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# Board of Supervisors Memorandum

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November 13, 2012

## Joint Justice/Municipal Courts Complex

### Background

The City of Tucson and Pima County have been involved in the development of the Joint Justice/Municipal Courts Complex (JJMCC). This facility was to be funded with bonds from the 2004 bond program. Seventy-six million dollars in bonds were allocated, with an additional \$4 million slated to be added to the project from the sale of the existing City Court facility.

The JJMCC project design progressed through the Joint Court Complex Management Team comprised of City and County officials. At one point, project design ballooned to a size of 470,000 square feet, a facility significantly larger than could be afforded.

The JJMCC design was then downsized by relocating prosecutor and defender support personnel elsewhere. The County purchased the Bank of America Building to meet our long-term space requirements for our prosecutors and defenders. The City took no action.

The project also experienced significantly greater archeological mitigation costs than anticipated; nearly \$17 million.

The project was then designed in two phases due to an anticipated shortfall in bond funds available for construction. The first phase, tower shell construction, is currently underway at an estimated cost of nearly \$48 million; approximately \$12.5 million more than the remaining available bonds.

The Bond Advisory Committee has allocated up to an additional \$50 million to complete the facility. However, it is unlikely a bond election for such will occur before November 2014. The County chose to proceed with tower shell construction, as well as physical plant facilities, due to an estimated construction cost savings of nearly \$10 million due to the competitive construction economy and the desire to continue local construction employment for approximately 800 workers. Tower construction is well underway, with no anticipated cost increases.

Tenant improvement construction documents for both County and City court functions have been completed and can be bid in mid-2013.

In order to proceed with project implementation, the County proposed that each entity (City and County) bear the excess cost of construction over and above available bonds in

proportion to their use. As currently planned, the City would occupy 54 percent of the facility; the County 46 percent.

The Mayor and City Council, acting on the City Manager's recommendation,, selected Option Four as described in the City Manager's October 15, 2012 letter to me (Attachment 1). They eliminated Options Two and Three and decided their next best option is Option One; essentially staying in their existing building.

The purpose of this memorandum is to address the City's actions and to recommend a course of action for completing the JJMCC project currently under construction.

### **Selected City Option**

The option selected by the City (Option Four) means the City would not pay any excess capital costs over and above voter-authorized bonds for the facility. Essentially, the County would be subsidizing the City for their occupation of the building. The amount of capital costs attributable to the City's use of the facility beyond available bond funds is approximately \$20 million, plus the City's approximate \$584,000 share of the Tucson Water service expansion, the total cost of which is approximately \$1,082,400.

The City cites as their reason for not making capital contributions in proportion to their use in excess of available bond funds or paying their share of Tucson Water cost their fiscal position and significant expenses in Fiscal Years 2014 and 2015 related to the modern streetcar, grant-funded police salaries, public safety retirement payouts and their intent to incrementally address compensation (raises) for City staff.

There has also been considerable discussion by the Mayor and Council regarding Option One, which would allow the City to remain in their existing court building.

Given the continuing decline in the property tax base, which is expected to last for another two to three years, the County is in no position to subsidize City operations by paying their share of costs.

### **Best Option for the City**

In light of the City's fiscal position, it appears the best option for the City would be to remain in their existing court building (Option One). We have no concern if they desire to remain in their existing facility due to their anticipated financial conditions.

### **Excess Building Capacity is Not Unusual**

With the City not participating in the project, the County will construct those portions of the JJMCC for the relocation of our Justice Court functions and supporting court services. This is approximately 46 percent of the structure. The County could also construct additional

courtrooms to provide for future Justice Court expansion, and we will examine other uses associated with the high-volume ground floor public access design of the building.

Building court facilities that have long-term excess capacity is not unusual. In October 2012, we constructed the final courtrooms in the Superior Courts building originally constructed in 1972. Over the years, this building has housed the County Attorney and Adult Probation and included several vacant floors when finished in 1972. The JJMCC will be similar to the Superior Courts building when initially completed. Given our nearly \$10 million investment in the existing Superior Court facilities and the completion of the JJMCC in 2014, we will have ample court capacity for the next 30 years without building any new structures.

### **Proceeding with County Tenant Improvements**

The JJMCC tower and physical plant are now under construction by Sundt Construction Company at an estimated total cost of \$48 million. Bonds for the facility are sufficient to cover all but approximately \$12 million of this cost. Tenant improvements cost for the County portion of the initial building is estimated to be approximately \$15 million and will begin construction in June 2013.

The present cost in excess of available bond proceeds is fully funded by a Board-authorized allocation from the Tax Rate Stabilization Fund of \$22 million, with \$12 million covering the excess shell contract and \$10 million to construct Superior Court courtrooms on the Eighth Floor of the Superior Courts building. We expect to make a decision regarding funding the County tenant improvements for the JJMCC in the spring of 2013.

Attachment 2 shows the floor-by-floor analysis of what will not be constructed due to the City not being able to move into the building. We will explore a number of options to fill the City space with legal or court related functions. It is likely we will be able to find a number of compatible tenants who will be willing to pay their share of costs.

### **Common Myths**

- 1. The City of Tucson has not been involved in decisions regarding the JJMCC design.** It appears in communications from the Mayor and Council, there is a belief the City is not directly involved in the decisions regarding joint court design, scope reduction or phased construction. The City has participated since 1996 in the Joint Court Complex Management Team. Key City Court and management staff attend, participate in and vote on the decisions of the Joint Court Complex Management Team. This team last met on February 3, 2012; and the City has always been aware of the strategies associated with the JJMCC.
- 2. The County should pay the City's share of excess capital cost because "The rationale is that if the County general fund will be used to pay for the shortfall, City tax payers are also County tax payers and should not have to pay twice for the use of funds they have paid for already through their property taxes."** (Page 3, City Manager's October 15, 2012 letter.)

The County General Fund is paying the County share of costs in excess of bonds. For this fiscal year, the General Fund budget is \$454 million. The primary property tax provides \$281 million in revenue for the General Fund, or 62 percent of total revenues.

City of Tucson residents and businesses comprise 41 percent of the total County property tax base even though they represent 53 percent of the County population. The amount they pay into the County General Fund is \$115 million, or 25 percent of the total revenue.

To help address the claim of double taxation, it is important to determine if City residents receive \$115 million in services from the County in one year. The largest expenditures of the County General Fund support the regional criminal justice system, which costs the County General Fund \$172 million annually. Services received by City residents include prosecution, defense, courts and adult as well as juvenile probation.

Of those individuals held or booked into detention by the Sheriff, 51 percent were arrested by a Tucson Police Department (TPD) officer; and 65 percent of felony case filings in Superior Court relate to a TPD arrest. Over half the cost of the criminal justice system is attributable to the City.

Our cost to provide indigent health and public health services is another \$97 million annually, and the City benefits from these expenditures at least in proportion to their population, or more than half. This does not include all of the other County General Fund costs attributable to the City.

The cost of these services rendered to City residents equals or exceeds their property tax contribution. The City maintains a municipal court system and retains the revenues it generates for the City's General Fund. Hence, the issue of double taxation requires no further discussion or analysis.

**3. The County used \$12 million of Joint Court bonds to build Superior Court courtrooms in the Superior Courts building.** Such was initially discussed because the majority of criminal cases in the Superior Courts building are from the City of Tucson. However, after discussions with the City and Vice Mayor Steve Kozachik, the County agreed to pay for the Superior Court courtrooms at a cost of \$9.8 million through the County General Fund, which is the present allocation from the Property Tax Rate Stabilization Fund.

