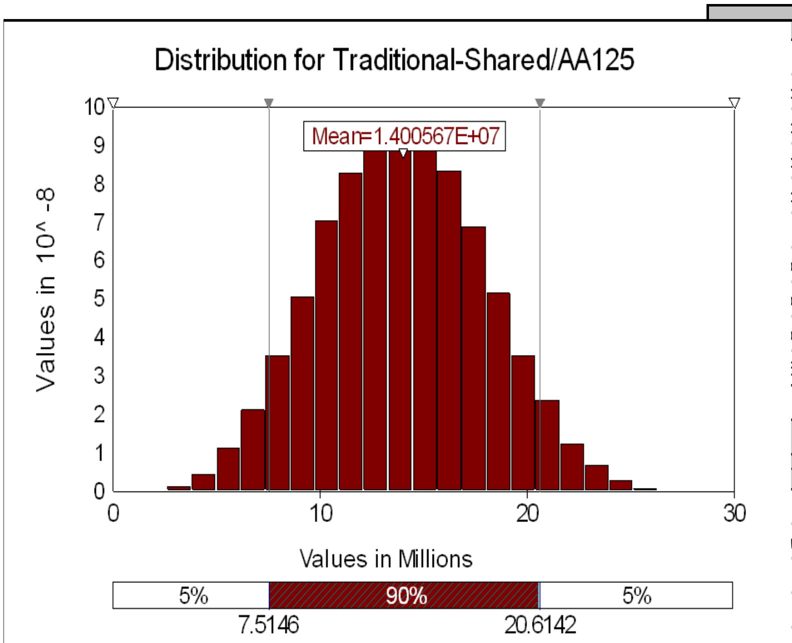
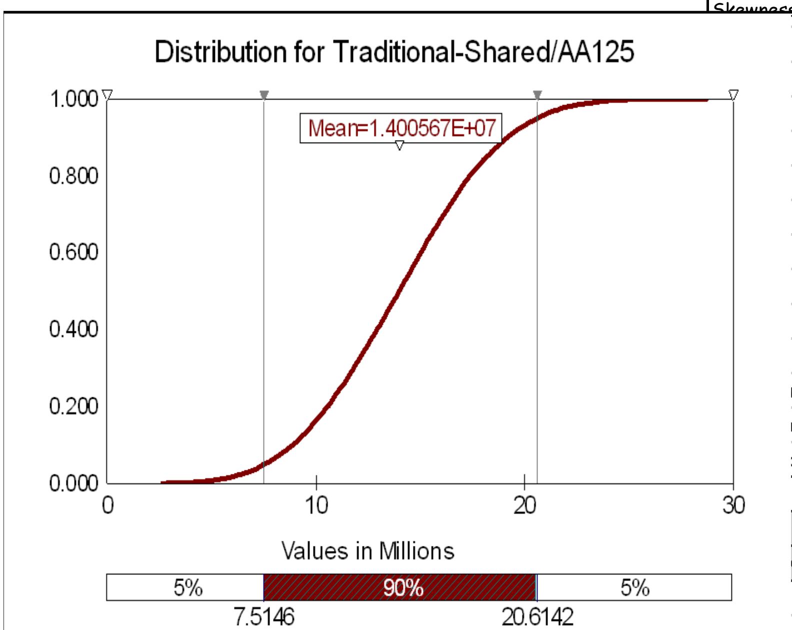
f Simulations	1
f Iterations	10000
f Inputs	156
f Outputs	6
Type	Monte Carlo
Start Time	10/20/2009 9:37
Stop Time	10/20/2009 9:37
Duration	00:00:22
eed	1

