



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSAN MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

December 1, 2008

Agenda: December 9, 2008

BOARD OF SUPERVISORS

County of Santa Cruz

701 Ocean Street

Santa Cruz, CA 95060

COURT FACILITY TRANSFER - SANTA CRUZ MAIN COURTHOUSE AND COURT AREAS OF COUNTY ADMINISTRATION BUILDING

Dear Members of the Board,

This report transmits the final two Transfer of Responsibility (TOR) agreements with the Administrative Office of the Courts (AOC) for the County's Main Courthouse including the Jury Assembly Modular (Attachment 1), and the Court space in the County Administration Building (Attachment 2). Exhibits to the TOR's are on file with the Clerk of the Board. Transfer agreements for the Juvenile Court, the Jail Court and leased space at 303 Water Street were approved on September 23, 2008, and the new Watsonville Court on November 25, 2008.

AGREEMENTS FOR MAIN COURTHOUSE AND COUNTY ADMINISTRATION BUILDING

With the exception of the new Watsonville Court which is a stand-alone building used exclusively by the Court, transfer agreements for the other court facilities reflect their shared use with the County. The Trial Court Facilities Act provides that the managing party occupy 80% or more of a facility; thus the County is the managing party for the Juvenile Court, the Jail Court, and the County Administration Building, as well as the grounds and parking areas for the entire County Government site. The Court occupies 8% of the exclusive use area of the County Administration Building, primarily the Traffic Court in the Basement, Clerks' offices on the 1st Floor, and limited fiscal and administrative offices on the 2nd Floor.

The transfer agreement for the Main Courthouse provides for the AOC to be the managing party for the facility due to the almost exclusive use of the facility by the Court (99.11%). The AOC will be responsible for day-to-day management of the Main Courthouse, which includes the Jury Assembly Modular Building, and for all future costs associated with facility related activities, utilities, and improvements. The County will retain title to the building and will bill the AOC on a pro-rated basis for all utilities and equipment maintenance that are provided to the exclusive use and common areas of the Main Courthouse and the County Administration Building by the Central Plant, as well as the pro-rated costs for property insurance. The TOR's for both buildings provide that the County continue to maintain earthquake insurance in accordance with the provisions of Senate Bill 10 enacted in 2006. As with the vast majority of older court facilities statewide, responsibility for earthquake related activities remains with the County pending the retrofit of the buildings to meet State seismic requirements.

Court Facility Transfer- Main Courthouse
and County Administration Building
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The transfer agreements for the shared use facilities include a Joint Occupancy Agreement (JOA) which defines the County and the Court exclusive use and shared areas of the buildings and defines the basic management structure for day-to-day and long-term facility related activities, as well as the billing and payment provisions. The TOR's also include terms that address the relocation of either party through equity buy-out provisions, as well as procedures for emergencies and replacement of damaged facilities. Procedures are also included for mediation and dispute resolution as provided in the Act.

The County Facilities Payments (CFP's) for both buildings have been calculated in accordance with the requirements of the Act based on the County's historic costs for maintenance, utilities, and other facility related costs indexed to the date of transfer. The CFP for the County Administration Building is \$66,262 and \$140,125 for the Main Courthouse. The final CFP's will be adjusted by DOF to the final date of transfer and will deduct the County's cost for earthquake insurance. A resolution accepting and appropriating unanticipated revenue for the remainder of 2008-09 into Index 451000- Contribution to the Superior Court- is included as Attachment 3 and will provide for two quarterly payments of the CFP and the receipt of reimbursement from the State from the date of transfer, anticipated to be December 31, 2008.


SUMMARY AND RECOMMENDATION

Upon your Board's approval of the transfer agreements before you today, the County will have concluded the transfer process required under the provisions of Senate Bill 1732- The Trial Court Facilities Act. The only remaining transaction will be the transfer of title for the Watsonville Court upon approval by the State Public Works Board anticipated in mid-2009.

It is therefore Recommended that your Board:

- 1) Approve Transfer of Responsibility (TOR) Agreements and Joint Occupancy Agreements (JOA) for the County Administration Building and the Main County Courthouse, including the Jury Assembly Modular; and,
- 2) Adopt a resolution accepting and appropriating unanticipated revenue from the State in the amount of \$33,131 for the County Administration Building (CFP) and in the amount of \$70,063 for the Main County Courthouse.

Very truly yours,


Susan A. Mauriello
County Administrative Officer

cc. **Superior Court**
Auditor-Controller
County Counsel
General Services
Real Property
Administrative Office of the Court (AOC); Attn: Denny Jones and Charles Martel, Esq.

Facility: #44-A1; 44-A3

Building Name: Main Courthouse and Jury Assembly Modular

Building Address: 701 Ocean Street, Santa Cruz, CA 95060

**TRANSFER AGREEMENT
BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS,
AND THE COUNTY OF SANTA CRUZ
FOR THE TRANSFER OF RESPONSIBILITY FOR COURT FACILITY**

Court Facility: #44-A1; **44-A3**

Owned-Shared (TOR Only)

1253058.1

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TRANSFER AGREEMENT

1. PURPOSE

The Judicial Council of California (“**Council**”), Administrative Office of the Courts (together, the “**AOC**”), and the County of Santa Cruz (“**County**”), set forth the terms and conditions for the transfer of responsibility for funding and operation of the trial court facilities commonly known as the Main Courthouse and the Jury Assembly Room Modular.

2. BACKGROUND

The Lockyer-Isenberg Trial Court Funding Act of 1997, AB 233 (Escutia and Pringle) provides for transfer of the primary obligation for funding of court operations from the counties to the State. The restructuring of funding for trial court operations accomplished by the Lockyer-Isenberg Trial Court Funding Act of 1997 ended a dual system of county and state funding of, and created a more stable and consistent funding source for, trial court operations. The Trial Court Facilities Act of 2002 was adopted to provide for the transfer of responsibility for funding and operation of trial court facilities from the counties to the AOC. The Parties enter into this Agreement to implement the provisions of the Act as it exists on the Effective Date.

3. DEFINITIONS

“**Act**” means the Trial Court Facilities Act of 2002 (Government Code sections 70301-70404) as of the Effective Date.

“**Agreement**” means this Transfer Agreement, together with the attached Exhibits.

“**AOC Authorized Signatory**” means the AOC’s Senior Manager, Business Services, Grant Walker.

“**BI Documents**” means the instruments and agreements evidencing or securing the Bonded Indebtedness that currently encumbers the Real Property, and any other instruments or agreements securing future Bonded Indebtedness that the County may cause to be issued at any time on or after the Closing Date in compliance with section 4.3.15 of this Agreement and the terms of the Act.

“**Bonded Indebtedness**” means “bonded indebtedness”, as defined in section 70301(a) of the Act.

“**Buildings**” means, together, the Main Courthouse Building and the Jury Assembly Room Modular.

“Building Equipment” means all installed equipment and systems that serve the Buildings, excluding the Central Plant (as defined in the JOA).

“Closing” means completion of all steps required to complete the Transfer under this Agreement and the Act.

“Closing Date” means the last day of the month in which the State Department of Finance approves the County Facilities Payment for the Court Facility.

“Closing Documents” means the documents listed in section 5.1.1 of this Agreement.

“Common Area” means the areas of the Land and the Buildings that are used non-exclusively and in common by, or for the common benefit of, the County and the Court, and includes (1) those portions of the Buildings depicted as Common Area on **Exhibit “F”**, including hallways and restrooms that are not located in either Party’s Exclusive-Use Area, (2) foundations, exterior walls, load-bearing walls, support beams, exterior windows, the roof, and other structural parts of the Buildings, (3) Building Equipment and Utilities that do not exclusively serve only one Party’s Exclusive-Use Area, and (4) driveways, walkways, and other means of access over the Land and through the Buildings to the Court Exclusive-Use Area. The Common Area does not include any part of the Exclusive-Use Area of either Party, except for any Building Equipment that is located in a Party’s Exclusive-Use Area.

“Controller” means the State Controller.

“County Authorizing Document” means a certified copy of a minute order evidencing that the County has taken all steps and obtained all approvals required to: (1) authorize the County Authorized Signatory to execute this Agreement and the Closing Documents on behalf of the County; and (2) authorize the County to perform its obligations under this Agreement and the Closing Documents.

“County Authorized Signatory” means the Chair of the County’s Board of Supervisors.

“County Exclusive-Use Area” means the 371 square feet of the Main Courthouse Building that are exclusively occupied and used by the County, as depicted on **Exhibit “F”** to this Agreement. As of the Effective Date, the County Exclusive-Use Area is 0.89% of the Total Exclusive-Use Area.

“County Facilities Payment” means the payments the County must make to the Controller with respect to the Court Facility under Article 5 of the Act.

“County Parties” means the County, its political subdivisions, and their respective officers, agents, and employees.

“Court” means the Superior Court of California for the County of Santa Cruz.

“Court Exclusive-Use Area” means the 36,087 square feet of the floor space in the Buildings that are exclusively occupied and used by the Court, as depicted on **Exhibit “F”** to this Agreement. As of the Effective Date, the Court Exclusive-Use Area constitutes 99.11 percent of the Total Exclusive-Use Area.

“Court Facility” means the Court Exclusive-Use Area, which includes all spaces, fixtures, and appurtenances described in section 70301(d) of the Act, including seven rooms for holding superior court, seven chambers of judges of the Court, rooms for attendants of the Court, four rooms for secure holding of prisoners attending Court sessions, one sallyport for transporting prisoners to and from Court sessions, rooms for storage, and certain other areas required or used for Court functions, together with the non-exclusive right to occupy and use the Common Area, and with the right to enter, exit, pass over, and pass through the Land as necessary to access the Court Facility. A copy of a site plan depicting the location of the Buildings on the Land and a floor plan depicting the layout of the Court Facility in the Buildings, are attached as **Exhibit “F”** to this Agreement and are further described in the JOA.

“Court Parking” means a total of 48 parking spaces located in the Parking Area, 11 of which are dedicated for use by the judges and 37 of which are dedicated for use by court staff, as shown on the parking plan attached as **Exhibit “G”**. The County and the Court have agreed that the Court Parking is parking of the same number, type, and convenience as made available for users of the Court on October 1, 2001.

“Deficiency” has the meaning ascribed to it in the JOA.

“Dispute” means each and every pending or threatened claim, liability, litigation, arbitration, mediation, administrative proceeding, settlement negotiation, or other dispute-resolution proceeding related to the Property that, if determined adversely to the County or the AOC, would have a Material Adverse Effect. An accurate and complete list of all Disputes as of the Effective Date is set forth in **Exhibit “H”**.

“Effective Date” means the date on which this Agreement is signed by the last of the Parties to sign.

“Environmental Law” means federal, state, or local laws, ordinances, regulations, rules, statutes, and administrative actions or orders respecting hazardous or toxic substances, waste, or materials, or industrial hygiene.

“Hazardous Substance” means any material or substance regulated under any Environmental Law.

“Indemnified Loss” means all claims, demands, liabilities, damages, attorney fees, costs, expenses, and losses as to which either Party is obligated to indemnify the other Party under this Agreement or the Closing Documents.

“Intangible Personal Property” means all of the County’s: (1) agreements or arrangements for the operation of the Building Equipment in the Court Facility; (2) warranties, permits, licenses, certificates, guaranties, and suretyship agreements and arrangements, and indemnification rights in favor of the County with respect to the Court Facility; (3) commitments, deposits, and rights for utilities relating to the Court Facility; (4) engineering, accounting, title, legal, and other technical or business data concerning the Court Facility or the Tangible Personal Property; (5) deposits, deposit accounts, and escrow accounts arising from or related to any transactions related to the Court Facility or the Tangible or Intangible Personal Property, and rights to receive refunds or rebates of impact fees, assessments, charges, premiums, or other payments made by the County if these refunds or rebates relate to the period on or after the Closing Date; or (6) all other intangible rights, interests, and claims of the County which are a part of or related to the Court Facility or the Tangible Personal Property.

“JOA” means the document titled Joint Occupancy Agreement that is similar in form and content to the document attached to this Agreement as **Exhibit “J”** and under which the County and the Court will occupy, and the Parties will operate and maintain, the Real Property.

“Jury Assembly Room Modular” means the modular facility on the Land in which a portion of the Court Facility is located, and appurtenances thereto, and commonly known as the Jury Assembly Room. The Jury Assembly Room Modular is occupied exclusively by the Court as of the Effective Date.

“Land” means the real property described on **Exhibit “A”**, including the County’s (1) rights to enter and exit the Land, (2) recorded and unrecorded rights to water, water stock, oil, gas, minerals, and timber related to the Land, and (3) existing, granted development permits, entitlements, and air and view rights.

“Law” means State and federal codes, ordinances, laws, regulations, the California Rules of Court, and judicial and administrative orders and directives, to the extent binding on the County and issued by a court or governmental entity with jurisdiction over the County.

“Main Courthouse Building” means the building on the Land in which a portion of the Court Facility is located, and appurtenances thereto, and commonly known as the

Main Courthouse. The Main Courthouse Building is occupied by the Court and the County as of the Effective Date.

“Managing Party” means the Party designated the “Managing Party” in the JOA.

“Material Adverse Effect” means any of (1) a material adverse change in (a) the condition, operations, overall functionality, or value of the Property, (b) the County’s use of, interest in, or right or title to, the Property, (c) the ability of the County to perform its obligations under this Agreement or the Closing Documents, or (d) the validity or enforceability of this Agreement or the Closing Documents; or (2) the imposition on the County of actual or contingent payment or performance obligations in respect of the Property of \$50,000 or more in the aggregate; or (3) any event, circumstance, or Dispute that causes or results in a Deficiency.

“Material Agreements” means any and all agreements, contracts, or understandings (whether written or unwritten) relating to the Property (1) for which termination requires advance notice by a period exceeding 30 calendar days, or (2) that obligate the County to make payment, or entitle the County to receive payment, exceeding \$25,000 within any fiscal year.

“Memorandum” means the document titled Memorandum of Joint Occupancy Agreement that is similar in form and content to the document attached to this Agreement as **Exhibit “K”**.

“Occupancy Agreement” means any agreement or arrangement that entitles a third party to occupy or use the Real Property for a period that continues after the Closing Date, and that cannot be terminated on 30 or fewer days notice.

“Occupant” means any third party that occupies, possesses, or uses the Real Property under an Occupancy Agreement.

“Operation” means the administration, management, maintenance, and repair of designated areas of the Real Property, but does not include custodial services for the Common Area or either Party’s Exclusive-Use Area, which are not governed by this Agreement or the JOA.

“Parking Area” means the parking lot on the Land that contains the Court Parking.

“Party” means either of the AOC or the County, and **“Parties”** means the AOC and the County.

“Pending Projects” means any pending maintenance project or other project involving the Court Facility under sections 70326(d) or 70331(c) of the Act, including

without limitation County's design of an upgrade to the fire alarm system in the Main Courthouse Building.

"Property" means all right, title, and interest in and to the Land, the Buildings (including the Court Facility, the County Exclusive-Use Area, and the Common Area), the Parking Area, and the Tangible Personal Property.

"Property Disclosure Documents" means all documents including Material Agreements that pertain to the title, ownership, use, occupancy, or condition of the Property or any rights, benefits, liabilities, obligations, or risks associated with the Property. A list of the categories of Property Disclosure Documents is attached as **Exhibit "I"**.

"Real Property" means the Land and the Buildings, together.

"Security Services MOU" means the Contractor Agreement – Provision of Court Security Services, Fiscal Year 2007-2008, between the County and the Court dated August 8, 2007, as amended from time to time.

"Service Contracts" means all contracts between the County and any third parties under which goods or services are provided to the Real Property with respect to the County's operation, maintenance, repair, and administration of the Real Property.

"State" means the State of California.

"State Parties" means the Council, the Administrative Office of the Courts, and the Court, their respective political subdivisions, officers, agents, and employees.

"Tangible Personal Property" means any unaffixed item that is, on the Closing Date, located on or in, or used in or necessary to the use, occupancy, or Operation of the Court Exclusive-Use Area.

"Total Exclusive-Use Area" means, together, the Court Exclusive-Use Area and the County Exclusive-Use Area (as defined in the JOA).

"Transfer of Responsibility" or **"Transfer"** means the County's full and final grant, transfer, absolute assignment, and conveyance to the applicable State Parties, and the State Parties' full and final acceptance and assumption of, entitlement to and responsibility for, all of the County's rights, duties, and liabilities arising from or related to the Court Facility under this Agreement and the Act, except for those duties and liabilities expressly retained by the County under this Agreement and the Act, and Disputes that commenced prior to the Closing Date or are related to facts or circumstances that occurred or existed prior to the Closing Date.

“Utilities” means the utilities services provided to the Real Property (which includes the Main Courthouse, the Jury Assembly Modular, and the adjacent County Administration Building), except for telephone, cable, internet, and other data services, which are governed by section 3.8 of the JOA, but specifically including heat, air conditioning, and domestic hot and cold water provided from the Central Plant.

4. RESPONSIBILITIES AFTER TRANSFER

4.1 Transfer of Responsibility. On the Closing Date, the Transfer of Responsibility for the Court Facility from the County to the AOC will occur under this Agreement and the Closing Documents.

4.2 General Responsibilities After Transfer. Upon the completion of the Transfer, the Parties will have the general rights, duties, and liabilities set forth in the Act in respect of the Real Property, except as expressly delegated by the Parties in this Agreement, the Closing Documents (including the JOA), or any other agreement.

4.3 Specific Responsibilities After Transfer. The Parties will have the following specific rights, duties, and liabilities upon and after the Transfer:

4.3.1 Utilities. The County is solely responsible for all Utilities costs and expenses incurred prior to the Closing Date, and the Parties will comply with the JOA with respect to the payment of Utilities costs and expenses incurred on and after the Closing Date.

4.3.2 Property Insurance and Risk Allocation. Responsibility and liability for (i) damage to or destruction of the Real Property, (ii) bodily injury to or death of third parties in, on, or about the Real Property, and (iii) Disputes, are allocated as set forth in the JOA.

4.3.3 Responsibility for Operation. Under the JOA and this Agreement, the AOC is responsible for Operation of the Common Area, including the Building Equipment. Operation of the Building Equipment includes maintaining and renewing all permits, certificates, approvals, and licenses required for lawful use of any of the Building Equipment. Notwithstanding the foregoing, the County shall remain solely liable and responsible for the completion of any Pending Projects that exist as of the Closing Date, at the County’s sole cost, and the County will diligently prosecute such Pending Projects to completion as soon as reasonably possible following the Closing Date.

4.3.4 Parking. The County is solely responsible for the Operation of the Parking Area under the terms of the JOA. The County will at all times provide, at the County’s sole expense, the Parking Area for use by the Court and people attending to business and personal affairs in the Court Facility. If any of the Parking Area becomes

unavailable for Court use in accordance with this section 4.3.4, the County will be responsible to provide, at no cost to the State Parties, alternate parking spaces of equal number, type, and convenience to the parking spaces that are no longer available.

4.3.5 Occupancy Agreements. The County will remain responsible for all Occupancy Agreements not assigned to the AOC.

4.3.6 Security Related Areas. The County Sheriffs Department will remain liable and responsible for the secure entry, exit, transport, and holding of prisoners attending Court sessions to, from, in, and through the security-related areas of the Real Property, including the holding cells and secured corridors, under the Security Services MOU. This Agreement does not supersede, replace, or modify the Security Services MOU or any other agreement between the County and the Court with respect to security staffing for the Real Property.

4.3.7 IT/Telephone Services. Subject to the terms and conditions set forth in the JOA, the AOC and the County will each be responsible for the Operation of their respective telecommunications and data equipment and services located in the Buildings.

4.3.8 Correspondence. The County will direct all correspondence, invoices, and information related to management, operation, maintenance, or repair of the Court Facility for the period on and after the Closing Date to the AOC's Office of Court Construction and Management pursuant to section 12 of this Agreement.

4.3.9 County Facilities Payments. The County will make all County Facilities Payments in accordance with the Act and section 6 of this Agreement.

4.3.10 Personal Property. If either Party determines that there exists any Tangible or Intangible Personal Property not previously transferred or assigned to the AOC, that Party will promptly provide to the other Party a notice that includes a reasonably-detailed, written description of that property. At the AOC's request, the County will transfer, convey, or assign to the AOC any or all of the Tangible or Intangible Personal Property described in that notice.

4.3.11 Adjustments. The Parties will make the appropriate adjustments for prorations or computations required by this Agreement or the Closing Documents as promptly as possible once accurate information becomes available evidencing that either Party is entitled to an adjustment. Any prorations will be based on a 365-day fiscal year. The Party entitled to the adjustment must make written demand on the other Party for the adjustment within one year after the Closing Date and provide a reasonably-detailed explanation of the basis for the demand and all supporting documentation. The Parties will promptly pay each other any corrected proration or adjustment amounts.

4.3.12 Equity Purchase Rights. Unless the Parties' respective Equity (as defined in the JOA) rights are adjusted, as provided in section 5.4 of the JOA, such that the AOC no longer has Equity rights in eighty percent (80%) or more of the Main Courthouse Building, the AOC has the right to require the County to vacate the Main Courthouse Building under the terms of section 70344(b) of the Act and the JOA.

4.3.13 Relief from Section 70311 Obligations. Effective upon the Transfer, the AOC confirms and agrees that the County will be and is relieved of any responsibility under section 70311 of the Act for providing to the Court those necessary and suitable court facilities currently located in the Buildings, except as specifically provided in this Agreement and the Act.

4.3.14 No Material Changes. Subject to section 4.3.16 below, the County will not: (1) transfer, agree to transfer, or enter into any agreement concerning, any right, title, or interest in the Court Facility, to any third party without the express prior written consent of the AOC; or (2) act or fail to act in any way that results in the Court Facility being subject to a Deficiency.

