

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 415 cont thru SB 424 129

129

March 14, 1988

M E M O R A N D U M

TO: Arthur H. Snowden, II
Administrative Director

FROM: Kit Duke
Project Manager 

A question regarding labor rates was asked at the Friday meeting of the Senate Finance Committee. I saw surprised looks at my answer so I believe that the question must have been, what is the average wage, not what is the average cost of man hours estimated in the project.

To clarify, the average wage estimated for this project is \$25.00 per hour. Some wage rates are lower and a few are higher, obviously.

3/15/88

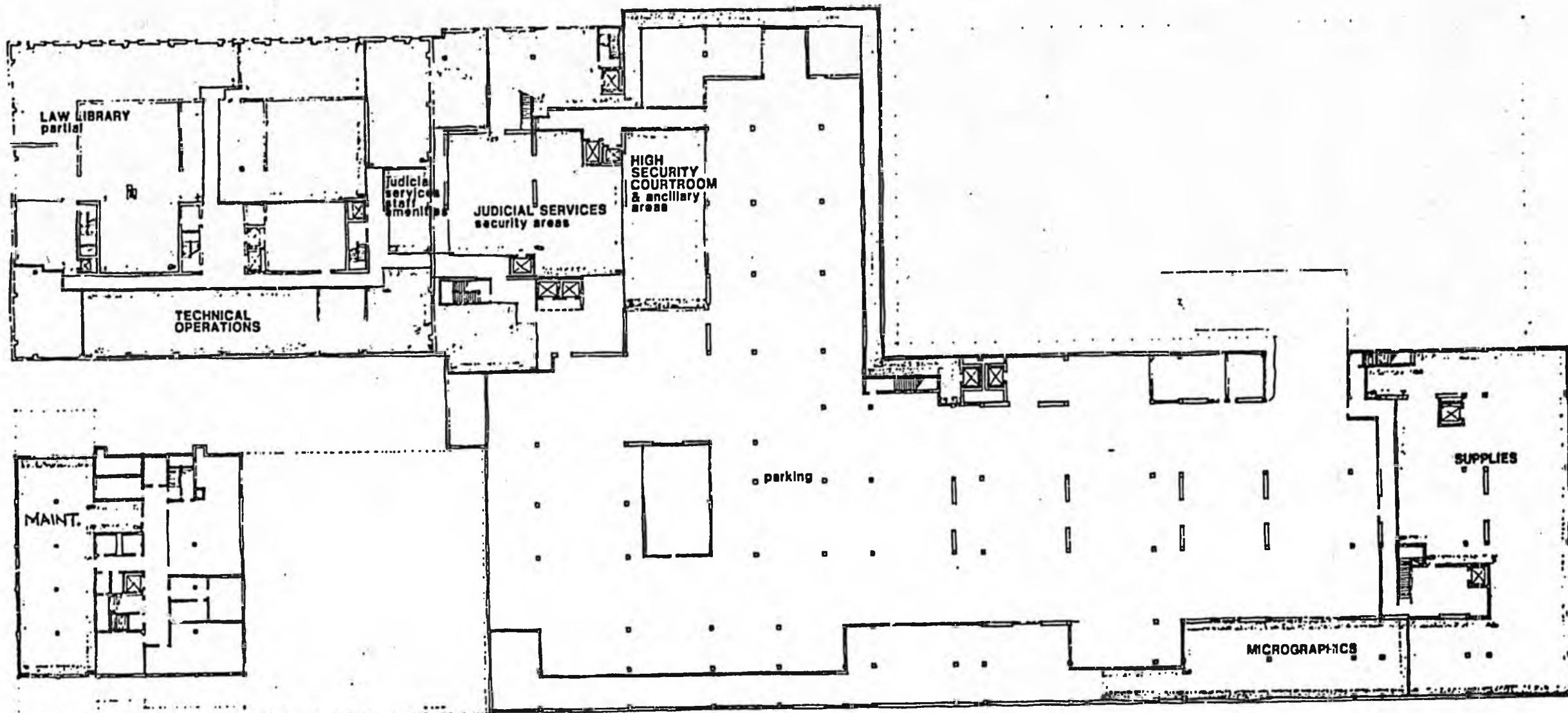
ANCHORAGE COURTHOUSE EXPANSION

QUARTERLY LABOR REPORT

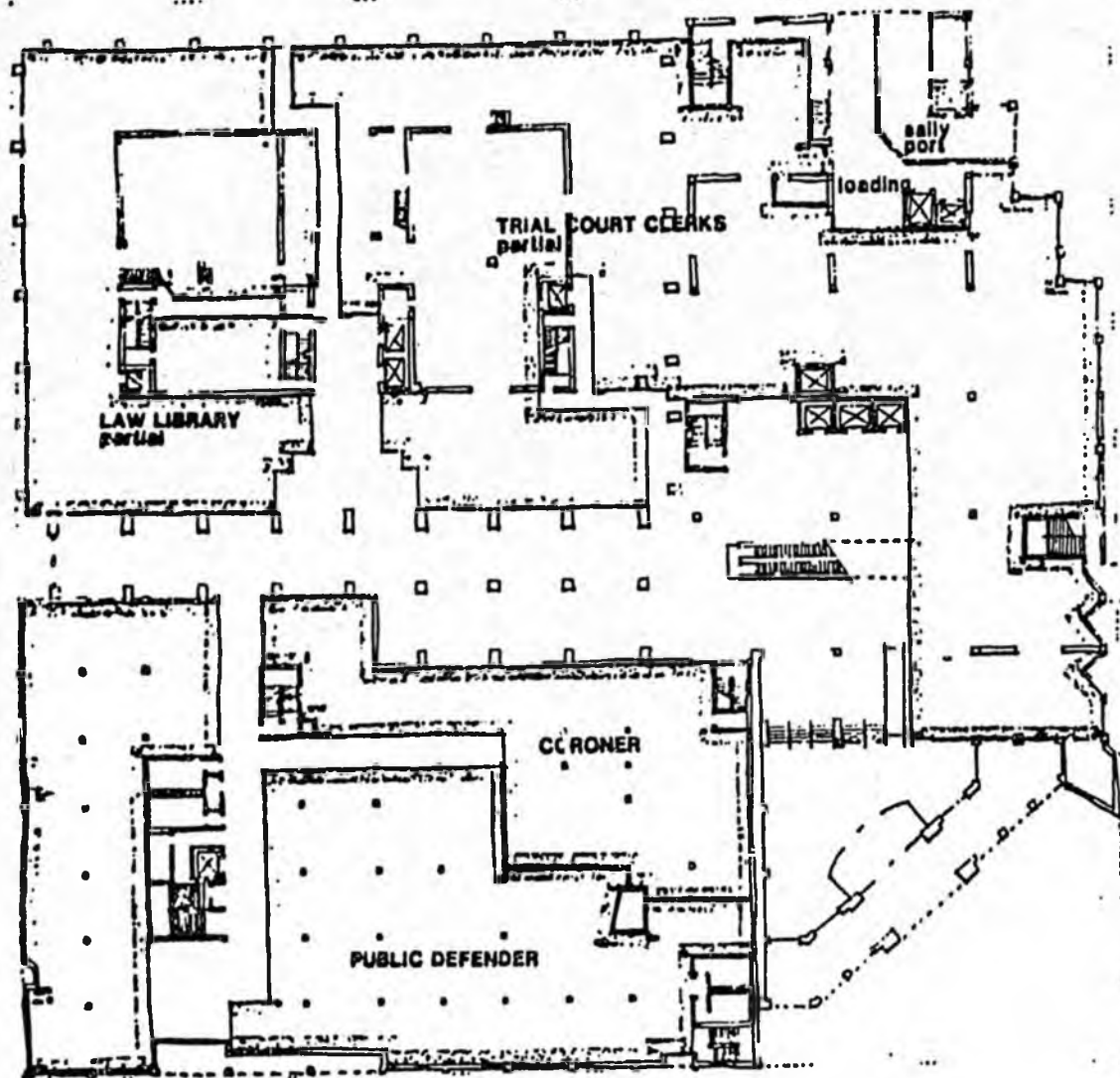
PREPARED FOR: MC COOL MC DONALD AIA
 PREPARED BY: ALASKA CONSTRUCTION MANAGEMENT INC.

DATE: MARCH 3, 1988
 OWNER: ALASKA COURT SYSTEM

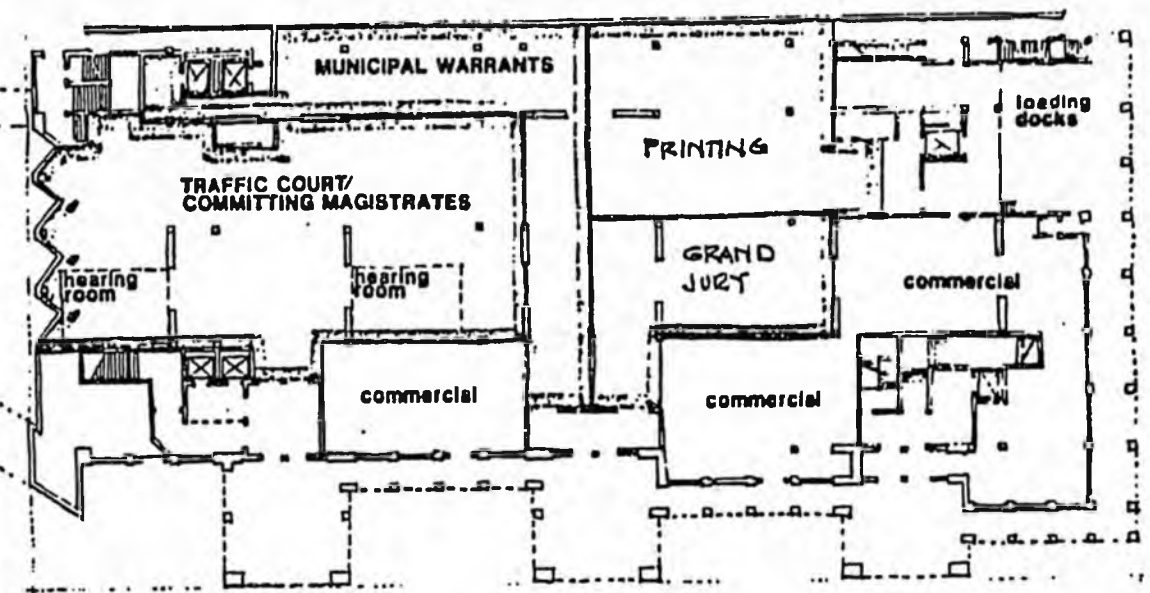
DESCRIPTION	MANDAYS	QTR 1	QTR 2	QTR 3	QTR 4	QTR 5	QTR 6	QTR 7	QTR 8	QTR 9	QTR 10
GENERAL CONDITIONS	4200	8	8	8	8	8	8	8	8	8	8
EXCAVATION	1000	15	15	15							
GARAGE CONSTRUCTION	400	10	10								
CONCRETE WORK	10500	35	35	35	35	35				6	
STRUCTURAL STEEL	9000		20	20	25	25	25	10	5	5	5
MASONRY	1750				10	15	15	15	4		
ROOFING	1400					15	15	15			
WATERPROOFING	800	5	5	5	5	5					
FIREPROOFING	1100			7	7	7	7				
DOORS	1100			6	6	6	6	6	2	2	2
WINDOWS	1000				8	8	8	8	2	2	2
GWE SYSTEMS	6700			10	15	25	25	20	8	8	8
TILE WORK	1000				3	7	7	7	3	3	3
ACOUSTIC WORK	1400					8	8	8	3	3	3
FLOOR COVERING	900					6	6	6	2	2	2
PAINTING	1600				8	8	8	8	3	3	3
EQUIP & FURNISHINGS	400					6	6	6	3	3	3
ELEVATORS	3000				10	10	10	10	4	4	4
MECHANICAL WORK	13700	4	4	12	16	20	20	20	12	8	8
ELECTRICAL WORK	7300	4	4	6	8	10	10	10	6	4	4
TOTAL MANDAYS LABOR	63150										
TOTAL ONSITE LABOR FORCE		91	101	132	164	224	184	157	65	61	55