**4. The County would now have sufficient space to sell the recently acquired HUD Building to facilitate private office uses.** The County purchased this building for \$635,000 because it represented a bargain for the taxpayers, and we have long believed ownership is a better financial outcome for the taxpayers than renting, since we are not a transient use. The fiscal wisdom of purchasing the HUD Building was self-evident when our cost to purchase was less than two years of rental payments for Justice Court space in La Placita Village. The former HUD Building is ideally located to provide publicly-employed attorneys, either prosecutors or

defenders, with appropriate office space in very close proximity to the new JJMCC. As strategically planned, the County will relocate existing attorneys currently operating from the Bank of America Building to the former HUD Building concurrent with the opening of the new JJMCC. Subsequently, the vacated Bank of America space would then house the Pima County Regional Flood Control District, which currently occupies the County-owned facility at 97 East Congress. This relocation would then allow the County to place the 97 East Congress building on the market for private redevelopment. Located directly on the modern streetcar route, the 97 East Congress building offers tremendous redevelopment potential for both residential and commercial uses.

**Recommendation**

Regretfully, it is recommended the Board of Supervisors decline the offer from the Tucson Mayor and Council to implement Option Four in the City Manager's October 15, 2012 letter, which would require the County to pay all excess capital costs for the City, and concur with the Mayor and Council that Option One appears to be the City's best option, given their anticipated obligations and resulting financial stress in Fiscal Years 2014 and 2015.

It is further recommended the Board of Supervisors direct County staff to continue with the implementation and completion of the Joint Justice/Municipal Courts Complex as outlined in this memorandum.

Respectfully submitted,



C.H. Huckelberry  
County Administrator

CHH/mjk – November 6, 2012

**Attachments**

- c: The Honorable Sarah Simmons, Presiding Judge, Superior Courts
- The Honorable Keith Bee, Presiding Judge, Consolidated Justice Courts
- The Honorable Jan Kearney, Judge, Superior Courts
- Kent Batty, Court Administrator, Superior Courts
- Lisa Royal, Court Administrator, Consolidated Justice Courts
- Reid Spaulding, Director, Facilities Management

# ATTACHMENT 1



**CITY OF  
TUCSON**

OFFICE OF THE  
CITY MANAGER

October 15, 2012

Chuck H. Huckelberry  
Pima County Administrator  
130 W. Congress  
Tucson, AZ 85701--1317

RE: Realistic Scenario for Joint Court Occupancy

Dear Mr. Huckelberry:

Discussions started more than 10 years ago about building a joint courts complex because both Pima County Justice Court and Tucson City Court were in need of better facilities to serve the community. The idea of building one complex that could house both functions seemed like an efficient solution for the tax payers of our region. The project, termed the Joint Justice/Municipal Courts Complex (JIMCC), was approved by the voters as part of the 2004 Pima County bond election.

History of the project, changes from original intent and capital shortfall

There have been many changes since 2004 that have affected that original intent. I have attached here a list of actions and adjustments that have taken place over the years, affecting the scope and finances of the project (Attachment A.) These have included several re-designs of the building and higher than expected costs in some areas such as archeology. The \$91 million budget approved by the voters has proven insufficient. What is under construction now is a shell tower that will not include space for all functions originally intended to be in the building. All bond funds will have been expended prior to completion of the shell and build out of the interior [i.e. walls, ceilings, lights, cabling etc. – these are termed by the County as Tenant Improvements (TI).] You have communicated to us that if the City intends to occupy the complex, we must plan to contribute money to cover the shortfall in capital costs to complete what is under construction and certain additional costs such as water main replacement and undergrounding of overhead electrical facilities.

The proportionate share for division of project costs has now been set at 54% City and 46% County based on the amount of space each entity is to occupy in the building under the current design (exclusive of common areas.)

As a tenant of the County-owned building, the City had anticipated paying Operation & Maintenance (O&M) costs and contributing to moving and Furniture/Fixture/Equipment (FF&E) costs. However, sharing in the shortfall in capital costs was not contemplated nor was the need to pay for alternative space for the City Prosecutor and City Public Defender, critical functions connected to City Court that are no longer programmed in the complex.

City Financial Issues

We have communicated to you that several factors affect our ability to allocate funds towards the JIMCC capital expense shortfall. These include:

- The severe budget cuts we have been forced to take as a result of the financial crisis of the past few years, resulting in the loss of close to 1000 City jobs and eliminating \$27 million from the general fund budget without a decrease in demand for core services.
- The multiple commitments we must fulfill in FY2014 and 2015, including but not limited to the start of operational costs for the modern streetcar; covering the costs for what are now grant-funded police salaries; and public safety retirement payouts that will hit in large numbers during these same years. We also intend to incrementally address compensation

issues for City staff who have endured furloughs, increased benefit costs and no pay increases for five years prior to FY13.

- The fact that we are unable to borrow funds in the market for this capital expenditure because we are not owners of the building but rather tenants.
- The City's need to pay to relocate/house the Public Defender and City Prosecutor offices even if we move City Court operations into JJMCC.

City staff members have had multiple discussions in the past year both internally and with County staff, looking at proportionate space needs and costs and funding alternatives as well as location alternatives for City Court and the City Prosecutor and City Public Defender. While at one point we thought that funding from the next County bond election could result in a lesser amount of bridge financing to be paid for building completion (per your memo of November 8, 2011), in your February 2, 2012 memo and August 24, 2012 memo you stated that the City and the County should make plans to pay for the capital costs through annual payments since an election would not be likely until November 2014.

#### Alternatives Developed in summer 2012

We have reiterated on several occasions that the City has not yet committed to moving into the joint Courts Complex and you have acknowledged that our use of the facility for City Court is fully at our discretion and subject to entering into an appropriate operating and maintenance agreement and finding a mechanism to cover capital costs.

Three months ago we provided you with alternatives we prepared for our elected officials based on the joint City-County staff work and additional internal analysis (see attachment B.) In your memo of August 24, 2012 and in our in-person discussion on August 27, 2012, we spoke of some possible downward adjustments to the numbers we developed, including the interest rate to be charged to the City for advancing Pima County funds to cover what you determined to be our share of the capital shortfall; the length of time the City would have to pay back the Pima County general fund for the capital costs advancement loan; and a possible reduction in the Court security cost estimate.

We inquired of Reid Spaulding this past week about any other changes or lower costs we could use in our planning, and he responded that any construction savings have been offset by increased water and sewer utility costs; that tenant improvement (interior build-out) costs will not be known until the County is in a position to actually contract for the work and to determine if the improvements will be for County as well as City functions; he reiterated that security costs could be lower but that getting to a number would involve Judges and Court Administrators conferring on that issue; and he stated that higher electric utility rates (+15%) are being anticipated.

#### Updated options and one realistic scenario for joint occupancy

Based on all of the discussions and data exchanges described above, we have revisited our cash demand forecasts for the upcoming fiscal years and re-worked our Court financial scenarios once more. (See attachment C.)

Note Option 4, which we have concluded is the option that will realistically allow City Court to move in to the joint courts complex and thus fulfill the original intent of the project. Elements of this option are as follows:

- The City pays its share of O&M costs as determined by City and County staff in detailed discussions and analysis over the last 6 months, although a lower cost for security has been factored in.
- The City pays for its FF&E and move-in costs, and retains a factor for future City FF&E replacements.
- The City pays for lease costs for housing the City Prosecutor and Public Defender offices.