4.3.15 Liability for Seismic-Related Damage and Injury.

4.3.15.1 Application of Section 70324 of the Act. The Parties acknowledge that the AOC has assigned the Main Courthouse Building a "Level V seismic rating" as defined in section 70321 of the Act; and therefore, that section 70324 of the Act applies to the Transfers, and that section 70324 of the Act will continue to apply until any one of the events described in section 70324(b)(1) through (4) of the Act has occurred notwithstanding any subsequent repeal of section 70324 of the Act, pursuant to the terms of section 70324(f) of the Act.

4.3.15.2 Allocation of Liability and Obligations. The liabilities and obligations of the Parties (including any indemnification obligations) with respect to any seismic-related damage and injury on or to the Property shall be as set forth in **Exhibit "E"** and section 70324 of the Act which, for the convenience of the Parties, is attached as incorporated into this Agreement as though fully set forth in this Agreement. At all times that section 70324 of the Act applies in respect of the Property, the terms of section 70324 of the Act and this section 4.3.15 will prevail over any conflicting provisions of the Act, this Agreement, or the Closing Documents. As provided in section 70324(d) of the Act, in no event will section 70324 of the Act be deemed to impose greater liability on the County for seismic-related damage to third parties than the County would have if the Transfer had not occurred.

4.3.15.3 Termination of this Section and Related Indemnities. When section 70324 of the Act no longer applies in respect of the Property, this section 4.3.15 will immediately and automatically expire and be of no further force or effect with

respect to any subsequent seismic-related damage or injury in respect of the Property. Thereafter, the other terms of this Agreement and the Closing Documents, or any agreement entered into under section 70324(a)(4) of the Act and approved by the Director of Finance, if applicable, will apply to allocation of liability for seismic-related damage or injury on or to the Property.

4.3.16 Bonded Indebtedness. On the Effective Date, some or all of the Real Property is subject to Bonded Indebtedness, and the County will remain solely responsible to meet its obligations under the Bonded Indebtedness Documents, and will not act or fail to act in a way that violates the Bonded Indebtedness Documents (“**BI Default**”). The Parties do not intend that this Agreement will interfere with the County’s right to use the Real Property for future financing purposes. Where and to the extent permitted by law, the AOC will cooperate in good faith with the County in any effort to use the Real Property for financing purposes, including by executing any further agreements that may be reasonably necessary in connection therewith. If, at any time after the Closing Date, the County causes the Real Property to be further encumbered by additional Bonded Indebtedness, the County will be solely responsible to comply with all obligations under such additional Bonded Indebtedness Documents and will not act or fail to act in any way that violates those Bonded Indebtedness Documents. The County will promptly provide the AOC with a copy of any notice given or received by the County that concerns or alleges a BI Default. Upon the AOC’s receipt of a notice alleging a BI Default by the County, the AOC has the right, but not the obligation, to cure such BI Default on behalf of the County. The County will provide full cooperation to the AOC in connection with any AOC cure of a County BI Default. If, at any time after the Closing Date, the County causes the Real Property to be further encumbered by additional Bonded Indebtedness, the AOC will exercise its rights under sections 70391 and 70392 of the Act in a way that does not (i) violate the terms of such additional Bonded Indebtedness Documents, (ii) cause any amounts payable by the County under the Bonded Indebtedness Documents to be includable in gross income for federal or State income tax purposes, or (iii) otherwise adversely affect the tax-exempt status of the Bonded Indebtedness. The County will promptly notify the AOC in writing if the County at any time believes that any act or omission by any State Party will or might result in a BI Default. If the Court is required to vacate the Court Facility through the operation or enforcement of the BI Documents, the County will comply with the provisions of section 70325(c) of the Act.

4.3.17 Service Contracts. The County has provided the AOC with a list of all Service Contracts. To the extent possible, the County will terminate all Service Contracts effective as of the Closing Date. If the Service Contract is a County master agreement, the County will remove the Court Facility from that Service Contract, if possible. The County will be responsible to pay all charges and fees incurred under all Service Contracts for all periods prior to the Closing Date. With respect to those Service Contracts that are not (i) terminated by the County, or (ii) amended to remove the Court

Facilities from such Service Contract, the County will no longer provide services to the Court Facility under those Service Contracts following the Closing Date. Under no circumstances will the AOC Parties be required to pay any fees or charges under any Service Contracts for services provided following the Closing Date, unless the AOC has specifically requested such services.

5. CLOSING

5.1 The Closing Date. The Closing will occur upon the Closing Date, and will not be affected by the date of delivery of the signed originals of this Agreement or the Closing Documents.

5.1.1 Closing Documents. The Closing Documents are as follows:

- (a) the JOA;
- (b) the Memorandum;
- (c) the County Authorizing Document; and
- (d) any other documents required by Law, or reasonably requested by the State Parties or the County to complete the Transfer.

5.1.2 Time for Signature for TOR Closing Documents. The Parties will sign the Closing Documents on or as expeditiously as possible after the Effective Date. If the Closing Documents have not been signed within ten days after the Effective Date, either Party that has signed the Closing Documents may terminate this Agreement and the Closing Documents upon five business days notice to the other Party, but if the Closing Documents are fully signed by the Parties prior to the end of the five business day period, any termination notice shall be of no force or effect.

5.2 Conditions for Closing. Neither Party will be obligated to consummate the Transfer unless the following conditions are satisfied or waived prior to the Closing Date. The conditions for the benefit of the County may only be waived by the County, and the conditions for the benefit of the AOC may only be waived by the AOC.

5.2.1 Conditions for the Benefit of the AOC. All of the County's representations and warranties in this Agreement must be accurate and complete in all material respects as though made on the Closing Date; the County must not have breached any of the County's representations, warranties, or covenants in this Agreement; and there must be no County Event of Default under this Agreement nor any circumstance which, but for the passage of time or the giving of notice or both, would constitute a County Event of Default as of the Closing Date.

5.2.2 Conditions for the Benefit of the County. All of the AOC's representations and warranties in this Agreement must be accurate and complete in all material respects as though made on the Closing Date; the AOC must not have breached any of the AOC's representations, warranties, or covenants in this Agreement; and there must be no AOC Event of Default under this Agreement nor any circumstance which, but for the passage of time or the giving of notice or both, would constitute an AOC Event of Default as of the Closing Date.

5.3 Delivery of Signed Agreement, Closing Documents, and County Authorizing Document. The last Party to sign this Agreement and the Closing Documents must deliver, within three business days after signing, (i) to the County, one signed original of this Agreement and the Closing Documents, and (ii) to the AOC, all remaining signed originals of this Agreement, and the Closing Documents, and the County Authorizing Document. The AOC will endeavor to cause the Memorandum to be recorded in the County Recorder's Office within ten business days after the AOC's receipt of the signed originals of this Agreement and the Closing Documents.

5.4 Delivery of Possession. On the Closing Date, the County will deliver to the AOC custody and control over the Court Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area, subject to the terms of the JOA.

6. COUNTY FACILITIES PAYMENT

6.1 Amount of County Facilities Payment. The amount of the County Facilities Payment as approved by the AOC is \$140,125.00, which amount is subject to approval by the State Department of Finance and which shall be subject to adjustment under section 70355 and 70362 of the Act. If such amount is not approved by the DOF, then the Parties agree to amend this Agreement to include the final DOF-approved amount. The approved amount of the County Facilities Payment is intended to be based upon a Closing Date occurring in the same fiscal quarter as the Effective Date. If the Closing Date does not occur in the same fiscal quarter as the Effective Date, the Parties will recalculate the County Facilities Payment as set forth in the Act.

6.1.1 Earthquake Insurance Premium Credit. Of the \$140,125.00 annual County Facilities Payment, the sum of \$5,650.00 is the annual amount that was allocated in the County's insurance costs in 1999/2000 for the Real Property. When increased by the CFP Inflation Index Factor of 133.8619 the County Facilities Payment for insurance costs will be \$7,563.00. Of the \$7,563.00 insurance cost, \$6,640.00 is the annual amount for the payment of the premium for earthquake insurance for the Real Property. The AOC agrees that for a period of 35 years from the Closing Date, or until such time as the Building is no longer rated with a level V or unacceptable seismic safety rating, the County is entitled to deduct \$6,581.00, from the annual amount of the County Facilities Payment paid by the County, which represents the AOC's 99.11 percent share of the

\$6,640.00 premium for earthquake insurance subject to adjustment under section 70362 of the Act. The County agrees that it will use the \$6,581.00 deducted from the County Facilities Payment each year to contribute to the premium cost for the County procured and maintained earthquake insurance insuring the Real Property, the full cost of which is to be paid by the County without contribution from the AOC. The earthquake insurance policy may be satisfied, in whole or in part, by any combination of self-insurance or deductible maintained by the County, and commercial insurance, or by the County's participation in a joint powers authority established for the purpose of pooling self-insured claims. The County will provide the AOC with verification that the earthquake insurance is in full force and effect and, at the request of the AOC, with copies of the earthquake insurance policy, as such policy may be issued or modified from time to time. The County will include, by specific endorsement to any earthquake insurance policy insuring the Real Property, the Council, the AOC, and the Court as an insured or covered party, as appropriate, and joint loss payees for any property damage claims payable under the terms and conditions of such earthquake insurance policy, with the same coverage and limits as the named insured under such earthquake insurance policy. If, for any year or portion of a year during the 35 consecutive years from the Closing Date, and during which the Building continues to be rated with a level V or unacceptable seismic safety rating, there will be no policy of earthquake insurance covering the Real Property, then the County will include in the County Facilities Payment paid for that year the \$6,581.00, or, if applicable, the pro rata portion of \$6,581.00 that relates to the portion of the year during which the County did not maintain earthquake insurance for the Real Property. Any such proration will be made in accordance with section 4.3.14 of this Agreement.

6.2 Transition Date. The Parties have agreed to transition responsibility for Operation of the Court Exclusive-Use Area from the County to the AOC on the first business day of the first month following the Closing Date (the "**Transition Date**"). Until the Transition Date, the County will continue to perform the Operation of the Court Exclusive-Use Area and Common Area at no cost to the AOC. The County's responsibility for the County Facilities Payment commences on the Closing Date. In consideration of the above-described services provided by the County to the AOC, the County will have no obligation, at any time, to make any payments of the County Facilities Payment to the Controller for the period from the Closing Date through the Transition Date, and the County shall make its first payment of the County Facilities Payment on the later to occur of the fifth (5th) after the Closing date or the day after the Transition Date.

6.3 County Facilities Payment Obligation. The County will pay the County Facilities Payment to the Controller every fiscal quarter under Article 5 of the Act and section 6 of this Agreement, except that the County must deliver to the Controller the first quarterly installment of the County Facilities Payment amount approved by the State Department of Finance in accordance with section 6.1 above within five business days after the Closing Date. Unless the Closing Date is on the first day of a fiscal quarter, the first installment of the County Facilities Payment will be prorated under section 4.3.11 for

the period from the Closing Date to and including the last day of the fiscal quarter in which the Closing Date occurs, subject to adjustment under section 70355 and 70362 of the Act. Thereafter, the quarterly installments of the County Facilities Payment will be the full non-prorated amount for the applicable fiscal quarter, subject to adjustment under section 70355 and 70362 of the Act.

7. REPRESENTATIONS AND WARRANTIES

Each Party makes the representations and warranties in this section 7 to the other Party effective on both the Effective Date and the Closing Date. Each Party will give written notice to the other within five business days of its discovery of any facts or circumstances that would render any information contained in that Party's representations and warranties in this Agreement or any Closing Document incomplete, untrue, or misleading, but if a Party makes that discovery within seven calendar days prior to the Closing Date, then that Party must immediately deliver written notice of the relevant information to the other Party, whereupon the Closing will be automatically delayed to allow the Party receiving that notice sufficient time to decide whether to proceed with the Closing.

7.1 The County's Representations and Warranties. The phrase "to the best of the County's knowledge" or words of similar import, means the actual knowledge, after reasonable independent investigation and inquiry, of Carol Girvetz, Dana McRae, and Gerald Dunbar, and the County represents that these are the persons within the County most knowledgeable with respect to the County's representations and warranties.

7.1.1 Good Standing. The County is a political subdivision of the State duly organized and validly existing under the Law of the State.

7.1.2 Authority. The County Authorized Signatory has been duly authorized and empowered to sign this Agreement and the Closing Documents on behalf of the County, and the County has taken all steps and obtained all approvals required to authorize and empower the County to sign and perform this Agreement and the Closing Documents.

7.1.3 Due Execution and Delivery. This Agreement and the Closing Documents are legal, valid, and binding obligations of, and are fully enforceable against, the County.

7.1.4 No Conflict. This Agreement and the Closing Documents do not violate any provision of any agreement, obligation, or court order to which the County is a party or by which the County or any of its assets is subject or bound. No other action of any governmental agency or authority is required for, and the County has no actual knowledge of any Law in effect which would prohibit, the County's execution, delivery, or performance of its obligations under this Agreement or the Closing Documents.

7.1.5 Title to Real Property. Other than the BI Documents and any other rights and interests that have been recorded as encumbrances on the Real Property prior to the Effective Date: (1) the County has good and marketable fee title to the Real Property, free and clear of any liens, claims, encumbrances, or security interests in favor of third parties; (2) no person or entity other than the County has any title or interest in or right to occupy or use the Real Property; and (3) the County has not granted, conveyed, or otherwise transferred to any person or entity any present or future right, title, or interest in or to the Real Property.

7.1.6 Title to Personal Property. After a reasonable and diligent search, the County has determined that none of the Tangible or Intangible Personal Property is owned by the County Parties, and to the extent the County has any right, title, or interest in or to the Tangible or Intangible Personal Property, effective as of the Closing Date, the County transfers, conveys, and quitclaims the same to the AOC.

7.1.7 No Disputes. To the best of the County's knowledge, there are no Disputes pertaining to the Property, or the County's right, title, and interest in and to the Property.

7.1.8 No Vending Contracts. To the best of the County's knowledge, the County is not a party to any Occupancy Agreement under which vending facilities are located in the Court Exclusive-Use Area.

7.1.9 No Violations of Law. The County has no actual knowledge of, nor has the County received any written notice from any State, federal, or other governmental or quasi-governmental authority relating to: (1) any violation of Law, whether or not appearing in public records, with respect to the Property, which violation has not been corrected to the satisfaction of the State, federal, or other governmental or quasi-governmental authority that issued the notice, or (2) any unrecorded restriction applicable to the Real Property.

7.1.10 Full and Complete Disclosure. The County conducted a reasonable and diligent search of its records for, and provided to the AOC, all existing Property Disclosure Documents within the County's possession, custody, or control. The County maintains the Property Disclosure Documents in its ordinary course of business and has not intentionally altered any Property Disclosure Documents in any manner that renders them inaccurate, incomplete, or misleading.

7.1.11 No Condemnation. The County has not received a written notice of any pending modification of a street or highway contiguous to the Real Property, or any existing or proposed eminent domain proceeding that could result in a taking of any part of the Real Property.

7.1.12 No Environmental Violations. Except as set forth in the Property Disclosure Documents or in any environmental assessments or investigations of the Real Property performed by the AOC, the County has no knowledge of the actual, threatened, or suspected presence of any Hazardous Substance, and there are no existing violations of Environmental Laws, in, on, under, adjacent to, or affecting the Real Property, except for any Hazardous Substance used or held in conformity with Environmental Laws.

7.1.13 No Special Circumstances. The Buildings are not “historical buildings” as defined in section 70301(f) of the Act.

7.2 AOC’s Representations and Warranties. The phrase “to the best of the AOC’s knowledge,” or words of similar import, means the actual knowledge, after reasonable independent investigation and inquiry, of the Director, Office of Court Construction and Management, who the AOC hereby represents is the person within the AOC most knowledgeable with respect to the matters described in the AOC’s representations and warranties.

7.2.1 Good Standing. The Administrative Office of the Courts is the staff agency to the Council, an entity established by the Constitution of the State, validly existing under the Law of the State.

7.2.2 Due Execution and Delivery. This Agreement and Closing Documents are legal, valid, and binding obligations of, and are fully enforceable against, the AOC.

7.2.3 No Conflict. This Agreement and the Closing Documents do not violate any provision of any agreement, obligation, or court order, to which the AOC is a party or by which the AOC or any of its property is subject or bound. No other action of any governmental agency or authority is required for, and the AOC has no actual knowledge of any Law in effect which would prohibit, the AOC’s execution, delivery, or performance of its obligations under this Agreement or the Closing Documents.

8. INDEMNITIES

8.1 AOC’s Indemnities. Subject to section 8.3, below, the AOC indemnifies, defends, and holds harmless the County Parties (with counsel reasonably acceptable to the County) from and against all Indemnified Loss asserted against the County Parties arising from the matters described below in this section 8.1:

8.1.1 AOC Breach. Any breach by a State Party of its obligations set forth in this Agreement or in the Closing Documents;

8.1.2 Representations and Warranties. Any breach of or inaccuracy in the AOC's representations and warranties contained in section 7.2 of this Agreement or in the Closing Documents.

8.2 County's Indemnities. Subject to section 8.3, below, the County indemnifies, defends, and holds harmless the State Parties (with counsel reasonably acceptable to the State Parties) from and against all Indemnified Loss asserted against the State Parties arising from the matters described below in this section 8.2:

8.2.1 County Breach. Any breach by a County Party of its obligations set forth in this Agreement or in the Closing Documents;

8.2.2 Representations and Warranties. Any breach of or inaccuracy in the County's representations and warranties contained in section 7.1 of this Agreement or in the Closing Documents;

8.2.3 Pre-Closing Events. Any event or Dispute occurring before the Closing Date, or which is otherwise attributable to the time prior to the Closing Date, related to the County's ownership, possession, operation, management, maintenance, repair of, or responsibility for, the Real Property, except such event or Dispute caused solely by the AOC, the Court, or a Court employee; and

8.3 Indemnity Exclusions. Neither Party is entitled to be indemnified, defended, or held harmless by the other Party under this Agreement in respect of any event, circumstance, or condition that arises from its own negligence or willful misconduct, nor from any property insurance claim for which the Party is responsible under this Agreement or the JOA. The obligations of a Party under section 8.1 or 8.2 of this Agreement, as applicable, will in no event release the other Party from, or diminish its obligation to fully and faithfully perform its duties under, the Agreement, the Closing Documents, or any other agreement.

8.4 CERCLA. The County acknowledges that it has certain indemnification obligations in respect of the Real Property under section 70393(d) of the Act. Nothing in this Agreement will in any manner be deemed or construed as an admission by the County to any Third Party that the County has any obligation, responsibility, or liability of any kind or nature whatsoever as to the environmental condition of the Real Property surrounding the Buildings under CERCLA or any other Law, except that the County confirms that this provision does not alter, diminish, or negate the County's obligation to indemnify the State in accordance with the terms of section 70393(d) of the Act.

9. RIGHT TO AUDIT

The County will maintain all records relating to the County Facilities Payment due and owing from the County under the Act, according to the time limits contained in the

instructions for calculation of the County Facilities Payment. The County will also maintain an accounting system, supporting fiscal records, and agreements related to the Property, including the Property Disclosure Documents, adequate to ensure that all claims and disputes arising under this Agreement or the Closing Documents can be resolved in accordance with the requirements of this Agreement and the Act. The County will also maintain records relating to all receipts and expenditures from the local courthouse construction fund established under Government Code section 76100, which the AOC has the right to audit under section 70391(d)(2) of the Act. The AOC may audit or inspect these County records upon reasonable prior notice.

10. DEFAULT NOTICE AND CURE

Upon a Party's breach or default of any provision of this Agreement, the non-defaulting Party will provide written notice to the defaulting Party of the breach or default ("**Default Notice**"). Upon receipt of the Default Notice, the defaulting Party will have 30 calendar days to cure the breach or default described in the Default Notice and to provide evidence of that cure to the non-defaulting Party. If the breach or default is not capable of cure within the 30 calendar day period, then no breach or default can be deemed to have occurred by reason of the failure to cure so long as the defaulting Party promptly begins and diligently and continuously performs the cure to completion within a reasonable time period, not to exceed 90 calendar days from commencement of the cure ("**Cure Period**"). If the defaulting Party does not provide evidence of the cure to the non-defaulting Party within the Cure Period, then the defaulting Party will be deemed to have committed an "**Event of Default,**" and the non-defaulting Party will have the right, but not the obligation, to pursue its rights with respect to resolution of disputes under section 11 of this Agreement. The Parties may mutually agree to commence the dispute resolution procedures in section 11 of this Agreement before the end of the Cure Period.

11. DISPUTE RESOLUTION

11.1 Unassisted Negotiation; Mediation. In the event of a dispute between the Parties relating to performance of the Parties' obligations under this Agreement, or any aspect of the Transfer transaction contemplated in this Agreement, the County Administrative Officer and an Assistant Director of the AOC's Office of Court Construction and Management, or their respective designees, will meet to discuss a resolution to the dispute. Any designee appointed must have the authority to negotiate for and to effectively recommend settlement to, the Party that he or she represents. If the Parties are not able to resolve their dispute within 30 calendar days through that unassisted negotiation, they will attempt to resolve the dispute by mediation under this section 11.1. If the dispute concerns a matter within the jurisdiction of the Court Facilities Dispute Resolution Committee ("**CFDRC**"), established by section 70303 of the Act, the Parties must first mediate the dispute before either Party may commence a dispute resolution proceeding before the CFDRC.