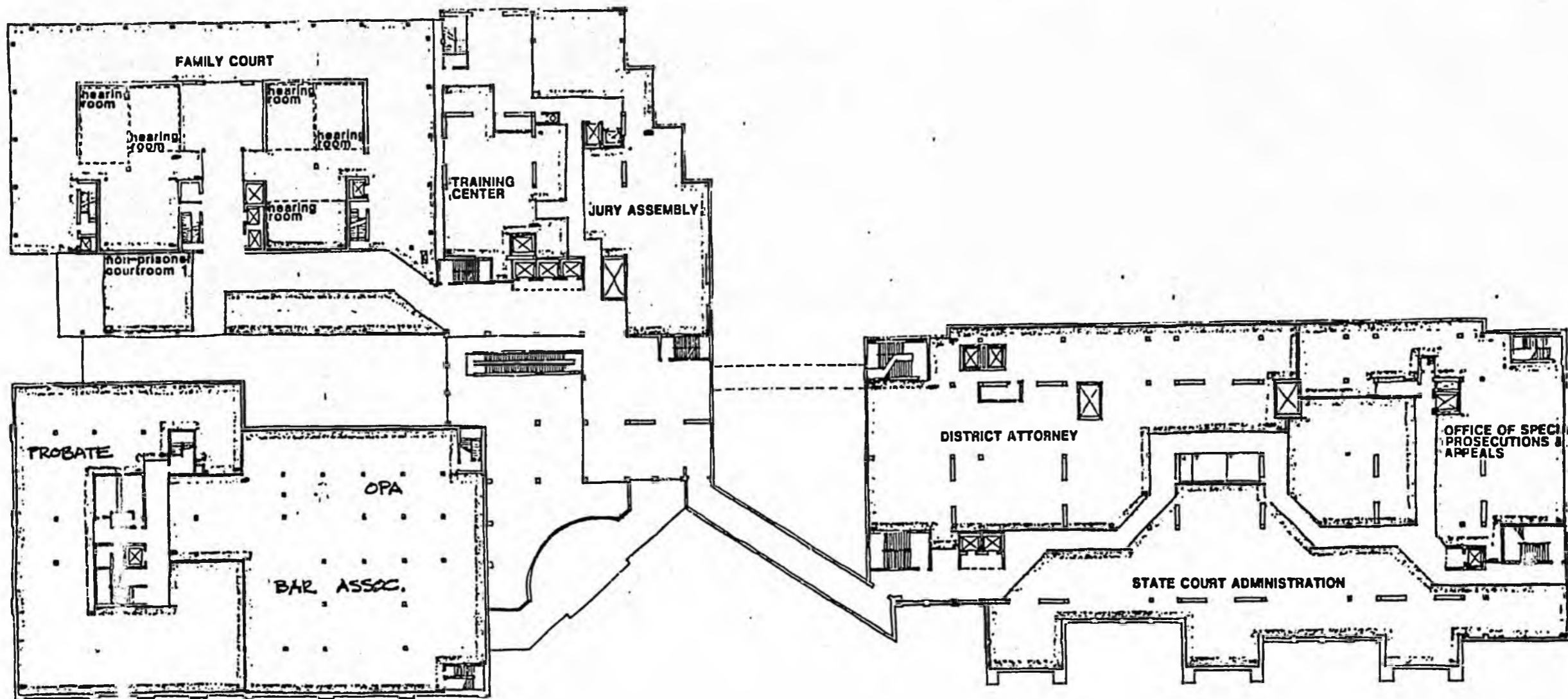
**BASEMENT
BLOCK USE LAYOUT**
ARCHITECT: [unreadable] ENGINEER: [unreadable]
 SCALE: [unreadable] DATE: [unreadable]



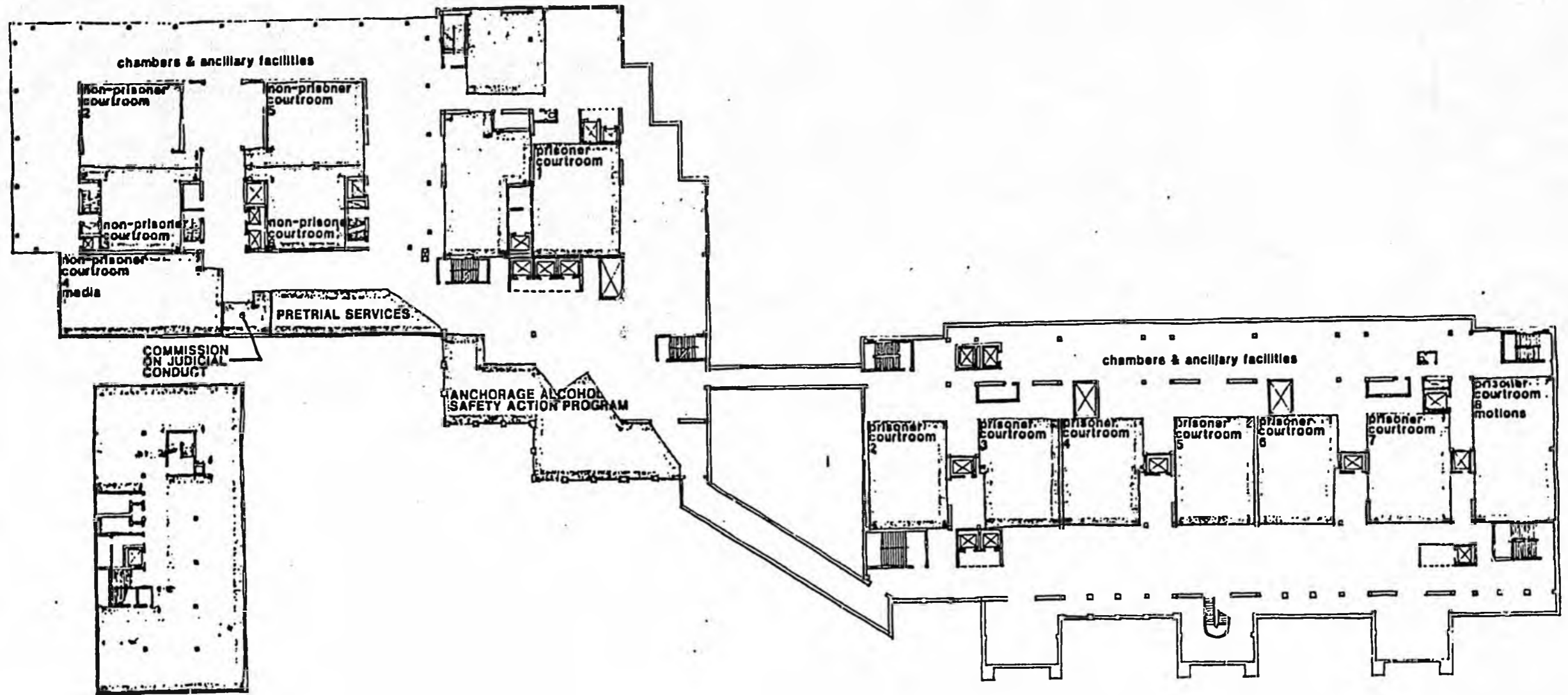
PARKING GARAGE



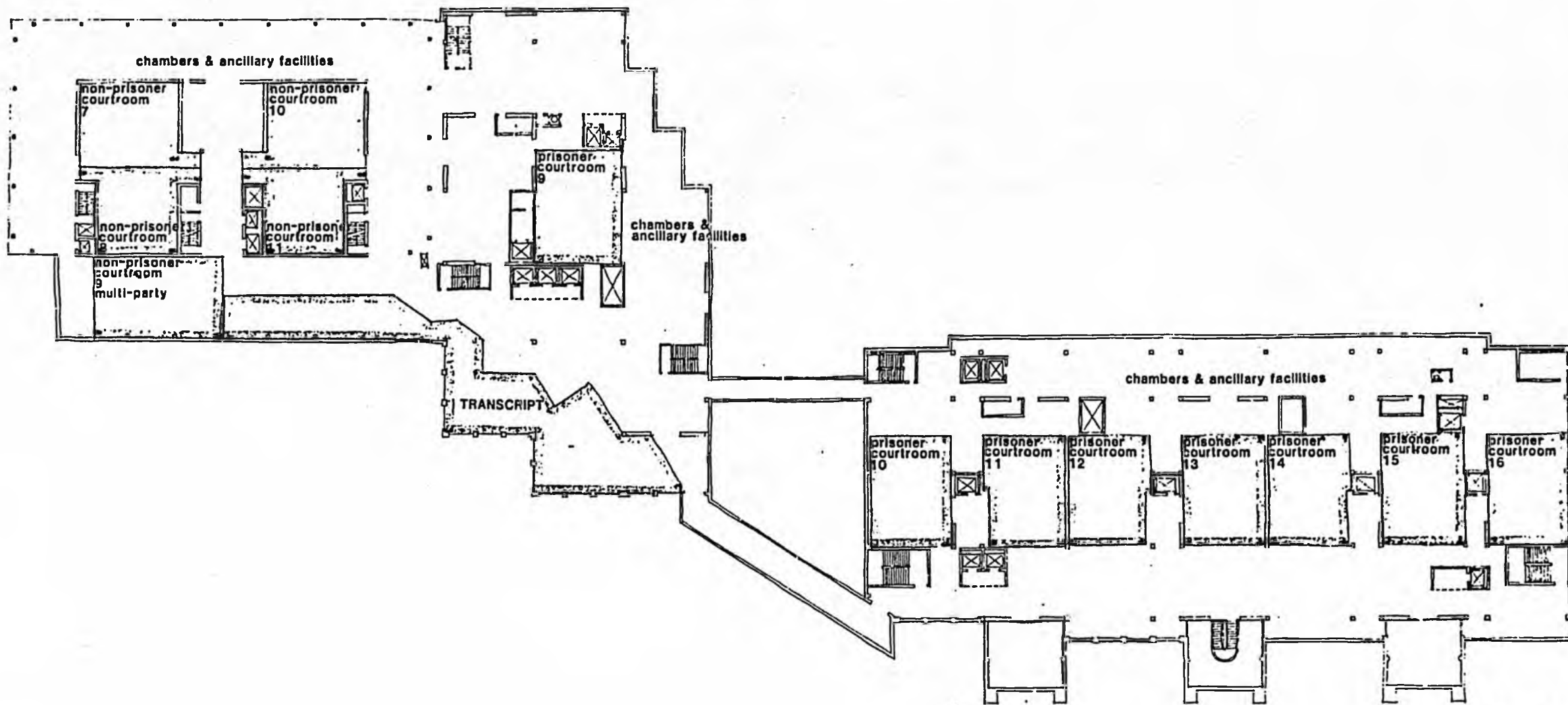
**FIRST FLOOR
BLOCK USE LAYOUT**
ARCHITECTURAL CONSULTANTS, INC.
 2000 041-11 2-18-81