- In order to cover the additional O&M and moving and FF&E costs, the City will need approval from the Mayor and City Council to raise the City Court case processing fee and to divert other Court funds that would normally go to the City general fund.
- The above fee increase and diversion of funds will not be sufficient to pay for more than the increased O&M and moving and FF&E costs, therefore this option does not include the City paying any portion of the capital costs shortfall nor any interior build out (TI) costs. The rationale is that if the County general fund will be used to pay for the shortfall, City tax payers are also County tax payers and should not have to pay twice for the use of funds they have paid for already through their property taxes.

Remaining in current City Court building as an alternative

We recognize that remaining in the current City Court building is not an ideal situation but we realize it is an option we have available to us to avoid increased costs we cannot afford. The same is not true of other City needs that will be competing for limited general fund dollars in 2014 and 2015 (we do not have an alternative to paying for police salaries that are now covered with grant funds, for example.)

Discussion this week

I am available to talk with you this week about this matter. We have scheduled a discussion of the joint courts complex at the Mayor and City Council meeting on October 23<sup>rd</sup>. I urge you to give serious consideration to the realistic scenario presented here (Option 4) which will allow us to move forward jointly with this project for delivery to the public as indicated in the 2004 bond program. Without the consideration of Option 4, the other options available are alternatives we cannot afford.

Sincerely,



Richard Miranda  
City Manager

LRM/RM

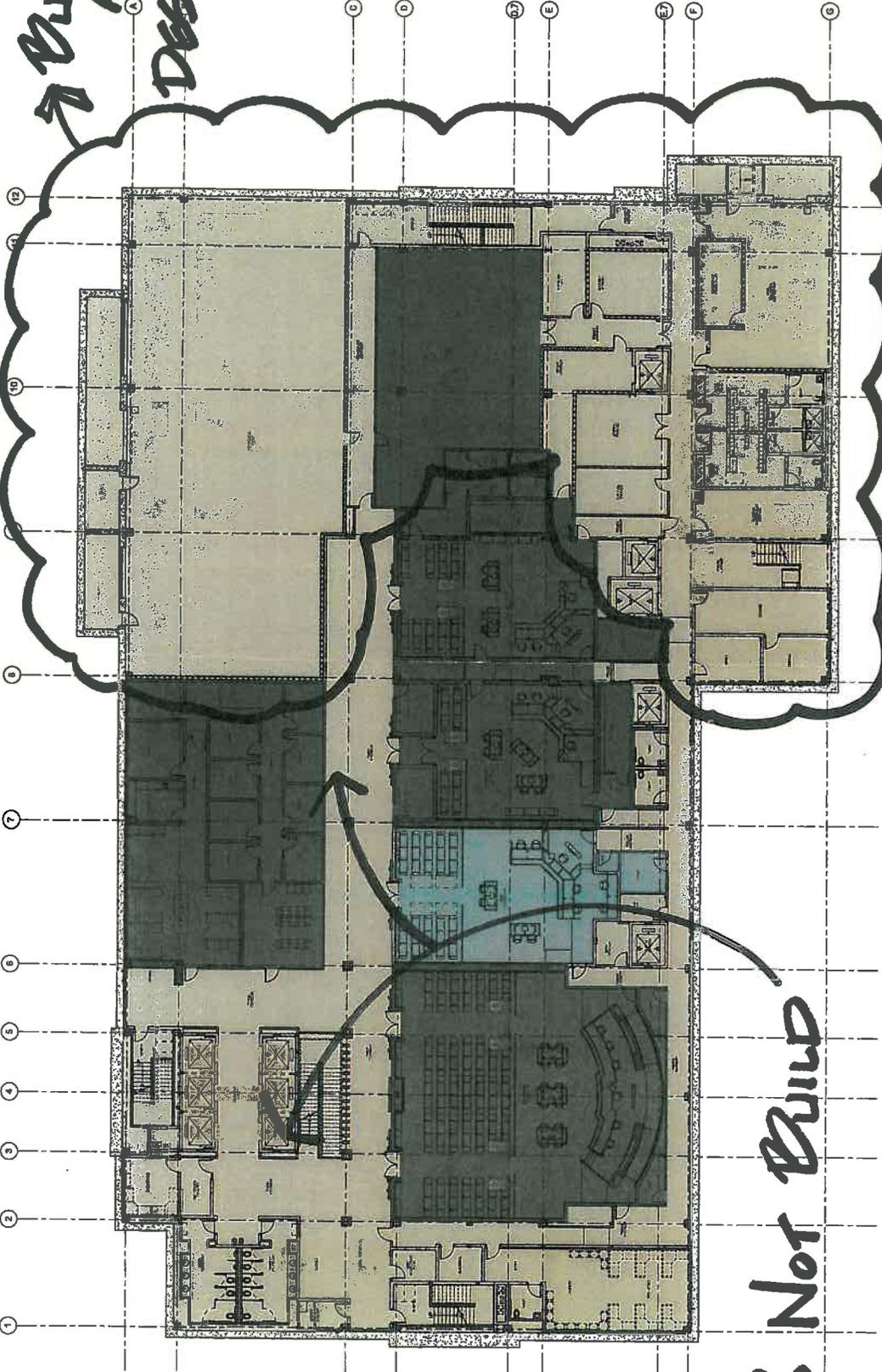
Attachments:

- A. JJMCC 2004 Bond Project: List of Communications, Actions and Adjustments B1 – B5. Updated as of 6/19/12: Summary and Project Cost Analysis; O&M Estimates; Projected Annual Cost for 1<sup>st</sup> Year of Operations; Financing Options-Cause and Effect; Options-Projected Capital Costs & Cash Demands Comparison
- C. Options-Projected Capital Costs & Cash Demands Comparison Chart, 10/15/12

- c:
- Honorable Mayor and City Council Members
  - Liz R. Miller, Deputy City Manager
  - Kelly Gottschalk, Chief Financial Officer/Assistant City Manager
  - Albert Elias, Assistant City Manager
  - Honorable Tony Riojas, Chief Magistrate, Tucson City Court
  - Christopher Hale, City Court Administrator
  - Silvia Amparano, Finance Director
  - Ron Lewis, General Services Director
  - Mike Rankin, City Attorney
  - Tim Murphy and Hector Martinez, City Real Estate Division

# ATTACHMENT 2

**BUILD AS DESIGNED**



**AECOM**  
AECOM CONSULTING INC.  
1000 CALIFORNIA STREET, SUITE 1000  
SAN FRANCISCO, CA 94108  
TEL: 415.774.4000  
WWW.AECOM.COM

Area Comparison	
City Area	1,200 sq ft
County Area	1,200 sq ft
Shared Area	1,200 sq ft

Area Comparison	
City Area	1,200 sq ft
County Area	1,200 sq ft
Shared Area	1,200 sq ft