11.1.1 Initiation of Mediation. Either or both of the Parties may request the initiation of mediation for any dispute described in section 11.1, whether or not the dispute falls within the CFDR's jurisdiction, by delivering a written request for mediation ("**Mediation Request**") to the other Party. The Mediation Request must (1) include a brief summary of the issues in dispute, and (2) state the dates on which the requesting Party is unavailable to attend the mediation within the immediately-succeeding 90 calendar days after the delivery to the other Party of the Mediation Request. Within seven calendar days after the requesting Party's delivery of a Mediation Request to the other Party, the responding Party must deliver to the requesting Party a response to the Mediation Request ("**Mediation Response**"), which must: (a) include a brief summary of the issues in dispute (which may or may not be the same as the summary provided by the requesting Party); and (b) state the dates on which, as of the date of the Mediation Request, the responding Party is unavailable to attend the mediation within the 83 calendar days immediately following the responding Party's receipt of the Mediation Request.

11.1.2 Selection of Mediator. Within 12 calendar days after delivery to the requesting Party of the Mediation Response, the Parties will attempt in good faith to agree upon a neutral mediator to preside over the mediation. If the Parties are not able to mutually agree upon a neutral mediator within 12 calendar days after delivery to the requesting Party of the Mediation Response, then within 17 calendar days after delivery to the requesting Party of the Mediation Response, each Party shall deliver to the other Party a list of five potential mediators which list shall rank the mediator candidates in order of preference and include at least two, but not more than three, of whom may be former judges who never sat on the Superior Court or Municipal Court of the County of Santa Cruz, and the remaining selections shall not include any former superior court or municipal court judges whatsoever. If the same mediator candidate appears on both lists, then such mediator candidate shall be deemed to be selected as the mediator. If more than one mediator candidate appears on both lists, then the mediator shall be selected based on the priority that each such mediator candidate is specified on both lists. If there is no mediator listed on both lists, the Parties shall, within 22 calendar days after delivery to the requesting Party of the Mediation Response, attempt in good faith to mutually agree upon a single mediator from the names on the two lists. If the Parties are not able to agree upon a single mediator, then each Party, within 27 calendar days after delivery to the requesting Party of the Mediation Response, shall select one mediator on the other Party's list of five mediator candidates, and the mediation shall be done by two mediators.

11.1.3 Cost of Mediation. The Parties will share equally in payment of all costs of the mediation, including the compensation of the mediator. The Parties and the mediator must reach a written agreement regarding the mediator's compensation and expenses before the mediation is commenced.

11.1.4 Date, Time, and Place of Mediation. In consultation with the Parties, the mediator will fix the date, time, and place of each mediation session. The mediation may be held at any convenient location agreeable to the Parties and the mediator. Mediation must be completed within 90 calendar days after the requesting Party's delivery to the responding Party of the Mediation Request.

11.1.5 Attendance at Mediation. Both Parties must attend the mediation session(s). The Parties may satisfy this attendance requirement by sending a representative familiar with the facts of the dispute, who has the authority to negotiate on behalf of, and to effectively recommend settlement to, the Party he or she represents. Any Party to the mediation may have the assistance of an attorney or other representative of its choice, at its own cost. Other persons may attend the mediation sessions only with the consent of the Parties and the mediator.

11.1.6 Confidentiality. The mediation will be confidential in all respects, and the provisions of California Evidence Code sections 1152 and 1154 will apply to all written and verbal evidence presented in the mediation and to settlement communications made in the Premediation Statement, during the mediation itself, or otherwise in furtherance of or related to the mediation or the settlement of the dispute. The Premediation Statements shall be confidential, for settlement purposes only, and will not be admissible for any purpose other than for the mediation. Without limiting the foregoing, the provisions of California Evidence Code sections 1115 through 1128, inclusive, will apply in connection with any mediation under this Agreement.

11.2 Referral to CFDRRC. After compliance with the terms of section 11.1 of this Agreement, any unresolved dispute involving any of the matters set forth in sections 70303(c)(1) through (5) of the Act will be referred to the CFDRRC for hearing and recommendation to, and decision by, the Director of Finance, under the Act and the CFDRRC Regulations.

12. NOTICES

Any notice or communication required to be sent to a Party pursuant to this Agreement must be sent in writing by personal delivery (including overnight courier service), certified U.S. mail, postage pre-paid and with return receipt requested, or facsimile transmission, sent during regular business hours of the recipient to the Parties at their addresses or fax numbers indicated below. Routine exchange of information may be conducted via telephone, facsimile, and/or electronic means, including e-mail.

If to the AOC:

Administrative Office of the Courts
 Attention: Assistant Director, Office of Court Construction and
 Management
 455 Golden Gate Avenue
 San Francisco, CA 94102
 Voice: 415-865-4040
 Fax: 415-865-8885

With a copy to:

Administrative Office of the Courts
 Office of Court Construction and Management
 Attention: Manager, Real Estate
 455 Golden Gate Avenue
 San Francisco, CA 94102
 Voice: 415-865-4048
 Fax: 415-865-8885

In addition, all audit requests and notices by the County relating to termination of this Agreement or alleged breach or default by the AOC of this Agreement or any other Closing Document must also be sent to:

Administrative Office of the Courts
 Attention: Senior Manager, Business Services
 455 Golden Gate Avenue
 San Francisco, CA 94102-3688
 Voice: 415-865-4090
 Fax: 415-865-4326
 Email: grant.walker@jud.ca.gov

If to the County:

County of Santa Cruz
 County Administrative Office
 Attention: Carol Girvetz
 701 Ocean Street, Room 520
 Santa Cruz, CA 95060
 Voice: 831-454-2100
 Fax: 831-454-3420

With a copy to:

County of Santa Cruz
Office of the County Counsel
Attention: Dana McRae
701 Ocean Street, Room 505
Santa Cruz, CA 95060
Voice: 831-454-2034
Fax: 831-454-2115

With a copy to:

County of Santa Cruz
Attention: General Services Department
701 Ocean Street, Room 330
Santa Cruz, CA 95060
Voice: (831) 454-2210
Fax: (831) 454-2710

A Party may change its address for notice under this Agreement by giving written notice to the other Party in the manner provided in this section 12. Any notice or communication sent under this section 12 will be deemed to have been duly given as follows: (1) if by personal delivery, on the date actually received by the addressee or its representative at the address provided above, or (2) if sent by certified U.S. mail, return receipt requested, on the first business day that is at least three calendar days after the date deposited in the U.S. Mail, or (3) if sent by facsimile transmission, upon electronic confirmation of good receipt by the receiving facsimile machine except that facsimile notice received after normal business hours of the recipient will be deemed received at 9:00 a.m. on the first business day after the date on which the facsimile notice was confirmed electronically.

13. SURVIVAL OF TERMS AND PROVISIONS

The following sections of this Agreement will survive the Closing, and will thereafter remain in full force and effect: 3, 4, 5.3, 5.4, and 6 through 14, inclusive. All other rights and duties hereunder will cease upon termination of this Agreement or Closing. In the event of the termination of this Agreement, all documents, other tangible objects, and information containing or representing confidential or proprietary information disclosed by one Party to the other, and all copies that are in the possession or under the control of the other Party will be and remain the property of the Party that disclosed the documents, objects, and information, and all those documents and tangible objects will be promptly returned to the Party that disclosed them at that Party's written request.

14. MISCELLANEOUS

14.1 Waivers. No waiver of any provision of this Agreement will be valid unless it is in writing and signed by both the AOC and the County. Waiver by either Party at any time of any breach of this Agreement cannot be deemed a waiver of or consent to a breach of the same or any other provision of this Agreement. If a Party's action requires the consent or approval of the other Party, that consent or approval on any one occasion cannot be deemed a consent to or approval of that action on any later occasion or a consent or approval of any other action.

14.2 Force Majeure. Neither Party will be responsible for performance under this Agreement to the extent performance is prevented, hindered, or delayed by fire, flood, earthquake, elements of nature, acts of God, acts of war (declared and undeclared), riots, rebellions, revolutions, or terrorism, whether foreseeable or unforeseeable.

14.3 Assignment. Neither Party may assign this Agreement in whole or in part, whether by operation of law or otherwise, to any other entity, agency, or person without the prior written consent of the other Party. Even if that consent is given, any assignment made in contravention of any Law will be void and of no effect.

14.4 Binding Effect. This Agreement binds the Parties and their permitted successors and assigns.

14.5 Third Parties Benefited. The State Parties are intended beneficiaries of all provisions of this Agreement and the Closing Documents for the benefit of the AOC.

14.6 Governing Law. This Agreement, and the Parties' performance under this Agreement, will be exclusively governed by the laws of the State without regard to its conflict of law provisions.

14.7 Construction. The headings used in this Agreement are for convenience only and will not affect the meaning or interpretation of this Agreement. The words "hereof," "herein," and "hereunder," and other words of similar import, refer to this Agreement as a whole and not to any subdivision of this Agreement. This Agreement and the Closing Documents will not be construed against either Party as the principal draftsperson. The words "include" and "including" when used are not exclusive and mean "include, but are not limited to" and "including but not limited to," respectively. The capitalized terms used in this Agreement have the meanings ascribed to them in this Agreement.

14.8 Integration; Amendments. This Agreement and the Closing Documents contain the entire agreement of the Parties with respect to the Transfer, and supersede all previous communications, representations, understandings, and agreements, whether

verbal, written, express, or implied, between the Parties. This Agreement may be amended only by written agreement signed by both of the Parties.

14.9 Incorporation By Reference. The factual recitals and Exhibits contained in or attached to this Agreement are all incorporated into and made a part of this Agreement for all purposes, and all references to this Agreement in any of the recitals or Exhibits will be deemed to include the entirety of this Agreement.

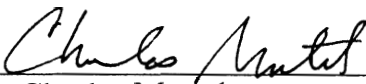
14.10 Severability. If a term of this Agreement is inconsistent with applicable Law, then on the request of either Party, the Parties will promptly meet and confer to determine how to amend the inconsistent term in a manner consistent with Law, but all parts of this Agreement not affected by the inconsistency will remain in full force and effect.

14.11 Further Assurances. The Parties agree to cooperate reasonably and in good faith with one another to (1) implement the terms and provisions set forth in this Agreement, the Closing Documents, and the Act, and (2) consummate the transactions contemplated herein, and shall execute any further agreements and perform any additional acts that may be reasonably necessary to carry out the purposes and intent of this Agreement, the Closing Documents, and the Act.


[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

I agree to the terms of this Agreement.

APPROVED AS TO FORM:
Administrative Office of the Courts,
Office of the General Counsel

By: 
Name: Charles Martel
Title: Attorney
Date: 12-2-2008

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS**

By: 
Name: Grant Walker
Title: Senior Manager, Business Services
Date: 12/2/08

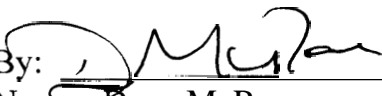
ATTEST:
_____, Clerk of the Board

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Deputy

By: _____
Name: _____
Title: Chair, Board of Supervisors
Date: _____

APPROVED AS TO FORM:
County of Santa Cruz
Office of the County Counsel

By: 
Name: Dana McRae
Title: County Counsel
Date: 12/3/08

Facility: #44-A1; 44-A3

Building Name: Main Courthouse and Jury Assembly Modular

Building Address: 701 Ocean Street, Santa Cruz, CA 95060

JOINT OCCUPANCY AGREEMENT
BETWEEN
THE JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS,
AND
THE COUNTY OF SANTA CRUZ

Court Facility: #44-A 1;44-A3

Owned-Shared (TOR Only)

1253059.1

JOINT OCCUPANCY AGREEMENT

1. PURPOSE

The Judicial Council of California (“**Council**”), Administrative Office of the Courts (together, the “**AOC**”), and the County of Santa Cruz (“**County**”) set forth the terms and conditions for the Parties’ shared possession, occupancy, and use of the Real Property.

2. DEFINITIONS

“**Act**” means The Trial Court Facilities Act of 2002 (Government Code sections 70301-70404) as of the Effective Date.

“**Agreement**” means the Transfer Agreement for the Transfer of Responsibility for Court Facility, by and between the AOC and the County, of even date herewith, under which the County transferred to the AOC responsibility for certain portions of the Real Property under the Act.

“**AOC Claim**” means any demand, complaint, cause of action, or claim related to the period on and after the Effective Date, alleging or arising from acts, errors, omissions, or negligence of the Court in the administration and performance of judicial operations in the Court Facility (e.g., allegations of civil rights violations made by a third party against a Court employee).

“**AOC Designated Representative**” means the individual designated as such in section 13 of this JOA.

“**AOC Share**” means 99.11 percent, which is the percentage of the Total Exclusive-Use Area occupied by the Court.

“**Appraiser**” means an MAI appraiser with at least five years experience in appraising real properties similar to the Real Property.

“**BI Documents**” means the agreements evidencing and securing the Bonded Indebtedness.

“**Bonded Indebtedness**” means “bonded indebtedness” as defined in section 70301(a) of the Act, to which the Real Property is subject.

“**Broker**” means a real estate broker licensed by the California Department of Real Estate with adequate knowledge and experience in assessing and providing opinions of value for real properties similar to the Real Property.

“Buildings” means, together, the Main Courthouse Building and the Jury Assembly Room Modular.

“Building Equipment” means the installed equipment and systems that serve the Buildings generally or the Common Area, excluding the Central Plant. The Building Equipment does not include the equipment and systems that exclusively serve the Exclusive-Use Area of only one Party.

“Campus Buildings” means the Buildings, and the adjacent County Administration Building (Building #44-A-02) all located on the Land.

“Campus Percentage” means 18.42 percent, which is the percentage of Total Exclusive-Use Area that is exclusively occupied and used by the Court in all Campus Buildings.

“Central Plant” means the central plant located in the basement of the County Administration Building located adjacent to the Buildings, including its distribution lines running to the Buildings and to the County Administration Building, which provides heat, air conditioning, and domestic hot and cold water to the Buildings and the County Administration Building.

“Common Area” means the areas of the Land and the Buildings that are used non-exclusively and in common by, or for the common benefit of, the County and the Court, and includes (1) those portions of the Buildings depicted as Common Area on **Attachment “2”** to this JOA, including hallways and restrooms that are not located in either Party’s Exclusive-Use Area, (2) foundations, exterior walls, load-bearing walls, support beams, exterior windows, the roof, and other structural parts of the Buildings, (3) Building Equipment and Utilities that do not exclusively serve only one Party’s Exclusive-Use Area, (4) driveways, walkways, and other means of access over the Land and through the Buildings to the Court Exclusive-Use Area; and (5) the Grounds Area. The Common Area does not include any part of the Exclusive-Use Area of either Party, except for any Building Equipment that is located in a Party’s Exclusive-Use Area.

“Contractors” means all third-party contractors, vendors, service providers, and all levels of subcontractors, and their respective employees, consultants, and representatives, that provide goods, services, or supplies to the Real Property with respect to the Operation of the Buildings.

“Contributing Party” means the County.

“County Designated Representative” means the individual designated as such in section 13 of this JOA.

“County Exclusive-Use Area” means the 371 square feet of the floor space in the Main Courthouse, which is exclusively occupied and used by the County as depicted on **Attachment “2”** to this JOA.

“County Parties” means the County, its political subdivisions, and their respective officers, agents, and employees.

“County Share” means 0.89 percent, which is the percentage of the Total Exclusive-Use Area that is exclusively occupied and used by the County.

“Court” means the Superior Court of California, County of Santa Cruz.

“Court Exclusive-Use Area” means the 41,307 square feet of the floor space of the Buildings that are exclusively occupied and used by the Court, as depicted on **Attachment “2”** to this JOA.

“Court Parking” has the meaning given to it in the Agreement and is depicted on **Attachment “2”** to this JOA.

“Deficiency” means any condition of, damage to, or defect in the Common Area that: (1) threatens the life, health, or safety of persons occupying or visiting the Buildings, (2) unreasonably interferes with, disrupts, or prevents either Party’s occupancy or use of the Real Property, or its ability to conduct its business operations in its Exclusive-Use Area, in an orderly, neat, clean, safe, and functional environment, (3) threatens the security of the employees, guests, invitees, or patrons of either Party, (4) threatens to diminish the value of the Contributing Party’s Exclusive-Use Area or the Common Area, or threatens to damage or destroy the business personal property of the Contributing Party or the Court including files, records and documents located in the Buildings, or (6) causes or exacerbates an unsafe, unsanitary, unlawful, or non-functional condition affecting the Contributing Party’s Exclusive-Use Area or the Common Area.

“Effective Date” means the date on which the Transfer of Responsibility is completed under the terms of the Agreement.

“Emergency” means a sudden, unexpected event or circumstance, on or affecting the Common Area or the Real Property, that results in a Deficiency.

“Equipment Permits” means all permits, certificates, and approvals required for lawful Operation of any of the Building Equipment.

“Equity” means the term “equity” as used and referred to in the Act.

“Estimated Shared Costs” means the Managing Party’s reasonable, itemized estimate of the Shared Costs for a fiscal year; provided that, the Managing Party’s first

estimate of the Shared Costs will cover the period from the Effective Date to the last day of the fiscal year in which the Effective Date occurs.

“Exclusive-Use Area” means the Court Exclusive-Use Area or the County Exclusive-Use Area, as determined by the context in which the term is used.

“Grounds Area” means the portion of the Land surrounding the Buildings.

“Hazardous Substance” means any material or substance regulated under any federal, state, or local laws, ordinances, regulations, rules, statutes, and administrative actions or orders respecting hazardous or toxic substances, waste, or materials, or industrial hygiene.

“Indemnified Loss” means all liability, damages, reasonable attorney fees, costs, expenses, or losses with respect to which either Party is obligated to indemnify the other Party under this JOA.

“JOA” means this Joint Occupancy Agreement.

“Jury Assembly Room Modular” means the modular facility on the Land in which a portion of the Court Facility is located, and appurtenances thereto, and commonly known as the Jury Assembly Room. The Jury Assembly Room Modular is occupied exclusively by the Court.

“Land” means the real property described on **Attachment “1”** to this JOA.

“Law” means State and federal codes, ordinances, laws, regulations, the California Rules of Court, and judicial and administrative orders and directives, to the extent binding on the County and issued by a court or governmental entity with jurisdiction over the County.

“Liability Claim” means any demand, complaint, cause of action, or claim alleging (1) bodily injury to or death of third parties (excluding any employees of State Parties or County Parties acting within the scope of their employment as such) in, on, or about the Real Property, and (2) damage to or destruction of personal property of a third party (other than personal property of a County Party or a State Party) in, on, or about the Real Property, but excludes all AOC Claims.

“Main Courthouse Building” means the building on the Land in which a portion of the Court Facility is located, and appurtenances thereto, and commonly known as the Main Courthouse. The Main Courthouse Building is occupied by the Court and the County.

“Major Deficiency” means any Deficiency in the Common Area: (i) that cannot, with reasonable diligence, be corrected within 30 days once commencement of the

corrective work has begun, or (ii) as to which the estimated cost to correct will result in Excess Costs in an amount greater than 10 percent of the Estimated Shared Costs for the fiscal quarter in which the Parties anticipate the correction will be performed, under section 4.2 of this JOA.

“Managing Party” means the AOC, which is the Party responsible for the Operation of the Common Area under this JOA.

“Memorandum” means the document titled Memorandum of Joint Occupancy Agreement that has been recorded in the official records of the County as an encumbrance on the Land pursuant to the Agreement.

“Non-Ownning Party” means the AOC, which is the Party that does not own fee title to the Real Property.

“Occupancy Agreement” means any agreement between a Party and a third party that entitles any party other than the County or the AOC to occupy or use any part of the Real Property.

“Occupant” means any party that occupies or uses the Real Property under an Occupancy Agreement.

“Operation” means the administration, management, maintenance, and repair of designated areas of the Real Property, but does not include custodial services for the Common Area or either Party’s Exclusive-Use Area, which are not governed by this JOA.

“Owner” means the County, which is the Party that owns fee title to the Real Property.

“Parking Area” means the Court Parking area serving the Buildings, as depicted on Attachment “2” to this JOA.

“Party” means either the AOC or the County, and **“Parties”** means the AOC and the County.

“Property Damage Claim” means any claim or demand arising from or related to direct, physical loss or damage to the Real Property that is required to be covered by the Property Insurance Policies.

“Property Insurance Costs” means all costs of providing the Property Insurance Policies, including premiums, deductibles, and self-insurance retention amounts under Owner’s self-insurance program provided that, Property Insurance Costs do not include (i) the cost of premiums, deductibles or self-insured retention amounts associated with seismic-related damage or injury to the Real Property, or (ii) premiums paid or

incurred in respect of any earthquake insurance covering the Real Property that the Owner obtains on or after the Effective Date unless the Non-Owning Party has given its prior, written consent to the inclusion of such premiums as Property Insurance Costs.

“Property Insurance Policies” means one or more policies of property insurance maintained by the Owner that insure the Real Property against those risks covered under a form of coverage with terms and conditions as comprehensive as those in an All-Risk/Special Form property insurance policy and, when applicable, the comprehensive form of equipment breakdown insurance, with coverage amounts equal to at least the 100 percent Replacement Cost of the Real Property. Owner’s obligation to provide the Property Insurance Policies may be satisfied, in whole or in part, by any self-insurance or deductible maintained by the Owner for the Real Property, or by Owner’s participation in a joint powers authority established for the purpose of pooling self-insured claims. While any part of the Real Property is subject to the Bonded Indebtedness, the Property Insurance Policies will include all property insurance coverage the County is required to maintain for the Real Property under the BI Documents.

“Property Loss” means any loss or damage to, or destruction of, the Real Property that arises from a cause that is required to be covered under the terms of the Property Insurance Policies.

“Real Property” means the Land and the Buildings, together.

“Restricted Area” means all areas (i) within the Court Exclusive-Use Area that are not generally accessible to the public, including judges’ chambers, all non-public restrooms, break rooms, and corridors, and other non-public spaces that are dedicated for use only by judges or Court staff and employees, and (ii) public areas of the Common Area and the Court Exclusive-Use Area during non-business hours that are subject to security screening during normal business hours.