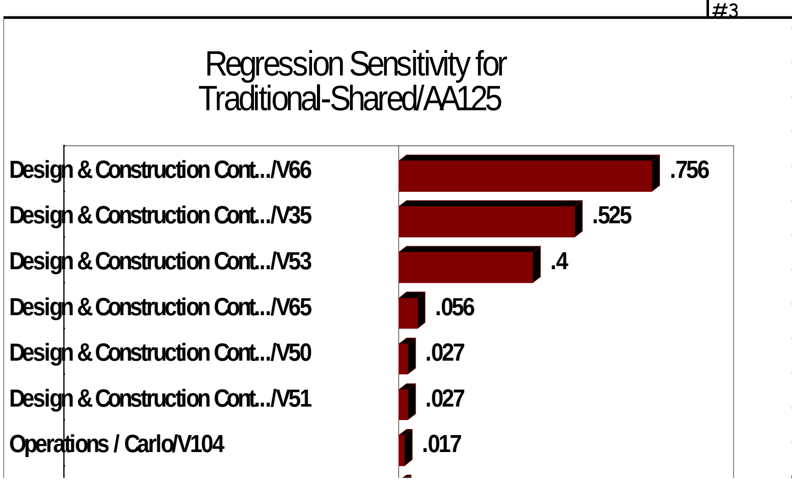
Summary Statistics			
ic	Value	%tile	Value
	60,522,320	5%	102,528,096
	266,377,104	10%	113,503,976
	155,543,635	15%	120,781,232
	32,794,288	20%	126,487,096
	1.07547E+15	25%	131,936,704
Skewness	0.109909254	30%	136,952,960
	2.624595552	35%	141,507,856
	154,550,144	40%	145,791,312
	142,662,541	45%	150,390,064
	102,528,096	50%	154,550,144
	5%	55%	158,791,120
	210,971,584	60%	163,639,792
	95%	65%	168,264,496
	108,443,488	70%	173,375,664
	90%	75%	178,509,392
	0	80%	184,342,624
		85%	190,946,688
		90%	199,090,928
	0	95%	210,971,584

Sensitivity			
	Name	Regr	Corr
	Total Contract /	0.847	0.838
	Design & Constru	0.394	0.364
#3	Design & Constru	0.308	0.293
	Design & Constru	0.103	0.084
	Design & Constru	0.091	0.098
	Design & Constru	0.068	0.066
	Design & Constru	0.068	0.071
	Design & Constru	0.068	0.071
	Operations / Car	0.050	0.050
	Maintenance / $	0.039	0.044
	Maintenance / Ca	0.036	0.022
	Total Contract /	0.036	0.021
	Operations / Car	0.031	0.029
	Operations / Car	0.024	0.005
	Maintenance / Ca	0.024	0.017
	Design & Constru	0.023	0.021

Simulation Results for
Traditional-Shared / AA125







Summary Information	
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f Iterations	10000
f Inputs	156
f Outputs	6
Type	Monte Carlo
n Start Time	10/20/2009 9:37
n Stop Time	10/20/2009 9:37
n Duration	00:00:22
eed	1

Summary Statistics			
tic	Value	%tile	Value
	2,647,911	5%	7,514,626
	28,707,890	10%	8,903,919
	14,005,672	15%	9,787,003
	3,938,297	20%	10,585,978
Variance	1.55102E+13	25%	11,209,536
Skewness	0.072098952	30%	11,809,779
	2.712934576	35%	12,382,295
	13,987,312	40%	12,930,775
	14,764,894	45%	13,454,051
	7,514,626	50%	13,987,312
	5%	55%	14,504,071
	20,614,186	60%	15,027,459
	95%	65%	15,556,056
	13,099,561	70%	16,128,586
	90%	75%	16,723,145
	0	80%	17,370,640
n		85%	18,172,636
x		90%	19,159,902
	0	95%	20,614,186

Sensitivity			
	Name	Regr	Corr
	Design & Constru	0.756	0.743
	Design & Constru	0.525	0.493
#3	Design & Constru	0.400	0.380
	Design & Constru	0.056	0.063
	Design & Constru	0.027	0.022
	Design & Constru	0.027	0.031
	Operations / Car	0.017	0.024
	Design & Constru	0.014	0.021
	Operations / Car	0.003	-0.010
	Design & Constru	0.000	-0.013
	Operations / Car	0.000	0.003
	Operations / Car	0.000	0.003
	Operations / Car	0.000	-0.010
	Operations / Car	0.000	-0.005
	Maintenance / $\	0.000	-0.006
	Maintenance / Co	0.000	-0.005

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December 17, 2009

Clifford Ham
Principal Architect
Office of Court Construction and Management
Judicial Council of California - Administrative Office of the Courts

Long Beach Courthouse **DL 012-01515-110**
Long Beach, California

Dear Clifford,

It was a pleasure to participate in the risk workshop on October 6, 2009 for the proposed Long Beach Courthouse. As requested, we have reviewed the overall risk management process, the workshop and the findings, and would comment as follows:

Risk Assessment Process

As noted in our previous reviews, we would strongly affirm the appropriateness of using a Structured Risk Assessment in the evaluation of procurement alternatives. Structured Risk Assessment is a methodology for evaluating options that carry different levels of transferred and retained risk. While not commonly used in the construction industry in the United States, it is frequently used in the construction industry in other countries, and in many other industries around the world.