**AREA COMPARISON**  
CITY AREA  
COUNTY AREA  
SHARED AREA

**Do Not Build**

**LOWER LEVEL FLOOR PLAN**  
JOINT COURTS COMPLEX  
10/20/2010

**BUILD  
AS  
DESIGNED**

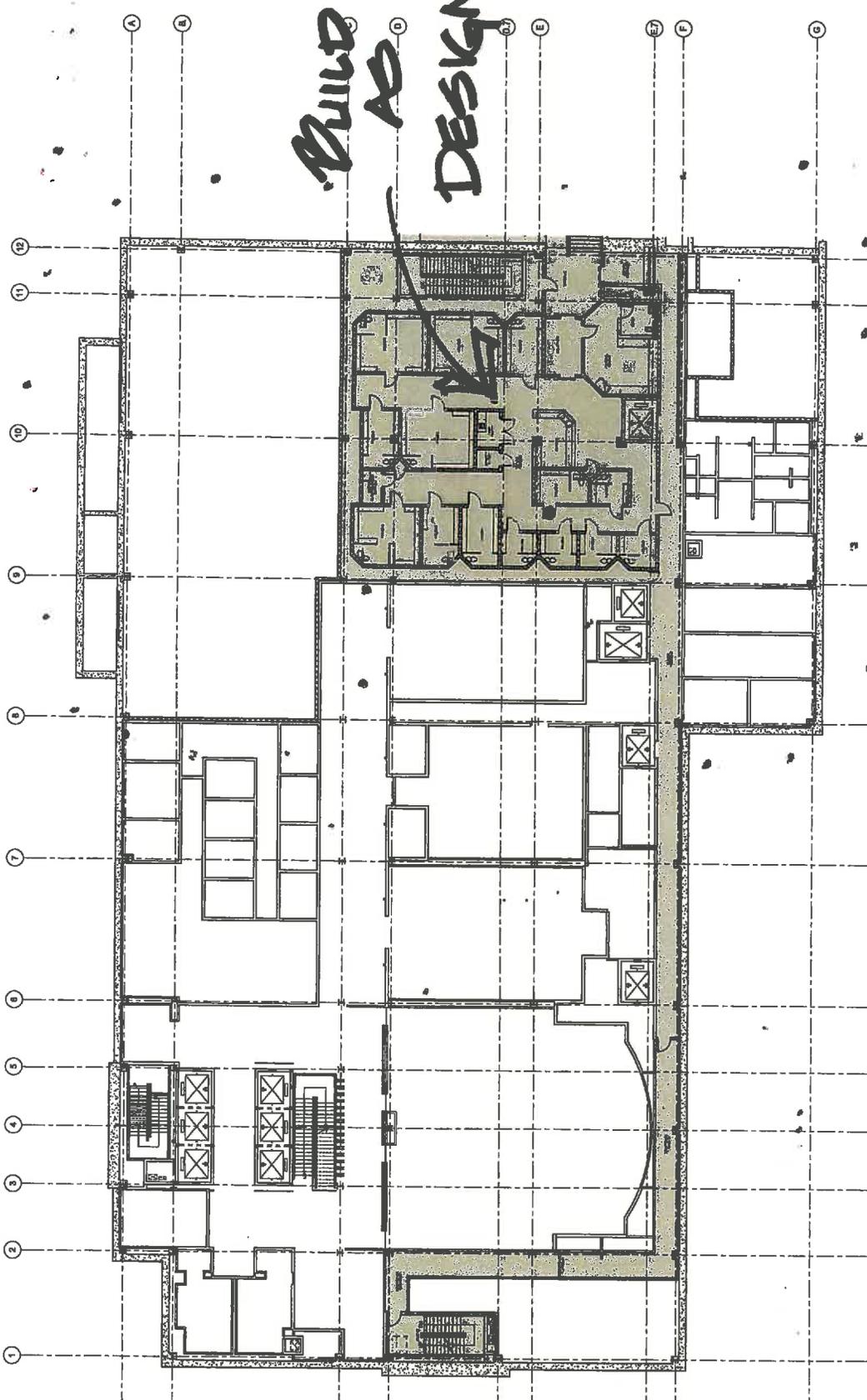
**AECOM**  
ARCHITECTURE  
**JOLHN**  
INCORPORATED  
10000 W. CENTRAL EXPRESSWAY, SUITE 100  
DENVER, CO 80231  
TEL: 303.733.1000  
WWW.AECOM.COM

Area	Area	Area
Area 1	Area 2	Area 3
Area 4	Area 5	Area 6
Area 7	Area 8	Area 9
Area 10	Area 11	Area 12

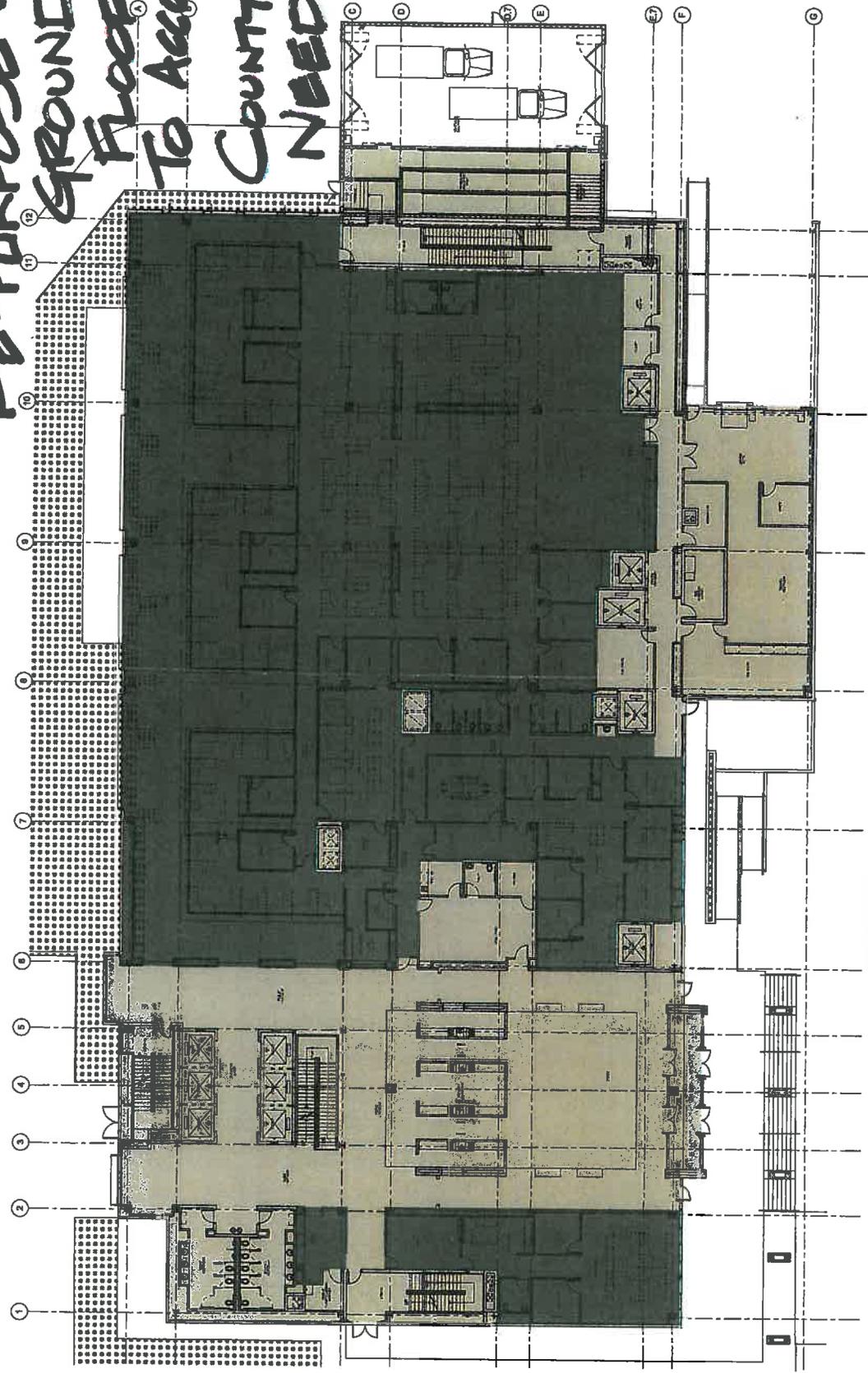
Area	Area	Area
Area 13	Area 14	Area 15
Area 16	Area 17	Area 18
Area 19	Area 20	Area 21
Area 22	Area 23	Area 24

