

**MADISON COUNTY FISCAL COURT
MADISON COUNTY, KY
RESOLUTION 2021-68**

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COUNTY CLERK: KENNY BARGER
DEPUTY CLERK: LANDRY LUXON
COUNTY: MADISON COUNTY
BOOK: RES2 PAGES: 325 - 326

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE ADMINISTRATIVE OFFICE OF THE COURTS AND MADISON
COUNTY FOR A CAPITAL CONSTRUCTION PROJECT TO RENOVATE THE
MADISON COUNTY COURTHOUSE**

WHEREAS, KRS 26A.090 to 26A.168 governs the provision, development, and operation of facilities for the use of the Commonwealth of Kentucky, Court of Justice ("KCOJ"); and

WHEREAS, pursuant to KRS 26A.100, a local unit of government is charged with the responsibility of providing facilities for the use of the KCOJ ("court facilities") in each county of the Commonwealth of Kentucky; and

WHEREAS, Madison County ("County") is a local unit of government as contemplated by KRS 26A.100; and

WHEREAS, the County wishes to provide court facilities in said County; and

WHEREAS, the County initiated a Madison County Courthouse Renovation project in 2019 in partnership with the Administrative Office of the Courts ("AOC") after the General Assembly authorized lease payments for the Court of Justice in 2018 House Bill 203; and

WHEREAS, the County advertised for professional service providers in compliance with its procurement policies and has contracted a financial services provider, bond counsel, a design professional, and a construction manager; and

WHEREAS, pursuant to KRS 26A.160(2), the AOC is charged with the responsibility of overseeing the design, financing, and construction of court facilities; and

WHEREAS, the AOC and the County have recognized a need for the project to proceed as a Court of Justice capital construction project ("Project") to renovate the Madison County Courthouse, and the 2021 General Assembly has authorized the Project in the Judicial Branch 2021 Budget Bill; and

WHEREAS, the County understands and agrees that no portion of the amount authorized by the 2021 General Assembly in the Judicial Branch Budget Bill is to be used to provide space for the County or to be used toward the County's pro rata portion of the Project, if any; and

WHEREAS, this MOU supersedes the August 25, 2019 MOU between the County and the AOC regarding the renovation of the Madison County Courthouse.

NOW, THEREFORE, BE IT RESOLVED THAT THE FISCAL COURT DOES HEREBY APPROVE TO ENTER INTO THIS MEMORANDUM OF UNDERSTANDING AND AUTHORIZES THE JUDGE EXECUTIVE TO EXECUTE SAME OF BEHALF OF THE COUNTY.

Motion made by Roger Barger, seconded by Tom Botkin.

Vote:

Yes

No

Judge Reagan Taylor

X

Magistrate Paul Reynolds

X

Magistrate John Tudor

X

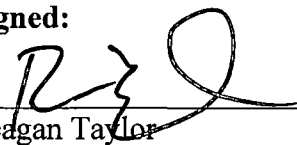
Magistrate Roger Barger

X

Magistrate Tom Botkin

X


Signed:



Reagan Taylor

Madison County Judge Executive

Attested:



Kenny Barger
Madison County Clerk

Judicial Branch Budget Bill 2022



MEMORANDUM OF UNDERSTANDING

**between the
Administrative Office of the Courts
and
Madison County
for a Capital Construction Project to Renovate the
Madison County Courthouse**

MEMORANDUM OF UNDERSTANDING

WHEREAS, KRS 26A.090 to 26A.168 governs the provision, development, and operation of facilities for the use of the Commonwealth of Kentucky, Court of Justice ("KCOJ");

WHEREAS, pursuant to KRS 26A.100, a local unit of government is charged with the responsibility of providing facilities for the use of the KCOJ ("court facilities") in each county of the Commonwealth of Kentucky;

WHEREAS, Madison County ("County") is a local unit of government as contemplated by KRS 26A.100;

WHEREAS, the County wishes to provide court facilities in said County;

