



Capital Project Procurement Early Screen

For

Multnomah County Courthouse Project

February 18, 2013

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## 1 PURPOSE

The purpose of this report is to document the results of the early project procurement screening process undertaken by Partnerships BC for the Multnomah County Courthouse Project (the Project).

The screening process focuses on the project's attributes in early planning stages to investigate the potential benefits from partnership procurement approach. As an early procurement screen, this report relies on the project information as provided and does not evaluate the assumptions or estimates. The report also does not assess the investment decision.

The report:

- provides a description of public private-partnerships;
- outlines the potential benefits from partnership procurement;
- describes the early screening approach;
- describes key aspects of the Project;
- presents the results of the screen; and
- provides conclusions and recommended next steps.

Multnomah County is currently considering two project options: 1) Renovation; and 2) New Build; each of which has different attributes. The early screen demonstrates that both project options have several key attributes that would make it likely to benefit from partnership procurement. These attributes include the overall size of the project in terms of the construction value, and the complexity and resulting opportunity for innovation in design and implementation.

The renovation option is subject to uncertainty in respect of key project factors, such as: ability for the current courthouse to be renovated to accommodate a program that delivers justice services for the long term; geotechnical and structural conditions; extent and type of hazardous materials present; and ability to execute an extensive renovation and replan while still delivering court services satisfactorily. The renovation option assessment is premised on the following assumptions: (a) the building would be substantially gutted and renewed; and (b) based on market experience, the preferred approach by a selected partner would be that the building be totally vacated during the construction period. If further due diligence indicates a different approach, this early screen should be revisited.

The results of the screen, therefore, confirm that: (a) the Renovation option may under certain conditions be viable for further consideration as a partnership procurement option; and (b) a partnership procurement option should be included as part of the detailed procurement analysis in the business case stage for the New Build option.

## 2 WHAT IS A PPP?

Broadly speaking a public private partnership (PPP) is a form of procurement that is based on a long term, performance-based contract where appropriate project risks are allocated to the partner best able to manage them cost effectively. These risks can include: construction, schedule, functionality of design, financing, and the long term performance of the asset through the transfer of responsibility for operations, maintenance and rehabilitation. PPPs can also be structured so that the private partner assumes demand and price risk based on the availability of a facility. In some cases, the private partner can also assume varying degrees of commercial risk with respect to market rents, tolls and other types of revenue.

Based on experience with other projects, risk transfer is a key area in public private partnerships in the determination of value for money. The type, amount and the effectiveness of possible risk transfer differs considerably based on the procurement method and contract structure chosen.

Traditional public procurement in Multnomah County has typically involved construction management / general contract (CM/GC) and Design Bid Build (DBB), representing points along a continuum of possible procurement methods where there is very little transfer of project related risk to a private partner.

As the amount of risk transfer to a private partner increases, the procurement options become what are generally referred to as partnership delivery models. These include:

- Design Build (DB);
- Design Build Finance (DBF);
- Design Build Maintain (DBM); and
- Design Build Finance Maintain (DBFM).

The options ranging from DB to DBFM are considered to be partnership delivery models as they involve transferring progressively more project risk as the private partner assumes responsibility for more aspects of a project. The risk transfer for this range of alternatives includes design and construction risk under a DB, with the other options able to be structured to require a degree of private financing, be longer term, and include responsibility for operations and life cycle performance of the asset.

Generally, partnership agreements are enforceable through a performance-based payment mechanism for the duration of the contract term. The financial incentive that is brought to bear through the length and enforceability of the PPP payment mechanism is the key to providing a stronger, more effective means of optimizing the life cycle costs of a project in a way that meets program and performance requirements.

Additional information on the partnership model are provided in Appendix B.

### 3 PROJECT DESCRIPTION

The Multnomah County Courthouse (MCCH) is almost 100 years old; its construction started in 1909 and was fully completed in 1914. The eight-storey building is approximately 300,000 square feet in size, occupying a full city block in Portland's downtown commercial area. The building is listed in the National Register of Historic Places and has a distinguished appearance that is well recognized in the community. Numerous reports have been completed which indicate that the building is past its useful life due to seismic, design and other functional deficiencies. The main references are listed below.