**AREA COMPARISON**  
CITY AREA  
COUNTY AREA  
SHARED AREA

**MID LEVEL FLOOR PLAN**  
JOINT COURTS COMPLEX  
10.10.2012



**RE-PURPOSE & BUILD  
GROUND  
FLOOR  
TO ACCOMMODATE  
COUNTY  
NEEDS**



**AECOM**  
**COLPIN**  
 ARCHITECTS  
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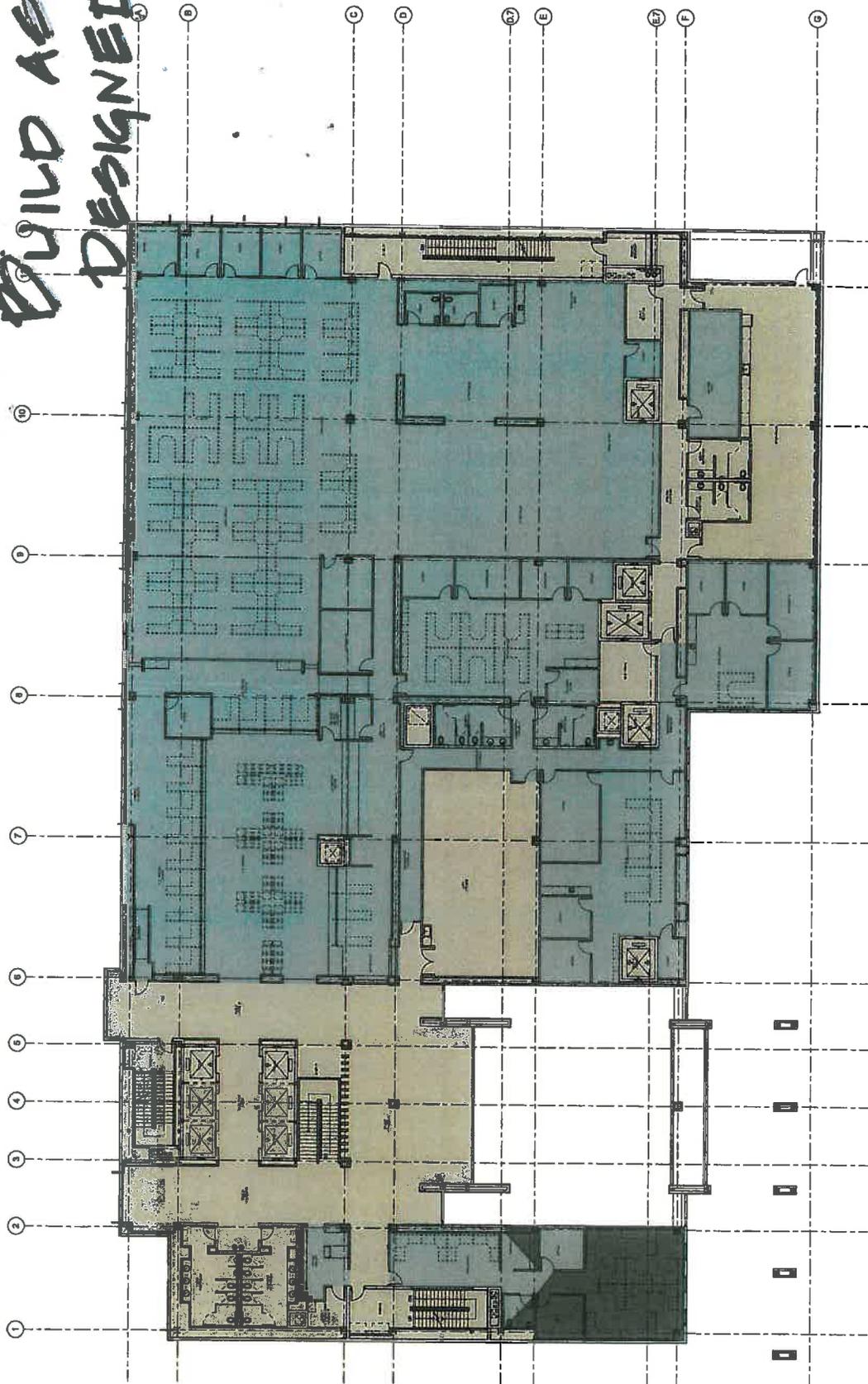
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AREA	AREA	AREA	AREA
AREA 5	AREA 6	AREA 7	AREA 8
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**AREA COMPARISON**  
 CITY AREA  
 COUNTY AREA  
 SHARED AREA

**LEVEL 1 FLOOR PLAN**  
**JOINT COURTS COMPLEX**  
 ...

**BUILD AS  
DESIGNED**



**AECOM**  
INCORPORATED  
**JOHN**  
CORPORATION  
10000 WEST 104TH AVENUE  
DENVER, CO 80231  
TEL: 303.440.2400  
WWW.AECOM.COM