“Security-Related Areas” means the parts of the Real Property that are used for secure holding and transport of prisoners, including holding cells, sallyports, and secured corridors.

“Security Services MOU” means the Contractor Agreement – Provision of Court Security Services, Fiscal Year 2007-2008, between the County and the Court dated August 8, 2007, as amended from time to time.

“Share” means the AOC Share or the County Share, as determined by the context in which the term is used.

“Shared Costs” means: (i) the cost of owned or rented capital replacement items, improvements, equipment, and repairs in or benefiting the Common Area; (ii) the cost of normal, day-to-day Operation of the Common Area including the cost of Utilities

provided to the Common Area and costs related to the Operation of the Central Plant as provided in section 4.5.3 of this JOA, and the cost of maintaining Equipment Permits (but excluding any late fees, interest, penalties, or other charges arising from the Managing Party's failure to timely pay those costs or keep the Equipment Permits in effect); and (iii) the cost of Utilities provided to the Exclusive-Use Areas, if Utilities are not separately metered for the Exclusive-Use Areas. Shared Costs do not include: (a) any cost that is primarily for the purpose of benefiting a Party's Exclusive-Use Area; (b) overtime charges or late fees related to any item that would otherwise be a Shared Cost, unless those overtime expenses or late fees are pre-approved by both Parties, or are necessary to remedy the imminent threat arising from an Emergency; or (c) any fees, fines, penalties, interest, or other charges arising from the Managing Party's Operation of the Real Property in a negligent manner or a manner that does not comply with Law. Notwithstanding anything to the contrary, Shared Costs do not include any costs relating to the Operations of the Parking Area or the Grounds Area, including without limitation the cost of any Utilities provided to the Parking Area or the Grounds Area. Notwithstanding anything to the contrary set forth in this JOA, Shared Costs relating to the Operation of, or upgrades or improvements to, the Central Plant, including the components of the Central Plant that are located on the Real Property, will be shared by the Parties as set forth in section 4.5.3 of this JOA.

"State Parties" means the Council, the Administrative Office of the Courts, and the Court, their political subdivisions, and their respective officers, agents, and employees.

"Term" means the term of this JOA, which commences on the Effective Date and continues indefinitely until the Parties enter into a written agreement terminating this JOA and causing the Memorandum to be terminated and removed as an encumbrance on the Land.

"Termination Agreement" means the document titled Termination of Joint Occupancy Agreement in the form and content attached as **Attachment "4"** to this JOA.

"Total Exclusive-Use Area" means the Court Exclusive-Use Area and the County Exclusive-Use Area, together.

"Utilities" means the utilities services provided to the Real Property (which includes the Buildings and the adjacent County Administration Building), except for telephone, cable, internet, and other data services, which are governed by section 3.8 of this JOA, but specifically including heat, air conditioning, and domestic hot and cold water provided from the Central Plant.

"Vending Facility" means "vending facility" as defined in section 19626 of the California Welfare and Institution Code, as amended.

3. RIGHTS AND RESPONSIBILITIES

3.1 Rights to Exclusive-Use Area and Common Area. Under the Act, the Agreement, and this JOA, the AOC has the right to exclusively occupy and use the Court Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area, and the County has the right to exclusively occupy and use the County Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area. Each Party's non-exclusive right to use the Common Area must: (i) not interfere with the other Party's use of its Exclusive-Use Area or the Common Area; (ii) not materially increase the other Party's obligations under this JOA; and (iii) comply with Law. The Parties may from time to time agree on reasonable rules and regulations for their shared use of the Common Area. The AOC agrees to use reasonable efforts to ensure that Court employees adhere to any reasonable rules and regulations promulgated by the County with respect to the occupancy and use of the Buildings by such Court employees.

3.2 Responsibility for Exclusive-Use Areas and Common Area.

3.2.1 Exclusive-Use Areas. During the Term, each Party is responsible for the Operation of its Exclusive-Use Area at its sole cost and expense. Each Party may make alterations and additions to its Exclusive-Use Area, as long as those alterations and additions do not unreasonably interfere with the other Party's use of its Exclusive-Use Area or the Common Area.

3.2.2 Common Area. The Managing Party is responsible for the Operation of the Common Area and will provide and pay for Utilities to the Real Property under this JOA, subject to section 3.2.3, and the Contributing Party's obligations under section 4 of this JOA. The Managing Party may make reasonable additions and alterations to the Common Area, the cost of which will be a Shared Cost, but the Managing Party must first obtain the written consent of the Contributing Party to those additions or alterations, which consent will not be unreasonably withheld, conditioned, or delayed. If the Contributing Party neither consents, nor provides to the Managing Party a reasonably-detailed description of its reasons for withholding its consent, within 30 days after the Contributing Party's receipt of the Managing Party's request for consent to the Common Area additions or alterations, the Contributing Party will be deemed to have consented, and will be responsible to pay its Share of the costs and expenses incurred by the Managing Party in making the Common Area alterations or additions described in the Managing Party's request for consent. The County is responsible for the Operation of the Grounds Area and the Parking Area, at its sole cost and expense, and the costs and expenses incurred by the County for Operation of the Grounds Area and the Parking Area will not be included as a Shared Cost. Notwithstanding anything to the contrary in this JOA or the Agreement, the Shared Costs incurred by the County for Operation of, and upgrades and improvements to, the Central Plant, including the components of the Central Plant that are located on the Real Property, will be determined and paid as set forth in section 4.5.3 of this JOA.

3.2.3 Correction of Common Area Deficiencies.

3.2.3.1 Deficiency. Upon the Managing Party's discovery of a Deficiency, the Managing Party must either (i) correct the Deficiency within 30 days, or (ii) if the Deficiency is a Major Deficiency, send a written notice to the Contributing Party, within ten business days after determining that the Deficiency is a Major Deficiency, describing the Major Deficiency and providing an estimate of the cost and time needed to correct the Major Deficiency ("**Major Deficiency Notice**").

3.2.3.2 Contributing Party Deficiency Notice. Upon the Contributing Party's discovery of a Deficiency in the Common Area, the Contributing Party shall send a written notice to the Managing Party describing the Deficiency (the "**Contributing Party Deficiency Notice**"). Upon receipt of any Contributing Party Deficiency Notice, the Managing Party must: (i) correct the Deficiency within 10 days after the Managing Party's receipt of the Contributing Party Deficiency Notice; or (ii) within three business days after the Managing Party's receipt of the Contributing Party Deficiency Notice, send a Major Deficiency Notice to the Contributing Party; or (iii) inform the Contributing Party in writing within three days of receipt of the Contributing Party Deficiency Notice that the Managing Party disputes the existence of a Deficiency. In the event that the Managing Party disputes the existence of a Deficiency as set forth in this section 3.2.3.2, the Parties will work together in good faith to resolve any such dispute to the mutual satisfaction of both Parties. If the Parties are unable to resolve such dispute within 30 days after the Managing Party's notice to the Contributing Party of such dispute, then the Parties will proceed to resolve such dispute in accordance with section 11 of this JOA.

3.2.3.3 Contributing Party's Right to Correct. If the Managing Party neither corrects the Deficiency, nor sends a Major Deficiency Notice within the time periods provided in section 3.2.3.2, nor disputes the existence of the Deficiency pursuant to section 3.2.3.2 above, then the Contributing Party may, but is not obligated to, upon giving prior notice to the Managing Party, but without waiving any of its rights set forth in section 10 of this JOA, correct the Deficiency in any reasonable manner under the circumstances. If the Contributing Party corrects the Deficiency, the Contributing Party will be entitled to reimbursement from the Managing Party, under section 3.2.3.4, below, of the Managing Party's Share of the actual costs incurred by the Contributing Party to correct the Deficiency, whether or not the Deficiency is a Major Deficiency.

3.2.3.4 Correcting Party: Reimbursement. The Party that actually performs the correction of a Deficiency or a Major Deficiency is the "**Correcting Party.**" The Correcting Party is entitled to be reimbursed by the non-correcting Party for the non-correcting Party's Share of the actual costs that the Correcting Party incurs in correcting each Deficiency, as follows:

(a) If the Correcting Party is the Managing Party, the Correcting Party will be reimbursed for the non-correcting Party's Share of the actual costs to correct the Deficiency under section 4 of this JOA; provided, however, that in the event of a Major Deficiency, the Managing Party will not be entitled to reimbursement from the Contributing Party of any amount greater than the Contributing Party's Share of the estimated costs to correct the Major Deficiency that are set forth in the Correction Plan; or

(b) If the Correcting Party is the Contributing Party, the Managing Party will reimburse the Contributing Party for the Managing Party's Share of the costs to correct the Deficiency within 30 days after the Contributing Party has delivered to the Managing Party an invoice and reasonable supporting documents evidencing the actual costs to correct the Deficiency.

(c) If the non-correcting Party does not timely reimburse the Correcting Party for the non-correcting Party's Share of the costs of correction, the Correcting Party may offset the non-correcting Party's Share of the costs to correct the Deficiency against any amounts that the Correcting Party owes to the non-correcting Party under this JOA or any other agreement.

3.2.3.5 Major Deficiency Correction Plan. If the Managing Party at any time sends the Contributing Party a Major Deficiency Notice, whether under section 3.2.3.1 or section 3.2.3.2 of this JOA, then within 10 days after the Contributing Party's receipt of the Major Deficiency Notice, the Parties will meet and confer, in good faith, in person or by telephone, to determine a plan ("**Correction Plan**") for the correction of the Major Deficiency, including the method, estimated cost, and time period for the correction. If the Managing Party does not thereafter complete the correction of the Major Deficiency in accordance with the Correction Plan, the Contributing Party may, but will not be obligated to, without giving any notice or commencing any cure period under section 10 of this JOA, correct the Major Deficiency in a manner consistent with the Correction Plan, and will thereafter be the Correcting Party for purposes of reimbursement of the Managing Party's Share of the actual costs of correcting the Deficiency under section 3.2.3.4(b) of this JOA.

3.2.3.6 Not Applicable to Emergencies. This section 3.2.3 will not apply to any Deficiency that: (i) arises from an Emergency, and (ii) constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of the Contributing Party's Exclusive-Use Area or the Common Area, or (c) to the preservation of the Contributing Party's files, records, and documents located in the Buildings. Rather, those Deficiencies will be governed by section 3.2.4 of this JOA. Any Deficiency that arises from an Emergency, but that does not constitute an imminent threat to the matters described in (ii) (a), (b), or (c) above, will be governed by section 3.2.3.

3.2.4 Emergencies. If any Emergency occurs, the Parties will endeavor to notify one another as soon as reasonably possible of the Emergency by telephone or any other means reasonable under the circumstances. The Managing Party must promptly take steps to correct any Deficiency that arises from the Emergency and that constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of the Contributing Party's Exclusive-Use Area or the Common Area, or (c) to the preservation of the Contributing Party's files, records, and documents located in the Buildings. If the Managing Party does not immediately correct any such Deficiency arising from an Emergency, the Contributing Party may, but will not be obligated to, without giving any notice or commencing any cure period under section 10 of this JOA, correct that Deficiency without making any further demand on the Managing Party, and will notify the Managing Party of the steps taken to correct the Deficiency as soon as reasonably possible. The Party that corrects a Deficiency arising from an Emergency under this section 3.2.4 is entitled to reimbursement from the other Party of the non-correcting Party's Share of the actual cost of correcting the Emergency pursuant to section 4 of this JOA. Notwithstanding the foregoing, if a Deficiency arises from an Emergency, but the Deficiency does not constitute an imminent threat to the matters described in (ii) (a), (b), or (c) above, the correction of that Deficiency will be governed by section 3.2.3 of this JOA.

3.3 Parking. The County is responsible for the Operation of the Parking Area, at its sole cost and expense. At all times after Transfer, the Court's judges, staff, and Court users will have the right to use and occupy the Court Parking in the Parking Area. After Transfer, if any of the Parking Area becomes unavailable for Court use, or if the County wishes to relocate any of the Parking Area, the County must provide, at the County's sole cost, alternate parking for the Court of comparable convenience to the Buildings, and of at least the same number and type of spaces, as the Parking Area. The County must obtain the prior, written consent of the AOC, which consent will not be unreasonably withheld, before relocating any secured or reserved Court Parking spaces allocated for exclusive use of the Court.

3.4 Cooperation. The Parties will cooperate with one another, reasonably and in good faith, to ensure that each Party can peacefully enjoy, possess, use, and occupy its Exclusive-Use Area and the Common Area. The Owner will cooperate in good faith with, and ensure that, the Non-Owning Party can exercise its rights and responsibilities under this JOA. Subject to any reasonable rules and restrictions, each Party will allow the other Party to enter its Exclusive-Use Area for any reasonable purpose related to the terms of this JOA or any other written agreement between the Parties. Either Party may delegate its responsibilities under this JOA to the other Party or to a third party, but that delegation will not relieve the delegating Party from its obligations under this JOA.

3.5 Security-Related Areas. Nothing in this JOA shall be read to be in conflict with the terms of the Security Services MOU between the Court and the Santa Cruz County Sheriffs Department which remains in full force and effect.

3.6 Occupancy Agreements. Each Party is responsible for all Occupancy Agreements affecting its Exclusive-Use Area, and the Managing Party is responsible for all Occupancy Agreements affecting the Common Area, in each case without contribution from the other Party. The Party that is responsible for each Occupancy Agreement is entitled to all income arising from it.

3.7 Obtaining Equipment Permits. The Managing Party is responsible for maintaining and renewing the Equipment Permits.

3.8 Information Technology and Telephone Equipment. The Managing Party is responsible for the Operation of those portions of the telecommunications and information technology systems serving the Buildings that are shared by the Parties or that do not exclusively serve the Court Exclusive-Use Area or the County Exclusive-Use Area. The AOC and the County will each be responsible for the Operation of those portions of their respective information technology and telecommunications systems, cabling and equipment in the Buildings that are not shared by the Parties. Certain components of the County's telecommunications and information technology cabling and equipment in the Buildings may be located in the Court Exclusive-Use Area and the Common Areas, and certain components of the Court's telecommunications and information technology cabling and equipment in the Buildings may be located in the County Exclusive-Use Area and the Common Areas. From and after the Transfer, each Party shall have the rights of ingress, egress, and access to the portions of the Buildings occupied by the other Party, as each Party may reasonably require in connection with its continued Operation of its telecommunications and information technology cabling and equipment located in the other Party's portion of the Buildings.

3.9 Central Plant. The County will continue to provide Utilities to the Buildings from the Central Plant at the cost described in section 4.5.3 of this JOA.

3.10 County Facilities Payment. Nothing in this JOA diminishes or modifies the County's obligations under the Act and the Agreement for payment of the County Facilities Payment.

4. SHARED COSTS

4.1 Payment of Estimated Shared Costs. The Managing Party will make timely, direct payment of all Shared Costs owed to third parties, and the Contributing Party is responsible to reimburse the Managing Party for its Share of all Shared Costs under this section 4. Within 90 days after the Effective Date, and within 30 days after the first day of each fiscal year thereafter, the Managing Party will deliver to the

Contributing Party a statement (the “**Estimate Statement**”) itemizing the Estimated Shared Costs, which the Contributing Party will either comment on, disapprove, or approve within 30 days. If the Contributing Party disapproves any of the Estimated Shared Costs in the Estimate Statement, the Parties will promptly meet and discuss the reason for the disapproval within ten days after such disapproval. If the Parties reach agreement with respect to all Estimated Shared Costs, the Managing Party will, if necessary, revise the Estimate Statement, which both Parties will approve. The Contributing Party is not obligated to make any payments of its Share of the Shared Costs until it has approved the Estimate Statement in writing. However, until the Contributing Party approves the Estimate Statement, it will pay its Share of the Shared Costs based on the approved Estimate Statement for the prior fiscal year, or, during the initial fiscal year of the Term, based on the County Facilities Payment. Upon approving the Estimate Statement, the Contributing Party will pay its Share of the Estimated Shared Costs based on the approved Estimate Statement, plus all additional amounts owed by the Contributing Party for the period during which the Parties were in the process of reaching agreement as to the Estimate Statement. Payment of Estimated Shared Costs will be made in equal quarterly installments on the first day of each fiscal quarter, subject to this JOA.

4.2 Payment of Actual Shared Costs. Within 30 days after the end of each fiscal quarter, the Managing Party will deliver to the Contributing Party a statement (the “**Quarterly Invoice**”) itemizing the actual Shared Costs incurred during the previous fiscal quarter (“**Actual Shared Costs**”). Within 30 days after a written request by the Contributing Party, the Managing Party will also deliver to the Contributing Party copies of supporting documents for any of the Actual Shared Costs shown on the Quarterly Invoice. If the Actual Shared Costs are less than the Estimated Shared Cost for the applicable fiscal quarter, the Managing Party will refund the amount overpaid to the Contributing Party within 30 days after the Managing Party’s delivery of the Quarterly Invoice, except that if the Contributing Party consents, the Managing Party may retain the overpayment and offset it against future amounts owed by the Contributing Party under this JOA. If the Actual Shared Costs are greater than the Estimated Shared Costs for the applicable fiscal quarter (“**Excess Costs**”), the Contributing Party will pay such Excess Costs to the Managing Party within 30 days after its receipt of the Quarterly Invoice, except that (a) if the Excess Costs are more than 10 percent of the Estimated Shared Costs for any fiscal quarter, or (b) if the Contributing Party has requested, but not received, supporting documents for any Excess Costs by 10 days prior to the date that payment is due, the Contributing Party will continue to make payment of its Share of the Shared Costs based on the Estimate Statement, or as otherwise agreed under section 4.3 of this JOA, but may defer payment of the Excess Costs (or, in the case of (b) above, the Excess Costs to which the supporting documents relate) for that fiscal quarter, until the Parties have met and reached an agreement regarding the amount of the Excess Costs, under section 3.2.3.5 or section 4.3 of this JOA, whichever is applicable.

4.3 Notice of Anticipated Excess Costs. Prior to incurring any Shared Cost that the Managing Party reasonably believes will result in an Excess Cost in an amount greater than 10 percent of the Estimated Shared Costs shown on the Estimate Statement, the Managing Party must give written notice to the Contributing Party describing the amount and reason for that Excess Costs; except that (a) no notice must be given to the Contributing Party if the Excess Costs will be incurred to correct a Deficiency arising from an Emergency under section 3.2.4 of this JOA, and (b) if the Excess Costs will be incurred in connection with the correction of a Deficiency under section 3.2.3 of this JOA, notice of the Excess Costs, and resolution of any issues related to the Excess Costs, will be handled under section 3.2.3, and this section 4.3 will not apply. If the Contributing Party objects in writing to the Excess Costs within 30 days after receiving the Managing Party's notice, the Parties must meet and confer, in person or by telephone, within 10 calendar days to resolve their dispute concerning the Excess Costs. If the Parties do not reach agreement concerning the Excess Costs during that meet and confer process, the Parties will promptly seek to resolve their dispute concerning the Excess Costs under the terms of section 11 of this JOA. If the Contributing Party does not respond to the Managing Party's notice within 30 days of receiving the notice, the Managing Party may proceed with expenditure of the Excess Cost in the amount and for the purpose described in the notice, and the Contributing Party must pay its Share of those Excess Costs.

4.4 Audit Rights. The Contributing Party may, at its sole cost and upon reasonable notice to the Managing Party, inspect the Managing Party's books, records, and supporting documents concerning all Actual Shared Costs incurred for up to 12 calendar months prior to the date of the Contributing Party's inspection. The Parties will cooperate reasonably with each other to ensure that the inspection is performed promptly and without undue interference to either Party. If, after its inspection, the Contributing Party disputes any Actual Shared Costs for any of the immediately-preceding 12 calendar months, the Contributing Party may engage an independent certified public accountant, acceptable to both Parties, to audit the Managing Party's books and records to determine the amount of the Actual Shared Costs in dispute. The results of the audit will be binding on both Parties. If the audit reveals that the Contributing Party overpaid or underpaid Actual Shared Costs for a fiscal quarter, the Parties will make the payments necessary to resolve that overpayment or underpayment within 30 days following the completion of the audit. The Contributing Party must pay the entire cost of the audit. The Contributing Party's payment of Shared Costs will not prevent it from disputing the accuracy of any Actual Shared Costs under this section 4.4.

4.5 Parking Area, Grounds Area, and Central Plant Costs.

4.5.1 Parking Area Costs. The County is responsible, at its sole cost and expense, for all costs incurred with respect to the Operation of the Parking Area, and those costs and expenses will not be included as a Shared Cost.

4.5.2 Grounds Area Costs. The County is responsible, at its sole cost and expense, for all costs incurred with respect to the County's Operation of the Grounds Area, and those costs and expenses will not be included as a Shared Cost.

4.5.3 Utilities and Central Plant Costs. Notwithstanding anything to the contrary in this JOA, Shared Costs arising from the provision of Utilities to the Campus Buildings (including the Buildings) and from Operation of the Central Plant will be determined and allocated between the Parties as set forth in section 4.5.3 of the Joint Operating Agreement for the County Administration Building of even date herewith.

4.6 Property Insurance Costs. The AOC will reimburse the County for the AOC's Share of the Property Insurance Costs in the same manner set forth in section 4 of this JOA, with the County having the rights and duties of the Managing Party and the AOC having the rights and duties of the Contributing Party, only as it relates to reimbursement of the Property Insurance Costs. The County will promptly notify the AOC of any change to the Property Insurance Policies or the Property Insurance Costs that the County is required to make in connection with the Bonded Indebtedness or under the BI Documents, and the County will not change any deductible or self-insurance retention amount to an amount greater than \$100,000 per occurrence in respect of the Property Insurance Policies without the prior, written consent of the AOC.