- Multnomah County Downtown Courthouse Options Analysis, dated June 2012, by inici group inc.
- Multnomah County Courthouse Renovation Study, dated April 13, 2011, by SERA Architects
- Multnomah County Seismic Analysis, dated February 3, 2009, by Hennebery Eddy Architects
- Multnomah County, Oregon Circuit Court Courtroom Requirements Analysis, dated May 2012, by National Center for State Courts
- Multnomah County Courthouse 1909-2011 Facilities Management (internal summary report)

The seismic and structural information provided indicates that the building is in need of significant upgrades to achieve life-safety performance objectives, including the ability for occupants to exit the building safely during a seismic event, without requiring the building to be functional for re-use.

The Courtroom Requirements Analysis (May 2012) indicates that the facility is inadequate from an operational perspective and that the existing facility is not well configured to meet the needs of modern day court operations.

The Multnomah County Courthouse 1909-2011 Facilities Management (internal summary report) lists the following points in the section titled Findings:

- The courthouse is operational and functionally obsolete, with the majority of building systems exceeding their useful life.
- The building does not meet current ADA standards due to lack of entry ramps, interior ramps and elevators.
- The building does not meet current seismic Zone 3 code and has a FEMA ranking of "Poor" due to the composition of unreinforced masonry walls.
- Circulation to exit stairs does not discharge to either the exterior or exit doors creating emergency egress issues.
- There is no dedicated/secure circulation or separation of building users.

- Lobby size and required security screening equipment compound the building and circulation issues.

There are two project delivery options under consideration by Multnomah County:

- Option 1: Renovate and modernize the existing MCCH while the facility remains partially in use; and
- Option 2: Build new on a nearby site (to be determined) and vacate the existing MCCH.

As previously mentioned, the analysis assumes that with the Renovation option the building would be gutted and that the market would be interested if it is totally vacated, otherwise risk transfer and pricing could make the project suitable for traditional procurement models only. The uncertainties previously mentioned and whether the building is vacant will impact on the assessment and scoring of the Renovation option such that in some cases there is a range of possible outcomes. The following early project procurement screen will assess the benefits of PPP delivery for each project option. Where there are differences in the assessment of each option, they will be discussed and scored based on their respective project characteristics.

#### 4 EARLY SCREENING APPROACH

Early project screening is conducted based on a review of available project information including knowledge about the related programs and services the project is intended to support. This project information can then be screened against a standardized set of criteria to determine early in the planning process, and at a high level, if the characteristics of a project make it likely to benefit from PPP procurement in terms of realizing the potential procurement benefits outlined above. In this way early screening can provide a consistent and structured approach to confirming the potential for a project to realize the advantages of a PPP, prior to undertaking the time and cost involved in a detailed risk quantification and procurement options analysis.

The criteria are specifically selected as key, identifiable project characteristics that relate to a project's time frame, legislative and legal context, marketability, and opportunities for effective risk transfer. To keep the screening balanced, no single criterion is intended to carry more weight than others although in practice this may not be the case. Rather, the criteria are intended to be comprehensive in terms of the major issues that can impact the potential for a project to be successfully procured as a PPP. The scale and rating for each criterion reflect additional, more detailed thresholds and/or specific considerations intended to guide and refine the response.

If the result of early screening indicates that a project may have the potential to benefit from a partnership procurement model, further, more detailed quantitative analysis would be warranted to determine with greater certainty the potential to secure better value for taxpayers.

At the early screening stage, in most cases, the evaluation of the criteria will be qualitative in nature, and will require only high-level knowledge of key quantitative aspects of the project including estimates for things such as the:

- In-service date;
- Timeline to completion;
- Project life cycle;
- Construction costs;
- Operating and maintenance requirements; and
- Rehabilitation requirements.

Early screening generally does not by itself result in a recommendation to procure a project as a PPP, rather it serves to support the decision to allocate additional resources towards the analysis needed to make such a recommendation. The additional analysis will typically involve a business case that includes detailed quantitative and qualitative risk analysis, as well as market testing.