**SECOND FLOOR
BLOCK USE LAYOUT**
ORIGINAL LAYOUT CAPAS/US, 1984.1
 SPACE MANAGEMENT CONSULTANTS, INC.
 2-18-87

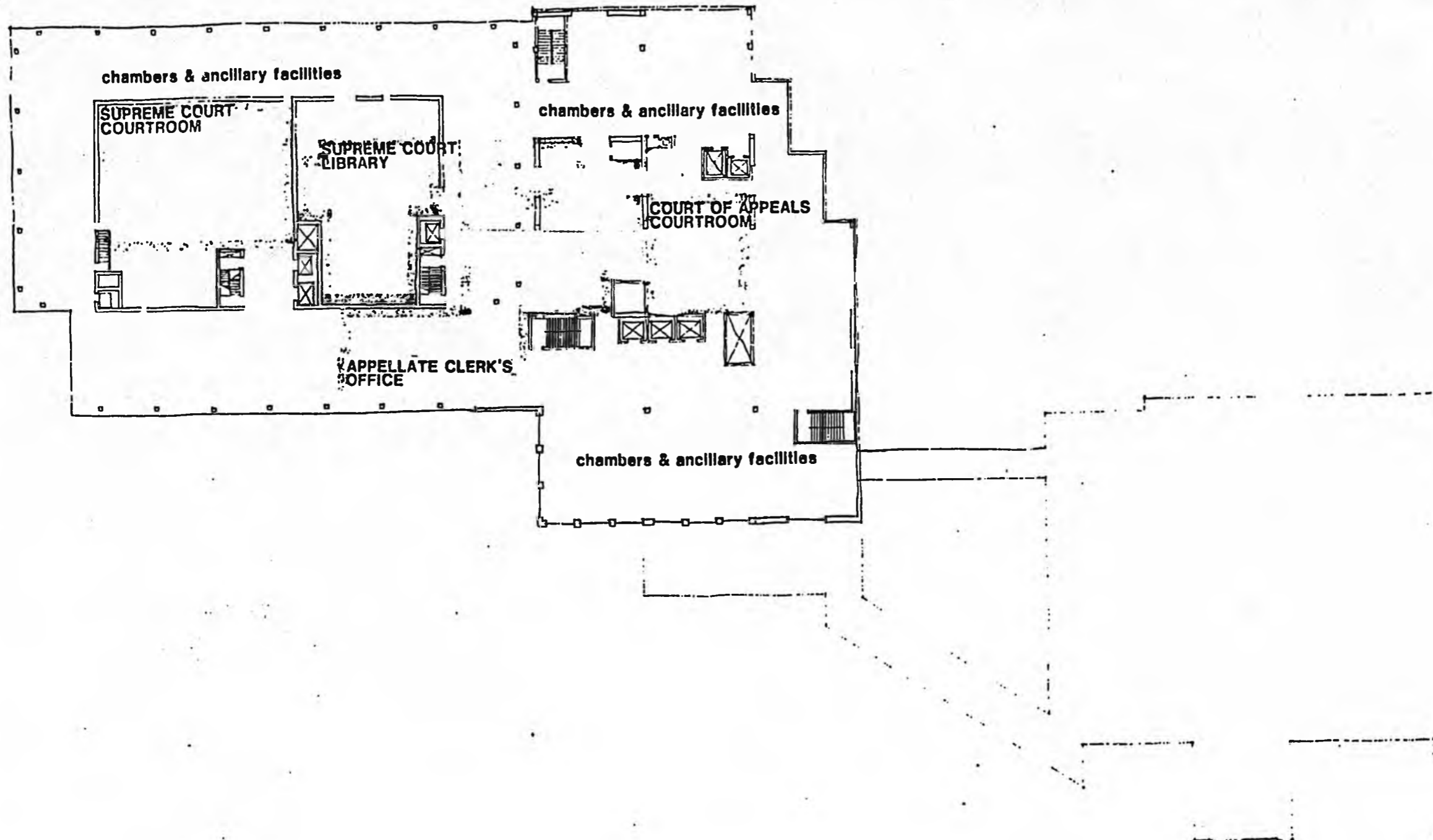


**THIRD FLOOR
BLOCK USE LAYOUT**
ANCHORAGE JUDICIAL CENTER PROJECT
 OFFICE OF ARCHITECTURE AND ENGINEERING
 1100 EAST 12TH AVENUE, SUITE 1000, ANCHORAGE, ALASKA 99515
 DATE: 04/11/01



**FOURTH FLOOR
BLOCK USE LAYOUT**

ARCHITECTURAL CONSULTING SERVICES
 OFFICE MANAGEMENT CONSULTANTS, INC.
 8/27/81



**FIFTH FLOOR
BLOCK USE LAYOUT**
ARCHITECTURAL CONSULTANTS, INC.
SPACE MANAGEMENT CONSULTANTS, INC.
02/2000 0401-11 1:10.00

3/11/88
Sen. Fischer
5-2060A
Cook
3/11/88
F. J. M.
220C.

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certain state leases and lease-
7 financing agreements."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 36.30.030 is amended to read:

10 Sec. 36.30.030. COURT SYSTEM. Except as provided in AS 36.30.-
11 080(c), the [THE] administrative director of courts shall adopt and
12 publish procedures to govern the procurement of supplies, services,
13 professional services, and construction by the judicial branch. The
14 procedures must be based on the competitive principles consistent with
15 this chapter and must be adapted to the special needs of the judicial
16 branch as determined by the administrator of courts.

17 * Sec. 2. AS 36.30.080(c) is amended to read:

18 (c) If the department or the court system intends to enter into
19 a lease or lease-financing agreement with an annual rent to the state
20 anticipated to exceed ~~500,000~~ \$ 240,000 [\$1,000,000], the department or court
21 system shall provide notice to the legislature. The notice must
22 include the anticipated annual lease obligation amount and the antic-
23 ipated total construction, acquisition, or other costs of the project.
24 The department or court system may not enter into a lease or lease-
25 financing agreement with an annual rent anticipated to exceed \$240,000
26 [AN AGREEMENT UNDER THIS SUBSECTION] unless the project has been
27 approved by the legislature by law. An appropriation for the project
28 does not constitute approval of the project for purposes of this
29 subsection.

Memorandum

Alaska Court System

TO:

Arthur H. Snowden, II
Administrative Director

DATE: February 9, 1988

FROM:

Kit Duke
Project Director

SUBJECT: Anchorage Courthouse
Expansion Project

Costs associated with one-year delay for project.

- \$400,000 - For each $\frac{1}{8}\%$ rise in bond interest rates (average debt service charge). Currently bond interest rates are at the lowest they have been in nine months.
- \$3,358,000 - For construction cost escalation (estimate based on consumer price index-urban wage component).
- Costs associated with start-up of project will include delays to schedule and restaffing project if employees are laid off in the interim (which we should definitely assume they will be, in view of the local economic situation with the construction industry). No estimate of this cost can be made at this time.

Total costs (of construction cost escalation plus $\frac{1}{8}\%$ rise in bond interest rates) equals \$3,798,000. For a 1% rise in bond interest rate the total equals \$4,238,000, and so forth.

NOTE: Municipality permit fees will be minimal (\$100) unless redesign occurs or some other modification of the original permit terms is requested. In that case we would pay the entire fee again.

KD:bh

2/9/88-3

February 22, 1988

FEB 26 1988

The Honorable Steve Cowper
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Cowper:

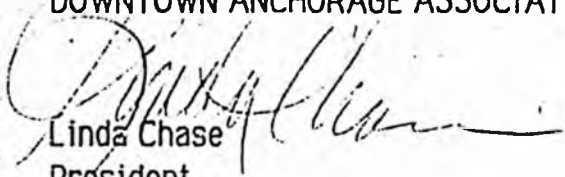
On behalf of the Downtown Anchorage Association, I would like to express our concern over comments we have heard regarding the possibility the new State Courthouse project will not proceed this Spring. We feel this project is vital for not only the economic health of Downtown Anchorage, but also in maintaining the commitment for State agencies remaining in Downtown. In order for a city core to be active and alive, we believe all government agencies should be Downtown to help facilitate access for the general public between various federal, state and municipal offices.

At a recent meeting attended by various property owners that would be affected by the new Courthouse, we were informed they were in support of the project. Although some of the property owners present at this meeting would lose some leased space initially, they were aware when the space was leased it was only for a short time and would gain overall. Additional property owners have made plans by either building new office space or expanding in order to have space available for supportive companies once the project was complete.

We hope you will take into consideration our opinion and ensure this project will proceed as originally planned. The future of Downtown Anchorage will be negatively impacted by stopping the process now.

Respectfully yours,

DOWNTOWN ANCHORAGE ASSOCIATION



Linda Chase
President

cc: Mayor Tom Fink
Senator Joe Josephson
✓ Senator Rick Uehling
Representative Kay Brown
Representative Johnny Ellis
Art Snowden

FACILITY PROGRAM - Summary

REVISED

COURT/DEPARTMENT	PERSONNEL			PERSONNEL SPACES		SHARED SPACES		TOTAL NET SQUARE FEET		TOTAL NSF X 1.2 (Internal Circ.)			TOTAL GROSS SQUARE FEET		
	EXISTING	1995	2005	1995	2005	1995	2005	1995	2005	EXISTING	1995	2005	1995	2005	2/88 Rev.
Supreme Court	30	27	37	5,470	7,490	7,590	7,640	13,080	15,130	16,450	15,670	18,155	22,385	25,935	16,915
Court of Appeals	13	26	26	5,110	5,110	3,615	3,665	8,725	8,775	3,005	10,470	10,530	14,955	15,045	10,830
Appellate Court Clerk's Office	12	15	20	1,580	2,030	1,095	1,170	2,675	3,200	1,715	3,210	3,840	4,585	5,485	3,450
Superior Court	54	59	70	10,100	11,920	28,650	32,340	38,750	44,260	38,990	46,500	53,112	66,430	75,875	52,380
District Court	28	29	36	6,120	7,510	21,695	25,200	27,815	32,710	20,415	33,380	39,250	47,685	56,070	46,270
Probate	5	5	8	550	960	1,300	2,660	2,350	3,020	2,560	2,820	4,345	4,030	6,205	6,165
Family Court	11.5	13	21	1,680	2,520	5,395	7,270	7,075	9,790	7,360	8,490	11,750	12,130	16,785	17,780
Area Court Administration and Calendaring	7	10	12	1,160	1,300	890	970	2,050	2,270	2,330	2,460	2,725	3,515	3,895	3,900
Traffic Court Clerks	16	21	28	1,520	2,010	1,220	1,345	2,740	3,355	5,000	3,290	4,025	4,700	6,750	9,450
Traffic/Committing Magistrates	2	4	4	480	480	2,025	2,350	2,505	2,830		3,005	3,395	4,295	4,850	
Trial Court Clerk's Office	65	76	102	5,450	6,680	12,200	14,715	17,650	21,395	17,550	21,180	25,675	30,255	36,680	31,965
Transcript	7	8	10	910	1,100	1,945	2,370	2,855	3,470	2,300	3,425	4,165	4,895	5,950	4,260
Jury Assembly	3	4	5	310	380	3,730	3,970	4,040	4,350	2,780	4,850	5,220	6,930	7,455	10,150
Grand Jury	-	-	-			1,950	1,950	1,950	1,950	865	2,340	2,340	3,345	3,345	2,244
Coroner/Public Administration	6	7	9	740	880	3,325	3,475	4,065	4,355	3,300	4,880	5,225	6,970	7,465	5,608
Court Security & Bailiffs	11	13	17	240	390	395	520	635	910	*	760	1,090	1,085	1,655	*
A.A.S.A.P.	10	13	17	1,260	1,640	850	975	2,110	2,615	3,120	2,530	3,140	3,615	4,485	4,260
Judicial Services	26	33	42	2,300	2,850	4,280	4,670	6,580	7,520	6,490	7,895	9,025	11,280	12,895	25,815
Municipal Warrants Section	17	19	22	1,070	1,200	1,420	1,510	2,490	2,710	1,080	2,990	3,250	4,270	4,645	4,635
State Court Administration	65	75	86	6,995	7,725	17,270	18,980	24,265	26,705	21,160	29,120	32,045	41,600	45,790	39,575
Law Library	8	11	14	740	930	12,010	14,370	12,750	15,300	14,000	15,300	18,360	21,860	26,230	23,560
Building Amenities	-	-	-			5,050	5,050	5,050	5,050	4,765	6,060	6,060	8,655	8,655	51,470

9/17/88

FACILITY PROGRAM - Summary

COURT/DEPARTMENT	PERSONNEL			PERSONNEL SPACES		SHARED SPACES		TOTAL NET SQUARE FEET		TOTAL NSF X 1.2 (Internal Circ.)			TOTAL GROSS SQUARE FEET		
	EXISTING	1995	2005	1995	2005	1995	2005	1995	2005	EXISTING	1995	2005	1995	2005	2/88 Rev.
District Attorney	45	53	63	5,640	6,740	3,290	3,750	8,930	10,490	12,465	10,715	12,590	15,305	17,985	
Office of Special Prosecutions and Appeals	15	19	25	2,080	2,700	1,580	2,100	3,660	4,800	6,181	4,390	5,760	6,270	8,230	
Public Defender	38	45	53	4,980	5,750	3,010	3,330	7,990	9,080	8,000	9,590	10,895	13,700	15,565	
Office of Public Advocacy	22	29	37	3,480	4,290	1,180	1,220	4,860	5,510	5,340	5,590	6,610	7,985	9,445	
TOTAL PERSONNEL	516.5	614	764												
TOTAL NET SQUARE FEET				69,965	84,585	147,460	167,565	217,425	252,150	207,221	260,910	302,577			
TOTAL GROSS SQUARE FEET													372,730	432,260	370,482

AB 415



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

February 22, 1988

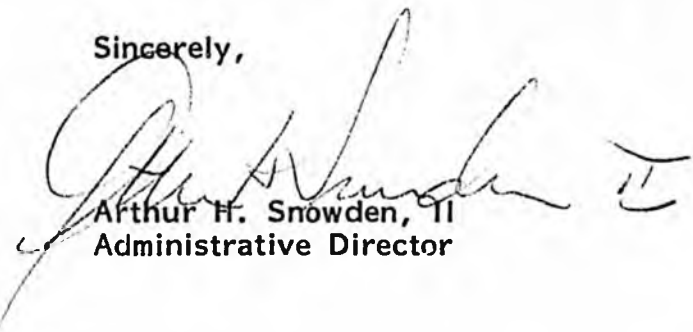
Senator Rick Halford
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear Senator Halford:

Enclosed is the project overview that you requested on behalf of the Senate Finance Committee.

