

MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: Thomas M. Miller, Placer County Executive Officer
Michael E. Paddock, Senior Management Analyst

DATE: September 23, 2008

SUBJECT: Transfer of Courtroom Facilities Responsibility – Main Jail and Juvenile Detention Courtrooms under the provisions and requirements of the Trial Court Facilities Act of 2002 as amended and a Deferred Transfer / Delegation of Responsibility of the Tahoe Court.

Action Requested:

The following actions are requested of your Board to implement the transfer of trial court facility funding responsibility and operation of the Main Jail and Juvenile Detention courtrooms to the Administrative Office of the Courts (AOC) under the provisions and requirements of the Trial Court Facilities Act of 2002 as amended. It is also requested that your Board approve a Deferred Transfer / Delegation of Responsibility Agreement between the County and the AOC for the use of the courtroom in the Tahoe Public Safety Building at Burton Creek. The specific actions to implement transfer are outlined below:

1. Adopt the attached County Resolution to authorize the Chairman to sign the Agreements and the closing documents required to complete the Transfer of Responsibility (TOR) and all the other provisions contained in the Resolution including but not limited to; the approval of the Consolidated Transfer Agreement; the Joint Occupancy Agreement and the Form of Memorandum of Joint Occupancy and all the other documents to implement the transfers.
2. Authorize the first quarterly payment of the annual County Facility Payment, CFP, for both courtroom facilities as required by the Trial Court Facility Act of 2002 as amended and all subsequent quarterly payments.
3. Adopt the attached Resolution approving the Deferred Transfer Agreement / Delegation of Responsibility between the County and the AOC for the courtroom in the Tahoe Public Safety Building at the Burton Creek that is not ready for transfer at the present time; approve the Agreement; and authorize the Chairman of the Board to sign the Agreement and all other documents to implement the transfer.

Introduction:

The Trial Court Facilities Act of 2002 required the transfer of responsibility for the funding and operation of all the trial court facilities in the State from counties to the Administrative Office of the Courts by June 30, 2007. This legislation followed other important court reform measures including the Trial Court Funding Act (AB 233) approved in 1997 that transferred responsibility for funding court operations (but not facilities responsibility) from counties to the State. The initial Act also created the Task Force on

Court Facilities to investigate the matters and issues related to court facilities and make recommendations that would establish the logical and appropriate level of government responsible for trial court facilities. The Task Force conducted its investigation and issued a Final Report on October 31, 2001 with the recommendation that trial court facilities funding and operations responsibility should transfer from local government to the AOC. The rationale and logic for this recommendation is derived from certain core conclusions including the fact that the state government is responsible for court operations and programs but not the facilities provided for these activities. The State is also responsible for creating new judgeships and this is the impetus for new facilities and therefore this authority should also include the responsibility and expense of court facilities.

The Trial Court Facilities Act of 2002 describes in detail the legal requirements and provisions under which the transfer of responsibility passes from counties to the AOC. The key provisions of transfer are outlined below:

- Upon transfer of a courtroom facility the County is relieved of its financial responsibility for providing and operating the transferred facility under section 70311 of the Government Code.
- The negotiations for transfer were to take place between July 1, 2003 and June 30, 2007 but transfers would not occur before July 1, 2004.
- The transfer of responsibility may include property Title but transfer is also allowed (without Title) for shared facilities, facilities subject to debt upon transfer and for historic court buildings.
- The transfer of historic court buildings with Title requires approval from the County Board of Supervisors.
- The Judicial Council through the Administrative Office of the Courts, AOC represents the State in the transfer negotiations including the administration, maintenance and construction of court facilities after transfer.
- A Transfer Agreement between the AOC and the County must be negotiated and approved before transfer of responsibility may occur. A Transfer Agreement is required for each court or building that contains a court facility.

AB 1491:

On June 30, 2007 the Trial Court Facility Act of 2002, SB 1732 (Escutia) Chapter 1082, Statutes of 2002 expired. However, only a small percentage of the total number of trial court facilities in the State had transferred before the Act expired including the 12 remaining courtrooms in Placer County.