The outcome of the screening process is a numerical score for each criterion based on the specific aspects of a project. The results for the individual criteria are then totalled and compared to a potential maximum score of 50. A score of 35 or above suggests that a project has potential to generate value as a PPP, and supports the recommendation to undertake, as part of a project business case, a detailed procurement options analysis that includes a PPP procurement model option.

## 5 EARLY SCREEN RESULTS

For the purposes of conducting the early screen, Option 1: Renovation was assumed to include a program of work that would essentially result in the building being totally stripped out or gutted in phases. This would allow for a complete renewal of the facility and commensurate transfer of design, construction and life cycle risks that would support a performance based approach. Without this assumption the anticipated facility quality and long term performance of the renovation and the new build options may be significantly different. Should this project proceed to business case analysis, this assumption must be tested.

Applying the early screening criteria in Appendix A produced the following results:

Criteria	Renovation	New Build
1. Timeline	1 – 5	5
2. Legislative and Legal	3	3

3. Construction Cost	4	4
4. Term Duration	5	5
5. Operating Costs	4	4
6. Rehabilitation	3	3
7. Output Specifications	1 – 3	5
8. Complexity	3 – 5	4
9. Renovation	1	5
10. Ownership	5	5
Total	30 – 38	43

Based on the criteria described, the Project screen gives a score of 30 – 38 and 43 respectively for Renovation and New Build options out of a possible total of 50 points.

As described earlier in the approach, a numerical result between 35 and 50 suggests that the characteristics of a project have sufficient potential to generate value that it would support a recommendation to undertake a detailed procurement options analysis as part of the business case analysis of the project, that includes a PPP procurement model as one of the options.

The range of 30 – 38 for the Renovation option indicates that it may be viable for further consideration under certain conditions, such as: the building is totally vacant and gutted to achieve a reasonable risk transfer and opportunities for innovation. The assessment for the New Build of 43 indicates that the option has potential to generate value through procurement using an appropriate PPP model. The detailed criteria and results with respect to the Project options are presented in Appendix A.

## 6 ADDITIONAL CONSIDERATIONS

Developing and documenting critical success factors at a strategic program delivery level (i.e., long term goals for justice services) will assist in establishing project level objectives. Critical success factors will inform the facility program needs and the array of options available for the existing facility regardless of project option (renovation or new build). Additional elements relating to the project options that should be addressed in subsequent, more detailed analysis include the following with particular attention to key differentiators.

- Strategic goals for delivery of Justice Services



- Facility Strategy as context for the investment decision
- Facility Program based on the strategy for delivery of Justice Services
- Schedule
- Seismic and Structural Code Analysis
- Geotechnical Analysis
- Existing Conditions and Hazardous Materials
- Heritage Conservation Requirements and Flexibility
- Phasing, Moves and Operational Impacts
- Site Options
- Legal and Legislative Approvals and Constraints

## 7 CONCLUSIONS

The result of the early procurement screen demonstrates that the New Build option possesses key characteristics that indicate it may have potential to benefit from procurement as a partnership model. Based on available information, the assessment of the Renovation option lies in a range depending on the consideration of key factors. Further detailed planning and investigations should be undertaken as part of a process that isolates key goals and critical decisions to determine whether a renovation option will produce an acceptable solution.

The business case analysis should first consider key service delivery objectives and how each project delivery option (renovate or new build) is anticipated to perform before looking at procurement options (traditional or partnership). The purpose is to identify the project option that can best be expected to provide optimal service delivery over the long term. Some possible factors for consideration that are entirely independent of procurement options analysis may include:

- Policy and public interest topics;
- Centralized or decentralized service delivery (e.g., core and satellite locations)
- Critical operational issues and opportunities for efficiencies;
- Essential characteristics of a preferred location;
- Service delivery disruptions during construction and moves;
- Ability to address long term demand; and
- Order of magnitude life cycle cost implications.

Once the service delivery objectives have been established and the project options assessed in relation to the objectives, the business case should investigate the best way to procure the preferred project option.