The report documents our findings as to need for the expansion project, the history of project development, the project budget including the architect's current estimate for construction cost, and a record of expenses to date indicating the need for \$1,500,000 to complete the initial project development prior to sale of the bonds.

Sincerely,



Arthur H. Snowden, II
Administrative Director

AHS:bh

Encl.

2/22/88-2

PROJECT OVERVIEW
ANCHORAGE COURTHOUSE EXPANSION PROJECT

FEBRUARY 22, 1988

**OFFICE OF ADMINISTRATIVE DIRECTOR
ALASKA COURT SYSTEM
303 K STREET
ANCHORAGE, ALASKA 99501
(907) 264-0547**

TABLE OF CONTENTS

	<u>PAGE</u>
I. PROJECT DESCRIPTION	1
II. PROJECT HISTORY	3
III. EVALUATION OF NEEDS FOR EXPANSION PROJECT	5
IV. APPENDICES	9
A. APPENDIX ONE - Project Budget	
B. APPENDIX TWO - Expenditures to Date, Additional Funds	

February 22, 1988

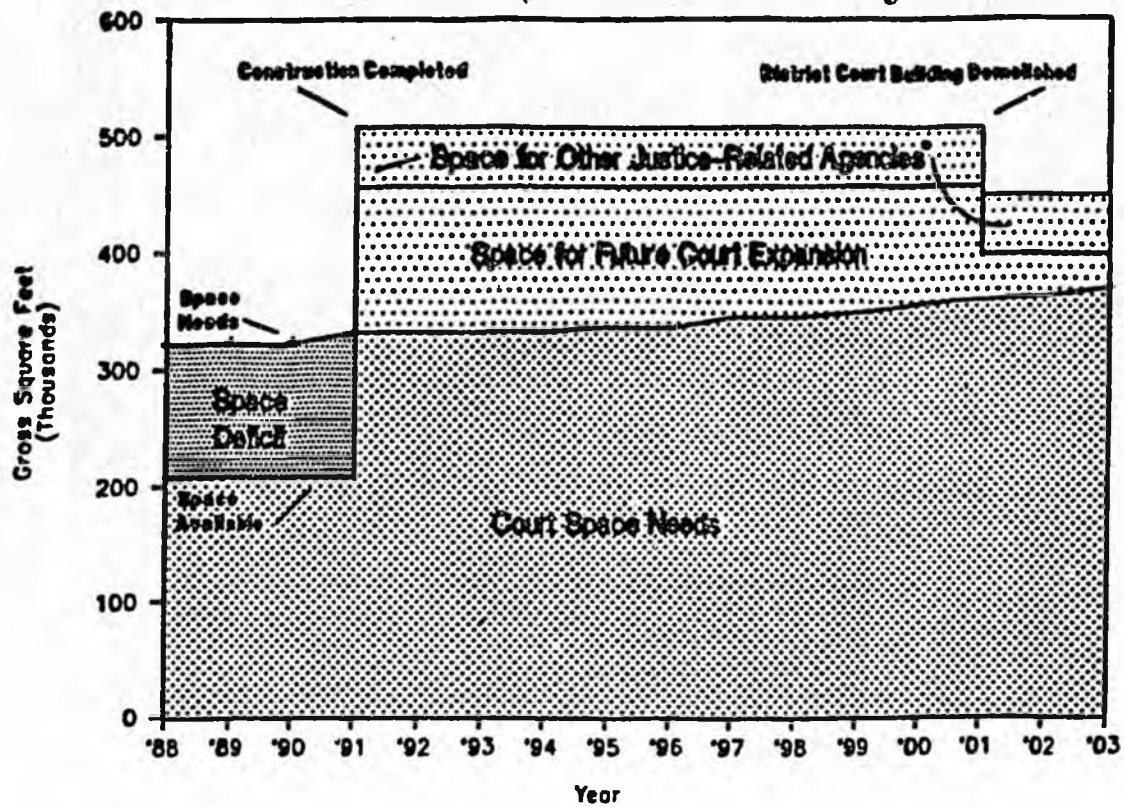
I. PROJECT DESCRIPTION

The court currently occupies two adjacent buildings in the downtown business district. The older building fronts on Fourth Avenue and borders on K Street, and constituted the court's facilities from 1964 until 1973. In 1973, the court took occupancy of the newly-constructed, adjacent Boney Memorial court building at Third Avenue and K Streets. Together these buildings provide the Anchorage court with 208,000 square feet of floor space.

Our current facilities are deficient in a number of ways. One of the most significant is that both buildings permit serious breaches of security. Prisoners are circulated through public corridors and lobbies and the potential for escape and/or hostage situations is great. Split departments and the resultant disruption of work flow and public inconvenience is impossible to correct without extensive and costly remodeling to both buildings. Existing jury assembly facilities are substandard with respect to providing adequate space to instruct jurors and to allow appropriate space for waiting. The existing district court building is significantly deficient with respect to current fire code and seismic requirements, and the mechanical and electrical systems are inadequate and difficult to remodel.

The new facility will correct deficiencies in the existing court buildings, will consolidate court offices and court-related agencies and will provide space for future growth. (See Graph 1) To enhance security the new design allows for three separate circulation patterns: general public circulation; private circulation for court system staff; and secured prisoner circulation. The circulation patterns, in conjunction with an easily operated card security system, will provide a level of security that is impossible to achieve in the present facilities and is needed to protect the public and judicial staff from the heightened risks associated with prisoner escapes. The new facility also provides for a secured sallyport for prisoner movement to and from the courthouse. The new facility will also eliminate the current space rental costs for departments housed in leased space. The training center will eliminate the cost of renting space for magistrate, judicial and clerk conferences. The expanded and redesigned jury assembly facilities reflect current model standards for jury management. Other necessities are provided as well.

**Alaska Court System
Office Space Needs - 1988 through 2003**



Graph 1

Fiscal Impact

Estimated Costs from Present to Completion of Alternative	
Design Costs	\$ 1,500,000
Construction Costs	82,500,000
Reimbursement of Public Facilities Planning Fund (1)	750,000
Project Costs Incurred to Date Not Applicable to Alternative	
Contract Termination Costs	\$ 0
Non-recoverable Project Costs	0
Estimated Annual Operating Costs	
Debt Service (2)	\$8,880,000
Operations and Maintenance Costs (3)	1,683,300
Other Justice-Related Agency Rent Offsets (4)	(870,500)

Notes:

- (1) Repayment of loan for design costs.
- (2) Construction financed with 30-year, lease-revenue bonds.
- (3) Costs estimated at \$.40 per square foot per month for new space.
- (4) Savings from current rental costs (48,360 square feet at \$1.50 per foot per month).

II. PROJECT HISTORY

In FY 1982, the Alaska State Legislature appropriated funds to the Alaska Court System for land acquisition, and planning and design of new court facilities in Anchorage.

Space Management Consultants, a nationally recognized judicial space management firm, was hired to develop a plan for the facility. Based on design guidelines, space standards, and interviews with department heads to determine staff needs, Space Management Consultants developed a program document projecting personnel requirements and space requirements to the year 2005. This document formed the starting point for the architect's design work.

The court system purchased the land across I Street between 4th and the alley for an expansion of court facilities. The firm of McCool-McDonald of Alaska, Inc., was chosen to design the new building. The new facility was planned to provide an additional 350,000 square feet of space, in order to meet the court's projected needs to the year 2005.

The Anchorage court expansion project has had a long history of interaction with Anchorage municipal governmental agencies over the past several years. In January 1982, court administrative staff met with municipal planners to discuss the proposed project. Later in 1982, meetings were held with the mayor and the municipal assembly. The project architect met with representatives from municipal engineering, planning, traffic and fire protection agencies. Four design schemes were created. Meetings continued throughout 1982, on a variety of subjects relating to the proposed project.

In October 1982, the court system filed a Conditional Use Application with the Municipal Planning and Zoning Commission, requesting final approval of the design which had been preferred by municipal staff. However, in December 1982 the Planning and Zoning Commission denied the court's application. The court system appealed the decision of the Planning and Zoning Commission. The Board of Adjustment granted portions of the court system's appeal in August 1983.

In 1984 the Alaska State Legislature authorized the court system to enter into a lease/purchase agreement for construction of a court facility in Anchorage. The Municipality of Anchorage (MOA) has indicated a willingness to finance the expansion project through the issuance of municipal revenue bonds.

On August 23, 1984, the Alaska Court System again filed a request to the Planning and Zoning Commission for final approval of its conditional use application. The court system was required to meet with the Urban Design Commission and the Geotechnical Commission prior to any Planning and Zoning Commission action.

Seismic risk to buildings in Anchorage generally is considered to be quite high. Recognizing this fact, and considering the public nature of the judicial function, the court system engaged seismic design experts H. C. Shah and T. C. Zsutty of Stanford University to develop seismic design criteria for the new facility. In conjunction with Shah and Zsutty's recommendations, a geotechnical investigation and report was completed by

Woodward-Clyde Consultants. Following completion of the seismic criteria and the geotechnical report, a structural design narrative was prepared by Coffman Engineers, Inc. of Anchorage, Alaska. The purpose of the narrative was to present a preliminary structural design that would satisfy the seismic design criteria established by the two previously mentioned reports. This material was presented to the Geotechnical Commission.

Throughout 1985 and 1986 Dr. Shah continued to work with representatives from Woodward-Clyde and Coffman Engineers, to devise detailed seismic design criteria to address any seismic concerns brought by the MOA commissions relating to construction of the court facility on the proposed site.

On June 30, 1986 the Planning and Zoning Commission granted the Alaska Court System a conditional use permit after almost four years of unanticipated delay. The delay has significantly increased the up-front costs associated with the project. Interim remodelling projects were pursued in the existing facility to allow overcrowded departments to continue to function. Professional fees mounted as completed tasks had to be reviewed and updated due to the long passage of time. The result of this delay is that the court lacks \$1.5 million in budgeted funds to complete the planning and design process for this project. (See Appendix Two)

In April 1987 the architect's consultant team completed the schematic design phase and in November 1987 the work on the design development phase was completed. The consultant team is now in the construction documents phase which will be complete in May 1988. The project is scheduled to go to bid in early June, with a target completion date of March 1991.

During this time the court system and the municipality have also come to an out-of-court settlement on a case that had been in litigation since 1978. The settlement reached in December 1987 provides \$350,000 for employee and juror parking at the 6th and H parking garage, to be used by February 1, 1993.

In order to prepare the land purchased for expansion, the existing buildings along 4th Avenue were demolished in the fall of 1987.

III. EVALUATION OF NEED FOR EXPANSION PROJECT

A. Estimation of Needs

The future space needs of the Anchorage court facility were derived from a model which forecasts court staffing levels and resultant space needs based on changes in trial court caseloads and changes in general economic conditions. The model forecasts space needs for the period 1988 through 2003.

The model is based on multiple regression analysis of historical caseloads, population and economic data. Multiple regression analysis is used to determine the mathematical importance of several independent variables in predicting the value of a dependent variable. In the present model, the independent variables of state population, state non-agricultural/civilian employment, and state operating budget are used to predict the dependent variable of trial court case filings. With the inclusion of statewide oil production as an independent variable, the model also predicts appellate court and administrative office staffing. Regression analysis is one of the most widely used "curve fitting" techniques and is appropriate for intermediate and long-term forecasts. The regression analysis produces an equation which can be used to predict future values of the dependent variable based on estimated values of the independent variables. The historical data for the model was obtained from the court system's annual report and from various publications of the state's Department of Labor.