WHEREAS, the County initiated a Madison County Courthouse Renovation project in 2019 in partnership with the Administrative Office of the Courts ("AOC") after the General Assembly authorized lease payments for the Court of Justice in 2018 House Bill 203;

WHEREAS, the County advertised for professional service providers in compliance with its procurement policies and has contracted a financial services provider, bond counsel, a design professional, and a construction manager;

WHEREAS, the County has approved schematic designs for the project;

WHEREAS, pursuant to KRS 26A.160(2), the AOC is charged with the responsibility of overseeing the design, financing, and construction of court facilities;

WHEREAS, the AOC and the County have recognized a need for the project to proceed as a Court of Justice capital construction project ("Project") to renovate the Madison County Courthouse, and the 2021 General Assembly has authorized the Project in the Judicial Branch 2021 Budget Bill;

WHEREAS, the AOC and the County wish to coordinate efforts for the construction of the Project in accordance with KRS 26A.160 and the Rules of Administrative Procedure of the Court of Justice, Part X, Sec. I:

Capital Construction Program ("AP Part X") as adopted by the Chief Justice of the Kentucky Supreme Court ("Chief Justice") for Phases C, C-CM, and D of the Project;

WHEREAS, notwithstanding AP Part X, Chapter 5, the Chief Justice has authorized the PDB to select the professional services providers previously contracted by the County to provide Phase A and B services to provide Phase C, C-CM, and D services for the Project;

WHEREAS, notwithstanding AP Part X, Paragraph 3-2(B)(1), the Chief Justice has authorized the project to proceed with a modified Project Development Board consisting of the following voting members: the County Judge Executive, Judge Nora Shepherd, and the AOC Executive Officer of Court Facilities;

WHEREAS, notwithstanding AP Part X, Chapter 4, and Paragraphs 6-1, 6-2, and 6-3, the Chief Justice has authorized the Madison County Project Development Board to accept the schematic design and design development documents previously approved by the County;

WHEREAS, KRS 26A.160 and AP Part X govern all phases of the Project; and

WHEREAS, AP Part X §§ I, II, and III are incorporated in this Memorandum of Understanding ("MOU") as if fully set out herein;

NOW, THEREFORE, the AOC and the County mutually agree as follows:

I. Scope of Services:

The AOC and the County understand and agree that the Project was authorized by the 2021 General Assembly. The Project is described as follows:

Project: Madison County Courthouse Project Scope: \$12,490,000

The maximum annual use allowance is \$1,178,600. Renovation of a judicial facility to accommodate the Court of Justice which includes but is not limited to Circuit Court, Circuit Court Clerk, Drug Court, Pretrial Services and Juvenile Services. The building will be 100% occupied by the Court of Justice.

The Project costs include all items necessary to renovate the Project, including but not limited to: site survey, preparation and demolition; construction costs (including the construction manager fee if applicable); security costs; project contingency; financing costs associated with the issuance of bonds, including financial advisor fee; bond counsel and trustee fees; all other professional fees including Architectural fees for services to be performed; cost of temporary facilities; reimbursement to County of costs incurred in Phases A and B, and any other related costs not specifically identified herein. The Project scope shall not exceed the amount approved by the 2021 General Assembly, or as increased and approved in accordance with KRS 26A.166. The use allowance payment shall be determined as if bonds will be issued for a term of twenty (20) years. Any exceptions to a twenty (20) year bond term limitation must comply with the requirements of KRS 26A.162.

The terms of this MOU and the obligations set forth herein shall be executed in strict compliance with AP Part X.

A. Obligations of the AOC:

1. In accordance with AP Part X and upon direction from the Chief Justice, the AOC and the County will establish a Project Development Board ("PDB") to serve as the agent for the KCOJ and County throughout the development of the Project.
2. Pursuant to KRS 26A.090(2), 26A.115(2) and 26A.162(1), the AOC will pay a use allowance for the Project based upon the KCOJ's proportional share of the annual principal and

interest costs in connection with the construction of the facility, but not to exceed the amount authorized by the 2021 General Assembly, unless otherwise modified by the Kentucky Legislature.