The business case stage should include an assessment of procurement options that are appropriate to the selected project option. For example, if the selected project option is Renovation with the building partially occupied and there are issues that limit efficient risk transfer, then the business case should include a CM/GC without comparison to PPP model. However, if either of Renovation of a totally vacant building or a New Build is the selected project option, then the business case should include a PPP procurement model option, including market testing, to identify an appropriate model and gauge the market's response to potential options as well as the attractiveness of the overall opportunity.

The business case would also include:

- Definition of program for the facility;
- Development of an indicative design;
- Cost estimates including capital, facility operations, maintenance and rehabilitation requirements;
- Operational considerations;
- Identification of a preferred procurement option; and
- Description of the proposed sources of funding.

## APPENDIX A: EARLY PROCUREMENT SCREEN

To complete the early screening it is necessary to:

- Gather available project information including construction and operating cost, functional programs and project schedules, along with any other information relevant to the screening criteria.
- Using this information, rate the project against the criteria provided below and indicate the result for each, along with the rationale used in response to the criteria.
- Total the results at the bottom.

Criteria	Foundation	Assessment		Rationale
<b>1. Timeline:</b>		<b>Points: Renovation: 1 – 5 New Build: 5</b>		
Is there a benefit to greater schedule certainty as a result of a fixed completion date?	The overall timeline for a PPP through to completion is typically on or ahead of schedule, providing that performance requirements can be clearly described.	Important that the project not be later than:	Points	
		on time	5	<p>MCCH is known to be deficient from both a structural and functional perspective. Continued use of the existing facility carries with it health and life safety risk exposure from a variety of sources, including a seismic event or a breach of secure custody.</p> <p>The renovation project would have a negative impact on commercial activities and traffic in the downtown. Street surrounding MCCH are dedicated public transit routes and closures would disrupt vehicular and</p>
		1 – 6 months	3	
		> 6 months	1	

Criteria	Foundation	Assessment		Rationale
				<p>public transit.</p> <p>The inici group study dated June 2012 indicates that renovation could be expected to take approximately 4 to 6 years, however does not estimate schedule for a new build.</p> <p>The Renovation option scores in a range of 1 – 5 because the scope of work, existing conditions and approach (partially or fully vacant) will impact on risk transfer and therefore the ability to realize schedule certainty. For instance, if the County retains some risk related to moves or hazardous materials, then the schedule is less certain than if the risks are fully transferred.</p> <p>The general consensus is that for either project option, time is of the essence. Schedule certainty for both options is important whether in connection with timely completion of phased moves or a final move to a new facility without interrupting delivery of justice services.</p>
<b>2. Legislative, Policy and Legal</b>		<b>Points:      Renovation: 3    New Build: 3</b>		
Are there any legislative, policy or legal impediments, and if there are, what is the potential for amending them?	<p>A successful PPP relies on a well specified, long term, performance-based contract. The agency must be able to legally enter into such an arrangement, and the project as defined must meet all legal and regulatory requirements.</p> <p>Depending on the timeline for the project,</p>	<p>Difficult to amend</p> <p>Potential to amend</p>	<p>1</p> <p>3</p>	<p>This could be the first partnership project for the State of Oregon and Multnomah County. The time and effort involved to resolve any impediments should be investigated.</p> <p>There are some impediments to long term contracting that Multnomah County</p>