Regression analysis, as well as other historical-based forecasting techniques, suffers from a number of limitations. This method of forecasting assumes that past mathematical relationships will continue to be valid in the future. Additionally, it is not possible to construct a model that adequately reflects all real world factors that affect caseloads and staffing. Further, historical caseload and staffing statistics are difficult to obtain and the statistics that are available may not have been reported on the same basis over the analysis period. The regression analysis was based on only 15 years of data. To evaluate the Anchorage courthouse expansion project required a 15-year forecast of space needs. The model may not have had sufficient data to forecast such a long period. In view of these limitations, the model's projections should be used with caution.

The future economic data used in the regression formulas was obtained from the Institute of Economic and Social Research's Alaska Economy and Housing Market report, dated October 1987. This report provides projections of economic and population data from the present through the year 2010 under several economic scenarios. The report's base economic forecast was used in the model. Oil production data was obtained from a report from the Department of Labor.

B. Caseload Forecasting

The model contains four caseload/staffing forecasting components. The four components are non-traffic filings/staffing, traffic filings/staffing, appellate courts staffing, and administration staffing. Separate components are required to forecast staffing needs for each unique caseload/personnel-space-requirements category. For example, clerical staff is allotted 70 square feet of floor space while superior court judges and related support staff are allocated a combined 2,320 square feet. Personnel-space standards are discussed in a later section.

To develop the first component of the model, the relationship of Anchorage non-traffic case filings to state population, statewide non-agricultural/civilian employment, and the state operating budget was analyzed for the period of 1973 to 1987. Separate analyses were performed for Anchorage superior court, district court, and total non-traffic case filings. Regression formulas were developed for each category of case filings.

To translate the forecasted non-traffic caseloads into staffing requirements, historical staffing patterns for the Anchorage trial courts were reviewed. Workload standards were developed for each personnel-space-requirement category affected by non-traffic filings. The workload standards used in the model are 868 case filings per superior court judge, 2,562 case filings per district court judge, and 300 case filings per clerical position. These figures are the workload averages for fiscal year 1987. The 1987 figures appear to be representative long-term productive capabilities. The forecasted case filings were divided by these standards to estimate future staffing levels for the three categories of employees.

The second forecasting component of the model was developed based on the relationship of Anchorage traffic filings to state population, statewide non-military employment and the state operating budget. A regression formula was developed to correlate traffic caseloads to the identified data. The forecasted traffic filings were converted to staffing requirements by dividing the forecasted caseloads by the workload standard of 3,000 case filings per traffic clerical staff, which is the long-term standard. Other trial court staffing was estimated at 12 percent of the total of judicial, non-traffic and traffic clerical staffing, which is a long-term average of this ratio.

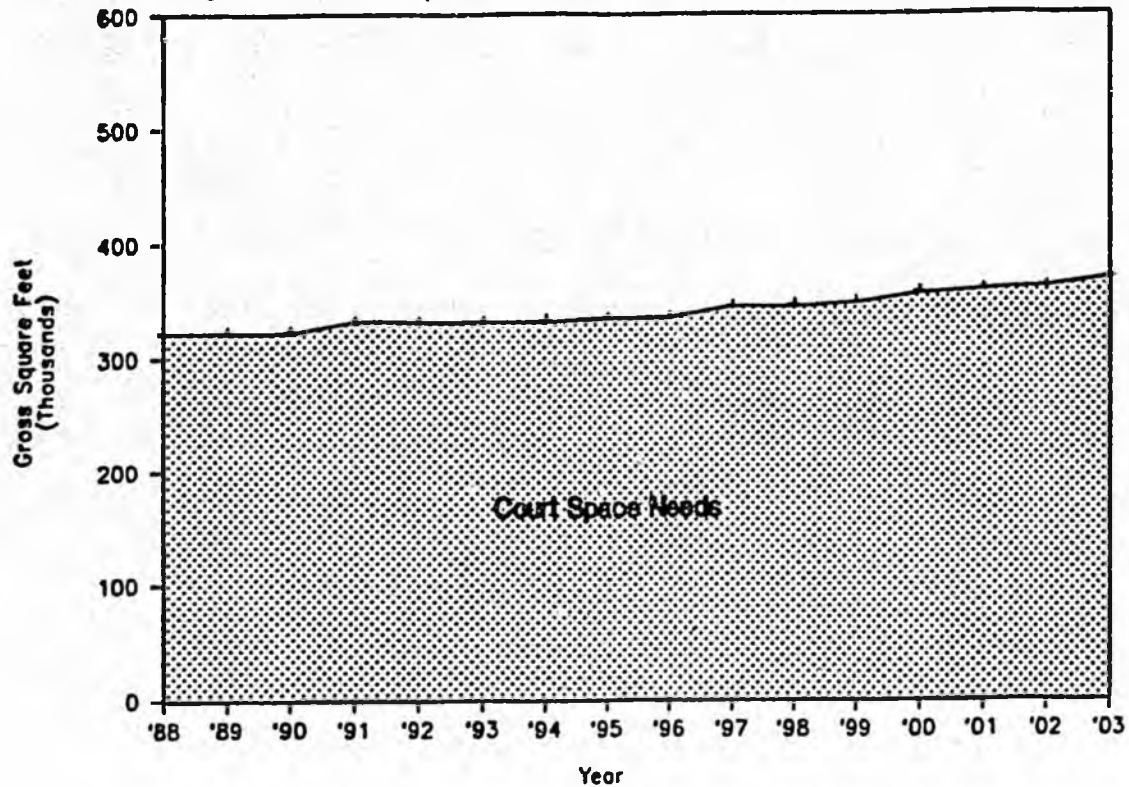
The third and fourth components of the model were developed by separately correlating historical appellate courts and administrative office staff levels for the period of 1974 to 1987 to state population, statewide non-agricultural, civilian employment, the state operating budget, and oil production data. Regression formulas were developed for each category and were used to predict staffing levels based on future changes in the economic and population factors. In addition to court system offices, the Anchorage facility will house the Alaska State Troopers Judicial Services, the Anchorage Alcohol Safety Action Program, the Department of Transportation and Public Facilities Courthouse Maintenance Section, and the Municipality of Anchorage Warrants Section.

Staffing requirements for these entities were obtained from the study prepared by Space Management Consultants.

C. Space Requirement Estimation

Space requirements for the Anchorage court facility were determined by applying standard personnel-space allocation factors (see Appendix One) to the forecasted staffing levels for each year of the forecast period as depicted in Graph No. 1. Specialized space needs, such as courtrooms, hearing rooms and deliberation rooms, were added to judicial employee space needs. The estimated total personnel-space requirements were multiplied by a factor to compute building gross square footage needs. A multiplier factor of 3.4 was used to calculate building gross square footage from net square footage. Net square footage is here defined to be that space which relates to personnel space needs. This multiplier makes provision for the following types of spaces: circulation, clerical and other work areas, public lobbies, reception and waiting areas, library facilities, judicial services other than personnel areas (holding cells, prisoner circulation, control center, toximeter room, etc.), all forms of storage, equipment rooms, public counter areas, duplication rooms, freight delivery, refuse storage and pickup docks, jury assembly areas and training center areas. The multiplier method differs from the method used by Space Management Consultants (SMC) in the original program. The multiplier factor used in the model was calculated to approximate the gross square footage determined by the SMC method. Sufficient time was not available to replicate the model used by SMC. A preliminary comparison of the two methods indicates the multiplier method predicts a slightly higher current gross square footage need than the SMC model. However, the combination of court system staffing estimates and the multiplier predicted slightly lower future space needs than the SMC method.

**Alaska Court System
Projected Office Space Needs in Anchorage - 1988 through 2003**



Graph 2

Estimated Staffing and Space Requirements

<u>Year</u>	<u>Trial Courts</u>	<u>Apl Cts & Admin</u>	<u>AASAP</u>	<u>Judl Svc</u>	<u>MOA Warr</u>	<u>DOT Maint</u>	<u>Total Staff</u>	<u>Estimated Space Needs</u>
1987	209	119	11	5	6	4	354	322,473
1988	202	112	11	5	6	4	340	322,473
1989	200	115	11	6	6	4	342	322,711
1990	200	116	12	7	6	4	345	323,187
1991	206	117	12	8	6	4	353	331,551
1992	206	118	13	9	7	4	357	332,265
1993	207	117	13	10	7	4	358	332,503
1994	209	122	13	11	7	4	366	333,693
1995	212	123	14	12	8	4	373	334,883
1996	214	121	14	13	8	4	374	335,359
1997	221	129	15	14	9	4	392	345,627
1998	224	132	15	15	9	4	399	347,293
1999	227	132	16	16	9	4	404	348,721
2000	233	133	16	17	9	4	412	357,561
2001	236	132	17	16	10	4	417	358,989
2002	241	137	17	19	10	4	428	361,063
2003	244	140	18	20	10	4	436	370,022

APPENDICES

APPENDIX ONE
PROJECT BUDGET

Construction Cost	\$67,570,000
Furnishings and Equipment	6,000,000
Construction Contingency	6,652,000
Art-in-Public-Places Amount	665,000
Construction Administrative Costs, Including Permits, Construction Management Fees, etc.	4,000,000

APPENDIX TWO
ALASKA COURT SYSTEM
ANCHORAGE COURTHOUSE EXPANSION PROJECT

EXPENDITURES to 2/15/88

Site Acquisition, Demolition, and Permits	\$3,258,661.60
Programming	665,940.97
Facilities Design, Seismic Investigation	3,478,460.34
Remodeling Existing Buildings	1,151,786.66
Utilities Relocation	925,119.91
Warehouse Costs	17,621.24
Rental Property Costs	4,840.41
Financing Costs	3,089.80

TOTAL	\$9,069,672.03
-------	----------------

Funds Needed to Complete Design
Phases Prior to Sale of Bonds

Completion of Construction Documents	\$1,223,596.00
Review and Permit Fees	143,404.00
Bidding Costs	133,000.00

TOTAL	\$1,500,000.00
-------	----------------

Introduced: 2/11/88
Referred: Finance

go00608s

<u>Funding Information</u>	
General Fund	\$1,500,000
Other Funds	-0-
	<u>\$1,500,000</u>

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

SENATE BILL NO. 415

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act making a special appropriation to the Alaska

7

Court System; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. The sum of \$1,500,000 is appropriated from the general
10 fund to the Alaska Court System for planning and designing an expanded
11 court facility in Anchorage.

12 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

SB 415

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 11, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making a special appropriation to the Alaska Court System for planning and designing an expanded court facility in Anchorage. In 1981, the legislature appropriated \$9,969,000 for acquisition of land, remodeling of the existing court house, and the planning and design of an addition to the Anchorage court complex. Chapter 82, SLA 1981 (FCCSHB 50). At the time that appropriation was made, it was envisioned that construction would start during FY 83 and finish in FY 86. In October 1981, land was acquired for the project. Planning and design and remodeling started in 1981. Various delays, including that necessitated by the seismic studies required by the Municipality of Anchorage, have caused a shortfall of \$1,500,000. This bill, requested by the court system, will provide the necessary money.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name.

Steve Cowper
Governor

S B

4 16

SENATE COMMITTEE REPORT

FURTHER

3/7/88

DATE TURNED INTO OFFICE _____

Mr. President:

_____ Finance _____ Committee considered _____ SB 416 _____

making a special appropriation to the Department of Labor for the state interim unemployment benefits program; efd

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Chairman signature and recommendation

[] Committee Backup attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/25/88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: Finance

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/11/88

DATE TURNED INTO OFFICE _____

Mr. President:

Labor and Commerce Committee considered SB 416

making a special appropriation to the Department of Labor for the
state interim unemployment benefits program; efd

and recommended:

replace with CS _____ same title
 new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

Tim Kelly
Gabrensky

OTHER RECOMMENDATIONS

William do pass if funds available
Mike Snyder
No Rec. per Sen. 52 3/7/88

Funds Available

Tim Kelly - Do Pass
Chairman signature and recommendation

Committee Backup Attached

Introduced: 2/11/88
Referred: Labor and Commerce and
Finance

5-1816A

Funding Information
General Fund \$2,300,000
Other Funds -0-
\$2,300,000

1 IN THE SENATE

BY HENSLEY, FISCHER, JOSEPHSON,
KELLY, COGHILL AND STURGULEWSKI

2 SENATE BILL NO. 416

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Labor for the state interim unemployment
8 benefits program; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. The sum of \$2,300,000 is appropriated from the general
12 fund to the Department of Labor for the state interim unemployment benefits
13 program (AS 23.20.354) for the fiscal year ending June 30, 1989, to be
14 allocated as follows:

15 Interim benefits	\$2,100,000
16 Administration	200,000

17 * Sec. 2. The unexpended and unobligated portion of the appropriation
18 made by this Act lapses into the general fund June 30, 1989.