On April 23, 2008 the Governor signed AB 1491 as an urgency measure that extended the date of transfer, under certain conditions, to December 31, 2009. In addition to the extended transfer date AB 1491 will permit the use a consolidated transfer agreement document that may streamline and expedite the transfer of all remaining court facilities. In addition, "incentives" are provided in the form of a lower County Facility Payment for all transfers completed before October 1, 2008, transfers after that date are subject to an increase in the annual County Facility Payment (CFP) determined by an inflation index. However, transfers will not be allowed after December 31, 2009.

Historic Courthouse:

On March 20, 2007 your Board approved the Transfer of Responsibility (TOR), but retained the property title of the Historic Courthouse in Auburn to the Administrative Office of the Courts under the provisions and requirements of the Trial Court Facilities Act of 2002. This was the first actual transfer of responsibility of a historic trial court in the State and set the stage for the subsequent transfers of other court facilities in Placer County.

New Courthouse – Placer County Bill Santucci Justice Center:

On June 10, 2008 your Board approved the Transfer of Responsibility (TOR) and deferred title transfer (TOT) of the new Courthouse located at the Placer County Bill Santucci Justice Center in Roseville. The Title to the Courthouse will transfer to the AOC when the last payment on the debt of the courthouse building is paid (twenty years).

Transfer of Responsibility/Transfer Documents – Main Jail and Juvenile Detention Facility Courtrooms

The transfer of responsibility means that the County shall transfer to the AOC the perpetual and exclusive use of court facilities in the building under the terms and conditions of the Transfer Agreement. It also means that the AOC has accepted the grant of possession, occupancy, and use from the County and assumes all responsibility for the court facility. The assumption of responsibility by the AOC after transfer means the financial obligation of occupying, operating, maintaining, repairing and renovating the court facilities. Once the transfer of responsibility occurs the County is permanently relieved of its legal responsibility and financial obligation to provide two courtroom facilities (courtroom of the Main Jail and the Juvenile Detention Facility both in Auburn) under section 70311 of the Government Code, subject to payment of the CFP.

Transfer Agreement:

The Trial Court Facility Act of 2002 initially required a separate transfer agreement for each building that is transferred from the County to the AOC. However, the amended Act now includes an option to use a single agreement for multiple courtroom buildings. The Transfer Agreement for the courtrooms of the Main Jail and the Juvenile Detention Facility has been negotiated between the County Transfer Team and the Administrative Office of the Courts as a single consolidated agreement. The form of the agreement and the specific terms and conditions reflect the unique nature of the courtroom buildings and function and it meets all of the requirements of the Act for transfer. Besides the core element of the Agreement that defines transfer as described above there are numerous conditions, restrictions and other requirements that define and guide both the transfer process and post transfer activities and responsibilities. Under the Agreement the AOC is designated non-exclusive use of 87 parking spaces located on the Main Jail Land of which 2 are secured parking for benefit of the judges of the Superior Court. In addition, a total of 83 parking spaces located on the Juvenile Detention Facility Land are designated for non-exclusive use by the Superior Court. The County through an existing MOU between the Sheriff and the Superior Court will continue to provide security in the defined Security-Related Areas under the Agreement.

Joint Occupancy Agreement:

In addition to the Transfer Agreement described above it is necessary to enter into a Joint Occupancy Agreement, JOA, for the shared possession, occupancy and use of the Real Property for benefit of the County and the AOC. The JOA is the authorizing document that outlines the conditions and responsibility of each party for the day to day use and operation of the facilities that contain the courtrooms that will become the exclusive areas of the AOC for the benefit of the Superior Court. The County is designated as the managing party with the responsibility to ensure the safe and efficient operation of the buildings that contain the courtrooms. The JOA also establishes the basis and authority to share expenses necessary to operate and maintain the facilities that contain the courtrooms. Under the JOA and similar to the other completed transfers the AOC will be responsible for expenses related to its exclusive area (approximately 4% - jail court, 15% - juvenile detention court) and a share of costs related to the use of the common areas of the buildings based on a ratio of occupied space. The shared expenses also include maintenance of parking spaces that are assigned to the AOC for both reserved and unreserved spaces. The County as the managing party and owner of the buildings that contain the court facilities will continue to provide liability and property loss insurance with reimbursement from the AOC based on a ratio derived from occupied space of both parties.

The JOA also includes a provision for possible services MOU, or similar agreement between the County and the AOC that would allow the County to operate, maintain, repair and / or renovate the court exclusive area for a fee and subject to the terms of the MOU after transfer of responsibility. A similar agreement is in place for the Historic Courthouse in Auburn for the benefit of the AOC and the County.