Criteria	Foundation	Assessment		Rationale
	<p>potential legislative, policy or legal impediments can often be addressed in order to accommodate PPP procurement which should therefore be considered.</p> <p>What actions could be taken to address legislative, policy, legal or other circumstances that may impede PPP procurement?</p>	No Impediments	5	<p>and the State of Oregon may have to resolve, such as the ability to enter into a multi-year agreement that binds future governments as well as a bid exemption statute.</p> <p>It is assumed that the issues are manageable and can be advanced for resolution in parallel with further project planning.</p>
<b>3. Construction Cost:</b>		<b>Points:      Renovation: 4    New Build: 4</b>		
<p>What are the estimated construction costs in current dollars?</p> <p>This would be the cost to a proponent to build the project including hard and soft costs. As such it would exclude:</p> <ul style="list-style-type: none"> <li>land cost; and</li> <li>owner's project costs.</li> </ul>	<p>The cost to construct a project is an important element in determining the likelihood of realizing the benefits of PPP procurement that can include:</p> <ul style="list-style-type: none"> <li>cost efficiencies that can improve the overall value of the project;</li> <li>the requirement for more at-risk private finance that can improve market attractiveness and improve the amount, and the effectiveness of risk transfer.</li> </ul> <p>If the capital cost falls below a certain size, projects may benefit from being combined with other, similar projects to provide better value.</p> <p>Smaller projects may also be viable as a PPP if there are precedent projects and/or if past transactions can be replicated cost effectively using existing business, legal</p>	\$ Millions	Points	
		<10	Not a PPP	<p>Order of Magnitude estimates in 2012\$ indicated in the inici group report dated June 2012 are summarized below. These estimates should be treated as preliminary and subject to further due diligence during the business case phase.</p> <p><u>Renovation</u>: \$181 to \$207 million including contingency and move costs.</p> <p><u>New Build</u>: \$151 to 190 million including contingency and move costs, but excluding \$71-75 million for renovation of existing MCCH as Class B office space.</p>
		10 - 50		
		50 - 100	3	
		100 - 250	4	
		> 250	5	

Criteria	Foundation	Assessment		Rationale
	and procurement processes. There may also be opportunities for niche projects outside of this range where there is market interest in a unique project. Such opportunities should not be overlooked.			
<b>4. Term Duration:</b>		<b>Points:      Renovation: 5    New Build: 5</b>		
Over how many years could a performance based contract potentially be established for the program / service?	<p>The potential for improving value under a PPP contract generally improves the longer the duration of the contract because:</p> <ul style="list-style-type: none"> <li>there is greater potential to cost effectively transfer life cycle risk, primarily through the integration of the design, construction, finance, operations, maintenance and rehabilitation functions;</li> <li>there is greater financial incentive to maximize long term performance and optimize overall value by balancing the cost of design and construction with the cost of long term operations, maintenance and rehabilitation; and</li> <li>longer term contracts can improve the marketability of a project as there is typically a preference among financial sponsors of PPP projects for longer</li> </ul>	<p>&lt; 10</p> <p>10 - 15</p> <p>15 - 20</p> <p>20 +</p>	<p>0</p> <p>3</p> <p>4</p> <p>5</p>	<p>This project represents a major investment in the delivery of justice services.</p> <p>The replacement project whether renovation or new build can reasonably be anticipated to span an operating period in excess of 20 years after completion of construction. A term in excess of 20 years is consistent with other major facilities, such as hospitals and the recent Long Beach Courthouse project.</p> <p>As mentioned in Section 2 above, Multnomah County's ability to enter into a long term contract is essential.</p>

Criteria	Foundation	Assessment		Rationale
	<p>investment horizons.</p> <p>Contracts with terms longer than 40 years must be carefully considered to ensure the length of the term is well suited to the project characteristics (e.g. aligns with rehabilitation cycles to give the owner control at the end of the term with respect to the asset condition), in order to balance the benefit of the long term risk transfer to the owner, with the marketability of the project based on investors ability to realize their return, potentially through re-financing.</p> <p>Shorter durations may still realize benefits through DB or DBF and should not be overlooked.</p>			
<b>5. Operations and Maintenance Costs:</b>		<b>Points:      Renovation: 4    New Build: 4</b>		
As a percentage of the construction cost, what is the Net Present Cost (NPC) of the operations and maintenance costs over the potential contract duration?	<p>Maintenance costs that are a significant component of overall project cost can benefit from PPP procurement through:</p> <ul style="list-style-type: none"> <li>longer term risk transfer of maintenance responsibility in terms of cost and performance, to address cost certainty of this aspect of the project; and</li> <li>integration of the various project elements (i.e. design and construction) to optimize long term maintenance performance of the project.</li> </ul> <p>If maintenance costs are relatively</p>	%	Points	
		< 5	1	<p>The approximate annual operations and maintenance costs for the existing MCCH are estimated at approximately \$2.6 million. Using a 30 year term and a 7% discount rate without provision for escalation results in a conservative estimated NPC of \$32 million.</p> <p>Further this calculation is order of magnitude only as it does not include efficiencies that may be achieved in comparing existing facility operations to a renovated building, and then to a new</p>
		5 – 10	3	
		11 – 20	4	
		> 20	5	