The Structured Risk Assessment approach used by the AOC on this project was undertaken in accordance with generally accepted risk management processes, and it is our professional opinion that the analysis fairly represents the risk profiles of the two procurement options evaluated.

Risk Workshop (October 6, 2009)

The risk workshop made appropriate changes to the risk register. The majority of changes to risks were attributable to project progress, either because activities that had carried risk were now completed, or because the development of the project had removed some elements of uncertainty. In these instances, the risks related to the traditional design/bid/build process were adjusted as if the traditional process had progressed to the same point in design and procurement as the actual PBI project. Since the traditional process was exposed to greater risks during the design phase, it experienced a greater reduction in retained risk due to the project progress than did the PBI process.

In a few instances, the change in the risk register was due to a reassessment of a risk by the workshop team. These changes were generally triggered by an improved understanding of the project, due to the development of better information over the past year.

Findings

We concur with the overall outcomes of the risk assessment, and we believe that the analysis presents a reasonable profile of the risks associated with each of the procurement methodologies.

In general, our main concern is that the numeric values of the mean retained risk should not be seen as a specific quantification of the risk. The baseline cost estimates used in the analysis include some contingency allowances, and so some of the risk valuation is already covered. In addition, the calculated means are moderately sensitive to changes in input risk evaluations and assumptions. As such, they should be seen as strongly indicative in respect to the comparison, not as valuations for contingency or budgeting purposes.

It is also important to consider the broader picture of the findings, and to see the results as overall risk profiles of the alternative strategies. While the mean retained risk values clearly demonstrate that the PBI process has appreciably lower risk retained by the state, it is important to note that the total risk is also lower, meaning that risk has not simply been transferred from the state to the contractor, but that it has been reduced through a more efficient allocation of risk. Had the risk merely been transferred from the state to the contractor, it would be reasonable to expect that the contractor would increase their costs to reflect a risk premium. Since under the PBI process, the contractor risk is higher than under the traditional process, it is reasonable to expect some risk premium in the PBI proposals. The added contractor risk under the PBI process is, however, appreciably less than the avoided risk for the state, and so the risk premium in the PBI proposal should be significantly less than the potential retained risk for the state under the traditional process.

Sincerely,

Peter Morris

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Infrastructure Planning and Finance

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December 16, 2009

Mr. Clifford W. Ham
Administrative Director of the Courts
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688

Dear Mr. Ham:

On October 6, 2009, I participated in a workshop with staff and consultants of the Administrative Office of the Courts (AOC) to refine the structured risk analysis model to be used for the Long Beach Courthouse Project. The Long Beach Courthouse Project is to be procured using an alternative performance based infrastructure (PBI) delivery approach. The purpose of the workshop was to review and update the risk allocation factors used in determining the estimated dollar values of the risks retained by the state using traditional procurement methods vs. a PBI approach.

As I noted in my letter report dated April 28, 2009 (Copy Attached), both the use of a Risk Register and an expert panel to assign likelihoods and values for the various risks expected to be encountered are well-established techniques in the field of project risk management. The workshop held on October 6, 2009 provided an opportunity to review the results of the simulations performed using the @Risk software and to suggest refinements to the input variables. I have reviewed the data tables and results of subsequent simulations and they are consistent with the discussions that occurred during the October 6, 2009 workshop. The estimated difference in the value of risk retained by the state for a traditional vs. a PBI procurement, based on the revised risk allocation and cost assumptions developed at the workshop, is approximately $120 million. This figure (with any subsequent refinements) should be applied to the Value for Money (VfM) analysis that will be performed to determine the most cost-effective life-cycle approach to procuring the Long Beach Courthouse.

Value for Money Analysis

The purpose of a VfM analysis is to determine the full project life-cycle costs using traditional and alternative procurement methods. The lower cost method normally would be chosen absent significant mitigating factors. Recognizing that a completed VfM analysis is not yet available, I would like to offer the following additional thoughts on the proposed procurement. VfM is intended to compare similar projects that differ only in the method of procurement, i.e., a public- vs. a private-sector process. This assumes that under both scenarios the parties are able to secure financing, procure the necessary design and construction services, and operate, maintain, repair, and refurbish the constructed facility as needed over its lifetime. The costs of such a long- term commitment to the condition of the facility usually exceed the initial design and construction costs by a factor of 6 to 8[1]. It is in this regard that I would advocate caution in interpreting the results of the VfM analysis.