3. Pursuant to KRS 26A.160, AOC has developed uniform contracts to be used by the County when procuring architectural, construction, financial and other services related to the Project. These contracts are described in AP Part X. The AOC will review and approve any contract or modification thereto relating to the design, financing, or construction of the Project prior to execution of the contracts by the County. The AOC will maintain copies of any such contract it has reviewed and approved.

4. Whenever the terms of this MOU and AP Part X provide for approval by the AOC, the approval shall not be unreasonably withheld. Any request for approval shall be considered and acted upon by the AOC in a timely fashion.

5. The AOC Capital Construction/Facilities staff will assist the PDB in Phases C, C-CM, and D of the Project pursuant to KRS 26A.160(2) and AP Part X.

6. The obligations of the AOC are subject to biennial appropriations by the General Assembly.

B. Obligations of the County:

1. In accordance with AP Part X and upon direction from the Chief Justice, the AOC and the County will establish a PDB to serve as the agent for the KCOJ and County throughout the development of the Project.

2. The County, through the PDB, will exercise its best efforts to supervise, manage, operate and maintain all activities for the Project within the scope of this MOU in accordance with AP Part X and applicable law.

3. The County agrees that the PDB will be its agent for all purposes relating to the Project, including but not limited to approving pay applications and authorizing pay requisitions.

4. The County agrees to be diligent in facilitating activities of the PDB and further agrees to reimburse the AOC, upon request, for any use allowance paid prior to actual occupancy if occupancy was delayed by the County's failure to diligently facilitate the activities of the PDB.

5. The County agrees to provide basic legal representation to the PDB through its legal counsel at no cost to the PDB. Such representation will include, but is not limited to, representing the PDB / County in basic condemnation suits, reviewing contracts on behalf of the PDB, and providing general legal advice to the PDB. The County understands and agrees that it will not be reimbursed for any costs associated with legal services unless the AOC has approved a request to retain outside counsel in advance in accordance with AP Part X.
6. The County understands that it is the custodian of the records relating to the Project and agrees to keep those records until such time as the debt service relating to the Project is retired. The County agrees to coordinate responses to Open Records Requests concerning the Project.
7. The County agrees that it will use only forms, contracts and/or amendments developed and approved by the AOC for the procurement of design, financial, consulting, or construction services related to the Project for Phases C, C-CM, and D.
8. The County agrees to transmit to the AOC for its approval any contract or contract modification related to the Project.
9. The County understands and agrees that it will not enter into any contract or contract modification related to the Project unless it has been reviewed and approved by the AOC.
10. The County agrees to comply with AP Part X and any amendments thereto. Any revisions or amendments to AP Part X shall be incorporated automatically into this MOU upon adoption.
11. The County understands and agrees that procurement of construction services must be in accordance with AP Part X. Any such procurement must be approved in advance by the AOC.
12. In the event one does not already exist, the County agrees to establish a Public Properties Corporation pursuant to KRS 58.180 and KRS 273.161 to 273.390 inclusive. The Corporation will be established prior to the first meeting of the PDB and will act on behalf of the County to own, finance and construct the Project through a holding company plan of financing. The County understands and agrees that this MOU will be amended to add the County's Corporation as a party to this MOU and that the Corporation's obligations hereunder will be the

same as the County's obligations listed herein. The County will give notice to the AOC within fourteen (14) days of the filing of its Articles of Incorporation of the need to amend this MOU.

13. The County agrees that all use allowance payments will be deposited electronically by the AOC into the Bond/Debt Service/Sinking Fund established by the Mortgage Deed of Trust and administered by the trustee designated by the County.

14. The County agrees to require the trustee to supply to the AOC a monthly accounting of all funds established under the Mortgage Deed of Trust in accordance with AP Part X. The AOC may review, at any time, any and all financial documents.