Criteria	Foundation	Assessment		Rationale
	insignificant, still consider other models (e.g. DBF), that may generate some of the other benefits.			<p>build.</p> <p>Intuitively, the new build should offer the best opportunity for efficiencies and long term benefits.</p> <p><u>Renovation</u>: Using \$190 million as the mid-point of the project estimate, the NPC of O+M costs is approximately 17%.</p> <p><u>New Build</u>: Using \$170 million as the mid-point of the project estimate, the NPC of O+M costs is approximately 19%.</p>
<b>6. Rehabilitation:</b>		<b>Points:      Renovation: 3      New Build: 3</b>		
As a percentage of the construction cost, what is the NPC of the Rehabilitation costs over the potential contract duration.	<p>Rehabilitation requirements are another significant component of overall project cost that can benefit through PPP procurement.</p> <p>The larger the relative significance of rehabilitation in terms of cost, the greater the potential benefit of transferred rehabilitation risk through the added incentive for:</p> <ul style="list-style-type: none"> <li>design and construction integration (including materials);</li> <li>ongoing asset monitoring; and</li> <li>ongoing maintenance to support the asset condition requirements at hand-back.</li> </ul>	%	Points	
		< 5	1	The recent spend on rehabilitation (e.g., prudent life cycle repairs and replacements to avoid premature asset deterioration) has been on an as-required basis.
		5 – 10	3	Assuming a smoothed average annual expenditure in the order of \$4.62 per square foot per year (approximately \$1.4 million), the NPC over 30 years, discounted at 7% is approximately \$17 million.
		> 10	5	As with Operations and Maintenance costs discussed above, it is reasonable



Criteria	Foundation	Assessment		Rationale
				<p>to anticipate that a new build will offer long term benefits over a renovation.</p> <p><u>Renovation:</u> Using \$190 million as the mid-point of the project estimate, the NPC of rehabilitation costs is approximately 9%.</p> <p><u>New Build:</u> Using \$170 million as the mid-point of the project estimate, the NPC of O+M costs is approximately 10%.</p>
<b>7. Project Specification:</b>		<b>Points:      Renovation: 1 – 3    New Build: 5</b>		
To what extent can the required program and service outputs be specified in detail?	<p>The project specification necessary to achieve the end result, or goal of the project, must be sufficiently well defined so that they can form the basis of performance contracts that exact a financial penalty when specified requirements aren't met including:</p> <ul style="list-style-type: none"> <li>▪ design and construction requirements;</li> <li>▪ construction schedule;</li> <li>▪ cost;</li> <li>▪ operations and maintenance performance; and</li> <li>▪ the condition of the rehabilitated asset at contract end.</li> </ul> <p>While output specifications need to be well defined so that the intended outcome</p>	<p>Not at all      Completely</p> <p>0   1   2   3   4   5</p>		<p>The MCCH project will have specialized requirements that are anticipated to be prescriptive, such as space for the judiciary, heritage requirements, secure custody, and security systems. The building itself and the long term facilities maintenance and rehabilitation requirements can be more performance based.</p> <p>Both options offer significant opportunity for innovations in design and technical systems (for example, safety and security, digital recording, video court and visitation). All of these offer operational efficiencies and cost savings.</p> <p><u>Renovation:</u> The performance requirements for a renovation should allow for innovation in design and</p>

Criteria	Foundation	Assessment	Rationale
	<p>can be achieved, it is important generally to not be overly prescriptive with the design (e.g. less than 30 per cent), in order to retain the potential for design, construction, and operational integration and innovation.</p>		<p>renovation of the building. The private partner will optimize the capital and ongoing expenditures to ensure that a quality facility is provided. The unique aspect of the renovation relates to detailing existing conditions and establishing requirements that transfer risks of design, construction and long term performance. The range is based on the variation in ability to totally vacate and replan the building to suit as opposed to being limited by compromise associated with partial occupancy.</p> <p><u>New Build:</u> As in a renovation, there will be some aspects that are more prescriptive than others. The performance requirements for the facility and the fact that this is a Greenfield option will offer a private partner more latitude for innovation in design, construction and long term performance.</p> <p>A new build offers greater benefits than renovation with respect to developing a program and design without constraints of renovating and working within confines of the layout of an existing building.</p>