4.7 Shared Cost Notifications. Notwithstanding section 12 of this JOA, all communications and notices between the Parties relating to Shared Costs including, without limitation, Estimate Statements, Quarterly Invoices, or any other communication or notice required by this section 4, will be made between the following County and AOC representatives :

If to the AOC:

Administrative Office of the Courts
Office of Court Construction and Management
455 Golden Gate Avenue
San Francisco, CA 94102
Attention: Nick Cimino
Regional Manager of the Bay Area and North Coast
Region of the Facilities Management Unit
Phone: (415) 865-8070
Fax: (415) 865-7524

If to the County:

County of Santa Cruz
 Attention: General Services Department
 701 Ocean Street, Room 330
 Santa Cruz, CA 95060
 Voice: 831-454-2718
 Fax: 831-454-2710

5. RIGHT OF FIRST REFUSAL, COMPATIBLE USES, AND VACATE RIGHTS

5.1 Right of First Refusal and Increase of Space In Buildings

5.1.1 Right of First Refusal for Excess Area. At least 30 days before a Party rents or otherwise transfers to a third party all or any portion of its Exclusive-Use Area (“**Excess Area**”), that Party must, by written notice, offer the Excess Area to the other Party on the same terms and conditions set forth in any offer to or from a third party for the Excess Area (“**Third Party Terms**”). The Third Party Terms must separate the rent for the Excess Area from any amounts to be paid by the third party for Operation, Utilities, and other costs in respect of the Excess Area. If the other Party elects not to occupy the Excess Area on the Third Party Terms, or fails to respond to the notice within a 30 day period, the Party with the Excess Area may, subject to section 5, permit a third party to occupy and use the Excess Area on the Third Party Terms. Before a third party can occupy the Excess Area on terms that are more favorable to the third party than the Third Party Terms, the Party with the Excess Area must again first offer the Excess Area to the other Party on those more favorable terms under this section 5.1.1. If the other Party elects to accept the Excess Area on the more favorable terms, the Parties will enter into a separate written agreement setting forth the terms for the other Party’s occupancy and use of the Excess Area, consistent with the more favorable terms.

5.1.2 Request for Increase of Exclusive-Use Area. If a Party wishes to increase the size of its Exclusive-Use Area (“**Additional Area**”), and the Parties reach agreement on mutually-acceptable terms for the Additional Area, the Parties will enter into a separate written agreement setting forth the terms for the occupancy and use of the Additional Area, which terms may include a reasonable rent, subject to section 5.1.4 of this JOA.

5.1.3 No Adjustment to Shares. If a Party rents any Excess Area or Additional Area under section 5.1.1 or 5.1.2, above, the rental transaction will not result in a change to the Parties’ Shares. Rather, the rent paid by the Party renting the Excess Area or the Additional Area will include the Shared Costs applicable to the Excess Area or the Additional Area, as applicable. The Parties’ Shares will only be adjusted if one

Party at any time buys the other Party's rights to occupancy and use of the Real Property for fair market value under section 5.3 of this JOA, or otherwise.

5.1.4 Terms of this JOA Not Affected. Any transfer of the Excess Area or the Additional Area to a Party or to a third party will not relieve the Parties of their rights and responsibilities under this JOA with respect to the Excess Area or the Additional Area. Rather, any re-allocation of the Parties' rights and responsibilities under this JOA will be set forth in any separate agreement entered into by the Parties for rental of the Excess Area or the Additional Area.

5.2 Compatible Use; Hazardous Substances.

5.2.1 Compatible Use. Each Party must use, and must require that any Occupant use, its Exclusive-Use Area in a manner that is compatible with the Parties' use of the Buildings on the Effective Date and that does not deteriorate or diminish the other Party's ability to use its Exclusive-Use Area or the Common Area effectively. The Managing Party must ensure that any Occupant that occupies any of the Common Area uses its space in a manner compatible with the Parties' use of the Buildings.

5.2.2 Hazardous Substances. Neither Party will store, use, treat, manufacture, or sell, or allow any other person to store, use, treat, manufacture, or sell, any Hazardous Substance on the Real Property except in compliance with Law.

5.3 Vacate Right Pursuant to Section 70344(b) of the Act. After the Effective Date, if either Party is entitled to and does exercise its rights under section 70344(b) of the Act, the Party that is required to vacate the Buildings ("**Vacating Party**") must remove all of its property from, and surrender to the other Party full possession of, the space vacated ("**Vacated Space**") within 90 days after the Parties agree on the amount of compensation to be paid to the Vacating Party for (i) its Equity in the Vacated Space, and (ii) its relocation costs. The Vacating Party must repair, at its sole cost, any damage it causes to any part of the Real Property in removing its property from the Vacated Space. If the Parties cannot agree on the value of the Vacating Party's Equity in the Vacated Space, the Parties will select a mutually-acceptable Appraiser or a Broker to determine the fair market value of the Vacating Party's Equity in the Vacated Space. If the Parties cannot agree on the fair market value of the Vacating Party's relocation costs, the Parties will select a mutually-acceptable relocation expert with at least five years of experience in determining relocation costs in California ("**Expert**"), to determine the fair market value of the Vacating Party's relocation costs. Any Appraiser, Broker, or Expert will deliver to both Parties its determination of value, and each Party will be responsible for one-half of the costs of the Appraiser, Broker, or Expert. Any disputes under this section 5.3 will be resolved under section 11 of this JOA. The Parties will enter into an Equity Rights Purchase Agreement, substantially similar to **Attachment "3"** attached to this JOA, to memorialize the terms of the purchase of the Vacating Party's Equity in the Vacated Space, and the Parties must enter into a Termination Agreement, substantially

similar to **Attachment “4”** attached to this JOA, when the Vacating Party has vacated the Vacated Space.

5.4 Amendment to JOA; Equity Rights. If the Parties’ Equity rights will be modified, whether under section 7 of this JOA, or as a result of any other purchase of Equity rights to which the Parties may agree under this JOA or the Act, the Parties will amend this JOA to: (i) adjust their Exclusive-Use Areas; and (ii) adjust each Party’s Share and their Equity rights in the Real Property.

6. INSURANCE

6.1 Property Insurance. Until the Bonded Indebtedness no longer encumbers any part of the Real Property: (i) the terms of the BI Documents govern the County’s obligation to obtain and maintain in full force and effect the Property Insurance Policies; and (ii) any inconsistency between the terms of this JOA and the terms of the BI Documents regarding the County’s obligation to insure the Real Property will be resolved in favor of the terms of the BI Documents. Subject to the foregoing, the terms of this section 6 will apply and govern the rights and responsibilities of the Parties.

6.1.1 Property Insurance Policies to be Maintained. Owner will provide the Property Insurance Policies and maintain them in full force and effect, and will make direct payment of all Property Insurance Costs, subject to the Non-Owning Party’s obligation to pay its portion of those costs, as a Shared Cost, under section 4.6 of this JOA, until the AOC provides written notice to Owner requesting that it no longer provide the Property Insurance Policies under this JOA. Owner will include by specific endorsement to each of the Property Insurance Policies the Judicial Council of California, the Administrative Office of the Courts, and the Court as insureds or covered parties, as appropriate, and joint loss payees for any Property Damage Claim payable under the terms and conditions of the Property Insurance Policies, with the same coverages and limits as the named insured under the Property Insurance Policies.

6.1.2 Allocation of Risk for Property Damage Claims. While Owner is providing and maintaining the Property Insurance Policies, and the Non-Owning Party is paying its portion of the Property Insurance Costs under section 4.6, above, Owner will bear all of the risk arising from Property Damage Claims, and Owner hereby waives, and will cause the providers of its Property Insurance Policies to waive, all rights of recovery against the other Party and its applicable insurer(s) for any Property Damage Claims payable under, the terms and conditions of the Property Insurance Policies. Owner will be solely and exclusively responsible to tender to the providers of its Property Insurance Policies, and to process and pursue to final resolution, any and all Property Damage Claims, including (if covered by the Property Insurance Policies) claims for costs associated with obtaining, and relocating Court operations to, alternate space while any portion of the Real Property is being repaired or replaced. The Parties acknowledge that property insurance is “no fault” insurance; therefore, if any Property Loss occurs, there

are no exclusions or conditions to payment, irrespective of the acts or omissions of either Party, other than those exclusions specifically set forth in the Property Insurance Policies.

6.1.3 Compliance with Property Insurance Policies. While Owner is providing and maintaining the Property Insurance Policies under this JOA, Owner will provide the Non-Ownning Party with verification that the Property Insurance Policies are in full force and effect and, at the request of the Non-Ownning Party, with copies of the Property Insurance Policies, as the Property Insurance Policies may be issued or modified from time to time. The State Parties and the County Parties will comply in all material respects with all requirements for the use of the Real Property that are set forth in the Property Insurance Policies and that Owner has provided to the Non-Ownning Party.

6.1.4 Application of this Section. While the Real Property is subject to the Bonded Indebtedness, this section 6.1.4 will apply, and section 7 of this JOA will be of no force or effect. When the Real Property is no longer subject to the Bonded Indebtedness, this section 6.1.4 will be of no further force or effect whatsoever, and section 7 of this JOA will govern and control.

6.1.4.1 Property Insurance Proceeds. Upon the occurrence of any Property Loss, the Parties will promptly meet and confer, in good faith, to determine how the proceeds of the Property Insurance Policies arising from the Property Damage Claim will be allocated and used, and what notice will be given by the County or the Corporation to the Trustee under the BI Documents concerning those insurance proceeds. The AOC will have the right to meaningful participation with the County in deciding whether to restore or replace the damaged parts of the Real Property (**“Damaged Property”**). The meeting will be held, in person or by telephone, by no later than 30 days before the date that the County must give notice to the Trustee under the BI Documents. In no event will the insurance proceeds arising from a Property Damage Claim be allocated or used in a manner that results in a breach or default by the County or the Corporation under the BI Documents. The County must continue to make all payments and perform all of its obligations under the BI Documents until the Bonded Indebtedness has been fully repaid and satisfied, notwithstanding the Property Loss.

6.1.4.2 Decision Not to Restore or Replace. If, as a result of the meeting described in section 6.1.4.1 above, the Parties decide that the insurance proceeds arising from the Property Damage Claim will not be used to restore or replace the Damaged Property, and if any of the Non-Ownning Party’s Exclusive-Use Area is uninhabitable as a result of the Property Loss, then the Owner will compensate the Non-Ownning Party for its Equity rights in the uninhabitable part of the Non-Ownning Party’s Exclusive-Use Area. The compensation to be paid to the Non-Ownning Party will be determined in the manner described in section 5.3 of this JOA. To the extent covered by the Property Insurance Policies, the Non-Ownning Party will be entitled to that portion of the proceeds from the Property Damage Claim that are directly related to compensation

for the Non-Ownning Party's relocation costs arising from Property Loss. If the Non-Ownning Party will no longer occupy the Buildings due to Property Loss that the Parties decide not to restore or replace, then when the Non-Ownning Party has been compensated for its Equity rights under this section 6.1.4.2, the Parties will terminate this JOA by signing a Termination Agreement and recording it in the County Recorder's Office.

6.1.5 No Waiver of Equity Rights. The provisions of section 6.1.4 of this JOA will not be deemed or construed to waive, diminish, release, or otherwise affect the Equity rights of either Party in respect of the Real Property.

6.2 Reporting and Processing Claims.

6.2.1 Incident Reports. The Managing Party will maintain copies of any Incident reports that it prepares for a period of five years, and at the request of the Contributing Party, the Managing Party will provide the Contributing Party with a complete copy of, or reasonable access to, those Incident reports.

6.2.2 Party Responsible for Claims. If either Party receives any demand, complaint, notice, document, or information alleging the existence or occurrence of any incident, event, circumstance, or occurrence in, on, or about the Real Property ("**Incident**") that is or could result in any Property Damage Claim or Liability Claim (each, a "**Claim**", and together, "**Claims**") or an AOC Claim, or if a Party otherwise becomes aware that an Incident has occurred, that Party will make best efforts to promptly notify the other Party of that Incident. Following that notice, the Parties will work together, diligently and in good faith, to determine which of them bears responsibility for the loss or injury alleged, and whether either Party is entitled to indemnification by the other in respect of the Incident under sections 8.1 or 8.2 of this Agreement. If the Parties are not able to so agree, then they will resolve those matters under section 11 of this JOA.

6.3 Third-party Contractor Insurance. Each Party must require each of its Contractors to (i) obtain and maintain insurance of the type and with coverage amounts that are usual and customary to the type of business or exposures related to the work being performed on the Real Property, (ii) name both Parties as additional insureds by specific endorsement to their general liability policies, (iii) provide a waiver of subrogation in favor of both Parties with respect to all property insurance policies, and (iv) provide to the Parties a 30-day notice of cancellation or material change in any insurance coverage required hereunder. Unless the Parties otherwise agree, all Contractors must indemnify, defend, and hold harmless the County Parties and the State Parties from and against all claims, demands, liabilities, damages, attorney fees, costs, expenses, and losses arising from the performance by the Contractors under their contracts, and neither Party waives any right of recovery or subrogation against the other in respect of their contractual arrangements with the Contractors.

6.4 Workers' Compensation Coverage. Each Party will each maintain its own workers' compensation insurance covering its own employees, and neither Party will have any liability or responsibility for workers' compensation insurance coverage for employees of the other Party.

7. DAMAGE OR DESTRUCTION

7.1 Property Loss After Bonded Indebtedness Satisfied. While the Real Property is subject to the Bonded Indebtedness, the terms of section 6.1.4 of this JOA govern in respect of any Property Loss, and this section 7 is of no force or effect. When the Real Property is no longer subject to the Bonded Indebtedness, this section 7 will govern and apply in respect of any Property Loss or Property Damage Claim, and section 6.1.4 of this JOA will be of no further force or effect whatsoever, except only as to any Property Loss or Property Damage Claim that occurred or commenced while the Real Property was subject to the Bonded Indebtedness.

7.1.1 Allocation of Property Insurance Proceeds. In the event of a Property Loss, each Party will be entitled to the proceeds payable under the Property Insurance Policies to the extent the Property Loss is attributable to its Exclusive-Use Area or its Share of the Common Area. If one or more Property Damage Claims is fully and finally resolved in an amount that exceeds the applicable amount payable under all of the Property Insurance Policies, or if any Property Loss is not covered by the Property Insurance Policies through no fault of the Owner, then if both Parties elect to restore or replace the Damaged Property, each Party will pay the amounts that exceed the coverage of the Property Insurance Policies to the extent the Property Loss is attributable to its Exclusive-Use Area or its Share of the Common Area. By way of example only, if the total amount of the Property Damage Claim is \$1,250,000.00, and if 40 percent is attributed to damage in the Court Exclusive-Use Area, 35 percent is attributed to damage in the County Exclusive-Use Area, and 25 percent is attributed to damage in the Common Area, and the total amount payable under the Property Insurance Policies is \$1,000,000.00, then the AOC would be entitled to insurance proceeds in the amount of \$400,000.00 (for the damage to the Court Exclusive-Use Area), the County would be entitled to insurance proceeds of \$350,000.00 (for damage to the County Exclusive-Use Area), and the Parties would share the remaining \$250,000.00 of insurance proceeds in accordance with their respective Shares. With respect to the uninsured \$250,000.00 portion of the Property Damage Claim, the AOC would be responsible to pay \$100,000.00 (40 percent of \$250,000.00) in respect of its Exclusive-Use Area, plus an amount equal to the AOC Share of the \$62,500.00 (25 percent of \$250,000.00) in respect of the Common Area, and the County would be responsible to pay (if both Parties elect to restore or replace the Damaged Property) the balance of the uninsured loss. The Owner will assign and deliver to the Non-Ownning Party all insurance proceeds owed to the Non-Ownning Party effective upon its receipt of those proceeds.

7.2 Damage or Destruction Event. If, due to Property Loss, the Real Property cannot be occupied by one or both Parties, each Party will be solely responsible to arrange for its own relocation to and occupancy of alternate space. Promptly after a Property Loss, the Parties will comply with the provisions of sections 6 and 7.1, and as promptly as possible, but in no event later than 180 days after a Property Loss, each Party will notify the other in writing (“**Restoration Election Notice**”) whether it wishes to restore or replace the Damaged Property.

7.3 Both Parties Elect to Restore or Replace. If both Parties elect to restore or replace the Damaged Property, the Parties will cooperate in good faith to restore or replace the Damaged Property, with each Party contributing the proceeds it receives as indemnity for direct physical loss or damage under the Property Insurance Policies and otherwise paying its portion of the cost to restore or replace the Damaged Property, as set forth in section 6.1.4 or 7.1, above. If the Parties restore or replace the Damaged Property in a way that results in a change to the Parties’ Shares or their Equity rights, the Parties will each pay the costs and expense to restore or replace the Damaged Property according to their newly-determined Shares or Equity rights.

7.4 Only One Party Elects to Restore or Replace. If, based on the Restoration Election Notices, only one Party elects to restore or replace the Damaged Property, then within 30 days after the Parties’ Restoration Election Notices are given, the Parties must meet and confer in good faith to determine how to proceed with respect to (i) the Damaged Property; (ii) the proceeds of the Property Insurance Policies, if any, to which each Party is entitled as indemnity for direct physical loss or damage under section 6.1.4 or 7.1, above, and (iii) compensation for the Equity rights of either Party in the Real Property, if applicable. If the Parties cannot agree on those matters, they will proceed as set forth in section 11 of this JOA. Until the Parties have reached a final agreement concerning how the foregoing issues will be resolved, neither Party will use any applicable insurance proceeds that are in dispute. Those insurance proceeds will only be used in accordance with the Parties’ final resolution of those issues.

7.5 Neither Party Elects to Restore or Replace. If neither Party elects to restore or replace the Damaged Property, then both Parties will retain the proceeds of the Property Insurance Policies to which they are entitled under section 6.1.4 or 7.1. If any of the Non-Ownning Party’s Exclusive-Use Area is uninhabitable as a result of the Property Loss, then, in lieu of its obligations under section 70344(c) of the Act, the Owner will compensate the Non-Ownning Party for its Equity rights in the uninhabitable part of the Non-Ownning Party’s Exclusive-Use Area, determined in the manner described in section 5.3 of this JOA, except that all insurance proceeds the Non-Ownning Party has received, or will receive, as indemnity for direct physical loss or damage from final resolution of any Property Damage Claims made in respect of the Damaged Property will be deducted from the Equity rights compensation paid by the Owner to the Non-Ownning Party for its Equity rights in the uninhabitable parts of its Exclusive-Use Area. To the

extent covered by the terms of the Property Insurance Policies, the Non-Ownning Party will be entitled to that portion of the proceeds from the Property Damage Claim that is directly related to compensation for the Non-Ownning Parties' relocation costs arising from the Property Loss. If the Non-Ownning Party will no longer occupy the Buildings due to Property Loss that neither Party elects to restore or replace, then when the Non-Ownning Party has been compensated for its Equity rights under this section 7.5, the Parties will terminate this JOA by signing a Termination Agreement and recording it in the County Recorder's Office.

8. INDEMNIFICATION

8.1 Indemnification Obligation of State Parties. The State Parties will and do indemnify, defend, and hold harmless the County Parties, with counsel reasonably acceptable to the County Parties, from and against all Indemnified Loss arising from (1) all AOC Claims, and (2) Liability Claims where and to the extent that the Liability Claims result from the willful misconduct or negligent acts, errors, or omissions of a State Party.

8.2 Indemnification Obligation of County Parties. The County Parties will and do indemnify, defend, and hold harmless the State Parties, with counsel reasonably acceptable to the State Parties, from and against all Indemnified Loss arising from Liability Claims where and to the extent that the Liability Claims result from the willful misconduct or negligent acts, errors, or omissions of a County Party.

8.3 Indemnified Party's Participation. The indemnifying Party must manage and be entirely responsible to handle and resolve all Liability Claims for which it is responsible under sections 8.1 or 8.2, as applicable. The indemnified Party may elect, but is not required, to retain its own attorney, at the indemnified Party's sole expense, to participate in the litigation, settlement negotiations, or other dispute resolution procedures for any Liability Claim as to which it is the indemnified Party. If the indemnified Party elects to retain its own attorney to participate in the litigation, settlement negotiations, or other dispute resolution procedures for a Liability Claim, the indemnifying Party will cooperate with the indemnified Party, and the attorney retained by the indemnified Party.

8.4 Effect of Indemnification Rights. The rights of a Party to be indemnified under sections 8.1 or 8.2 of this JOA cannot be deemed or construed to limit or diminish the obligation of the indemnified Party to perform its duties at Law or under any agreement between the County Parties and the State Parties.

9. CONDEMNATION

If either Party receives written notice advising of an actual or intended condemnation of the Real Property ("**Condemnation Notice**"), that Party will immediately deliver a copy of the Condemnation Notice to the other Party. In the event

of an actual condemnation, the Parties will cooperate with each other in good faith to obtain the maximum award that may be obtained from the condemning authority, and each Party will be entitled to its Share of the condemnation proceeds.

10. DEFAULT NOTICE AND CURE

Upon a Party's breach or default of any other provision of this JOA, the Parties will comply with the terms for notice of default and cure period set forth in section 10 of the Agreement, which terms are incorporated into this JOA as though fully set forth herein. Notwithstanding anything in this JOA or the Agreement to the contrary, no default or breach will be deemed to have occurred if the AOC is unable to timely pay any amounts due and owing under this JOA as a result of the State of California's failure to timely approve and adopt a State budget. Should the AOC fail to timely pay any amounts due and owing under this JOA as a result of the State of California's failure to timely approve and adopt a State budget, the AOC will promptly pay any previously due and unpaid amounts due and owing under this JOA upon approval and adoption of the State budget.

11. DISPUTE RESOLUTION

In the event of a dispute between the Parties relating to performance of the Parties' obligations under this JOA, the Parties will comply with the terms for dispute resolution set forth in section 11 of the Agreement, which terms are incorporated into this JOA as though fully set forth herein.

