

Memorandum



Date: July 17, 2017

To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in blue ink, appearing to read "Carlos A. Gimenez", written over the printed name of the Mayor.

Subject: Report on the Recommended Procurement Action for the New Miami-Dade County Civil Courthouse and Funding Source – Directive 171232

This report is an update on the status of the new Miami-Dade County Civil Courthouse and provides a response to Resolution No. R-559-17 directing the County Mayor to issue a Request for Expressions of Interest (EOI) to solicit interest and suggestions on the best method to design, build, finance, operate and maintain the new courthouse and the future use, lease or sale of the Historic Miami-Dade County Courthouse located at 73 W. Flagler Street. The resolution further directed the County Mayor to issue a report to the Board of County Commissioners (Board) recommending either: 1) issuance of a conventional competitive solicitation or a public private partnership (P3) solicitation, or 2) waiver of competitive bidding and directing negotiation with one or more respondents to the EOI. The Board directed that the report identify the total anticipated lifecycle cost of the new courthouse and the recommended funding source to meet all anticipated costs.

Courthouse Project Overview

As you know, Miami-Dade County engaged the architectural firm of Perez and Perez Architects Planners, Inc. and court planning agency Dan L. Wiley and Associates to prepare the *Civil and Probate Courts Master Plan* to address current and projected needs of the courts. Goals in the master plan are based upon anticipated space requirements for a 20-year window, benchmarked to national standards for courthouse design.

Based on the recommendations of the Master Plan, the key criteria of the proposed courthouse are as follows:

- Accessible location in Downtown Miami which is proximate to public transportation;
- Approximately 600,000 gross square feet of building area inclusive of secured parking;
- 46 courtrooms with ability to accommodate expansion to a total of 50 courtrooms by the year 2035;
- Jury suites planned at 1 for 2 courtrooms in civil and 1 for 4 courtrooms in probate;
- Attorney-client privilege rooms are planned at 2 per courtroom
- Standardized courtrooms and judicial office sets;
- Use of nationally recognized judicial system space standards, including one restroom per judge;
- Separate public and judicial/staff circulation;
- Integration of a 10,378 sq. ft. Law Library;
- Area for food services capable of serving courthouse employees and visitors;
- Single point of public entry for security and weapon screening as well as other security features;
- Collocation of a portion of the Clerk of Courts operation including 81,469 sq. ft.;
- Sustainable construction and operation features including the use of durable materials; and
- Integration of modern technology including systems for recordkeeping, system queuing, audio/video conferencing, courtroom desktop/laptop utilization, courtroom audio/video recording, and evidence presentation.

Request for Expressions of Interest (EOI)

A Request for Expressions of Interest (EOI) was prepared by the Internal Services Department and distributed to the Board on May 3, 2017. Following the adoption of Resolution R-559-17, the EOI was issued on May 8, 2017 to identify potential partners, financial structures and best practices for the construction of a civil and probate courthouse for the occupancy and use by the Eleventh Judicial Circuit of Florida, the Clerk of the Courts and related entities. The EOI identified the preferred location for the new courthouse as the surface lot at the recently completed Miami-Dade County Children's Courthouse located at 155 NW 3 Street, and requested respondents to incorporate a plan for the future use, lease, or sale of the existing Miami-Dade County Courthouse located at 73 W. Flagler Street.

Respondents were encouraged to consider the construction of the new courthouse as well as the manner in which a master developer could optimize several downtown real estate assets owned by the County to contribute towards capital requirements in a larger development project. The potential available opportunities were identified as a P3, joint development business venture, long-term land lease, sale and lease-back, equity partnership, and real estate asset swap. The EOI identified the land the County may be able to contribute for the new courthouse, including 11 downtown County properties with a total area of 20.4± acres.

An Industry Day was held on June 1, 2017 for potential respondents and interested parties. The Industry Day provided for a question and answer session, as well as the opportunity to visit the preferred site next to the Children's Courthouse. The EOI responses were due on June 23, 2017, in accordance with Resolution R-559-17.

Five responses were received from the following:

- FCC Group (Fomento de Construcciones y Contratas, S.A.)
- Meridiam Infrastructure North America Corporation
- Plenary Group, MCM, HOK and Johnson Controls International Consortium
- Sacyr Infrastructure
- Skanska, AECOM, and John Laing Consortium

The responses varied in the level of interest and analysis. Plenary Group and Skanska provided the most in-depth analyses of the project. To better explore the available market and development potential for the County's downtown properties, one-on-one meetings were held with Plenary and Skanska, as well as other industry experts.

Feedback garnered through the EOI responses and meetings is as follows:

- Separate P3 courthouse project from potential real estate development
- Manage process with a master developer to coordinate both the courthouse and asset disposition process
- The cost to build a new courthouse may not be covered by asset disposition
- The real estate development and courthouse should be on parallel tracks, but funding of the courthouse construction should not be tied to proceeds from real estate
- Market supports County preferred site (Children's Courthouse surface lot)
- Market is seeking clear direction from the County as to project scope, method of delivery, and funding sources.

Value for Money Analysis

On July 19, 2016, the Board adopted Resolution R-706-16 awarding the *Financial and P3 Advisory Services for Implementation of Public Private Partnerships* contract to KPMG LLP. KPMG began work on a Value for Money (VfM) analysis on May 1, 2017. An initial draft of the VfM was received on July 12, and is under review by County staff. A final draft of the report will

be provided to the Board. The VfM analysis considers the whole-life, risk adjusted cost of constructing, operating and maintaining a new courthouse, compares the qualitative and quantitative merits of procuring a new courthouse through a P3 (design-build-finance-operate-maintain) or as a traditional delivery model (design-build, or DB).