Criteria	Foundation	Assessment	Rationale
<b>8. Complexity and Opportunity for Innovation:</b>		<b>Points:</b>	<b>Renovation: 3 – 5    New Build: 4</b>
How complex is the project and does the complexity create opportunities for innovation?	<p>The complexity of project elements is also important in determining potential suitability as a PPP, including:</p> <ul style="list-style-type: none"> <li>▪ design and engineering;</li> <li>▪ construction (materials, techniques, logistics);</li> <li>▪ operations and maintenance;</li> <li>▪ rehabilitation; and</li> <li>▪ schedule (does a short schedule add complexity?)</li> </ul> <p>Complexity in these areas can provide the opportunity to:</p> <ul style="list-style-type: none"> <li>▪ transfer the associated risk to parties with the necessary size, skills and experience to manage them more cost effectively;</li> <li>▪ find innovative approaches to address the associated risks, where there is sufficient incentive and flexibility in a PPP contract to encourage innovation; and</li> <li>▪ benefit from the potential for the integration of project elements in order to address unique and challenging circumstances.</li> </ul>	<p>Not Complex                      Very Complex</p> <p>0   1   2   3   4   5</p>	<p>Both project options involve complex building solutions.</p> <p><u>Renovation:</u> The complexity in the renovation option arises from design and construction logistics, phase planning and site constraints. This option is premised on keeping the existing MCCH functional throughout the construction period. The range is premised on limitations to design innovation due to working within the confines of an existing building.</p> <p><u>New Build:</u> A vacant and buildable site for this option tends to focus the complexity on innovation and creativity in designing and constructing a specialized facility that responds well to the program requirements. The site itself may be just as challenging as the existing MCCH site due to a constrained downtown location, however there is no impact on the existing MCCH operations.</p>
<b>9. Renovation:</b>		<b>Points:</b>	<b>Renovation: 1    New Build: 5</b>

Criteria	Foundation	Assessment		Rationale
What per cent of the construction cost involves renovation?	<p>Generally projects involving renovation or rehabilitation have the potential to carry a high degree of latent risk with respect to design, construction and continued performance of existing assets. As a result, projects where renovation would be included in the contract:</p> <ul style="list-style-type: none"> <li>may have narrower market attractiveness due to the unique risks;</li> <li>require additional expertise to develop performance based incentives based on delineating between the performance of existing assets and new construction, or effectively transferring performance risk on existing assets;</li> <li>can provide less opportunity for innovation in design, and integration of design and construction based on accepting existing building components, resulting in less opportunity for effective risk transfer in these areas.</li> </ul> <p>Exceptions can occur if projects with renovation components:</p> <ul style="list-style-type: none"> <li>provide the opportunity to clearly delineate between the performance of existing and new assets; or</li> <li>are offset with significant new expansion that allows for the realization of more typical PPP benefits.</li> </ul> <p>In addition to renovation, the level of</p>	%	Points	<p><u>Renovation:</u> This project will involve total renovation of an operating courthouse. As previously mentioned, the working assumption is that the building will be systematically gutted so a total renewal is completed. If this assumption is changed, then the assessment should be revisited. The private partner will have to plan and execute activities without disrupting the courthouse.</p> <p><u>New Build:</u> It is assumed this is a total new build with no need to work around occupants. Even if the renovation of existing MCCH is included in the project scope, the renovation would involve a vacant building.</p>
		> 50	1	
		20 - 50	3	
		< 20	5	

Criteria	Foundation	Assessment		Rationale
	<p>integration with existing facilities is also an element that should be considered for real estate projects.</p> <p>Where significant integration is required, a PPP may be less effective due to design limitations.</p>			
<b>10. Ownership:</b>		<b>Points:</b>	<b>Renovation: 5</b>	<b>New Build: 5</b>
Will the asset, including land, ultimately be owned by the public or private sector?	<p>Public ownership allows for a more definitive financing and payback period for the private partner (e.g. 30 year term), and also eliminates the residual ownership risk to a private partner that can adversely affect project marketability.</p> <p>An example of residual risk from ownership arises from the often purposed-built nature of public facilities, leaving them with limited usefulness to a private sector partner when they cease being required for the original public program they were designed to support.</p> <p>Public ownership of land for a project can also result in a more marketable transaction as more bidders can participate on a more equal footing than if they were required to find land and provide it with their proposals.</p>	<p>Public</p> <p>Private</p>	<p>5</p> <p>Not a PPP</p>	The facility will remain in public ownership regardless of the option selected.