A County Authorizing Document in the form of a County Resolution of your Board is also required as part of the transfer. This Resolution certifies that the County has taken the necessary steps to designate signature authority for the Transfer Agreement and any other required transfer documents and that are necessary for the County to perform its obligations under the Agreement. A Resolution has been prepared for approval by your Board that contains these provisions and it is attached to this memorandum for your approval. For purposes of this transfer the Chairman of the Board of Supervisors is designated as the authorized signatory.

Fiscal Impact: – County Facility Payment – CFP:

As a result of this transfer, the County is obligated to pay, in perpetuity, a fixed sum each year to the AOC as the County Facility Payment or CFP. This amount represents the actual costs to the County of operating and maintaining the two courtroom facilities and buildings from FY1995-1996 through FY1999-2000. The County will submit an initial pro-rata payment to complete the necessary steps for the closing of Transfer of Responsibility. The Trial Court Facility Act of 2002 requires a CFP for each court or court building transferred to the AOC to relieve the County of its responsibility to provide court facilities and to help fund their operational costs and other expenses under Section 70311 of the Government Code. The CFP provides a continuous, but limited revenue source to the AOC so they may fund the operation and maintenance of their court exclusive area of the building from and after the date of transfer.

The CFP's for the two courtrooms have been submitted to the AOC and both will be reviewed for final approval by the State Department of Finance. The CFP cost for the Jail Court and the Juvenile Court are estimated to be \$41,189 and \$55,161, respectively. The CFP documents the operating and maintenance expenses for the mechanical systems of the courtroom buildings, the alarm and fire systems and for maintenance and repair work. It also documents utility expenses for natural gas, electricity, water, sewer, solid waste disposal and propane. For purposes of the CFP the utility cost is based on consumption of each utility consumed (e.g. gas, electric, water etc.) times the average monthly rate for each of these expenses in FY1999-2000. Insurance expenses for general liability, property and fire coverage is also included in the calculations of the CFP.

The final CFP amounts will include a one-time inflation index factor that is applied to the cost of the CFP for each fiscal year from FY1995-1996 through FY1999-2000 to reflect an estimate of current operating expenses on the date of transfer. Over this five year period the average inflation index is approximately 29%. However, except for one final adjustment in the CFP by the AOC for the actual inflation index amount, the CFP paid by the County to the AOC will remain fixed and will not change. The final inflation adjustment to the CFP may not occur for several months after the date of transfer and it is likely that this may result in a modest increase in the final and fixed amount of the CFP.

Tahoe Courtroom – Tahoe Public Safety Building at Burton Creek.

The single courtroom that is contained within the Sheriff's substation in Tahoe is subject to transfer and then a "delegation of responsibility" back to the County for continued use of the courtroom by the AOC until a replacement facility for Burton Creek is constructed. It is problematic to make an actual Transfer of Responsibility (TOR) for the courtroom at this time due to the age and condition of the courtroom and the future plans of the County to construct a replacement facility. An Agreement to implement a "deferred transfer" for continued use of the courtroom and delegated authority from the AOC to the

County to retain responsibility to operate and maintain the courtroom is attached to this memorandum. Under the terms of the Agreement a County Facility Payment, CFP, is established but no payment of this amount is due to the AOC from the County until a replacement courtroom is constructed and occupied by the Superior Court and the closing of Transfer of Responsibility (TOR) is effectuated. The Agreement also affirms primary consideration of the Burton Creek site as the specific location of a replacement courtroom. Upon completion of a replacement courtroom as part of the replacement of the Burton Creek Facility the County and the AOC may then enter into an Agreement for an actual Transfer of Responsibility (TOR). A County Resolution authorizing adoption and execution of this Agreement is attached for consideration by your Board.

All Courtroom Facilities Transferred to the State - AOC:

Upon approval by your Board of the requested action outlined above all existing courtroom facilities (16) for which the County has financial and operational responsibility will be transferred to the AOC and the County is relieved of this responsibility under Section 70311 of the Government Code with the transfer of the courtroom of the Tahoe Public Safety Building at Burton Creek deferred pending replacement of this Building by the County. Equally significant, the County Team and your Board will have successfully completed transfer before any penalty (transfer incentive) would be applied. Under the Act, any transfers that occur on or after October 1, 2008 are subject to an increase in the CFP based on an inflation index (State and Local Government Implicit Price Deflator) each year as measured from the date of transfer.