The VfM analysis quantifies the net cash flows, including the cost of risk retained by the County, for a DB and P3 model. The DB model assumes a traditional financing approach while the P3 model utilizes financing assumptions that were developed to represent terms that would be available to a private developer under current market conditions.

Based on the current draft of the VfM analysis by KPMG, the P3 model appears to provide the best value to the County for delivering the new courthouse with both qualitative and quantitative factors considered. Based on qualitative factors, the P3 model is the only procurement approach that meets all of the County's goals and objectives defined for the new courthouse. The quantitative analysis indicates that the P3 provides value for money of \$27.5 million as compared to a DB approach over 35 years on a net present value, risk-adjusted basis. As compared to a traditional DB, a P3 allows for:

- Acceleration of project delivery by one year (4 years instead of 5);
- Transferring substantially all whole-life project risks to the private sector;
- Achieving savings through economies of scale and leveraging private sector resources and experience; and
- Creation of output specifications standards that focus on service performance which enables cost savings through innovation and efficiencies

Lifecycle Cost and Recommended Funding Source

The County estimates the construction costs of a new courthouse to be \$361 million; and the lifecycle costs over 40 years to be \$227 million, excluding escalation. There are capital funds of approximately \$50 million currently available which can be used to pay down some construction debt. The costs for operating the current Miami-Dade County Courthouse at 73 W. Flagler Street are approximately \$3 million per year. These monies could be applied toward the annual payment required for the debt service and operations of the new courthouse, once the operation of the existing courthouse is no longer necessary.

County-owned assets could potentially be contributed to an equity or development partner via a long-term land lease, other financial partnership or outright sale to generate near term proceeds and/or long-term cash flow streams through ground rent and potential participation in real estate development. In addition to the proceeds identified above, transferring County owned land to the private sector would have the additional benefit of directly adding to the tax roll. There is no guarantee that any such development deals or sales would garner the funds required to cover the difference between the construction and lifecycle costs and the identified available funds in either a P3 or DB delivery model.

If a DB delivery method is chosen, this would require the County to issue bonds in order to identify funds for the design and construction of the facility. Conversely, if a P3 delivery method is chosen, the County would not be required to make availability payments until the new courthouse is in operation. The private developer would receive annual availability payments from the County. The availability payments would be subject to deductions if the P3 partner does not meet specified performance requirements. KPMG has estimated the availability payment to be approximately \$26 million (in today's dollars) per year, inclusive of capital, debt service, and operations and maintenance.

Recommended Solicitation Method

Resolution R-559-17 required a recommendation for a solicitation method, or a waiver of competition. A waiver of competitive bidding and negotiations with a respondent of the EOI is not recommended as no respondent provided enough detail about the proposed project to warrant waiver of competition and, more importantly, sufficient competition exists in the marketplace that would likely result in the best value for the County.

At this point, a number of procurement options exist for the delivery of a new Civil Courthouse, and for the divesting of identified County owned real estate. Additional time is needed by County staff to identify the most effective method in light of our funding needs and the market soundings that have been conducted.

Next Steps

Clearly, the lack of an identified funding source remains a significant barrier. In an effort to reduce the price of the project, I have directed the Internal Services Department to look more closely at the current programming of the 600,000 square foot building that was recommended by the master plan. Opportunities to reduce the footprint of the building need to be explored, as well as any opportunities to achieve efficiencies in the collocation of the new courthouse with the existing Children's Courthouse.

To move forward with any procurement for the new Miami-Dade County Civil Courthouse, a bid waiver to continue the Technical Advisor services of Perez and Perez Architects Planners, Inc. is recommended. In addition to preparing the 2017 *Civil and Probate Courts Master Plan*, Perez and Perez was the Architect of Record for the Children's Courthouse and, therefore, has substantial, unique knowledge and expertise on this project. Proceeding with the development of a design criteria package will help continue to move the project forward and expedite the overall solicitation process.

To this end, I have directed the Internal Services Department to come back to the full Board in October with a number of items:

- Recommended solicitation method(s) of the Civil Courthouse and identified real estate assets, and draft solicitation document(s);
- Opportunities to achieve efficiencies in the footprint of the new courthouse; and
- Recommendation for the continuance of the existing Perez and Perez contract to begin a design criteria package

Per Ordinance 14-65, this memorandum will be placed on the next available Board meeting agenda. Should you require additional information, please contact Tara C. Smith, Director of the Internal Services Department, at 305-375-5893, or me directly.

- c: Honorable Harvey Ruvin, Clerk of Courts, Eleventh Judicial Circuit
Honorable Bertila Soto, Chief Judge, Eleventh Judicial Circuit Court
Honorable Katherine Fernandez-Rundle, State Attorney
Honorable Carlos J. Martinez, Public Defender
Abigail Price-Williams, County Attorney
Geri Bonzon-Keenan, First Assistant County Attorney
Office of the Mayor Senior Staff
Tara C. Smith, Director, Internal Services Department
Neil Singh, Interim Commission Auditor
Christopher Agrippa, Director, Clerk of the Board Division
Eugene Love, Agenda Coordinator