15. The County agrees that, in accordance with AP Part X, it will cause the PDB to submit each change order relating to the Project to the AOC for review and approval prior to execution thereof. The County understands and agrees that it will pay any costs associated with a change order if it fails to comply with this provision.

16. The County agrees that AOC approval is required prior to any change in the occupancy of the Project at any phase of the Project and thereafter. Further, the County agrees that the AOC has the right to refuse any change which would deem the space to be unacceptable or would increase AOC's use allowance payment or reduce the AOC spatial assignment.

17. The County agrees that prior to occupancy, the AOC will control and approve all assignments of space in the Project.

18. The County will keep the Project insured in accordance with the Lease Agreement. In the event that the Project is damaged or destroyed by any casualty, the County will provide the AOC with proof of the amount of any proceeds received by the County from any insurer. Such proceeds will first be applied to any bond indebtedness that may remain in accordance with the Lease Agreement, and the County will relinquish to the AOC its pro rata portion of any remaining proceeds, based on the percentage of the Project that is or is to be occupied by the KCOJ.

19. The County agrees that it will assume all operating costs and the remaining debt, if any, on the existing court facility on the date of AOC occupancy of the Project.

20. The County understands and agrees that the square footage of the Project submitted in the 2021 Judicial Branch Budget Bill and as described in the Preliminary Project Program Documents attached hereto as Attachment 1 is the square footage requirement for KCOJ-

occupied space in the Project.

21. The County understands and agrees that the funds requested in the 2021 Judicial Branch Budget Bill are to be used by the KCOJ in paying for its pro rata portion of the Project through use allowance payments, based on the percentage of the Project that is to be occupied by the KCOJ. No portion of the amount authorized by the 2021 General Assembly in the Judicial Branch Budget Bill is to be used to provide space for the County or to be used toward the County's pro rata portion of the Project, if any.

C. Operating Costs Allowance:

1. The County will be paid an operating costs allowance administered by the AOC upon completion of the Project.

2. Pursuant to KRS 26A.090(1), "operating costs allowance" means compensation equivalent to the annual expense borne by the unit of government for utilities, (lighting, heating and air conditioning, and electricity), janitorial service, rent, property insurance, and necessary maintenance, repair, and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in an efficient and dignified operating condition, and, at the election of the AOC, capital costs of interior or mechanical renovations for the benefit of the court as in accordance with KRS 26A.115.

3. Compensation will be calculated on an annualized basis and will be paid quarterly. Actual costs will be verified on an annual basis and adjusted accordingly.

4. The County agrees that the Project will be maintained in a dignified state fitting and deserving of the Commonwealth of Kentucky Court of Justice. The County agrees to evaluate the use of building maintenance contracts in comparison to County provided services to provide efficient and cost effective services for the operation and maintenance of the Project. If the AOC finds that operation and maintenance services furnished by the County are unsatisfactory and do not meet KCOJ needs, the AOC may deny reimbursement for these services.

II. Length of Contract:

This MOU is effective on May 1, 2021 and will expire upon termination of the lease agreement between the AOC and the County.

III. Choice of Law and Forum Provision:

The laws of the Commonwealth of Kentucky will govern all questions as to the execution, validity, interpretation, construction and performance of this MOU. Furthermore, the County and the AOC agree that any legal action, which is brought on the basis of this MOU, will be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

IV. Amendment Clause:

This MOU supersedes the August 25, 2019 MOU between the County and the AOC regarding the renovation of the Madison County Courthouse. This MOU may be amended by the AOC and the County as may be necessary. Any such amendment must be made in writing and agreed to by authorized representatives of each party.

V. Cancellation:

Prior to the submittal of the Budget Request, either party may cancel this MOU upon giving thirty (30) days written notice to the other party. Once the Budget Request has been submitted to the General Assembly, neither party may cancel this MOU.