12. NOTICES

Subject to section 4.7 of this JOA, any notice or communication required to be sent to a Party under this JOA must be sent in accordance with the terms for giving of notices in section 12 of the Agreement, which terms are incorporated into this JOA as though fully set forth herein.

13. DESIGNATED REPRESENTATIVES

The Parties shall each identify and appoint an individual who shall have authority to bind it to all matters and approvals related to Operations undertaken with respect to the Real Property under this JOA. Each Party may change its Designated Representative by written notice to the other. Each Party hereby acknowledges and agrees that its Designated Representatives shall bear primary responsibility for the giving and receipt of notices, and for the coordination of its administrative obligations, under this JOA, but neither Party's Designated Representative has any authority to alter, amend, or modify the rights or obligations of such Party under this JOA. The contact information for the initial AOC Designated Representative is:

Administrative Office of the Courts
 Office of Court Construction and Management
 455 Golden Gate Avenue
 San Francisco, CA 94102
 Attention: Nick Cimino
 Regional Manager of the Bay Area and North Coast
 Region of the Facilities Management Unit
 Phone: (415) 865-8070
 Fax: (415) 865-7524

The contact information for the initial County Designated Representative is:

County of Santa Cruz
 General Services Department
 Attention: Gerald Dunbar
 701 Ocean Street, Room 330
 Santa Cruz, CA 95060
 Voice: 831-454-2718
 Fax: 831-454-2710

14. MISCELLANEOUS

14.1 Waivers. No waiver of any provision of this JOA will be valid unless it is in writing and signed by both Parties. Waiver by either Party at any time of a breach of this JOA cannot be deemed a waiver of or consent to a breach of the same or any other provision of this JOA. If a Party's action requires the consent or approval of the other Party, that consent or approval on one occasion cannot be deemed a consent to or approval of that action on any later occasion or a consent or approval of any other action.

14.2 Force Majeure. Neither Party is responsible for performance under this JOA to the extent performance is prevented, hindered, or delayed by fire, flood, earthquake, elements of nature, acts of God, acts of war (declared and undeclared), riots, rebellions, revolutions, or terrorism, whether foreseeable or unforeseeable.

14.3 Assignment. Neither Party may assign this JOA in whole or in part, whether by operation of law or otherwise, to any other entity, agency, or person without the prior written consent of the other Party. Even if that consent is given, any assignment made in contravention of any Law will be void and of no effect.

14.4 Binding Effect. This JOA binds the Parties and their permitted successors and assigns.

14.5 Third Parties Benefited. The Court is an intended beneficiary of all provisions of this JOA for the benefit of the AOC.

14.6 Construction. The headings used in this JOA are for convenience only and will not affect the meaning or interpretation of this JOA. The words “hereof,” “herein,” and “hereunder,” and other words of similar import, refer to this JOA as a whole and not to any subdivision of this JOA. Both Parties have reviewed and negotiated this JOA, and this JOA will not be construed against a Party as the principal draftsman. The words “include” and “including” when used are not exclusive and mean “include, but are not limited to” and “including but not limited to,” respectively.

14.7 Integration; Amendments. This JOA and the Agreement contain the entire agreement of the Parties with respect to the subject matter of this JOA, and supersede all previous communications, representations, understandings, and agreements, whether verbal, written, express, or implied, between the Parties. This JOA may be amended only by written agreement signed by both of the Parties.

14.8 Incorporation By Reference. The Attachments to this JOA are incorporated into and made a part of this JOA for all purposes, and all references to this JOA in any of the Attachments mean and include the entirety of this JOA.

14.9 Severability. If any term of this JOA is inconsistent with applicable Law, then on the request of either Party, the Parties will promptly meet and confer to determine how to amend the inconsistent term in a manner consistent with Law, but all parts of this JOA not affected by the inconsistency will remain in full force and effect.

14.10 Further Assurances. The Parties agree to cooperate reasonably and in good faith with one another to (i) implement the terms and provisions set forth in this JOA and the Act, and (ii) consummate the transactions contemplated herein, and will execute any further agreements and perform any additional acts that may be reasonably necessary to carry out the purposes and intent of this JOA and the Act.

14.11 Conflicts Between JOA and Agreement; Capitalized Terms. The Agreement supersedes and controls to the extent of any conflicts between the terms of the Agreement and this JOA. Capitalized terms used in this JOA and not otherwise defined herein will have the meanings given to them in the Agreement.

14.12 Signature Authority. The individuals signing this JOA on behalf of the AOC and the County certify that they are authorized to do so.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

I agree to the terms of this JOA.

APPROVED AS TO FORM:

Administrative Office of the Courts,
Office of the General Counsel

By: Charles Martel
Name: Charles Martel
Title: Attorney
Date: 12-2-2008

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS**

By: Grant Walker
Name: Grant Walker
Title: Senior Manager, Business Services
Date: 12/2/08

ATTEST:

_____, Clerk of the Board

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Deputy

By: _____
Name: _____
Title: Chair, Board of Supervisors
Date: _____

APPROVED AS TO FORM:

County of Santa Cruz
Office of the County Counsel

By: Dana McRae
Name: Dana McRae
Title: County Counsel
Date: 12/3/08

LIST OF ATTACHMENTS

Attachment “1”	Legal Description of Land
Attachment “2”	Site Plan of Real Property
Attachment “3”	Form of Equity Rights Purchase Agreement
Attachment “4”	Form of Termination of Joint Occupancy Agreement

ATTACHMENT "1" TO JOA
LEGAL DESCRIPTION OF LAND

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Beginning at an iron pipe at the Southwestern corner of the Lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958 and recorded August 12, 1959, in Volume 1264, at Page 558, of the Official Records of said Santa Cruz County and from which City Triangulation Station "Baker" bears North 17° 50' 20" West 156.42 feet and North 72° 14' 45" East 230.26 feet distant; thence from said point of beginning and along the Southern boundary of said lands of Faneuf North 72° 11' 05" East 107.07 feet to an iron pipe set in concrete; thence South 17° 50' 05" East 578.24 feet to an iron pipe set in concrete; thence South 72° 36' 16" West 613.79 feet to an iron pipe set in concrete on the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz, as recorded in Volume 1154, at Page 128, of Official Records of said Santa Cruz County; thence along said Western boundary of said lands of the Redevelopment Agency of the City of Santa Cruz and the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz by deed recorded in Volume 1150, at Page 352 of the Official Records of said Santa Cruz County the following courses and distances: North 18° 24' 40" West 31.92 feet to a station and thence North 19° 54' 40" West 104.72 feet to a station; thence North 22° 54' 40" West 104.72 feet to a station; thence North 25° 54' 40" West 104.72 feet to a station; thence North 28° 54' 40" West 104.72 feet to a station; thence North 30° 24' 40" West 50.00 feet to a station; thence North 39° 30' 40" West 101.00 feet to a station; thence leaving said last mentioned boundary North 24° 19' 40" West 20.95 feet to a station; thence North 6° 02' 20" East 20.95 feet to an iron pipe set in concrete; thence North 20° 52' 48" East 46.63 feet to an iron pipe set in concrete; thence North 55° 13' 30" East 141.54 feet to an iron pipe set in concrete; thence North 72° 14' 45" East 432.24 feet to an iron pipe set in concrete on the Western boundary of said lands of Faneuf; thence along said Western line of the lands of Faneuf South 17° 50' 20" East 133.42 feet to the point of beginning.

Excepting therefrom the lands conveyed to the City of Santa Cruz, a Municipal Corporation by deed recorded June 6, 1966, in Volume 1768, at Page 416, Official Records of Santa Cruz County.

PARCEL TWO:

Beginning at a station on the Southern boundary of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961 and recorded November 29, 1961, in Volume 1438, at Page 658, of the Official Records of said Santa Cruz County, said station being also at the Northeastern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated

January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, of the Official Records of said Santa Cruz County; thence from said point of beginning along said Southern boundary of the lands of the County of Santa Cruz and the Eastern Projection thereof North 72" 36' 16" East 423.57 feet to a station; thence South 17" 22' 41" East 11.17 feet to a station; thence South 72" 36' 16" West 423.65 feet to a station on the Eastern boundary of said lands of the City of Santa Cruz; thence along said last mentioned boundary North 17" 23' 44" West 11.17 feet to the point of beginning.

PARCEL THREE:

Beginning at a station at the Southeastern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961, recorded November 29, 1961, in Volume 1438, Page 658, Official Records of Santa Cruz County, and from which City Triangulation Station "Baker" bears the following courses and distances: North 17" 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72" 11' 05" West 107.07 feet to an iron pipe and North 17" 50' 20" West 156.42 feet to a station and North 72" 14' 45" East 230.26 feet distant and from which point of beginning an iron pipe at the Southwestern corner of the lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958, and recorded August 12, 1959, in Volume 1264, Page 558, Official Records of Santa Cruz County bears the following courses and distances; North 17" 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72" 11' 05" West 107.07 feet distant; thence from said point of beginning and along the Eastern boundary of said lands of the County of Santa Cruz North 17" 50' 05" West 578.24 feet to a station on the Southern boundary of the lands described in said Owner Participation Agreement with Faneuf; thence along said last mentioned boundary North 72" 11' 05" East 25.74 feet to a station at the Northwestern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated September 2, 1965 and recorded September 17, 1965, in Volume 1718, Page 263, Official Records of Santa Cruz County; thence along the Western boundary of said lands conveyed to the City of Santa Cruz South 17" 22' 41" East 578.40 feet to a station from which the point of beginning bears South 72" 36' 16" West; thence South 72" 36' 16" West 21.18 feet to the point of beginning.

PARCEL FOUR:

An easement for the unobstructed passage of light and air, said easement being 30.00 feet in width at right angles to its centerline running from the Western boundary of the lands conveyed to the City of Santa Cruz by deed dated January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, Official Records of Santa Cruz County, to the Eastern boundary of said lands of the City of Santa Cruz and being more particularly described by its Northern boundary as follows: to wit:

Beginning at a station at the Northwestern corner of said lands of the City of Santa Cruz; thence from said point of beginning North 72" 36' 16" East 211.40 feet to a station at the Northeastern corner of said lands of the City of Santa Cruz.

APN: 005-261-25

ATTACHMENT "2" TO JOA
SITE PLAN OF REAL PROPERTY
(See Attached)



ATTACHMENT “3” TO JOA

FORM OF EQUITY RIGHTS PURCHASE AGREEMENT

1. PURPOSE

The Judicial Council of California (“**Council**”), Administrative Office of the Courts (together, the “**AOC**”), and the County of Santa Cruz (“**County**”) enter into this Agreement under section 70344(b) of the Trial Court Facilities Act of 2002, Government Code section 70301, *et seq.*, as it exists as of the Effective Date (the “**Act**”), to set forth the terms and conditions for the purchase of Equity Rights in the Real Property.

2. DEFINITIONS

“**Agreement**” means this Equity Rights Purchase Agreement.

“**Buildings**” means the “Buildings” as defined in the Transfer Agreement.

“**Common Area**” means the “Common Area” as defined in the Transfer Agreement.

“**Compensation**” means the amount paid by the Majority Occupant to the Minority Occupant in exchange for the Minority Occupant’s Equity Rights.

“**Court Facility**” means the trial court facilities commonly known as the Main Courthouse and the Jury Assembly Room Modular, as further defined in the Transfer Agreement.

“**Effective Date**” means the date this Agreement is signed by the last Party to sign.

“**Equity**” means “equity” as used in section 70344(b) of the Act.

“**Equity Purchase**” means the Majority Occupant’s purchase of the Minority Occupant’s Equity Rights in the Real Property under section 70344(b) of the Act and this Agreement.

“**Equity Rights**” means (1) all rights, interests, and entitlement of the Minority Occupant in and to the _____ square feet of space in the Buildings that is occupied exclusively by the Minority Occupant on the Effective Date, and which space comprises approximately ____ percent of the total Buildings square footage, as depicted on **Exhibit “A”** attached to this Agreement, and (2) all non-exclusive rights, interests, and entitlement of the Minority Occupant in and to the Common Area.

“Grant Deed” means the “Grant Deed” as defined in the Transfer Agreement.

“Majority Occupant” means the Party that occupies 80 percent or more of the total Buildings square footage on the Effective Date of this Agreement. For purposes of this Agreement, the County is the Majority Occupant.

“Minority Occupant” means the Party that occupies 20 percent or less of the total Buildings square footage on the Effective Date of this Agreement. For purposes of this Agreement, the AOC is the Minority Occupant.

“Party” means the AOC or the County, and **“Parties”** means the AOC and the County.

“Real Property” means the “Real Property” as defined in the Transfer Agreement.

“Transfer Agreement” means the Transfer Agreement For the Transfer of Responsibility For Court Facility, and all attached Exhibits and Schedules, dated as of _____, 20__, which sets forth the terms for the transfer of responsibility for and the transfer of title to the Court Facility under the Act.

3. PURCHASE OF EQUITY RIGHTS

3.1 Exercise of Vacate Right. The Majority Occupant has elected to exercise its right to require the Minority Occupant to vacate the Buildings under section 70344(b) of the Act and has given the Minority Occupant reasonable notice of its election to so exercise.

3.2 Compensation. The Compensation for the Equity Purchase is \$_____, which amount will be paid by the Majority Occupant to the Minority Occupant [in a lump sum on the earlier of (1) the date that the Minority Occupant actually vacates the Buildings, or (2) the date on which the Grant Deed is recorded in connection with the transfer of title under the Transfer Agreement.] **OR** [describe].

3.3 Relocation Costs. The Majority Occupant will be responsible for the moving expenses of the Minority Occupant at the fair market rate. The Majority Occupant will, at its sole expense, make arrangements for the furniture, equipment, supplies, and other personal property of the Minority Occupant that are located in the Buildings to be packed and moved, by a professional business relocation service, from the Real Property to the alternate location specified by the Minority Occupant or, at the sole option of the Minority Occupant, the Minority Occupant may engage its own moving and relocation company to perform its move and the Majority Occupant will reimburse the Minority Occupant’s actual relocation costs in an amount not to exceed the amount

that would have been charged by the Majority Occupant's professional relocation company for the same relocation services. In no event will the Majority Occupant be responsible for any costs incurred by the Minority Occupant in searching for, identifying, leasing, purchasing, improving, furnishing, or otherwise preparing for occupancy the Minority Occupant's alternate premises, including without limitation, any brokerage commissions, finders' fees, closing costs, tenant improvement costs, or consultant's fees. The terms of this section 3.3 will survive the consummation of the Equity Purchase until _____, 200____ **[Note: This should be the same date as the deadline for vacation of the Real Property by the Minority Occupant set forth in section 4.3 below].**

3.4 Rights and Responsibilities. Upon completion of the Equity Purchase, the rights and responsibilities of the Parties in respect of the Equity Rights purchased by the Majority Occupant will be as set forth in the Transfer Agreement.

3.5 Representations and Warranties. Each Party makes the following representations and warranties to the other to the best of its knowledge after reasonable investigation and inquiry:

3.5.1 The Compensation is equal to the fair market value of the Minority Occupant's Equity Rights in the Real Property;

3.5.2 The person who has signed this Agreement on behalf of the Party has been duly authorized and empowered, by a resolution or other formal action of the Party, to sign this Agreement on its behalf, and no other or further approval or consent is required to authorize or empower the Party to enter into and perform this Agreement; and

3.5.3 This Agreement and the Equity Purchase contemplated in this Agreement do not and will not violate any agreement, obligation, or court order by which the Party is bound or to which it or its assets is subject.

4. CLOSING THE EQUITY PURCHASE TRANSACTION

4.1 Delivery of Signed Agreement. The last Party to sign this Agreement must deliver to the AOC, within three business days after signing, _____ fully-signed originals of this Agreement.

4.2 When the Equity Purchase Takes Effect. The Equity Purchase will be effective and deemed consummated immediately and automatically upon the Majority Occupant's payment of the Compensation to the Minority Occupant, whether or not the Minority Occupant has then vacated the Real Property.

4.3 When Minority Occupant Must Vacate the Real Property. The Minority Occupant agrees that it will entirely vacate its occupancy of the Real Property by no later than _____, 200___. If the Minority Occupant fails to complete its vacation the Real Property by _____, 200— through no fault of the Majority Occupant, the Minority Occupant will be deemed to have fully and forever waived and relinquished its rights, under section 70344(b) of the Act and section 3.3 of this Agreement, to require the Majority Occupant to pay the Minority Occupant's relocation costs.

4.4 Delivery of Possession. When the Equity Purchase has been completed and the Minority Occupant has vacated the Real Property, the Minority Occupant will deliver to the Majority Occupant possession and control of the Equity Rights, and the Minority Occupant will thereafter have no right, claim, or interest in the Equity Rights whatsoever.

5. MISCELLANEOUS

5.1 Dispute Resolution. Any dispute between the Parties concerning this Agreement must be resolved under the terms for "Dispute Resolution" in section 11 of the Transfer Agreement.

5.2 Amendments. This Agreement may be amended only by written agreement signed by both of the Parties.

5.3 Waivers. No waiver of any provision of this Agreement will be valid unless it is in writing and signed by both Parties. Waiver by either Party at any time of any breach of this Agreement cannot be deemed a waiver of or consent to a breach of the same or any other provision of this Agreement. If a Party's action requires the consent or approval of the other Party, that consent or approval on any one occasion cannot be deemed a consent to or approval of that action on any later occasion or a consent or approval of any other action.

5.4 Binding Effect. This Agreement binds the Parties and their permitted successors and assigns. The State Parties are intended beneficiaries of all provisions of this Agreement for the benefit of the AOC. Otherwise, this Agreement is for the benefit only of the Parties, and no third parties are intended to be benefited by this Agreement.

5.5 Governing Law. This Agreement, and the Parties' performance under this Agreement, will be exclusively governed by the laws of the State without regard to its conflict of law provisions.

5.6 Construction. The headings used in this Agreement are for convenience only and will not affect the meaning or interpretation of this Agreement. This Agreement will not be construed against any Party as the principal draftsman. The words

“include” and “including” when used are not exclusive and mean “include, but are not limited to” and “including but not limited to,” respectively.

5.7 Integration. This Agreement and the Transfer Agreement contain the entire agreement of the Parties with respect to the Equity Purchase, and supersede all previous and concurrent communications, understandings, and agreements, whether verbal, written, express, or implied, between the Parties concerning the subject matter of this Agreement.

5.8 Capitalized Terms. Any capitalized terms that are not otherwise defined in this Agreement will have the meanings given to them in the Transfer Agreement.

5.9 Severability. If any term of this Agreement is inconsistent with applicable law, then upon the request of either Party, the Parties will promptly meet and confer to determine how to amend the inconsistent term in a manner consistent with Law, but all parts of this Agreement not affected by the inconsistency will remain in full force and effect.

5.10 Further Assurances. The County and the AOC agree to cooperate reasonably and in good faith with one another to (1) implement the terms of this Agreement, and (2) consummate the Equity Purchase, and will execute any further agreements and perform any additional acts that are reasonably necessary to carry out the terms of this Agreement.

5.11 Notices. Any notices or other communications to be sent by one Party to the other under this Agreement will be sent and deemed received in accordance with the “Notices” provision of section 12 of the Transfer Agreement.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

I agree to the terms of this Agreement.