Attachments: Resolutions:

1. Main Jail and Juvenile Detention courtrooms.
2. Tahoe Public Safety Building at Burton Creek Courtroom.

A copy of the transfer agreement documents including all exhibits and attachments is on file for review at the Clerk of the Board.

cc:

Anthony La Bouff, County Counsel
Gerald Carden, Chief Deputy County Counsel
Rich Colwell, Chief Assistant County Executive Officer
Mike Boyle, Assistant County Executive Officer
Jim Durfee, Director, Facilities Services
Mary Dietrich, Assistant Director, Facilities Services
Jeannette Wong, Senior Real Estate Analyst, Administrative Office of the Courts

Before the Board of Supervisors County of Placer, State of California

In the matter of:

A Resolution to authorize the Chairman of the Board of Supervisors to sign the Consolidated Transfer Agreement, The Joint Occupancy Agreement and The Form of Memorandum of Joint Occupancy Agreement between the County of Placer and the Administrative office of the Courts for the transfer of responsibility for the courtroom of the Placer County Main Jail in Auburn and the courtroom of the Placer County Juvenile Detention Facility also located in Auburn consistent with the Trial Court Facilities Act of 2002, as amended.

Resolution. No: _____

Related to Ord. No: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on _____ by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, the trial courts evolved as county institutions in California reflecting the needs of the local judiciary and the culture and resources of local county government, and

WHEREAS, over the past decade or more, important reforms have occurred to transfer the local courts from county funding and operation to state responsibility as institutions of the judiciary branch, and

WHEREAS, specific and significant legislative action has occurred since 1997 to reform trial court operations beginning with the Lockyer-Isenberg Trial Court Funding Act of 1997, AB 233 – Escutia and Pringle, that transferred responsibility for funding court operations from county local government to the State, and

WHEREAS, the Trial Court Funding Act of 1997 also created the Task Force on Trial Court Employees and Court Facilities to deal with the two major issues left unresolved by the Act, namely,

the employment status of court employees and the responsibility for the funding and operation of court facilities, and

WHEREAS, the Task Force on Trial Court Facilities completed their study and issued a Final Report that contains key recommendations including the transition, or transfer of responsibility for funding and operating court facilities from local county government to the State, and

WHEREAS, the recommendations of the Task Force have been adopted by the legislature under the Trial Court Facilities Act of 2002, SB 1732 (Escutia) – Chapter 1082, Statutes of 2002 and signed by the Governor on September 29, 2002, that requires the transfer of the responsibility for trial court facilities funding and operation from local county government to the State by June 30, 2007 under the specific provisions of the Act and local agreement and negotiations between the Judicial Council and the Placer County Board of Supervisors, and

WHEREAS, the Trial Court Facilities Act of 2002 was amended by AB 1491 (Jones) to extend the date of transfer to December 31, 2009 and signed by the Governor on April 23, 2008 as an urgency measure, and

WHEREAS, The County and the AOC has successfully completed transfer of responsibility of four courtrooms of the Historic County Courthouse in Auburn and most recently transfer of responsibility and deferred title transfer of nine courtrooms consolidated into the Courthouse located at the Placer County Bill Santucci Justice Center as required by the Trial Court Facilities Act resulting in a significant benefit to the County in the form of relief of responsibility for providing the ten replaced court facilities under Government Code Section 70311, and

WHEREAS, the Placer County Court Facility Transfer Team has completed its negotiations with the AOC including the terms of a Consolidated Transfer Agreement, Joint Occupancy Agreement and County Facility Payment obligation, (“CFP”) for the Jail Court and the Juvenile Court,

NOW, THEREFORE, BE IT RESOLVED,

That the Board of Supervisors approve the Transfer of Responsibility for the operation, maintenance, and repair of the courtroom of the Placer County Main Jail in Auburn and the courtroom of the Juvenile Detention Facility in Auburn to the AOC and authorizes the Chairman of the Board to sign the Consolidated Transfer Agreement including Exhibits A-F contained therein, the Joint Occupancy Agreement including Attachments 1-3 contained therein and The Form of Memorandum of Joint Occupancy on behalf of the County and to take such further actions as provided under the Agreements and closing documents, and