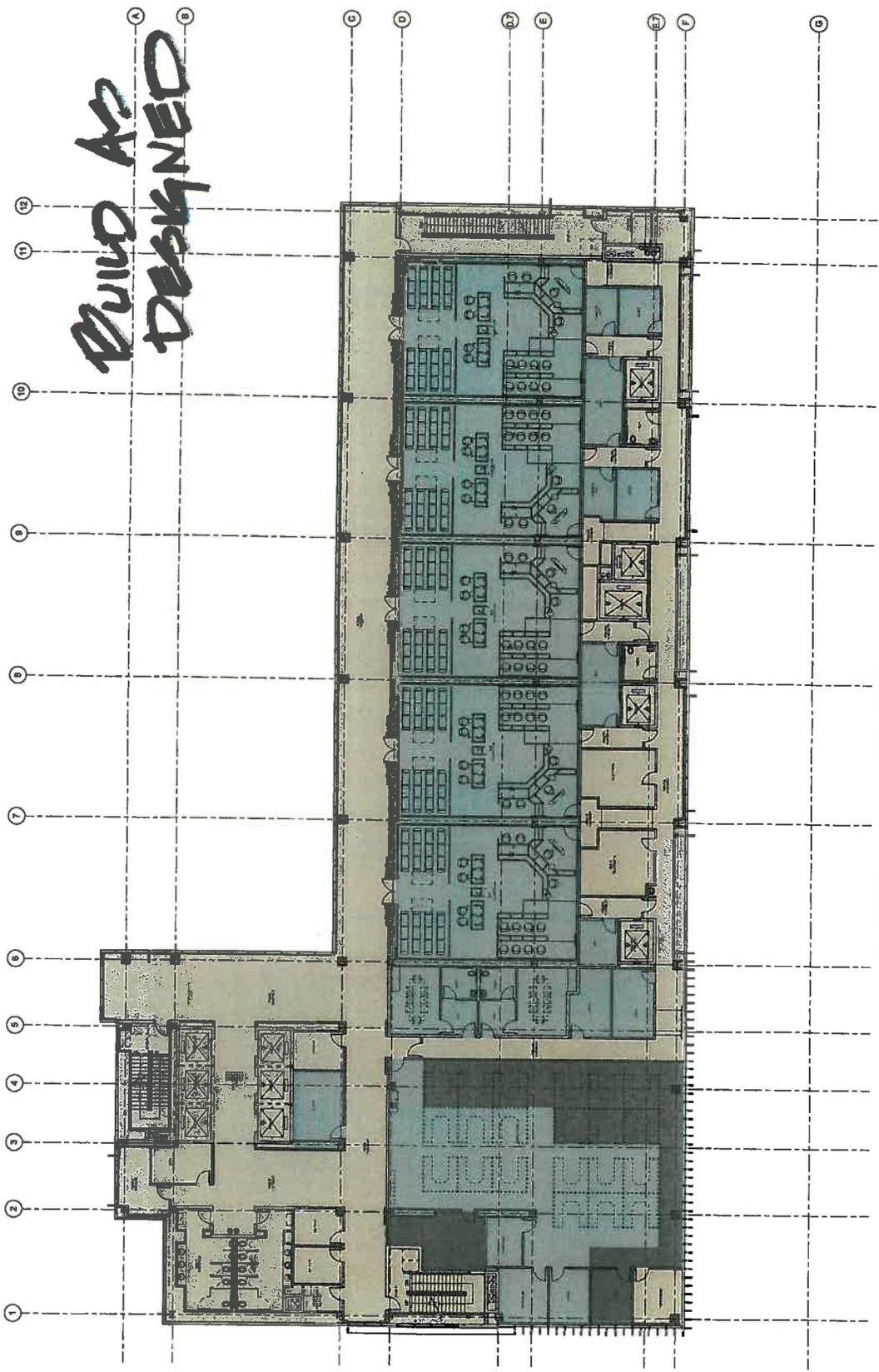
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Area 1	1000	500	200
Area 2	1200	600	300
Area 3	1500	750	400
Area 4	1800	900	500
Area 5	2000	1000	600
Area 6	2200	1100	700
Area 7	2500	1250	800
Area 8	2800	1400	900
Area 9	3000	1500	1000
Area 10	3200	1600	1100

Area Name	City Area	County Area	Shared Area
Area 11	3500	1750	1200
Area 12	3800	1900	1300
Area 13	4000	2000	1400
Area 14	4200	2100	1500
Area 15	4500	2250	1600
Area 16	4800	2400	1700
Area 17	5000	2500	1800
Area 18	5200	2600	1900
Area 19	5500	2750	2000
Area 20	5800	2900	2100

**AREA COMPARISON**  
 CITY AREA  
 COUNTY AREA  
 SHARED AREA

**LEVEL 2 FLOOR PLAN**  
**JOINT COURTS COMPLEX**  
 10/20/2017

**Build As  
Designed**



**AECOM**  
 AECOM COMPANY, INC.  
 1000 CALIFORNIA STREET, SUITE 1000  
 SAN FRANCISCO, CA 94109  
 TEL: 415.774.4000  
 WWW.AECOM.COM

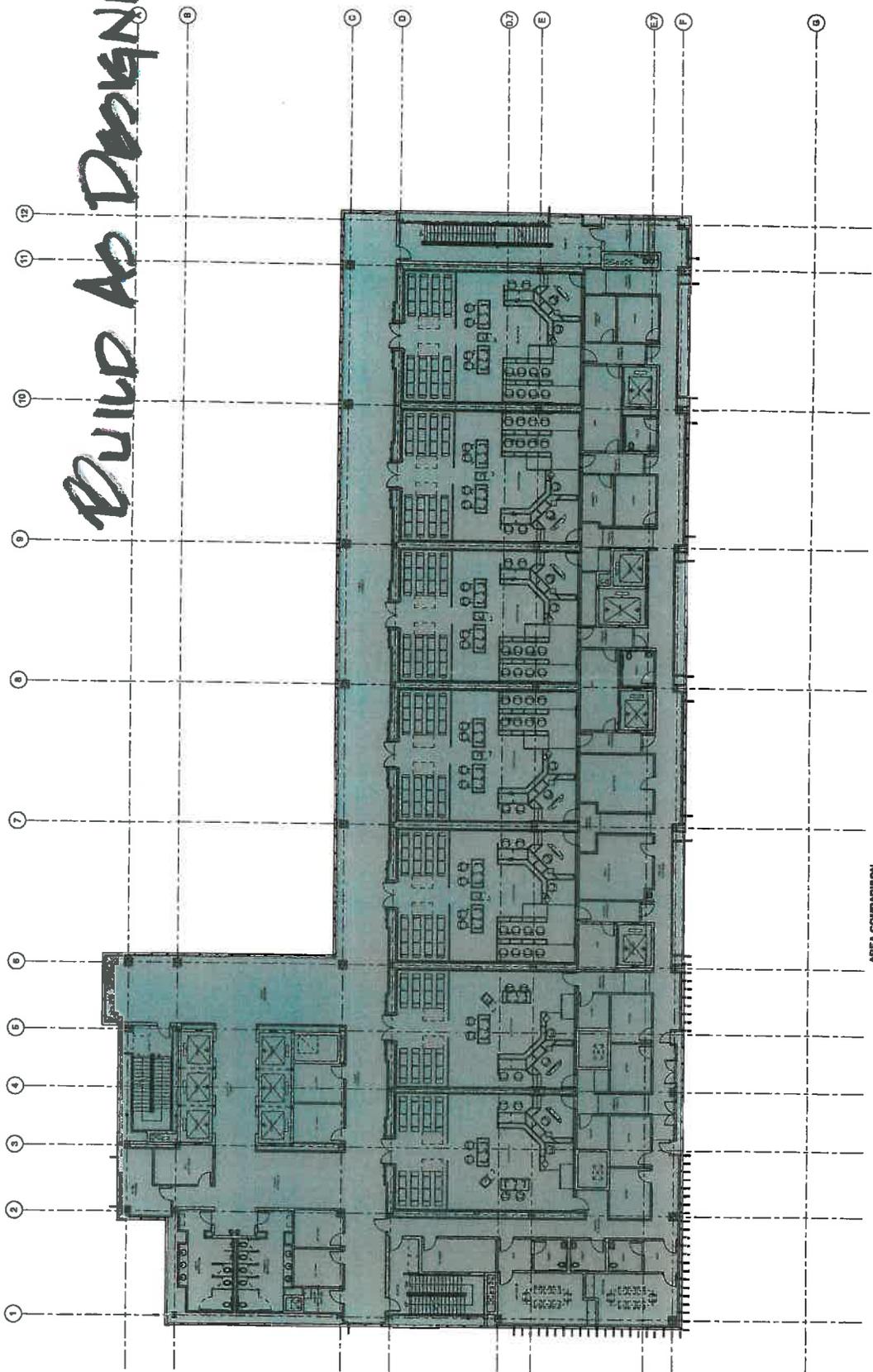
Area	Number	Area	Number
Area 1	1000	Area 2	2000
Area 3	3000	Area 4	4000
Area 5	5000	Area 6	6000
Area 7	7000	Area 8	8000
Area 9	9000	Area 10	10000
Area 11	11000	Area 12	12000

Area	Number	Area	Number
Area 13	13000	Area 14	14000
Area 15	15000	Area 16	16000
Area 17	17000	Area 18	18000
Area 19	19000	Area 20	20000
Area 21	21000	Area 22	22000
Area 23	23000	Area 24	24000