19 * Sec. 3. This Act takes effect July 1, 1988.

ALASKA STATE LEGISLATURE

..15th Legislature **2nd** Session

SENATE...**BILL**..... NO. **416**.

By **HENSLEY, FISCHER, JOSEPHSON,
KELLY, COGHILL**

"An Act making a special appropriation to the Department of Labor for the state interim unemployment benefits program; and providing for an effective date."

Introduced in the Senate **2/11** . . . , 19 **88** . . .

HISTORY IN THE SENATE

19	88	Read first time and referred to Committee on										
2	11	L&C, FINANCE Reported back with recommendation that										
3	7	<i>L&C: 3 do pass to Fin</i>										
		Read second time and										
		Read third time and										
		<table border="0"> <tr><td>PASSED</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Excused</td><td>Excused</td></tr> <tr><td>Absent</td><td>Absent</td></tr> </table>	PASSED	Effective Date	Yeas	Yeas	Nays	Nays	Excused	Excused	Absent	Absent
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Yeas	Yeas											
Nays	Nays											
Excused	Excused											
Absent	Absent											
		Reconsideration Reconsideration not taken up										
		<table border="0"> <tr><td>PASSED</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Excused</td><td>Excused</td></tr> <tr><td>Absent</td><td>Absent</td></tr> </table>	PASSED	Effective Date	Yeas	Yeas	Nays	Nays	Excused	Excused	Absent	Absent
PASSED	Effective Date											
Yeas	Yeas											
Nays	Nays											
Excused	Excused											
Absent	Absent											
		Reported correctly engrossed Signed by President Sent to House										

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19		Read first time and referred to Committee on										
		Reported back with recommendation that										
		Read second time and										
		Read third time and										
		<table border="0"> <tr><td>PASSED</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Excused</td><td>Excused</td></tr> <tr><td>Absent</td><td>Absent</td></tr> </table>	PASSED	Effective Date	Yeas	Yeas	Nays	Nays	Excused	Excused	Absent	Absent
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Yeas	Yeas											
Nays	Nays											
Excused	Excused											
Absent	Absent											
		Reported correctly engrossed Signed by Speaker Returned to Senate										

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19		Received from House
		To enrolling
		Reported correctly enrolled
		Sent to Governor
	 by Governor
		Chapter No.
		Filed with Lt. Governor

S B

4 2 4

SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE _____

3/10/88
Mr. President:

Finance Committee considered SB 424

procurement by state agencies from certain entities

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Chairman signature and recommendation

[] Committee Backup attached

SENATE COMMITTEE REPORT

FURTHER Finance

DATE TURNED INTO OFFICE _____

3/2/88
Mr. President:

L&C

Committee considered SB 424

procurement by state agencies from certain entities

and a majority of the Committee recommends the
and recommended *C+RA CS be adopted + do pass.*

replace with _____ CS _____) same title
 or adopt _____ CS SB 424 (C+RA)) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact NO

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

Mike [Signature] No Rec.

Tim Kelly - Do Pass
Chairman signature and recommendation

Committee Backup attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/25/88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: L&C
FINANCE

**FISCAL NOTE(S) ATTACHED yes **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/12/88 DATE TURNED INTO OFFICE _____

Mr. President:

C&RA Committee considered SB 424

procurement by state agencies from certain entities

and recommended: *majority*

replace with CS for SB 424 (CRA) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

[Signature]
[Signature]

OTHER RECOMMENDATIONS

7 *[Signature]* No Rec-

[Signature] Do Pass
Chairman signature and recommendation

Committee Backup Attached

Offered: 3/2/88
Referred: Labor and Commerce and Finance

5-1771B

Original sponsors: Jones, Fischer,
Fanning and Abood

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 424 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to procurement by the Department of
7 Transportation and Public Facilities from certain
8 entities."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 36.30 is amended by adding a new section to read:

11 Sec. 36.30.760. PROHIBITION AGAINST CERTAIN CONTRACT AWARDS. If
12 the Department of Transportation and Public Facilities solicits bids
13 for a construction contract over \$150,000 by issuing an invitation to
14 bid under AS 36.30.100 - 36.30.190 or a request for proposals under
15 AS 36.30.200 - 36.30.270, the Department of Transportation and Public
16 Facilities may not award the contract to a bidder or offeror who is a
17 state agency, a political subdivision of the state, a partnership
18 whose partners include a state agency or political subdivision of the
19 state, or a joint venture whose venturers include a state agency or
20 political subdivision of the state. In this section, "political
21 subdivision" includes school districts.

29
S

Introduced: 2/12/88
Referred: Community and Regional Affairs,
Labor and Commerce and Finance

5-1771A

1 IN THE SENATE

BY JONES AND FISCHER

2 SENATE BILL NO. 424

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to procurement by state agencies
7 from certain entities."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 36.30 is amended by adding a new section to read:

10 Sec. 36.30.760. PROHIBITION AGAINST CERTAIN CONTRACT AWARDS. If
11 a state agency solicits bids for a contract over \$150,000 by issuing
12 an invitation to bid under AS 36.30.100 - 36.30.190 or a request for
13 proposals under AS 36.30.200 - 36.30.270, the agency may not award the
14 contract to a bidder or offeror who is another state agency, a politi-
15 cal subdivision of the state, a partnership whose partners include a
16 state agency or political subdivision of the state, or a joint venture
17 whose venturers include a state agency or political subdivision of the
18 state. In this section, "political subdivision" includes school
19 districts.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CS SB424
PUBLISH DATE: *Senate 3/2/88*

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act relating to procurement by state agencies from certain entities.
Sponsor: Jones and Fischer
Requestor: Sturgulewski

Agency Affected: DOT&PF
BRU:
Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Because of the relatively few examples the department can refer to where a municipality or state agency actively competed for a bid or professional service solicitation, this bill would appear to have minimal or no impact on staffing or cost. It could affect some operational functions of the department, which are further described on the next page.

Prepared by: *Jeffery C. Ottosen*
Jeffery C. Ottosen, Director
Division: Engineering & Operations Standards

Phone: 465-2951
Date: Feb. 29, 1988

Approved by Commissioner: *Mark A. Hill*
Agency: Department of Transportation and Public Facilities

Date: *3/1/88*

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Currently, the department has a number of relatively small operational-type contracts with other governmental agencies for a variety of purposes. These include contracts with local communities for docking of Marine Highway Vessels, terminal operations and ticketing for the Marine Highway system and contracts for maintenance and operations of airports and road systems. Other examples of disallowed inter-governmental contracting may occur depending on how the bill is interpreted. For example, if the department procures shipyard services at locations such as Ketchikan or Seward we may be viewed as being in violation of this proposed law. As each city controls a major shipyard, though leased to a shipyard service firm, legal questions may be raised as to an implied partnership or joint venture on the part of the city which owns or leases the shipyard facilities. A further potential conflict is with the anticipated selection of a southern terminus for the Alaska Marine Highway System. Many of the likely candidate sites involve a governmental entity, including the Alaska community of Hyder.

We believe the principal intent of this bill – to prevent governmental entities from competing in the construction arena – could be served while avoiding the types of conflicts described above with a simple language change. We suggest that the sentence on line 11 be amended as shown:

11 ...a state agency solicits bids for a construction contract over \$150,000 by issuing ...

With the change described above, the operational contracts described herein could continue while construction contracts would be subject to the limitations of public entity contracting as intended by this bill.

→ THIS HAS BEEN DONE IN THE CS. MCA

0-FN

ALASKA STATE LEGISLATURE

. 15th Legislature .. 2nd Session

SENATE... **BILL**..... NO. **424**.

By **JONES**.....

"An Act relating to procurement by state agencies from certain entities."

Introduced in the Senate ... **2/12**....., 19 **.88**...

HISTORY IN THE SENATE

19 88	Read first time and referred to Committee on										
2 12	C&RA, L&C, FINANCE										
	Reported back with recommendation that										
3 8	<i>C&RA explain w CS- 3 do pass, 1 no rec FIN to L&C</i>										
3 10	<i>L&C: 4 do pass could CS, 1 no rec, permit FY to finish</i>										
	Read second time and										
	Read third time and										
	<table border="0"> <tr><td>PASSED</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Excused</td><td>Excused</td></tr> <tr><td>Absent</td><td>Absent</td></tr> </table>	PASSED	Effective Date	Yeas	Yeas	Nays	Nays	Excused	Excused	Absent	Absent
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Absent	Absent										
	Reconsideration Reconsideration not taken up										
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Absent	Absent										
	Reported correctly engrossed Signed by President Sent to House										
	SECRETARY OF THE SENATE										

HISTORY IN THE HOUSE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
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Yeas	Yeas										
Nays	Nays										
Excused	Excused										
Absent	Absent										
	Reported correctly engrossed Signed by Speaker Returned to Senate										
	CHIEF CLERK OF THE HOUSE										

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
 by Governor
	Chapter No.
	Filed with Lt. Governor

ALASKA STATE LEGISLATURE

Home Address
3813 Denali Street
Ketchikan, AK 99901
907-225-9082



While in Juneau
P.O. Box V
Juneau, AK 99811
907-465-3743

Senator Lloyd Jones

MEMORANDUM

TO: Senate members,
Finance Committee

FROM: Senator Lloyd Jones 

RE: Senate Bill 424

I introduced SB 424, "An Act relating to procurement by state agencies from certain entities," because of my concern that state government should help the private sector, not hinder or compete with it.

In a nutshell, it was my intent with this piece of legislation to prevent municipalities from competing with private contractors on state jobs.

There have been a couple of instances lately where municipal organizations either by themselves or in conjunction with a partner have bid or wanted to bid on state projects. It is unfair to private businesses to compete with publicly funded, not-for-profit organizations.

This legislation does not prevent force-accounting or pass-throughs from occurring. Similarly, a political entity who was awarded a contract in a bid process would still have to pay Davis-Bacon wages. Thus, this bill would not cost government more money by allowing private enterprise to compete among themselves, rather than with municipalities.

This bill has the support of labor as well as management in the construction industry. Thank you for giving it your fullest consideration.



SKILL
RESPONSIBILITY
INTEGRITY

THE ALASKA CHAPTER
**ASSOCIATED GENERAL CONTRACTORS
OF AMERICA, INC.**

BOX 92500 • ANCHORAGE, ALASKA 99509
TELEPHONE (907) 561-5354



3201 SPENARD ROAD
ANCHORAGE
WILLIAM E. SCHNEIDER
EXECUTIVE DIRECTOR

March 17, 1988

Testimony

Senate Finance Committee

SB 424: Procurement by the Department of Transportation and Public Facilities from certain entities.

Thank you Mr. Chairman. For the record my name is Resa Jerrel, and I am the Director of Governmental Relations for the Associated General Contractors of Alaska. We appreciated the opportunity to testify in favor of this legislation. I would like to give you the background on the need for this legislation.

Early last fall we encountered a situation that quite frankly we had not encountered before and it disturbed a lot of people in the construction industry.

The Department of Transportation and Public Facilities put out to competitive bid an airport improvement project, the bid opening was September 15th, and to a lot of people's surprise, the apparent low bidder of \$1.8 million was a Joint Venture consisting of a community, a village corporation and a Liquor Store.

On September 23rd we wrote the Department of Transportation registering our concern over the potential of them awarding the contract to such a Joint Venture. We were concerned over the concept of a community competing against private construction companies and believed that it was contrary to the principles of free enterprise. A community receives municipal assistance, revenue sharing, grants to purchase equipment, etc, from the state and quite simply a private company cannot compete with any community that is underwritten by state funds - it is indeed very, very unfair competition.