BE IT FURTHER RESOLVED AND ORDERED

That the Board of Supervisors directs and authorizes the Director of Facilities Services to do all of the following:

1. Complete, and execute any other document or perform any activity or action to complete the closing of the Transfer of Responsibility (TOR) under the terms and provisions of the Transfer Agreements and the Trial Court Facilities Act of 2002 as amended including a public recording of the executed Form of Memorandum of Joint Occupancy Agreement.
2. Sign the Services Memorandum of Understanding, MOU or similar agreement between the County and the Administrative Office of the Courts to hire the County to perform the

operation, maintenance, repair and renovation of the court exclusive area for both courtroom facilities of the Consolidated Transfer Agreement and under the terms, conditions and payment provisions of the MOU.

BE IT FURTHER RESOLVED AND ORDERED

That the Board of Supervisors authorizes the initial quarterly payment of the annual payment of the County Facility Payment, or CFP as required by the Trial Court Facilities Act of 2002 as amended and all subsequent quarterly payments as required by the Act.

Before the Board of Supervisors County of Placer, State of California

In the matter of:

A Resolution to authorize the Chairman of the Board of Supervisors to sign the Deferred Transfer / Delegation of Responsibility Agreement, between the County and the State Judicial Council, Administrative Office of the Courts, AOC, for continued use of the courtroom of the Tahoe Public Safety Building located at Burton Creek by the Superior Court pending any future action to transfer responsibility or title of this facility to the Judicial Council consistent with the Trial Court Facilities Act of 2002, as amended

Resolution. No: _____

Related to Ord. No: _____

The following Resolution was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on _____ by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the trial courts evolved as county institutions in California reflecting the needs of the local judiciary and the culture and resources of local county government, and

WHEREAS, over the past decade or more, important reforms have occurred to transfer the local courts from county funding and operation to state responsibility as institutions of the judiciary branch, and

WHEREAS, specific and significant legislative action has occurred since 1997 to reform trial court operations beginning with the Lockyer-Isenberg Trial Court Funding Act of 1997, AB 233 – Escutia and Pringle, that transferred responsibility for funding court operations from county local government to the State, and

WHEREAS, the Trial Court Funding Act of 1997 also created the Task Force on Trial Court Employees and Court Facilities to deal with the two major issues left unresolved by the Act, namely, the employment status of court employees and the responsibility for the funding and operation of court facilities, and

WHEREAS, the Task Force on Trial Court Facilities completed their study and issued a Final Report that contains key recommendations including the transition, or transfer of responsibility for funding and operating court facilities from local county government to the State, and

WHEREAS, the recommendations of the Task Force have been adopted by the legislature under the Trial Court Facilities Act of 2002, SB 1732 (Escutia) – Chapter 1082, Statutes of 2002 and signed by the Governor on September 29, 2002, that requires the transfer of the responsibility for trial court facilities funding and operation from local county government to the State by June 30, 2007 under the specific provisions of the Act and local agreement and negotiations between the Judicial Council and the Placer County Board of Supervisors, and

WHEREAS, the Trial Court Facilities Act of 2002 was amended by AB 1491 (Jones) to extend the date of transfer to December 31, 2009 and signed by the Governor on April 23, 2008 as an urgency measure, and

WHEREAS, The County and the AOC has successfully completed transfer of responsibility of four courtrooms of the Historic County Courthouse in Auburn and most recently transfer of responsibility and deferred title transfer of nine courtrooms consolidated into the Courthouse of the Placer County Bill Santucci Justice Center as required by the Trial Court Facilities Act resulting in a significant benefit to the County in the form of relief of responsibility for providing the ten replaced court facilities under Government Code Section 70311, and

WHEREAS, the Placer County Court Facility Transfer Team has completed its negotiations with the AOC including the terms of a Deferred Transfer / Delegation of Responsibility Transfer Agreement for the continued use of the courtroom of the Tahoe Public Safety Building located at Burton Creek and the County Facility Payment obligation, (“CFP”)

NOW, THEREFORE, BE IT RESOLVED,

That the Board of Supervisors approve the Transfer of Responsibility for the operation, maintenance, and repair of the courtroom of the Tahoe Public Safety Building located at Burton Creek to the AOC and authorizes the Chairman of the Board to sign the Deferred Transfer / Delegation of Responsibility Agreement and to take such further actions as provided under the Agreement.