WITNESS THE AGREEMENT of the AOC and the County as attested by their signatures affixed hereon.




Reagan Taylor, Judge-Executive
Madison County



Laurie K. Dudgeon, Director
Administrative Office of the Courts

Recommended by:

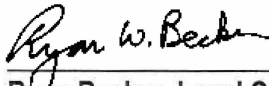


Danny Rhoades, Executive Officer
Division of Facilities, Administrative Office of the Courts

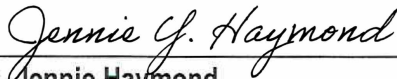


Carole Henderson, Budget Director
Administrative Office of the Courts

Examined by:

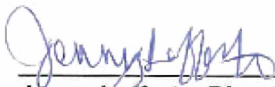


Ryan Becker, Legal Counsel
Administrative Office of the Courts



Hon. Jennie Haymond
Madison County Attorney

Approved by:



Jenny Lafferty, Director of Finance and Administration
Administrative Office of the Courts



Commonwealth of Kentucky
Court of Justice

ATTACHMENT 1

Madison County
Courthouse Renovation

Preliminary Program Document

Date Prepared:		5-Jul-18	
PRIMARY FACILITIES COJ	Unit Space	# of Units	Auth. Space
Functional Area			
Number of building floors ----->			3
1 Courtrooms			
Jury Trial Courtroom (2 courtrooms)			
Courtroom Litigation Area	1200 sf	2	2,400 SF
Courtroom Spectator Area	1200 sf	2	2,400 SF
Vestibule	100 sf	2	200 SF
Public Waiting Area	400 sf	2	800 SF
Jury Coffee Service area	50 sf	2	100 SF
Jury Deliberation	400 sf	2	800 SF
Jury Restrooms	64 sf	2	128 SF
Witness/Victim Room	120 sf	2	240 SF
Attorney/Client Room	120 sf	2	240 SF
Prisoner/Attorney Interview	60 sf	2	120 SF
Prisoner Holding Cell	80 sf	2	160 SF
Prisoner Elevator	90 sf	2	180 SF
Trial Storage Area	80 sf	2	160 SF
Audio/Visual Equip Storage Area	80 sf	2	160 SF
Courtrooms Total			8,088 SF
Non-Jury Trial Courtroom/Hearing Room			
Courtroom Litigation Area	700 sf	1	700 SF
Courtroom Spectator Area	300 sf	1	300 SF
Vestibule	100 sf	1	100 SF
Public Waiting Area	400 sf	1	400 SF
Witness/Victim Room	120 sf	2	240 SF
Attorney/Client Room	120 sf	2	240 SF
Security Vestibule	150 sf	1	150 SF
Prisoner Elevator	90 sf	1	90 SF
Prisoner/Attorney Interview	60 sf	2	120 SF
Prisoner Holding Cell	80 sf	2	160 SF
Trial Storage Area	60 sf	1	60 SF
Audio/Visual Equip Storage Area	60 sf	1	60 SF
Courtroom Total			2,620 SF

2	Judges Chambers			
	<u>Circuit Court Judge (2 Judges)</u>			
	Judge's Offices	250 sf	2	500 SF
	Judge's Toilet	64 sf	2	128 SF
	Conference Room	200 sf	1	200 SF
	Law Clerk Office	150 sf	2	300 SF
	Judicial Asst/Reception	250 sf	1	250 SF
	Staff Break Area	30 sf	1	30 SF
	Files Area	45 sf	2	90 SF
	Employee Restroom	64 sf	1	64 SF
	Secure Judicial Elevator and Lobby	170 sf	1	170 SF
	Chambers Total			1732 SF

3	Conference and Resource Area			
	Library Archives	150 sf	1	150 SF
	Conference Area	150 sf	1	150 SF
	TOTAL Law Library			300 SF