APPROVED AS TO FORM:
Administrative Office of the Courts,
Office of the General Counsel

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS**

By: _____
Name: Charles Martel
Title: Attorney
Date: _____

By: _____
Name: Grant Walker
Title: Senior Manager, Business Services
Date: _____

ATTEST:
_____, Clerk of the Board

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Deputy

By: _____
Name: _____
Title: Chair, Board of Supervisors
Date: _____

APPROVED AS TO FORM:
County of Santa Cruz
Office of the County Counsel

By: _____
Name: Dana McRae
Title: _____
Date: _____

EXHIBIT "A"
COPY OF FLOOR PLAN
[See Attached]

Exhibit F

Legend

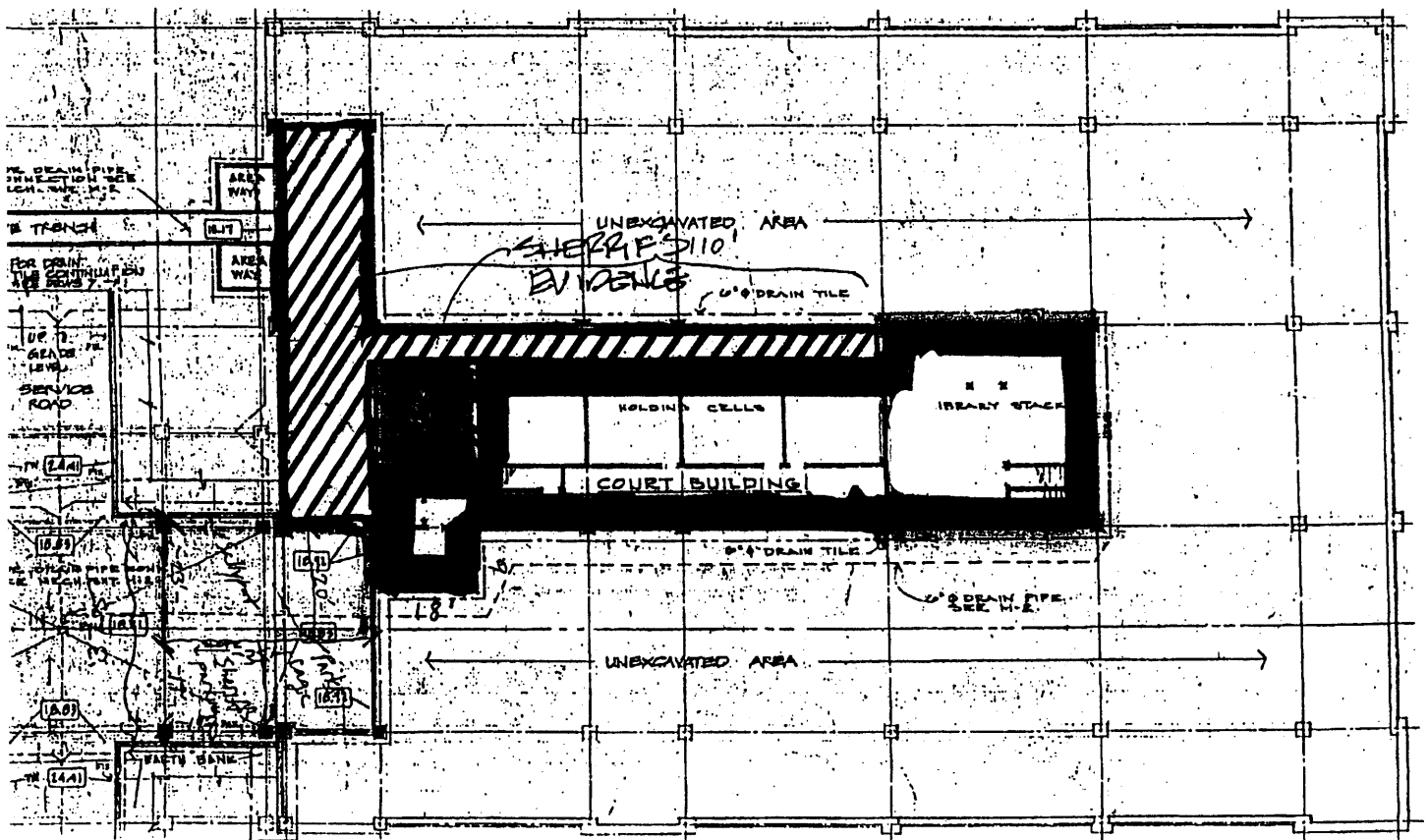
Court Exclusive-Use Area



County Exclusive-Use Area



Common Area



Santa Cruz Main Courthouse
Building 44-A 1
Basement (not to scale)

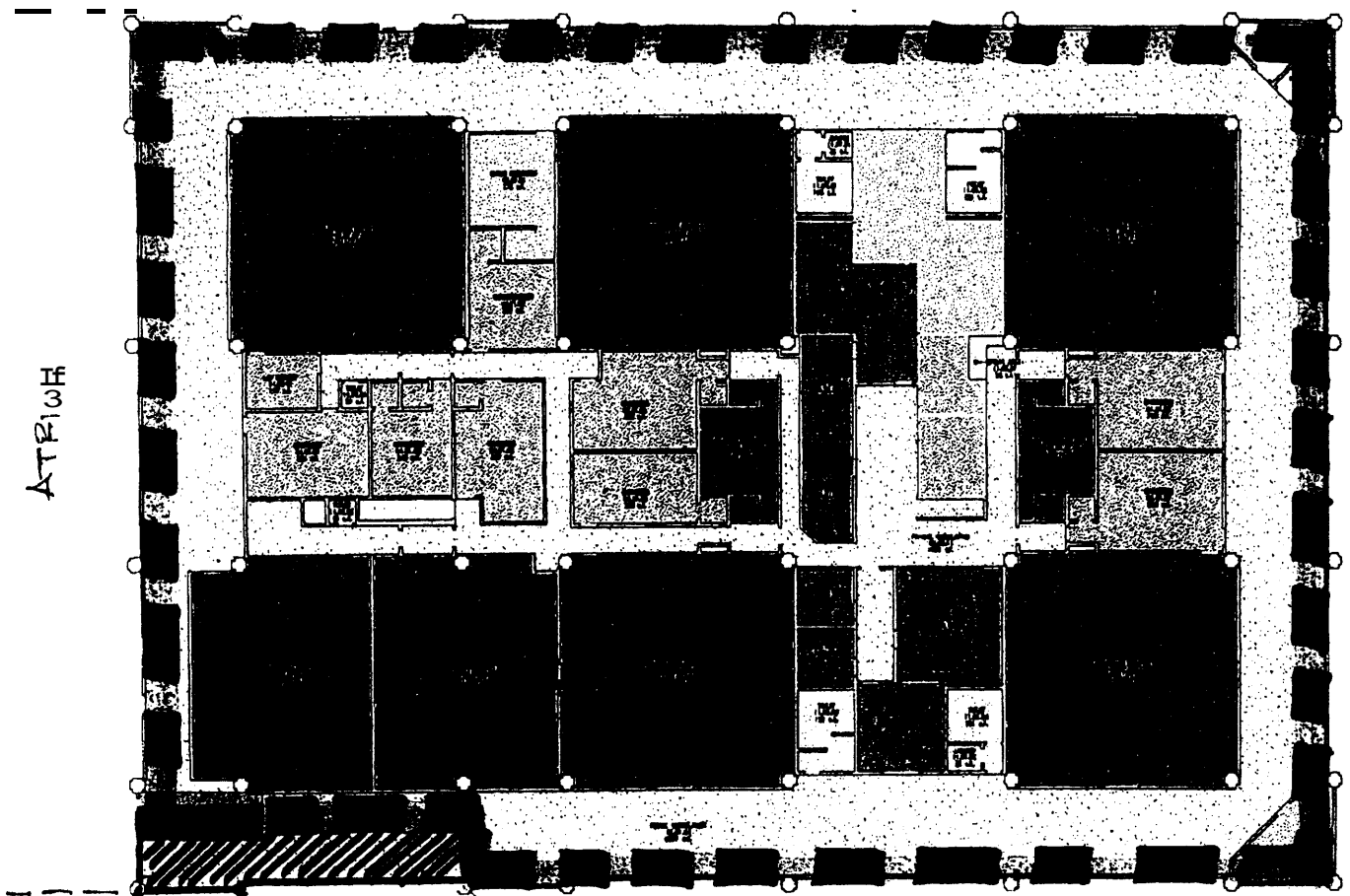
Exhibit F

Legend

Court Exclusive-Use Area 

County Exclusive-Use Area (none on First Floor)

Common Area 



Santa Cruz Main Courthouse
Building 44-A1
First Floor (not to scale)

ATTACHMENT “4” TO JOA
FORM OF TERMINATION OF JOINT OCCUPANCY AGREEMENT

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

STATE OF CALIFORNIA
c/o Judicial Council of California
Administrative Office of the Courts
Office of the General Counsel
455 Golden Gate Avenue
San Francisco, CA 94102
Attn: Managing Attorney, Office of the General
Counsel – Real Estate Unit

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES PURSUANT TO GOVT. CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.

TERMINATION OF JOINT OCCUPANCY AGREEMENT

This Termination of Joint Occupancy Agreement (“**Termination**”) is made and entered into this _____ day of _____, 20____, by and between the Judicial Council of California, Administrative Office of the Courts (“**AOC**”), and the COUNTY OF SANTA CRUZ (“**County**”). The AOC and the County each constitute a “**Party**” and collectively constitute the “**Parties**” to this Termination.

RECITALS

A. On _____, 200____, the County and the AOC entered into a Transfer Agreement For The Transfer of Responsibility For Court Facility (the “**Transfer Agreement**”). Under the Transfer Agreement, the County transferred to the AOC responsibility for funding and operation of the Main Courthouse and the Jury Assembly Room Modular, which are located on certain real property in the City of Santa Cruz, County of Santa Cruz, State of California and having a street address of 701 Ocean Street (as more completely described in the Transfer Agreement, the “**Real Property**”). The legal description of the Real Property is attached to this Termination as **Attachment 1**

B. Under the Transfer Agreement, the AOC and the County also entered into a Joint Occupancy Agreement dated _____, 20____ (“**JOA**”), setting forth the parties’ respective rights and obligations with respect to the shared occupancy and use of the Real Property.

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C. To memorialize the parties' respective rights and duties under the JOA, the parties signed a Memorandum of Joint Occupancy Agreement ("**Memorandum**"), which was recorded in the Official Records of the County as Instrument No. _____

D. The JOA has now been terminated by the County and the AOC, and is no longer of any force or effect, except for the terms of the JOA that expressly survive the termination of the JOA.

E. The County and the AOC now wish to record this Termination to memorialize the termination of the JOA and the Memorandum.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and AOC do hereby agree as follows:

1. The JOA and the Memorandum are terminated, and are no longer of any force or effect, except for those terms of the JOA that the parties have expressly agreed in writing will survive the termination of the JOA.

2. This Termination is to be recorded in the Official Records of the County with respect to the Real Property, whereupon the Memorandum will automatically be removed as an encumbrance on the title to the Real Property.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF, this Termination has been executed as of the day and year first above written.

APPROVED AS TO FORM:

Administrative Office of the Courts,
Office of the General Counsel

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS**

By: _____
Name: Charles Martel
Title: Attorney
Date: _____

By: _____
Name: Grant Walker
Title: Senior Manager, Business Services
Date: _____

ATTEST:

_____, Clerk of the Board

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Deputy

By: _____
Name: _____
Title: Chair, Board of Supervisors
Date: _____

APPROVED AS TO FORM:

County of Santa Cruz
Office of the County Counsel

By: _____
Name: Dana McRae
Title: _____
Date: _____

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STATE OF CALIFORNIA**COUNTY OF** _____

On _____ before me, _____, Notary Public,
 personally appeared _____, who proved to me on the basis of
 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
 instrument and acknowledged to me that he/she/they executed the same in his/her/their
 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
 person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
 the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

STATE OF CALIFORNIA**COUNTY OF** _____

On _____ before me, _____, Notary Public,
 personally appeared _____, who proved to me on the basis of
 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
 instrument and acknowledged to me that he/she/they executed the same in his/her/their
 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
 person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
 the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "1"**LEGAL DESCRIPTION OF THE REAL PROPERTY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Beginning at an iron pipe at the Southwestern corner of the Lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958 and recorded August 12, 1959, in Volume 1264, at Page 558, of the Official Records of said Santa Cruz County and from which City Triangulation Station "Baker" bears North 17° 50' 20" West 156.42 feet and North 72° 14' 45" East 230.26 feet distant; thence from said point of beginning and along the Southern boundary of said lands of Faneuf North 72° 11' 05" East 107.07 feet to an iron pipe set in concrete; thence South 17° 50' 05" East 578.24 feet to an iron pipe set in concrete; thence South 72° 36' 16" West 613.79 feet to an iron pipe set in concrete on the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz, as recorded in Volume 1154, at Page 128, of Official Records of said Santa Cruz County; thence along said Western boundary of said lands of the Redevelopment Agency of the City of Santa Cruz and the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz by deed recorded in Volume 1150, at Page 352 of the Official Records of said Santa Cruz County the following courses and distances: North 18° 24' 40" West 31.92 feet to a station and thence North 19° 54' 40" West 104.72 feet to a station; thence North 22° 54' 40" West 104.72 feet to a station; thence North 25° 54' 40" West 104.72 feet to a station; thence North 28° 54' 40" West 104.72 feet to a station; thence North 30° 24' 40" West 50.00 feet to a station; thence North 39° 30' 40" West 101.00 feet to a station; thence leaving said last mentioned boundary North 24° 19' 40" West 20.95 feet to a station; thence North 6° 02' 20" East 20.95 feet to an iron pipe set in concrete; thence North 20° 52' 48" East 46.63 feet to an iron pipe set in concrete; thence North 55° 13' 30" East 141.54 feet to an iron pipe set in concrete; thence North 72° 14' 45" East 432.24 feet to an iron pipe set in concrete on the Western boundary of said lands of Faneuf; thence along said Western line of the lands of Faneuf South 17° 50' 20" East 133.42 feet to the point of beginning.

Excepting therefrom the lands conveyed to the City of Santa Cruz, a Municipal Corporation by deed recorded June 6, 1966, in Volume 1768, at Page 416, Official Records of Santa Cruz County.

PARCEL TWO:

Beginning at a station on the Southern boundary of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961 and recorded November 29, 1961, in Volume 1438, at Page 658, of the Official Records of said Santa Cruz County, said station being also at the Northeastern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, of the Official

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Records of said Santa Cruz County; thence from said point of beginning along said Southern boundary of the lands of the County of Santa Cruz and the Eastern Projection thereof North 72° 36' 16" East 423.57 feet to a station; thence South 17° 22' 41" East 11.17 feet to a station; thence South 72° 36' 16" West 423.65 feet to a station on the Eastern boundary of said lands of the City of Santa Cruz; thence along said last mentioned boundary North 17° 23' 44" West 11.17 feet to the point of beginning.

PARCEL THREE:

Beginning at a station at the Southeastern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961, recorded November 29, 1961, in Volume 1438, Page 658, Official Records of Santa Cruz County, and from which City Triangulation Station "Baker" bears the following courses and distances: North 17° 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72° 11' 05" West 107.07 feet to an iron pipe and North 17° 50' 20" West 156.42 feet to a station and North 72° 14' 45" East 230.26 feet distant and from which point of beginning an iron pipe at the Southwestern corner of the lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958, and recorded August 12, 1959, in Volume 1264, Page 558, Official Records of Santa Cruz County bears the following courses and distances; North 17° 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72° 11' 05" West 107.07 feet distant; thence from said point of beginning and along the Eastern boundary of said lands of the County of Santa Cruz North 17° 50' 05" West 578.24 feet to a station on the Southern boundary of the lands described in said Owner Participation Agreement with Faneuf; thence along said last mentioned boundary North 72° 11' 05" East 25.74 feet to a station at the Northwestern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated September 2, 1965 and recorded September 17, 1965, in Volume 1718, Page 263, Official Records of Santa Cruz County; thence along the Western boundary of said lands conveyed to the City of Santa Cruz South 17° 22' 41" East 578.40 feet to a station from which the point of beginning bears South 72° 36' 16" West; thence South 72° 36' 16" West 21.18 feet to the point of beginning.

PARCEL FOUR:

An easement for the unobstructed passage of light and air, said easement being 30.00 feet in width at right angles to its centerline running from the Western boundary of the lands conveyed to the City of Santa Cruz by deed dated January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, Official Records of Santa Cruz County, to the Eastern boundary of said lands of the City of Santa Cruz and being more particularly described by its Northern boundary as follows: to wit:

Beginning at a station at the Northwestern corner of said lands of the City of Santa Cruz; thence from said point of beginning North 72° 36' 16" East 211.40 feet to a station at the Northeastern corner of said lands of the City of Santa Cruz.

APN: 005-261-25

Facility: #44-A2

0150

Building Name: County Administration Building

Building Address: 701 Ocean Street, Santa Cruz, CA 95060

**TRANSFER AGREEMENT
BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS,
AND THE COUNTY OF SANTA CRUZ
FOR THE TRANSFER OF RESPONSIBILITY FOR COURT FACILITY**

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TRANSFER AGREEMENT

1. PURPOSE

The Judicial Council of California (“**Council**”), Administrative Office of the Courts (together, the “**AOC**”), and the County of Santa Cruz (“**County**”), set forth the terms and conditions for the transfer of responsibility for funding and operation of the trial court facility commonly known as the County Administration Building.

2. BACKGROUND

The Lockyer-Isenberg Trial Court Funding Act of 1997, AB 233 (Escutia and Pringle) provides for transfer of the primary obligation for funding of court operations from the counties to the State. The restructuring of funding for trial court operations accomplished by the Lockyer-Isenberg Trial Court Funding Act of 1997 ended a dual system of county and state funding of, and created a more stable and consistent funding source for, trial court operations. The Trial Court Facilities Act of 2002 was adopted to provide for the transfer of responsibility for funding and operation of trial court facilities from the counties to the AOC. The Parties enter into this Agreement to implement the provisions of the Act as it exists on the Effective Date.

3. DEFINITIONS

“**Act**” means the Trial Court Facilities Act of 2002 (Government Code sections 70301-70404) as of the Effective Date.

“**Agreement**” means this Transfer Agreement, together with the attached Exhibits.

“**AOC Authorized Signatory**” means the AOC’s Senior Manager, Business Services, Grant Walker.

“**BI Documents**” means the instruments and agreements evidencing or securing the Bonded Indebtedness that currently encumbers the Real Property, and any other instruments or agreements securing future Bonded Indebtedness that the County may cause to be issued at any time on or after the Closing Date in compliance with section 4.3.15 of this Agreement and the terms of the Act.

“**Bonded Indebtedness**” means “bonded indebtedness”, as defined in section 70301(a) of the Act.

“**Building**” means the building on the Land occupied by the Court and the County, all connected or related structures and improvements, and all Building Equipment.

“Building Equipment” means all installed equipment and systems that serve the Building, excluding the Central Plant (as defined in the JOA).

“Closing” means completion of all steps required to complete the Transfer under this Agreement and the Act.

“Closing Date” means the last day of the month in which the State Department of Finance approves the County Facilities Payment for the Court Facility..

“Closing Documents” means the documents listed in section 5.1.1 of this Agreement.

“Common Area” means the areas of the Land and the Building that are used non-exclusively and in common by, or for the common benefit of, the County and the Court, and includes (1) those portions of the Building depicted as Common Area on **Exhibit “F”**, including hallways and restrooms that are not located in either Party’s Exclusive-Use Area, (2) foundations, exterior walls, load-bearing walls, support beams, exterior windows, the roof, and other structural parts of the Building, (3) Building Equipment and Utilities that do not exclusively serve only one Party’s Exclusive-Use Area, and (4) driveways, walkways, and other means of access over the Land and through the Building to the Court Exclusive-Use Area. The Common Area does not include any part of the Exclusive-Use Area of either Party, except for any Building Equipment that is located in a Party’s Exclusive-Use Area.

“Common Parking” means all the parking spaces located in the Parking Area, as shown on the parking plan attached as **Exhibit “G”**, which are shared by the Court and the County on a first-come, first-served basis except for those spaces dedicated for use by the judges and court staff defined as “Court Parking” below.

“Controller” means the State Controller.

“County Authorizing Document” means a certified copy of a minute order evidencing that the County has taken all steps and obtained all approvals required to: (1) authorize the County Authorized Signatory to execute this Agreement and the Closing Documents on behalf of the County; and (2) authorize the County to perform its obligations under this Agreement and the Closing Documents.

“County Authorized Signatory” means the Chair of the County’s Board of Supervisors.

“County Exclusive-Use Area” means the 169,983 square feet of the Building that are exclusively occupied and used by the County, as depicted on Exhibit “F” to this Agreement. As of the Effective Date, the County Exclusive-Use Area is 92% of the Total Exclusive-Use Area.

“County Facilities Payment” means the payments the County must make to the Controller with respect to the Court Facility under Article 5 of the Act.

“County Parties” means the County, its political subdivisions, and their respective officers, agents, and employees.

“Court” means the Superior Court of California in and for the County of Santa Cruz.

“Court Exclusive-Use Area” means the **14,775** square feet of the floor space in the Building that are exclusively occupied and used by the Court, as depicted on **Exhibit “F”** to this Agreement. As of the Effective Date, the Court Exclusive-Use Area constitutes 8% of the Total Exclusive-Use Area.

“Court Facility” means the Court Exclusive-Use Area, which includes all spaces, fixtures, and appurtenances described in section 70301(d) of the Act, including one room for holding superior court, one chamber of the judge of the Court, 12 walk-up windows, rooms for attendants of the Court, rooms for storage, and certain other areas required or used for Court functions, together with the non-exclusive right to occupy and use the Common Area, and with the right to enter, exit, pass over, and pass through the Land as necessary to access the Court Facility. A copy of a site plan depicting the location of the Building on the Land and a floor plan depicting the layout of the Court Facility in the Building, are attached as **Exhibit “F”** to this Agreement and are further described in the **JOA**.

“Court Parking” means a total of 48 reserved, unsecured parking spaces located in the Parking Area dedicated to use by the judges and court staff, as shown on the parking plan attached as **Exhibit “G”**. The County and the Court have agreed that the Court Parking, together with the Common Parking, is parking of the same number, type, and convenience as made available for users of the Court on October 1, 2001.

“Deficiency” has the meaning ascribed to it in the JOA.

“Dispute” means each and every pending or threatened claim, liability, litigation, arbitration, mediation, administrative proceeding, settlement negotiation, or other dispute-resolution proceeding related to the Property that, if determined adversely to the County or the AOC, would have a Material Adverse Effect. An accurate and complete list of all Disputes as of the Effective Date is set forth in **Exhibit “H”**.

“Effective Date” means the date on which this Agreement is signed by the last of the Parties to sign.

“Environmental Law” means federal, state, or local laws, ordinances, regulations, rules, statutes, and administrative actions or orders respecting hazardous or toxic substances, waste, or materials, or industrial hygiene.

“Hazardous Substance” means any material or substance regulated under any Environmental Law.

“Indemnified Loss” means all claims, demands, liabilities, damages, attorney fees, costs, expenses, and losses as to which either Party is obligated to indemnify the other Party under this Agreement or the Closing Documents.

“Intangible Personal Property” means all of the County’s: (1) agreements or arrangements for the operation of the Building Equipment in the Court Facility; (2) warranties, permits, licenses, certificates, guaranties, and suretyship agreements and arrangements, and indemnification rights in favor of the County with respect to the Court Facility; (3) commitments, deposits, and rights for utilities relating to the Court Facility; (4) engineering, accounting, title, legal, and other technical or business data concerning the Court Facility or the Tangible Personal Property; (5) deposits, deposit accounts, and escrow accounts arising from or related to any transactions related to the Court Facility or the Tangible or Intangible Personal Property, and rights to receive refunds or rebates of impact fees, assessments, charges, premiums, or other payments made by the County if these refunds or rebates relate to the period on or after the Closing Date; or (6) all other intangible rights, interests, and claims of the County which are a part of or related to the Court Facility or the Tangible Personal Property.

“JOA” means the document titled Joint Occupancy Agreement that is similar in form and content to the document attached to this Agreement as **Exhibit “J”**, and under which the County and the Court will occupy, and the Parties will operate and maintain, the Real Property.