First, it appears by no means certain that there is a comparable "public-sector" alternative. Given the current and projected state of California's finances, the likelihood of traditional bond financing being available for the Long Beach Courthouse remains unclear. In the absence of long-term debt financing, the project would in all likelihood be long delayed if constructed at all. Second, California, like almost all public sector building owners, rarely provides sufficient funding for the recommended upkeep of its facilities. In light of the state's projected poor fiscal and financial condition, it does not appear that building maintenance and repair would be elevated in priority in future budgets. As a result, I believe there is a high likelihood that this work, so necessary to maximizing the useful life of an asset, would go undone. A PBI procurement on the other hand, would include contractual provisions that required the successful bidder to commit to a schedule of required maintenance and repair over the lifetime of the concession agreement. Typical agreements contain penalty clauses which authorize the withholding of payment by the owner in the event that agreed upon maintenance and repair is not done. As a result, this aspect of building asset management assumes a much higher priority than when responsibility remains with the public sector.

My purpose in highlighting these two aspects of the VfM analysis is to caution the AOC to make sure that the alternatives are compared on an equal footing. The risk transfer accomplished through a PBI procurement and the contractual commitment on the part of the contractor to life-cycle maintenance and repair are two cases in point. In a traditional procurement, the public sector must bear many of the risks (and associated costs) transferred through the contracting process in a PBI arrangement. Similarly, in regard to life-cycle maintenance and repair, care should be taken to ensure that the cost of the traditional procurement includes a lifetime maintenance and repair schedule comparable to that provided for in the concession agreement. However, in any traditional procurement it must be acknowledged that these expenditures are budgeted annually and in reality, there is no way to ensure that M&R funds will not be reallocated to other purposes. Thus, the actual comparison will be between what is specified in the concession agreement and the typically lower levels of maintenance and repair that are the unfortunate reality for most public buildings in California, in other words, not comparable levels of M&R.

I am pleased to submit my final report on this interesting project. Please let me know if you have any questions or if I can provide additional information on this or my earlier report.

Cordially,

Richard G. Little

Richard G. Little, AICP

Att: a/s

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[1] *Stewardship of Federal Facilities: A Proactive Strategy for Managing the Nation's Public Assets*. National Academies Press. 1998. (14). Available on-line at: http://www.nap.edu/catalog.php?record_id=6266.

RICHARD G. LITTLE, AICP
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April 28, 2009

Mr. Clifford W. Ham
Administrative Director of the Courts
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688

Dear Mr. Ham:

On January, 15, 2009, I participated, in a review workshop with staff and consultants of the Administrative Office of the Courts on the methodology to be used for a structured risk analysis model for the Long Beach Courthouse Project. The Long Beach Courthouse Project is to be procured using an alternative performance based infrastructure delivery approach. In particular, I have reviewed the methodology underlying the risk analysis model, including the use of a panel convened by the AOC to assess the comparative risks posed to the Project by different delivery methods. Costs were assigned to each delivery method based upon the panel's collective judgment of the likelihood that each of the many individual type of risks associated with the Project might occur.

This approach to project risk management is a commonly accepted method to categorize the broad range of risk factors that can affect a project. Ideally in risk calculation, a probability distribution function (pdf) is available, or can be developed, to assign likelihood to events of various magnitudes. However, the relative infrequency of some events may make it difficult to develop such a relationship empirically. In these cases, expert opinion can be used to assign appropriate probabilities [1,2] or values based on subjective estimates can be applied [3]. Although such values must be applied judiciously in practice, they do provide a means of quantitatively bounding the values for various risk factors.

[1] Keeney R. L. and D. von Winterfeldt, 1989. "On the uses of expert judgment on complex technical problems," *IEEE Transactions on Engineering Management*, 36: 83-86,

[2] Keeney, R.L. and D. von Winterfeldt, 1991. "Eliciting probabilities from experts in complex technical problems." *IEEE Transactions on Engineering Management*, 38:191-201.

[3] Paté-Cornell, E. 2002. Risk and Uncertainty Analysis in Government Safety Decisions, *Risk Analysis*. Society for Risk Analysis. 22(3): 633-646.

The collective judgments elicited in this process are used to inform the development of a Risk Register, another commonly used tool in project risk management. The use of a Risk Register has been endorsed by major project delivery organizations such as the U.S. Army Corps of Engineers [4], the National Research Council [5], and standard texts on project risk management [6].

[4] USACE, 2008. ETL 1110-2-573, Engineering and Design: Construction Cost Estimating Guide for Civil Works, Appendix G - Cost and Schedule Risk Analysis. Available on-line at: http://140.194.76.129/publications/eng-tech-ltrs/etl1110-2-573/a-g.pdf.