On October 22nd, the Fairbanks office of the Department of Transportation sent the Joint Venture a notice to proceed.

In November, at the annual convention of AGC, Commissioner Hickey indicated that the award to the Joint Venture was

based on an Attorney General opinion which in essence said that there was nothing in law to prevent the Department of Transportation from awarding the contract to the Joint Venture.

In December I called the Department of Transportation to obtain a copy of the Attorney General's opinion. Staff experienced difficulty in locating it. I called the Attorney General's office and requested that they look through their law opinion index for an Opinion issued in September or October under the subject of contracts, bids, contractors, communities or municipalities that would fit the situation. The only opinion they could find that addressed the issue of a community bidding on projects was dated April 7, 1987 and to my surprise it stated in part:

"You have asked whether a municipality may act as a general contractor on a competitively bid public works project. The short answer is no."

DDT/PF subsequently informed us that the Attorney General opinion, that their Fairbanks office had received was not in writing but was a verbal opinion.

As you might guess, we found these revelations and the potential of other communities bidding against private industry quite disturbing.

The question before you today, as policy makers is: As a matter of public policy are political subdivisions going to be allowed to competitively bid against the private sector?

If you have any questions I would be happy to answer them.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CS SB424
PUBLISH DATE:

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act relating to procurement by state agencies from certain entities.
Sponsor: Jones and Fischer
Requestor: Sturgulewski

Agency Affected: DOT&PF
BRU:

Components:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTURAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

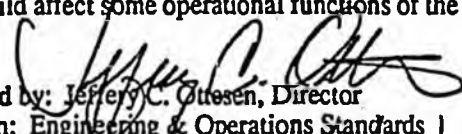
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Because of the relatively few examples the department can refer to where a municipality or state agency actively competed for a bid or professional service solicitation, this bill would appear to have minimal or no impact on staffing or cost. It could affect some operational functions of the department, which are further described on the next page.

Prepared by:  Jeffrey C. Ottosen, Director
Division: Engineering & Operations Standards

Phone: 465-2951
Date: Feb. 29, 1988

Approved by Commissioner: 
Agency: Department of Transportation and Public Facilities

Date: 3/1/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Currently, the department has a number of relatively small operational-type contracts with other governmental agencies for a variety of purposes. These include contracts with local communities for docking of Marine Highway Vessels, terminal operations and ticketing for the Marine Highway system and contracts for maintenance and operations of airports and road systems. Other examples of disallowed inter-governmental contracting may occur depending on how the bill is interpreted. For example, if the department procures shipyard services at locations such as Ketchikan or Seward we may be viewed as being in violation of this proposed law. As each city controls a major shipyard, though leased to a shipyard service firm, legal questions may be raised as to an implied partnership or joint venture on the part of the city which owns or leases the shipyard facilities. A further potential conflict is with the anticipated selection of a southern terminus for the Alaska Marine Highway System. Many of the likely candidate sites involve a governmental entity, including the Alaska community of Hyder.

We believe the principal intent of this bill – to prevent governmental entities from competing in the construction arena – could be served while avoiding the types of conflicts described above with a simple language change. We suggest that the sentence on line 11 be amended as shown:

11 ...a state agency solicits bids for a construction contract over \$150,000 by issuing ...

With the change described above, the operational contracts described herein could continue while construction contracts would be subject to the limitations of public entity contracting as intended by this bill.

Original sponsors: Jones, Fischer,
Fanning and Abood

1 IN THE SENATE
2
3 CS FOR SENATE BILL NO. 424 (C&RA)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FIFTEENTH LEGISLATURE - SECOND SESSION
6 A BILL
7 For an Act entitled: "An Act relating to procurement by the Department of
8 Transportation and Public Facilities from certain
9 entities."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 36.30 is amended by adding a new section to read:
12 Sec. 36.30.760. PROHIBITION AGAINST CERTAIN CONTRACT AWARDS. If
13 the Department of Transportation and Public Facilities solicits bids
14 for a construction contract over \$150,000 by issuing an invitation to
15 bid under AS 36.30.100 - 36.30.190 or a request for proposals under
16 AS 36.30.200 - 36.30.270, the Department of Transportation and Public
17 Facilities may not award the contract to a bidder or offeror who is a
18 state agency, a political subdivision of the state, a partnership
19 whose partners include a state agency or political subdivision of the
20 state, or a joint venture whose venturers include a state agency or
21 political subdivision of the state. In this section, "political
subdivision" includes school districts.



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THE ALASKA CHAPTER
**ASSOCIATED GENERAL CONTRACTORS
OF AMERICA, INC.**

BOX 92800 • ANCHORAGE ALASKA 99509
TELEPHONE (907) 561-8354



3101 SPENARD ROAD
ANCHORAGE
WILLIAM E. SCHNEIDER
EXECUTIVE DIRECTOR

January 27, 1988

Mark Hickey, Commissioner
Department of Transportation &
Public Facilities
3132 Channel Drive
P.O. Box 2
Juneau, Alaska 99811

Re: Kotzebue Airport Project

Dear Commissioner Hickey,

On behalf of the contracting community in Alaska, AGC requests your response to un-resolved issues surrounding the award of a \$1.8 million Kotzebue Airport improvement project to a joint venture comprised in part by a political subdivision of the State.

This circumstance continues to warrant our attention because we believe a system which allows non-profit tax exempt political subdivisions of the State to bid on a competitive basis against private business undermines the free enterprise system on which this country and this State are founded.

In November 1987, at the AGC annual convention, you indicated that the award to the joint venture KIC Corporation /R. & S. Stores/City of Kotzebue (herein after referred to as the City of Kotzebue) was based on an attorney general's opinion. I am not certain you indicated a written opinion, but the audience assumed that to be the case.

I now understand the facts to be different. First, there was no written attorney general's opinion recommending project award to the City of Kotzebue. Second, a written attorney general's opinion was issued in a memorandum dated April 7, 1987 succinctly stating that a municipality may not act as a general contractor on a competitively bid public works project.

Commissioner Hickey
Page 2

The October 12, 1987 Intent to Award letter by DOT/PF Regional Director Lynn Harnish directly contradicts this April 7, 1987 attorney general's opinion. Harnish states in part:

There is no law which prohibits a municipality from bidding on a public works project as a joint venture with other contractors. Article X, paragraph 1 provides that "a liberal construction shall be given to the powers of local government units." A.S. 29.35.010(B) allows a municipality to enter into agreement. Considering the broad construction of powers by municipalities required by the constitution and by statute (A.S. 29.35.400 and A.S. 29.35.410), I am unable to conclude that it is illegal for the City of Kotzebue to enter into a joint venture agreement for the purpose of bidding on State construction contract, and the DOT/PF is obligated by A.S. 35.15.050 to award to the lowest responsible bidder regardless of considerations of policy.

The April 7, 1987 attorney general memorandum states in part:

You have asked whether a municipality may act as a general contractor on a competitively bid public works project. The short answer is no. Finally as we noted earlier, powers given local governments are liberally construed. (Citations omitted) In this instance, municipalities are not given the authority to compete as a general contractor for public works projects. Thus, if a municipality were to adopt such a power, it would have to be implied. "[I]nsofar as municipal corporations do possess implied powers, such powers are to be strictly construed against the entity claiming them." (Citations omitted) Given this rule, a municipality would be barred from asserting implied powers so as to involve itself as a general contractor on a competitively bid public works project.

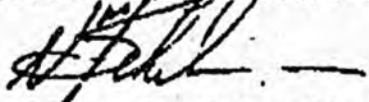
Commissioner Hickey
Page 3

As you might guess, we find these revelations to be quite disturbing. Our concern is for the future. Are tax exempt political subdivisions going to be allowed to compete against the private sector? Will DOT/PF ignore the April 7, 1987 attorney general opinion if a similar situation occurs in the future?

I am sure you understand our concerns. Can you please indicate what if anything, DOT/PF plans on doing to address these concerns.

Sincerely,

ALASKA CHAPTER
ASSOCIATED GENERAL CONTRACTORS



William E. Schneider
Executive Director

WES/mjc

\\WES\HICKEY.LTR

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
NORTHERN REGION, DESIGN AND CONSTRUCTION

STEVE COWPER, GOVERNOR

2301 Peger Road
Fairbanks, Alaska 99709-6394
(907) 451-2200

October 22, 1987

Re: Project No. AIP 3-02-0160-04/60434
Kotzebue Airport Improvements

NOTICE TO PROCEED

EXPRESS MAIL NO. B26617136
RETURN RECEIPT REQUESTED

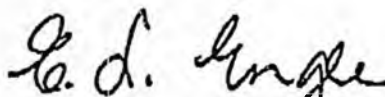
Kotzebue/K.I.C./R & S Store, Inc. J.V.
P.O. Box 46
Kotzebue, Alaska 99752

Gentlemen:

The Federal Aviation Administration has reviewed and approved the contract documents for the referenced project. You are hereby directed to proceed with the work called for under this contract. The effective date of this Notice to Proceed is October 22, 1987. Contract completion date is October 31, 1988.

Please address future correspondence to Ron Davena, Western District Engineering Manager, Department of Transportation & Public Facilities, P.O. Box 1048, Nome, Alaska 99762 or his designee.

Sincerely,



Elizabeth L. Engle, P.E.
Director, Design and Construction
Northern Region
Contracting Officer

SPL/dv

RECEIVED
OCT 26 1987
Associated General Contractors

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NORTHERN REGION, REGIONAL DIRECTOR

STEVE COWPER, GOVERNOR

2301 PEGER ROAD
FAIRBANKS, ALASKA 99709-6218
PHONE: (907) 451-2210

October 12, 1987

Re: Kotzebue Airport Improvements
Project No. 60434

Brown Construction
P.O. Box 1313
Kenai, Alaska 99611

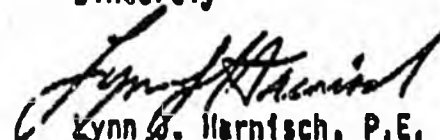
Kotzebue/KIC/R & S Stores, Inc., J.V.
P.O. Box 46
Kotzebue, Alaska 99762

Gentlemen:

Having considered the bid protest of Brown Construction, and reviewing the materials submitted by Brown Construction and Kotzebue/KIC/R & S Stores, JV, it is my decision to deny the bid protest. There is no law which prohibits a municipality from bidding on a public works project as a joint venture with other contractors. Article X, paragraph 1 provides that "a liberal construction shall be given to the powers of local government units." A.S. 29.35.010(B) allows a municipality to enter into agreements. Considering the broad construction of powers by municipalities required by the constitution and by statute (A.S. 29.35.400 and A.S. 29.35.410), I am unable to conclude that it is illegal for the City of Kotzebue to enter into a joint venture agreement for the purpose of bidding on a state construction contract, and the DOT&PF is obligated by A.S. 35.15.050 to award to the lowest responsible bidder regardless of considerations of policy. It is for the legislature to determine whether, as a matter of policy, governmental entities should be permitted to compete for public contracts.

The contract for Project No. 60434 will be awarded to Kotzebue/KIC/R&S Stores, JV. It is expected that the contract award will be made on October 14, 1987.

Sincerely



Lynn G. Harnisch, P.E.
Regional Director
Northern Region

**BROWN CONSTRUCTION COMPANY, INC.**

GENERAL CONTRACTOR
BOX 1313 - KENAI, ALASKA 99611
(907) 283-9408

September 18, 1987

Mr. Robert Venusti
Department of Transportation/PF
Technical Services Bldg.
2301 Peger Road
Fairbanks, Alaska 99709-6364

Re: Notice of Bid Protest
Ralph Wien Memorial Airport
AIP NO.-3-02-0160-04
Project No.: 60434

Dear Robert Venusti:

This letter is a formal bid protest for the Kotzebue Airport Project which was tentatively awarded to the City of Kotzebue/ K.I.C./R&S Stone, Inc., a Joint Venture. As of September 17, 1987, no notice of "intent to award" had been issued.

I feel that the inclusion of the "City of Kotzebue" as a Joint Venture partner for a construction project may; (1) be a conflict of interest, (2) give "unfair competitive advantage" to K.I.C./R&S Stone, Inc. in obtaining the contract, (3) undercut the competitive bid process, (4) possibly misuse public funds for private gain, and (5) make the bid "unresponsive."