## APPENDIX B: POTENTIAL BENEFITS OF PARTNERSHIP PROCUREMENT

When considering partnership procurement, it is important to have a clear understanding of what the objectives of this type of procurement are, and the nature of the benefits that would be realized in support the overall objectives of the project being undertaken.

Generally speaking, the main goal of a partnership procurement is to achieve value for money for the public, through the procurement and contract structure chosen, while ensuring that the procurement model chosen protects public interest in terms of issues such as health, safety, equality, and sustainability, among others.

To achieve better value, a partnership procurement will typically have the following potential benefits:

**Effective Risk Transfer:** Although several procurement options can transfer similar risk, the effectiveness of the risk transfer varies with the amount and nature of the responsibility assumed by a private partner. For example, DB, DBF and DBFM, all have a design component, however, the transferred risk of design functionality would be greater for a longer term contract such as a DBFM, where the party is responsible for the asset performance over a 20 or 30 year period. In contrast, a DBB arrangement might only have a short warranty period.

In addition, greater risk transfer can be achieved by transferring risk across a broader range of activities so that a DBFM partner would assume risk across all the key areas, whereas as a DBB or CM / GC arrangement would not.

Improved value from this type of risk transfer is achieved when the party taking responsibility for a particular activity is better able to manage the associated risks (i.e. the likelihood of the risk occurring is less, or the expected cost if the risk does occur is less), and when the ability to manage the risk is supported by the added incentive of a long term, performance-based contract. The performance-based contract will include a payment mechanism with clauses to specifically transfer identified risks to a private partner.

For effective risk transfer to take place, the project must be attractive to the market based on its size in terms of the opportunity for investing private funds, and in terms of the duration of the project so that together the amount and length of the investment are sufficient to offset the risks being assumed. Also, a project that is sufficiently large can be expected to attract interest from international bidders thereby further improving its marketability and increasing competition.

If the project is attractive to the market, and there is confidence that the selection process is fair, open and transparent, there is increased likelihood that enough interested parties will bid to create competitive tension. This competitive tension encourages bidders to competitively price the project, including the transferred risks they are assuming.

**Schedule and Cost Certainty:** Under a partnership model the private partner typically starts to get paid (under an availability contract), only once the project is available for use. Payment is based on a predetermined maximum annual amount, also known as the annual service payment (ASP), for the duration of the contract. In order to realize its investment objective as a result of the private finance component, the private partner must ensure that the project does not cost more or take longer than planned. This then provides greater certainty to the government agency around the cost and schedule of a project.

**Integration:** Because a private sector partner is typically responsible for the design and construction, long term operations, maintenance and rehabilitation of the asset, there are opportunities, and incentives, to integrate these functions in order to optimize performance that can result in a lower overall risk adjusted cost of delivering the project over its lifecycle. In addition to integrating design and construction to ensure efficient and timely completion, the private partner is also able to integrate design, engineering, and construction materials and techniques, with the long term performance requirements for a project.

**Innovation:** Partnership procurement also encourages innovation to address unique issues and complexities as the project agreements used under this approach take the form of performance contracts. The performance requirements are based on specifications drawn from the requirements of a program's service objectives, rather than being based on detailed, highly specified design.

The added flexibility provided by this approach, in addition to the competitive nature of the bidding process and financial incentive, encourages private partners to develop innovative solutions in all aspects of a project, from design and engineering through to decommissioning.

To estimate the magnitude and value of these potential partnership procurement benefits, a business case involving a comprehensive and detailed risk quantification and procurement options analysis is necessary.