[5] National Research Council, 2005. The Owner's Role in Project Risk Management. Washington, DC. National Academies Press.

[6] Cooper, D., S. Grey, G. Raymond, and P. Walker. 2005. Managing Risk in Large Projects and Complex Procurements. West Sussex, UK, John Wiley & Sons, Ltd.

On the basis of my review of materials provided by the AOC, my experience in the public infrastructure sector, and the discussions described above, I would conclude:

[A] Comprehensive statistical data on cost impacts of risks associated with public infrastructure projects, particularly data that would be relevant to the Long Beach Courthouse Project, are generally not available.

[B] The use of expert panels to assess risk and assign values to those risks for management and decision-making purposes is a widely accepted practice for a broad range of public and private infrastructure projects and is a reasonable approach for the AOC to use for the Long Beach Courthouse Project.

I look forward to participating in the next risk analysis workshop for this project, at which time the expert group will determine relative probabilities for each risk category, the potential financial impact of each risk category, as well as reasonable allocations of each risk category to be held by the project parties. I understand that the AOC consultants (Ernst & Young) will incorporate these results into a simulation model to determine the cost of risk retained by the state under a traditional design-bid-build project delivery approach and the proposed performance based infrastructure approach.

Please let me know if you have any questions or if I can provide additional information.

Cordially,

Richard G. Little

Richard G. Little, AICP

Project Agreement Solicitation

Dates	Event
July 2007	Kickoff with Superior Court
July 2007	RFP Financial P3 Consultants
September 2007	Retained E&Y as financial and HDW as legal advisors
March 2008	Report to DOF-Benchmarks VfM; deal structure
April 2008	Deal structure completed outline
April 2008	Financial analysis/VfM approved by DOF
May 2008	Briefing to Joint Legislative Budget Committee (JLBC)
August 2008	Clearance form from JLBC
November 2008	Issued RFQ
December 2008	Environmental study (CEQA) began
January 2009	Risk allocation workshop #1
April 2009	Completed review of statements of qualifications, ranking, and recommended short list to AOC Executives
April 2009	Completed Facilities Performance Standards for design and operations
May 2009	Completed draft agreement between AOC and Project Company for DBFoM and services
May 2009	Publish RFP-including but no limited to Performance Standards, Evaluation Procedures, and Draft Project Agreement
June 2009	Confidential work session with each proposer
July 2009	CEQA Mitigated Negative Declaration (MND) certified
August 2009	Action by City Council on Property Exchange Agreement
October 2009	Design and construction proposals received
December 2009	Financial and commercial proposals received from potential project companies
March 2010	Preferred proposal report to DOF
June 2010	Announce selection of preferred proposer project company= LBJP
June 2010	Work sessions with preferred project company began
September 2010	Final project agreement to DOF for review
October 2010	Property exchange escrow period closed; titles conveyed
November 2010	Final committed Financial Model received from preferred Project Company; final VfM analysis provided to DOF
December 2010	Financial and Commercial Close
January 2011	Report to JLBC; Final VfM provided

Design And Construction

Dates	**Event**
January 2011	Design Build meetings began
January 2011	IBE RFQ/RFP
January 2011	Selection of IBE
February 2011	Courtroom workshop 1
February 2011	Design buildings visit San Diego court building-courtroom mockup
March 2011	Issue of first bid package-steel and long lead items
April 2011	Courtroom mockup review 1
April 2011	Begin site utility relocation
May 2011	Courtroom mockup review 2
May 2011	100% design development submittal
May 2011	Site excavation began
June 2011	Courtroom mockup review 3
June 2011	IBE agreement executed
June 2011	Start parking structure renovation
July 2011	50% construction documents submittal
July 2011	First concrete pour of court building foundation
July 2011	Utility relocation complete
August 2011	Furniture showrooms visit for FFE design
August 2011	Curtainwiall visual mockup at subcontractor factory
October 2011	95% construction document submittal
October 2011	Public Art-2 artist chosen
December 2011	First column-start of steel erection
December 2011	Curtainwall mockup dynamic testing
December 2011	Foundations complete
February 2012	Build code approvals completed
March 2012	FF&E design and selections complete
April 2012	Curtainwall installation begins
April 2012	Steel frame topping out
April 2012	Courtroom work quality mock up began
April 2012	Curtainwall installation began
May 2012	Public art schematic design accepted