The apparent ability of K.I.C./R&S. Stone, Inc. to use city owned equipment and rely on city funds for bonding clearly seems inappropriate, to say the least. The bid bond for the project was posted by the City of Kotzebue. See Exhibit B. It usually takes a licensed General Contractor with a proven track record to obtain the proper bonds to perform contracts such as the Kotzebue Airport Project. The use of "city funds" to provide bonding undercuts other contractors' abilities to compete on a fair basis. Brown maintains that the low bid submitted by the Joint Venture reflects the advantage gained by including a municipal entity in the partnership. (Brown's Bid \$2,262,911.00 - Joint Venture's Bid \$1,791,501.00.) The municipality's participation creates the definite appearance of a "conflict of interest."

Mr. Robert Venusti
September 18, 1987
Page Two

If Brown Construction Inc. had known that the City of Kotzebue was going to be a participant in the bidding process, Brown would never have gone to the expense of preparing a bid in the first place. The participation of the "City of Kotzebue" cannot be found on the planholders list. See Exhibit C. The use of "city funds" seemingly allows a private individual, i.e., Joint Venture partners, to profit with the use of funds which are derived from the citizens of Koztebue (Public Funds). The use of such funds could provide the basis for an injunction to prohibit the City of Kotzebue from using any funds on the project.

In addition, any proposed use of city owned equipment by the Joint Venture adds to the "unfair advantage" gained at the expense of other bidders. The DOT/PF should also note that all Joint Venture partners have agreed to sign for bonding on the project. See Proposal submitted to DOT/PF by Joint Venture (Exhibit A). The DOT/PF should determine whether or not a surety will even bond an unlicensed municipality involved in a joint venture. The unfair advantage which the Joint Venture has over other contractors becomes even more apparent if the City of Kotzebue intends to furnish a cash bond for the Joint Venture. All other contractors that cannot rely on municipal funds are put at a disadvantage since commercial sureties or private cash bonds must be relied upon by non-municipal entities. The DOT/PF could end up using the municipal funds, i.e. cash bond, to complete the project, in the event of incomplete performance on behalf of the contractor.

The DOT/PF may find it useful to review the Joint Venture agreement between the parties in order to clarify some of the issues mentioned above. A Joint Venture similiar to the Kotzebue/K.I.C/ R & S Stone Inc. is required to keep a copy of the agreement on file at each parties main place of business. See 12 AAC 21.010, Joint Venture Agreement, A.S. 08.18.011. Also see Exhibit D.

If a precedent is set which allows "municipalities" to compete against private enterprise in the construction business, the competitive bid process will ultimately suffer as will the individual contractor. Brown requests that DOT/PF reject the Joint Venture's bid and accept the next lowest bid which was prepared in accordance with recognized standards for bidding on public projects. Please contact me concerning DOT/PF's position on this matter immediately.

Very truly yours,

Don Brown



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THE ALASKA CHAPTER
**ASSOCIATED GENERAL CONTRACTORS
OF AMERICA, INC.**

BOX 92500 • ANCHORAGE, ALASKA 99509
TELEPHONE (907) 561-5354



3201 SPENARD ROAD
ANCHORAGE
WILLIAM E. SCHNEIDER
EXECUTIVE DIRECTOR

September 23, 1987

Mark Hickey, Commissioner
Department of Transportation
and Public Facilities
P.O. Box 2
Juneau, Alaska 99811

Dear Commissioner Hickey:

I am writing to register concern over the facts surrounding the bids for the improvements to Kotzebue's Ralph Wien Memorial Airport, DOT/PF Project No. 60434 AIP No. 3-02-0160-04.

The apparent low bidder on this \$1.8 million project includes the City of Kotzebue as a joint venture partner. To my knowledge this is the first time a political subdivision of the State has bid on a DOT/PF project.

The concept of a non-profit public corporation competing against private construction companies is contrary to principles of free enterprise. Quite simply, a private company cannot compete with a non-profit, non-taxable public entity which utilizes publicly owned and non-taxable equipment.

AGC Alaska requests a through investigation by DOT/PF into the responsiveness and appropriateness of this bid. Additionally, the capability of the joint venture to bond this project should be reviewed.

DEC-22-87 TUE 17:20

P. 03

Mark Hickey, Commissioner
Page 2

Please keep me advised of your actions in this matter.

Sincerely,

ALASKA CHAPTER OF
ASSOCIATED GENERAL CONTRACTORS



Patrick J. Steward
President

cc: Lynn Harnisch, Regional Director
DOT/PF - Northern Region
AGC Board of Directors
Senator Jan Faiks
Representative Ben F. Grussendorf

WFR/mjc

MEMORANDUM

State of Alaska

TO: Marty Rutherford, Director
Municipal & Regional Asst. Div.
Dept. of Community & Regional
Affairs

DATE: April 7, 1987

FILE NO: 663-87-0189

TELEPHONE NO: 465-3600

FROM: Grace Berg Schaible
Attorney General

SUBJECT: Municipality as general contractor for public works project

Marjorie L. Odland

Thru: Marjorie L. Odland
Assistant Attorney General
Governmental Affairs-Juneau

By: Bruce Weyhrauch *Bruce Weyhrauch*
Legal Assistant
Governmental Affairs-Juneau

You have asked whether a municipality may act as a general contractor on a competitively bid public works project. The short answer is no.

We have previously opined that municipalities performing work on public works projects, a practice commonly referred to as "forced accounting," are not required to pay prevailing wages under AS 36.05.010 -- 36.05.110 (Little Davis Bacon Act). 1983 Inf. Op. Att'y Gen. (Apr. 19; 663-83-0554). See 1983 Inf. Op. Att'y Gen. (Mar. 11; 663-83-0267). We have also approved of situations where municipalities carry out their public construction projects by hiring private contractors to perform project management and supervision while using municipal employees to do the construction work. 1978 Inf. Op. Att'y Gen. (Oct. 11; 663-79-0195). However, none of these opinions address the question posed. Based upon our analysis, we find that a municipality may not act as a general contractor on competitively bid public works projects.

Generally, the policy of the Department of Transportation and Public Facilities (DOT/PF) is "to require the construction of all public works under bid contracts." AS 35.15.010. Public work contracts are required to comply with Title 35, AS 36.30 (the State Procurement Code), and regulations adopted under those laws. AS 35.15.040. ^{1/} Contractor is defined as "the contractor including subcontractors performing work necessary to

^{1/} The effective date of AS 35.15.040 and AS 36.30 is July 1, 1987.

Marty Rutherford, Director
Municipal & Regional Asst. Div.
Dept. of Community & Regional Affairs

April 7, 1987
Page #2
663-87-0189

facilitate public construction." AS 36.95.010(1). 2/ DOT/PF is given the authority to "enter into contracts or agreements relating to public works with ... political subdivisions...." AS 35.-05.040(7).

Basically, the legislature has provided three ways for the construction of public works projects. First, if a project is estimated to cost less than \$100,000, or if it is in the best interests of the state, DOT/PF may perform the work. AS 35.15.-010. Second, when the estimated construction costs exceed \$100,000, DOT/PF must advertise, request bids, and award contracts competitively. See AS 35.15.020 -- 35.15.050. Third, a municipality can request DOT/PF to give the municipality all the authority to plan and construct "public works projects of the state which [are] to be located within the boundaries or the operating area of the municipality...." AS 35.15.080(a). See 1981 Inf. Op. Att'y Gen. (May 29; 663-81-0044).

Nothing in Alaska law specifically prohibits municipalities from acting as a general contractor on competitively bid contracts. And, the powers given local government units are to be liberally construed. See Alaska Const. art. X, § 1; AS 29.-35.400. Yet, if an affirmative response is given to your question, ostensibly, a municipality could bid on all kinds of public works projects in all areas of the state, just like any other general contractor. We believe the legislature did not intend to give municipalities this authority. By specifically bestowing upon a municipality the authority to "adopt" the planning and construction of public works projects located within the boundaries of the municipality under AS 35.15.080 the legislature intended to give municipalities the authority to carry out public works projects without competition. Similarly, the legislature constrained municipalities to assume the construction of relevant public works projects only within the boundary or operating area of the municipality. AS 35.15.080(a). By implication, a municipi-

2/ AS 39.95.010(3) defines public works as "the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecoration of buildings, highways or other improvements to real property under contract for the state, a political subdivision of the state, or a regional school board...." AS 35.25.020(7) defines public work as "a structure or project constructed or maintained by [DOT/PF] except airports and highways and includes public buildings, boat harbors, port facilities, dikes, jetties, and breakwaters." A political subdivision of the state includes boroughs, cities, and villages. AS 36.95.010(6).

Marty Rutherford, Director
Municipal & Regional Asst. Div.
Dept. of Community & Regional Affairs

April 7, 1987
Page #3
663-87-0189

pality venturing outside its boundaries to compete with the private sector for public works projects would be engaging in an ultra vires act, because this action is neither allowed by statute nor by municipal charter. Cochran v. City of Nome, 10 Alaska 425, 435 (D.C. Alaska 1944). See 10 E. McQuillin, The Law of Municipal Corporations § 29.104c (3d ed. 1981); 3A C. Antieau, Independent Local Government Entities § 30B.08 (1987) ("Ultra vires contracts are agreements beyond the borough's power under all circumstances."). See generally 72 C.J.S. Supp. Public Contracts § 4 (1975). On a practical level a municipality competitively bidding against private sector contractors would, in all probability, cause quite a political fuss and raise numerous logistic, ethical, and practical problems for the municipality.

Finally, as we noted earlier, powers given local governments are liberally construed. E.g., Liberati v. Bristol Bay Borough, 584 P.2d 1115, 1120 (Alaska 1979). In this instance, municipalities are not given the authority to compete as a general contractor for public works projects. Thus, if a municipality were to adopt such a power, it would have to be implied. "[I]nsofar as municipal corporations do possess implied powers, such powers are to be strictly construed against the entity claiming them." Girves v. Kenai Peninsula Borough, 536 P.2d 1221, 1224 (Alaska 1975) (footnote omitted). Given this rule, a municipality would be barred from asserting implied powers so as to involve itself as a general contractor on a competitively bid public works project.

Notwithstanding this conclusion, municipalities are not completely barred from competing with members of the private sector, such as general contractors.

Engaging in enterprises usually owned and operated by private individuals has also been sanctioned provided the public interest so requires. The opinion has been given that as long as the city refrains from extending its activity into active competition with private enterprise in dealing with others, it should be allowed considerable latitude in providing for itself those things necessary to carry on a legitimate municipal function if there are valid reasons for becoming a self-supplier. The word "private," as used in the opinions discussing the powers of a municipality, is used to designate proprietary as distinguished from governmental functions.

12 E. McQuillin, The Law of Municipal Corporations § 36.02 (3d

Marty Rutherford, Director
Municipal & Regional Asst. Div.
Dept. of Community & Regional Affairs

April 7, 1987
Page #4
663-87-0189

ed. 1986) (emphasis added, footnotes omitted). But that competition is limited by what the legislature allows.

A municipal corporation is invested with full power to do everything necessarily incident to a proper discharge of its public functions, but no right to do more can be implied, and in the absence of express legislative sanction, it has no authority to engage in any independent business enterprise or occupation such as is usually pursued by private individuals.

Ravettino v. City of San Diego, 160 P.2d 52, 56 (Cal. 1945) (emphasis added). Accord Ace Ambulance Service, Inc. v. City of Augusta, 337 A.2d 661 (Me. 1975); Keeter v. Town of Lake Lure, 141 S.E.2d 634, 643 (N.C. 1965). See Stanley v. Dept. of Conservation & Dev., 199 S.E.2d 641, 652 (N.C. 1973) ("A municipal corporation ... even with legislative sanction, cannot engage in a private enterprise or assume any function which is not in a legal sense public in nature.").

We hope this answers your question. If we can be of further assistance, please feel free to call.

BW/pjg

cc: Michael Cushing, Planner
DCRA/MARAD - Juneau

Michael Favoliero, City Manager
Hoonah

Robert M. Maynard, Esq.
Assistant Attorney General
Dept. of Law - Juneau