**AREA COMPARISON**  
 CITY AREA  
 COUNTY AREA  
 SHARED AREA

**LEVEL 3 FLOOR PLAN**  
**JOINT COURTS COMPLEX**  
 10/15/2010

**BUILD AS DESIGNED**



**AECOM**  
**ALHN**  
ARCHITECTURAL & ENGINEERING CONSULTANTS, INC.  
10000 WEST 16TH AVENUE, SUITE 1000  
DENVER, COLORADO 80202

Area	Area	Area
Area 1	Area 2	Area 3
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Area 10	Area 11	Area 12

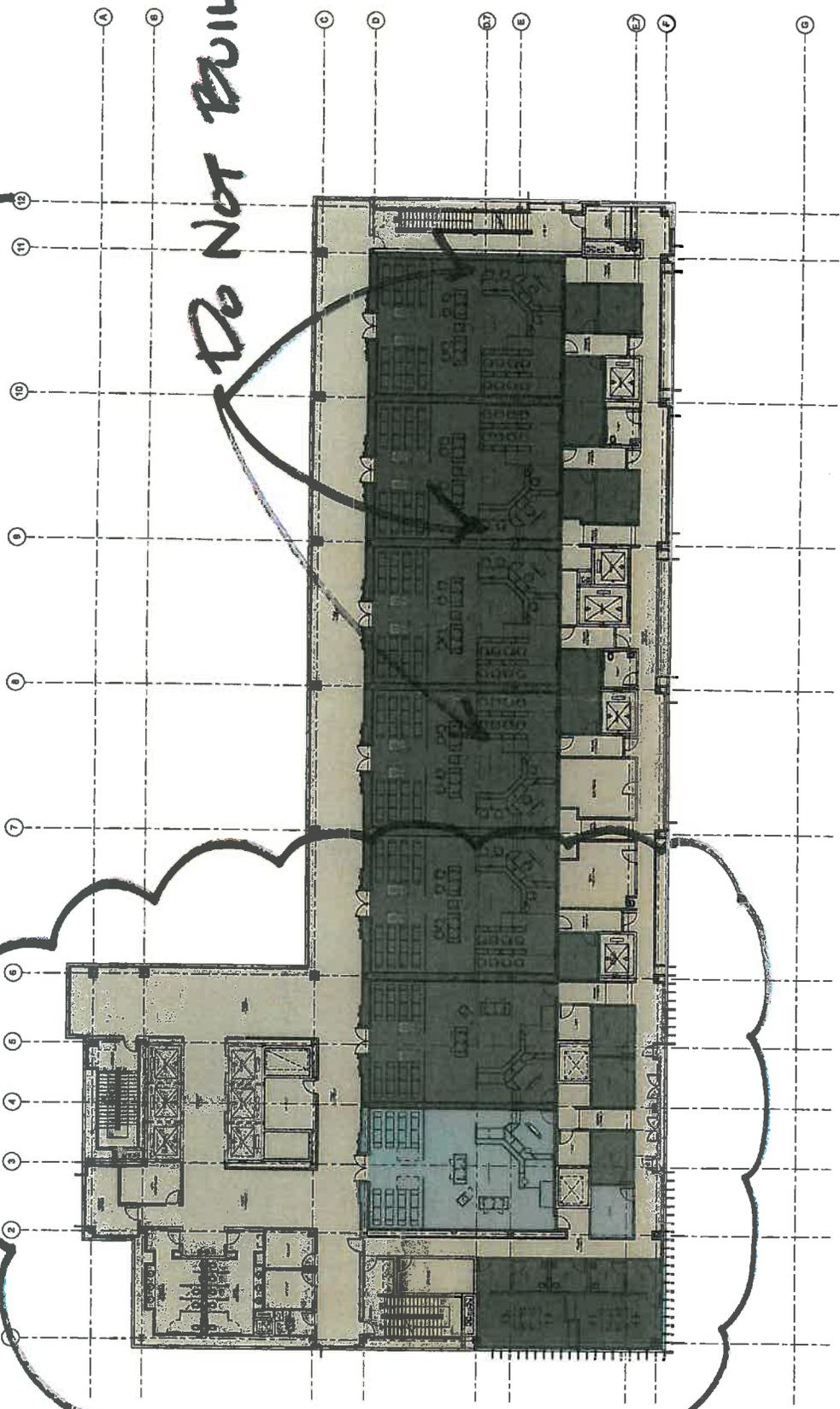
Area	Area	Area
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Area 4	Area 5	Area 6
Area 7	Area 8	Area 9
Area 10	Area 11	Area 12

**AREA COMPARISON**  
 CITY AREA  
 COUNTY AREA  
 SHARED AREA

**LEVEL 4 FLOOR PLAN**  
**JOINT COURTS COMPLEX**  
10000 WEST 16TH AVENUE, SUITE 1000  
DENVER, COLORADO 80202

**BUILD AS DESIGNED  
FOR EXPANDABILITY**

**DO NOT BUILD**



Area	Area Number	Area Name	Area Type
1	101	101	City Area
2	102	102	County Area
3	103	103	Shared Area

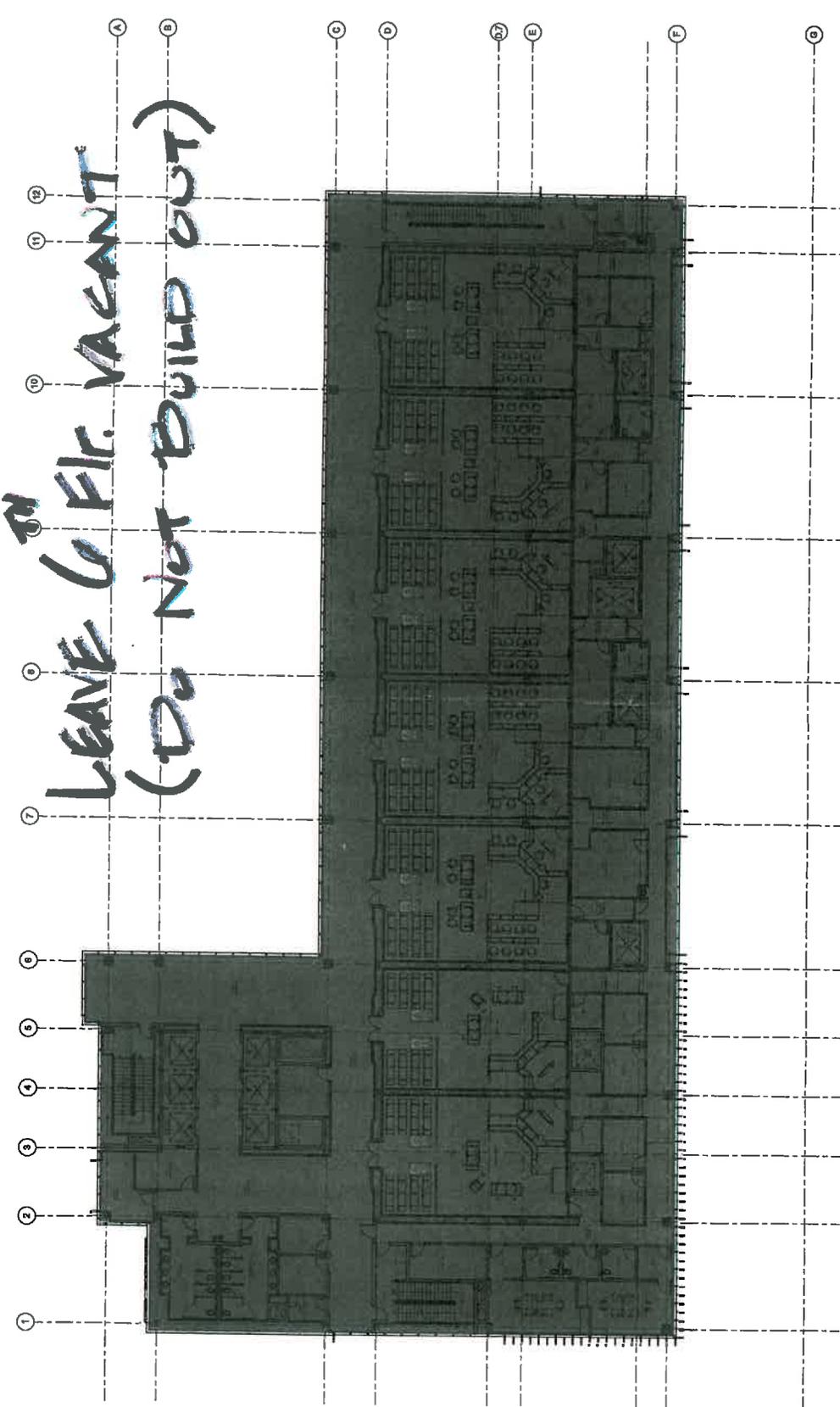
Area	Area Number	Area Name	Area Type
4	104	104	City Area
5	105	105	County Area
6	106	106	Shared Area