4	Prisoner Handling Facilities			
	Group Holding Cell	200 sf	1	200 SF
	Individual Holding Cell	100 sf	2	200 SF
	Entrance Security Vestibule	75 sf	1	75 SF
	Staging and Preparation Area	100 sf	1	100 SF
	Storage	30 sf	1	30 SF
	Interview Areas	100 sf	1	100 SF
	Vehicular Sallyport	600 sf	1	600 SF
	TOTAL Prisoner Handling Facilities			1,305 SF

5	Circuit Clerk Area			
	Circuit Clerk Office	180 sf	1	180 SF
	Clerk Staff Workstations	64 sf	6	384 SF
	Permanent Counter Area	400sf	1	400 SF
	Public Queing & Waiting	200 sf	1	200 SF
	Driver's License Area	600 sf	1	600 SF
	Active Records Storage	500 sf	1	500 SF
	Inactive Records Storage	450 sf	1	450 SF
	Evidence Storage	150 sf	1	150 SF
	Staff Lounge Area	150 sf	1	150 SF
	Staff Restrooms	64 sf	2	128 SF
	Multipurpose/Meeting/Conference Room	200 sf	1	200 SF
	TOTAL Circuit Court Clerk Areas			3,342 SF

6	Court Affiliated & Support Offices			
	<u>Pretrial Services</u>			
	Supervisor/Professional Staff Offices	140 sf	3	420 SF
	Staff/Secretary/Receptionist Area	120 sf	1	120 SF
	Conference Room (shared)	150 sf	1	150 SF
	Public Waiting Area	75 sf	1	75 SF
	File Area	50 sf	1	50 SF
	<u>Court Designated Worker</u>			
	Supervisor/Professional Staff Office	140 sf	3	420 SF
	Staff/Secretary/Receptionist Area	120 sf	1	120 SF
	Conference Room (shared)			SF
	Public Waiting Area	75 sf	1	75 SF
	File Area	50 sf	1	50 SF
	<u>Drug Court</u>			
	Supervisor/Professional Staff Office	140 sf	3	420 SF
	Staff/Secretary/Receptionist Area	120 sf	1	120 SF
	Sampling Rest Room	75 sf	1	75 SF
	Conference Room	200 sf	1	200 SF
	Public Waiting Area	80 sf	1	80 SF
	File Area	50 sf	1	50 SF
TOTAL Court Affiliated & Support Offices				2,425 SF

7	Security Monitoring/Bailiff Area			
	Security Monitoring/Bailiff Area in Lobby	175 sf	1	175 SF
	Security/Baliff Break Area	120 sf	1	120 SF
	Security/Baliff Monitoring Room	150 sf	1	150 SF
TOTAL Facility Security Areas				445 SF

8	Public Areas			
	Building Entrance/Security Screening	300 sf	1	300 SF
	Stairs/Elevator	500 sf	1	500 SF
	Men's Public Restrooms	500 sf	1	500 SF
	Women's Public Restrooms	500 sf	1	500 SF
TOTAL Public Areas				1,800 SF

9	Support Areas			
	Mechanical/Electrical/ADP/Telecom	1,300 sf	1	1,300 SF
	Central Receiving / Storage	500 sf	1	500 SF
	Facilities Maintenance & Storage	600 sf	1	600 SF
TOTAL Support Areas				2,400 SF

Total Space Requirements				24,457 sf
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Authorized Components	Estimated Costs
Primary Facilities	\$8,557,115
Supporting Facilities	
Estimated Cost of Construction	\$8,557,115
Design Related Costs	
Site Survey and Analysis	
Project Design Phases C & D (9%)	\$500,591
Other Design-Related Costs (Printing, Inspections)	\$150,000
TOTAL Design Services Related Costs	\$650,591
Maximum Construction Contingency (10% Const.)	\$855,712
County Incured Expenses Reimbursment	\$437,121
Bonding, Finance and Temp. Facility Costs	\$1,144,800
TOTAL PROJECT COST	\$11,645,339

AOC-Provided Items (Other Appropriations)
Furnishings
Equipment less wiring
Telecommunications