**AREA COMPARISON**  
 CITY AREA  
 COUNTY AREA  
 SHARED AREA

**LEVEL 5 FLOOR PLAN**  
**JOINT COURTS COMPLEX**  
 08.23.02

**AECOM**  
 ARCHITECTURE  
**JOHN**  
 ENGINEERING

LEAVE 6<sup>TH</sup> FLR. VACANT  
 (DO NOT BUILD OUT)



LEVEL 6 FLOOR PLAN  
 JOINT COURTS COMPLEX  
 10/20/2018

**AREA COMPARISON**  
 CITY AREA  
 COUNTY AREA  
 SHARED AREA

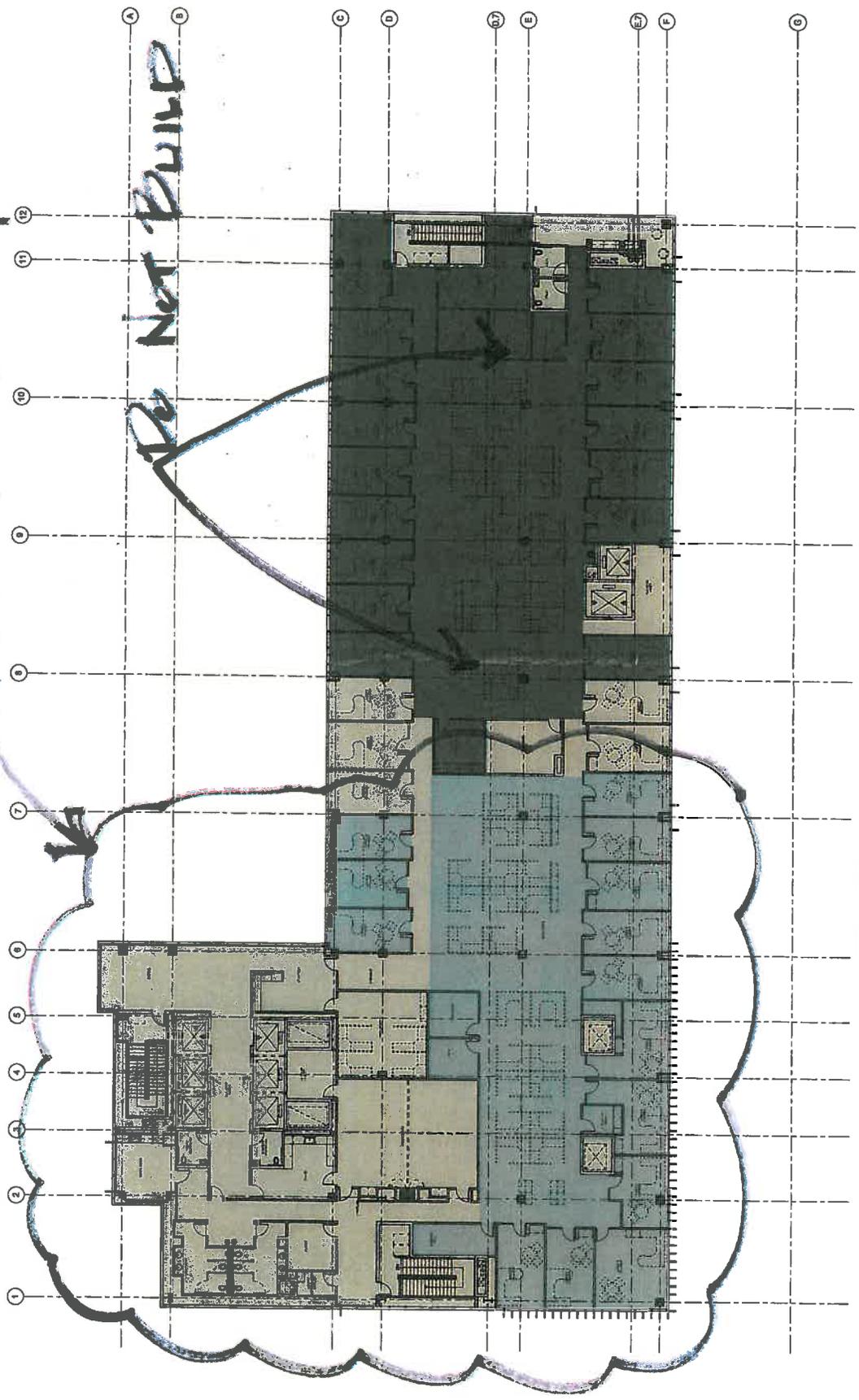
Area	Number	City Area	County Area	Shared Area
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2	1	1	0	0
3	1	1	0	0
4	1	1	0	0
5	1	1	0	0
6	1	1	0	0
7	1	1	0	0
8	1	1	0	0
9	1	1	0	0
10	1	1	0	0
11	1	1	0	0
12	1	1	0	0

Area	Number	City Area	County Area	Shared Area
1	1	1	0	0
2	1	1	0	0
3	1	1	0	0
4	1	1	0	0
5	1	1	0	0
6	1	1	0	0
7	1	1	0	0
8	1	1	0	0
9	1	1	0	0
10	1	1	0	0
11	1	1	0	0
12	1	1	0	0



BUILD AS DESIGNED

DO NOT BUILD



LEVEL 7 FLOOR PLAN  
 JOINT COURTS COMPLEX

AREA COMPARISON  
 CITY AREA  
 COUNTY AREA  
 SHARED AREA

Area	City Area	County Area	Shared Area
Area 1			
Area 2			
Area 3			
Area 4			
Area 5			
Area 6			
Area 7			
Area 8			
Area 9			
Area 10			
Area 11			
Area 12			

Area	City Area	County Area	Shared Area
Area 1			
Area 2			
Area 3			
Area 4			
Area 5			
Area 6			
Area 7			
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Area 9			
Area 10			
Area 11			
Area 12			

**AECOM**  
 CONSULTANTS  
**JOHNSON**  
 CONSULTANTS  
 ARCHITECTS