“Land” means the real property described on **Exhibit “A,”** including the County’s (1) rights to enter and exit the Land, (2) recorded and unrecorded rights to water, water stock, oil, gas, minerals, and timber related to the Land, and (3) existing, granted development permits, entitlements, and air and view rights.

“Law” means State and federal codes, ordinances, laws, regulations, the California Rules of Court, and judicial and administrative orders and directives, to the extent binding on the County and issued by a court or governmental entity with jurisdiction over the County.

“Managing Party”^{ss} means the Party designated the “Managing Party” in the JOA.

“Material Adverse Effect” means any of (1) a material adverse change in (a) the condition, operations, overall functionality, or value of the Property, (b) the County’s use

of, interest in, or right or title to, the Property, (c) the ability of the County to perform its obligations under this Agreement or the Closing Documents, or (d) the validity or enforceability of this Agreement or the Closing Documents; or (2) the imposition on the County of actual or contingent payment or performance obligations in respect of the Property of \$50,000 or more in the aggregate; or (3) any event, circumstance, or Dispute that causes or results in a Deficiency.

“Material Agreements” means any and all agreements, contracts, or understandings (whether written or unwritten) relating to the Property (1) for which termination requires advance notice by a period exceeding 30 calendar days, or (2) that obligate the County to make payment, or entitle the County to receive payment, exceeding \$25,000 within any fiscal year.

“Memorandum” means the document titled Memorandum of Joint Occupancy Agreement that is similar in form and content to the document attached to this Agreement as **Exhibit “K”**.

“Occupancy Agreement” means any agreement or arrangement that entitles a third party to occupy or use the Real Property for a period that continues after the Closing Date, and that cannot be terminated on 30 or fewer days notice.

“Occupant” means any third party that occupies, possesses, or uses the Real Property under an Occupancy Agreement.

“Operation” means the administration, management, maintenance, and repair of designated areas of the Real Property, but does not include custodial services for the Common Area or either Party’s Exclusive-Use Area, which are not governed by this Agreement or the JOA.

“Parking Area” means the parking lot on the Land and the offsite parking areas, which together include the Court Parking and the Common Parking.

“Party” means either of the AOC or the County, and **“Parties”** means the AOC and the County.

“Pending Projects” means any pending maintenance project or other project involving the Court Facility under sections 70326(d) or 70331(c) of the Act, including without limitation County’s design for an upgrade to the fire alarm system in the Building.

“Property” means all right, title, and interest in and to the Land, the Building (including the Court Facility, the County Exclusive-Use Area, and the Common Area), the Parking Area, and the Tangible Personal Property.

“Property Disclosure Documents” means all documents including Material Agreements that pertain to the title, ownership, use, occupancy, or condition of the Property or any rights, benefits, liabilities, obligations, or risks associated with the Property. A list of the categories of Property Disclosure Documents is attached as **Exhibit “I”**.

“Real Property” means the Land and the Building, together.

“State” means the State of California.

“State Parties” means the Council, the Administrative Office of the Courts, and the Court, their respective political subdivisions, officers, agents, and employees.

“Tangible Personal Property” means any unaffixed item that is, on the Closing Date, located on or in, or used in or necessary to the use, occupancy, or Operation of the Court Exclusive-Use Area.

“Total Exclusive-Use Area” means, together, the Court Exclusive-Use Area and the County Exclusive-Use Area (as defined in the JOA).

“Transfer of Responsibility” or “Transfer” means the County’s full and final grant, transfer, absolute assignment, and conveyance to the applicable State Parties, and the State Parties’ full and final acceptance and assumption of, entitlement to and responsibility for, all of the County’s rights, duties, and liabilities arising from or related to the Court Facility under this Agreement and the Act, except for those duties and liabilities expressly retained by the County under this Agreement and the Act, and Disputes that commenced prior to the Closing Date or are related to facts or circumstances that occurred or existed prior to the Closing Date.

“Utilities” means the utilities services provided to the Real Property (which includes the Building and the adjacent Main Courthouse and the Jury Assembly Modular facilities), except for telephone, cable, internet, and other data services, which are governed by section **Error! Reference source not found.** of this JOA, but specifically including heat, air conditioning, and domestic hot and cold water provided from the Central Plant.

“Vending Facility” means “vending facility” as defined in section 19626 of the California Welfare and Institution Code, as amended.

4. RESPONSIBILITIES AFTER TRANSFER.

4.1 Transfer of Responsibility. On the Closing Date, the Transfer of Responsibility for the Court Facility from the County to the AOC will occur under this Agreement and the Closing Documents.

4.2 General Responsibilities After Transfer. Upon the completion of the Transfer, the Parties will have the general rights, duties, and liabilities set forth in the Act in respect of the Real Property, except as expressly delegated by the Parties in this Agreement, the Closing Documents (including the JOA), or any other agreement.

4.3 Specific Responsibilities After Transfer. The Parties will have the following specific rights, duties, and liabilities upon and after the Transfer:

4.3.1 Utilities. The County is solely responsible for all Utilities costs and expenses incurred prior to the Closing Date, and the Parties will comply with the JOA with respect to the payment of Utilities costs and expenses incurred on and after the Closing Date.

4.3.2 Property Insurance and Risk Allocation. Responsibility and liability for (i) damage to or destruction of the Real Property, (ii) bodily injury to or death of third parties in, on, or about the Real Property, and (iii) Disputes, are allocated as set forth in the JOA.

4.3.3 Responsibility for Operation. Under the JOA and this Agreement, the County is responsible for Operation of the Common Area, including the Building Equipment. Operation of the Building Equipment includes maintaining and renewing all permits, certificates, approvals, and licenses required for lawful use of any of the Building Equipment.

4.3.4 Parking. The Managing Party is responsible, as part of the Common Area obligations, for the Operation of the Parking Area under the terms of the JOA. The County will at all times provide, at the County's sole expense, the Parking Area for use by the Court and people attending to business and personal affairs in the Court Facility. If any of the Parking Area becomes unavailable for Court use in accordance with this section 4.3.4, the County will be responsible to provide, at no cost to the State Parties, alternate parking spaces of equal number, type, and convenience to the parking spaces that are no longer available.

4.3.5 Intentionally Omitted.

4.3.6 Pending Projects. The County will complete any Pending Projects as soon as reasonably possible following the Transfer, at the County's sole cost.

4.3.7 IT/Telephone Services. Subject to the terms and conditions set forth in the JOA, the AOC and the County will each be responsible for the Operation of their respective telecommunications and data equipment and services located in the Building.

4.3.8 Correspondence. The County will direct all correspondence, invoices, and information related to management, operation, maintenance, or repair of the

Court Facility for the period on and after the Closing Date to the AOC's Office of Court Construction and Management pursuant to section 12 of this Agreement.

4.3.9 County Facilities Payments. The County will make all County Facilities Payments in accordance with the Act and section 6 of this Agreement.

4.3.10 Personal Property. If either Party determines that there exists any Tangible or Intangible Personal Property not previously transferred or assigned to the AOC, that Party will promptly provide to the other Party a notice that includes a reasonably-detailed, written description of that property. At the AOC's request, the County will transfer, convey, or assign to the AOC any or all of the Tangible or Intangible Personal Property described in that notice.

4.3.11 Adjustments. The Parties will make the appropriate adjustments for prorations or computations required by this Agreement or the Closing Documents as promptly as possible once accurate information becomes available evidencing that either Party is entitled to an adjustment. Any prorations will be based on a 365-day fiscal year. The Party entitled to the adjustment must make written demand on the other Party for the adjustment within one year after the Closing Date and provide a reasonably-detailed explanation of the basis for the demand and all supporting documentation. The Parties will promptly pay each other any corrected proration or adjustment amounts.

4.3.12 Equity Purchase Rights. Unless the Parties' respective Equity (as defined in the JOA) rights are adjusted, as provided in section 5.4 of the JOA, such that the County no longer has Equity rights in eighty percent (80%) or more of the Building, the County has the right to require the other Party to vacate the Building under the terms of section 70344(b) of the Act and the JOA.

4.3.13 Relief from Section 70311 Obligations. Effective upon the Transfer, the AOC confirms and agrees that the County will be and is relieved of any responsibility under section 70311 of the Act for providing to the Court those necessary and suitable court facilities currently located in the Building, except as specifically provided in this Agreement and the Act.

4.3.14 No Material Changes. Subject to section 4.3.16 below, the County will not: (1) transfer, agree to transfer, or enter into any agreement concerning, any right, title, or interest in the Court Facility, to any third party without the express prior written consent of the AOC; or (2) act or fail to act in any way that results in the Court Facility being subject to a Deficiency.

4.3.15 Liability for Seismic-Related Damage and Injury.

4.3.15.1 Application of Section 70324 of the Act. The Parties acknowledge that the AOC has assigned the Building a "Level V seismic rating" as

defined in section 70321 of the Act; and therefore, that section 70324 of the Act applies to the Transfers, and that section 70324 of the Act will continue to apply until any one of the events described in section 70324(b)(1) through (4) of the Act has occurred, notwithstanding any subsequent repeal of section 70324 of the Act, pursuant to the terms of section 70324(f) of the Act.

4.3.15.2 Allocation of Liability and Obligations. The liabilities and obligations of the Parties (including any indemnification obligations) with respect to any seismic-related damage and injury on or to the Property shall be as set forth in **Exhibit “E”** and section 70324 of the Act which, for the convenience of the Parties, is attached as incorporated into this Agreement as though fully set forth in this Agreement. At all times that section 70324 of the Act applies in respect of the Property, the terms of section 70324 of the Act and this section 4.3.15 will prevail over any conflicting provisions of the Act, this Agreement, or the Closing Documents. As provided in section 70324(d) of the Act, in no event will section 70324 of the Act be deemed to impose greater liability on the County for seismic-related damage to third parties than the County would have if the Transfer had not occurred.

4.3.15.3 Termination of this Section and Related Indemnities. When section 70324 of the Act no longer applies in respect of the Property, this section 4.3.15 will immediately and automatically expire and be of no further force or effect with respect to any subsequent seismic-related damage or injury in respect of the Property. Thereafter, the other terms of this Agreement and the Closing Documents, or any agreement entered into under section 70324(a)(4) of the Act and approved by the Director of Finance, if applicable, will apply to allocation of liability for seismic-related damage or injury on or to the Property.

4.3.16 Bonded Indebtedness. On the Effective Date, some or all of the Real Property is subject to Bonded Indebtedness, and the County will remain solely responsible to meet its obligations under the Bonded Indebtedness Documents, and will not act or fail to act in a way that violates the Bonded Indebtedness Documents (**“BI Default”**). The Parties do not intend that this Agreement will interfere with the County’s right to use the Real Property for future financing purposes. Where and to the extent permitted by law, the AOC will cooperate in good faith with the County in any effort to use the Real Property for financing purposes, including by executing any further agreements that may be reasonably necessary in connection therewith. If, at any time after the Closing Date, the County causes the Real Property to be **further** encumbered by additional Bonded Indebtedness, the County will be solely responsible to comply with all obligations under such additional Bonded Indebtedness Documents and will not act or fail to act in any way that violates those Bonded Indebtedness Documents. The County will promptly provide the AOC with a copy of any notice given or received by the County that concerns or alleges a BI Default. Upon the AOC’s receipt of a notice alleging a BI Default by the County, the AOC has the right, but not the obligation, to cure

such BI Default on behalf of the County. The County will provide full cooperation to the AOC in connection with any AOC cure of a County BI Default. If, at any time after the Closing Date, the County causes the Real Property to be further encumbered by additional Bonded Indebtedness, the AOC will exercise its rights under sections 70391 and 70392 of the Act in a way that does not (i) violate the terms of such additional Bonded Indebtedness Documents, (ii) cause any amounts payable by the County under the Bonded Indebtedness Documents to be includable in gross income for federal or State income tax purposes, or (iii) otherwise adversely affect the tax-exempt status of the Bonded Indebtedness. The County will promptly notify the AOC in writing if the County at any time believes that any act or omission by any State Party will or might result in a BI Default. If the Court is required to vacate the Court Facility through the operation or enforcement of the BI Documents, the County will comply with the provisions of section 70325(c) of the Act.

5. CLOSING

5.1 The Closing Date. The Closing will occur upon the Closing Date, and will not be affected by the date of delivery of the signed originals of this Agreement or the Closing Documents.

5.1.1 Closing Documents. The Closing Documents are as follows:

- (a) the JOA;
- (b) the Memorandum;
- (c) the County Authorizing Document; and
- (d) any other documents required by Law, or reasonably requested by the State Parties or the County to complete the Transfer.

5.1.2 Time for Signature for TOR Closing Documents. The Parties will sign the Closing Documents on or as expeditiously as possible after the Effective Date. If the Closing Documents have not been signed within ten days after the Effective Date, either Party that has signed the Closing Documents may terminate this Agreement and the Closing Documents upon five business days notice to the other Party, but if the Closing Documents are fully signed by the Parties prior to the end of the five business day period, any termination notice shall be of no force or effect.

5.2 Conditions for Closing. Neither Party will be obligated to consummate the Transfer unless the following conditions are satisfied or waived prior to the Closing Date. The conditions for the benefit of the County may only be waived by the County, and the conditions for the benefit of the AOC may only be waived by the AOC.

5.2.1 Conditions for the Benefit of the AOC. All of the County's representations and warranties in this Agreement must be accurate and complete in all material respects as though made on the Closing Date; the County must not have breached any of the County's representations, warranties, or covenants in this Agreement; and there must be no County Event of Default under this Agreement nor any circumstance which, but for the passage of time or the giving of notice or both, would constitute a County Event of Default as of the Closing Date.

5.2.2 Conditions for the Benefit of the County. All of the AOC's representations and warranties in this Agreement must be accurate and complete in all material respects as though made on the Closing Date; the AOC must not have breached any of the AOC's representations, warranties, or covenants in this Agreement; and there must be no AOC Event of Default under this Agreement nor any circumstance which, but for the passage of time or the giving of notice or both, would constitute an AOC Event of Default as of the Closing Date.

5.3 Delivery of Signed Agreement, Closing Documents, and County Authorizing Document. The last Party to sign this Agreement and the Closing Documents must deliver, within three business days after signing, (i) to the County, one signed original of this Agreement and the Closing Documents, and (ii) to the AOC, all remaining signed originals of this Agreement, and the Closing Documents, and the County Authorizing Document. The AOC will endeavor to cause the Memorandum to be recorded in the County Recorder's Office within ten business days after the AOC's receipt of the signed originals of this Agreement and the Closing Documents.

5.4 Delivery of Possession. On the Closing Date, the County will deliver to the AOC custody and control over the Court Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area, subject to the terms of the JOA.

6. COUNTY FACILITIES PAYMENT

6.1 Amount of County Facilities Payment. The amount of the County Facilities Payment as approved by the AOC is \$66,262.00, which amount is subject to approval by the State Department of Finance and which shall be subject to adjustment under section 70355 and 70362 of the Act. If such amount is not approved by the DOF, then the Parties agree to amend this Agreement to include the final DOF-approved amount. The approved amount of the County Facilities Payment is intended to be based upon a Closing Date occurring in the same fiscal quarter as the Effective Date. If the Closing Date does not occur in the same fiscal quarter as the Effective Date, the Parties will recalculate the County Facilities Payment as set forth in the Act.

6.1.1 Earthquake Insurance Premium Credit. Of the \$66,262.00 annual County Facilities Payment, the sum of \$26,554.00 is the annual amount that was

allocated in the County's insurance costs in 1999/2000 for the Real Property. When increased by the CFP Inflation Index Factor of 133.8619 the County Facilities Payment for insurance costs will be \$35,346.00. Of the \$65,346.00 insurance cost, \$30,508.00 is the annual amount for the payment of the premium for earthquake insurance for the Real Property. The AOC agrees that for a period of 35 years from the Closing Date, or until such time as the Building is no longer rated with a level V or unacceptable seismic safety rating, the County is entitled to deduct \$2,440.00, from the annual amount of the County Facilities Payment paid by the County, which represents the AOC's 8.00 percent share of the \$3,508.00 premium for earthquake insurance subject to adjustment under section 70362 of the Act. The County agrees that it will use the \$2,440.00 deducted from the County Facilities Payment each year to contribute to the premium cost for the County procured and maintained earthquake insurance insuring the Real Property, the full cost of which is to be paid by the County without contribution from the AOC. The earthquake insurance policy may be satisfied, in whole or in part, by any combination of self-insurance or deductible maintained by the County, and commercial insurance, or by the County's participation in a joint powers authority established for the purpose of pooling self-insured claims. The County will provide the AOC with verification that the earthquake insurance is in full force and effect and, at the request of the AOC, with copies of the earthquake insurance policy, as such policy may be issued or modified from time to time. The County will include, by specific endorsement to any earthquake insurance policy insuring the Real Property, the Council, the AOC, and the Court as an insured or covered party, as appropriate, and joint loss payees for any property damage claims payable under the terms and conditions of such earthquake insurance policy, with the same coverage and limits as the named insured under such earthquake insurance policy. If, for any year or portion of a year during the 35 consecutive years from the Closing Date, and during which the Building continues to be rated with a level V or unacceptable seismic safety rating, there will be no policy of earthquake insurance covering the Real Property, then the County will include in the County Facilities Payment paid for that year the \$2,440.00, or, if applicable, the pro rata portion of \$2,440.00 that relates to the portion of the year during which the County did not maintain earthquake insurance for the Real Property. Any such proration will be made in accordance with section 4.3.14 of this Agreement.

6.2 Transition Date. The Parties have agreed to transition responsibility for Operation of the Court Exclusive-Use Area from the County to the AOC on the first business day of the first month following the Closing Date (the "**Transition Date**"). Until the Transition Date, the County will continue to perform the Operation of the Court Exclusive-Use Area and Common Area at no cost to the AOC. The County's responsibility for the County Facilities Payment commences on the Closing Date. In consideration of the above-described services provided by the County to the AOC, the County will have no obligation, at any time, to make any payments of the County Facilities Payment to the Controller for the period from the Closing Date through the Transition

Date, and the County shall make its first payment of the County Facilities Payment on the later to occur of the fifth (5th) after the Closing date or the day after the Transition Date.

6.3 County Facilities Payment Obligation. The County will pay the County Facilities Payment to the Controller every fiscal quarter under Article 5 of the Act and section 6 of this Agreement, except that the County must deliver to the Controller the first quarterly installment of the County Facilities Payment amount approved by the State Department of Finance in accordance with section 6.1 above within five business days after the Closing Date. Unless the Closing Date is on the first day of a fiscal quarter, the first installment of the County Facilities Payment will be prorated under section 4.3.1 1 for the period from the Closing Date to and including the last day of the fiscal quarter in which the Closing Date occurs, subject to adjustment under section 70355 and 70362 of the Act. Thereafter, the quarterly installments of the County Facilities Payment will be the full non-prorated amount for the applicable fiscal quarter, subject to adjustment under section 70355 and 70362 of the Act.

7. REPRESENTATIONS AND WARRANTIES

Each Party makes the representations and warranties in this section 7 to the other Party effective on both the Effective Date and the Closing Date. Each Party will give written notice to the other within five business days of its discovery of any facts or circumstances that would render any information contained in that Party's representations and warranties in this Agreement or any Closing Document incomplete, untrue, or misleading, but if a Party makes that discovery within seven calendar days prior to the Closing Date, then that Party must immediately deliver written notice of the relevant information to the other Party, whereupon the Closing will be automatically delayed to allow the Party receiving that notice sufficient time to decide whether to proceed with the Closing.

7.1 The County's Representations and Warranties. The phrase "to the best of the County's knowledge" or words of similar import, means the actual knowledge, after reasonable independent investigation and inquiry, of Carol Girvetz, Dana McRae, and Gerald Dunbar, and the County represents that these are the persons within the County most knowledgeable with respect to the County's representations and warranties.

7.1.1 Good Standing. The County is a political subdivision of the State duly organized and validly existing under the Law of the State.

7.1.2 Authority. The County Authorized Signatory has been duly authorized and empowered to sign this Agreement and the Closing Documents on behalf of the County, and the County has taken all steps and obtained all approvals required to authorize and empower the County to sign and perform this Agreement and the Closing Documents.

7.1.3 Due Execution and Delivery. This Agreement and the Closing Documents are legal, valid, and binding obligations of, and are fully enforceable against, the County.

7.1.4 No Conflict. This Agreement and the Closing Documents do not violate any provision of any agreement, obligation, or court order to which the County is a party or by which the County or any of its assets is subject or bound. No other action of any governmental agency or authority is required for, and the County has no actual knowledge of any Law in effect which would prohibit, the County's execution, delivery, or performance of its obligations under this Agreement or the Closing Documents.

7.1.5 Title to Real Property. Other than the BI Documents and any other rights and interests that have been recorded as encumbrances on the Real Property prior to the Effective Date: (1) the County has good and marketable fee title to the Real Property, free and clear of any liens, claims, encumbrances, or security interests in favor of third parties; (2) no person or entity other than the County has any title or interest in or right to occupy or use the Real Property; and (3) the County has not granted, conveyed, or otherwise transferred to any person or entity any present or future right, title, or interest in or to the Real Property.

7.1.6 Title to Personal Property. After a reasonable and diligent search, the County has determined that none of the Tangible or Intangible Personal Property is owned by the County Parties, and to the extent the County has any right, title, or interest in or to the Tangible or Intangible Personal Property, effective as of the Closing Date, the County transfers, conveys, and quitclaims the same to the AOC.

7.1.7 No Disputes. To the best of the County's knowledge, there are no Disputes pertaining to the Property, or the County's right, title, and interest in and to the Property.

7.1.8 No Vending Contracts. To the best of the County's knowledge, the County is not a party to any Occupancy Agreement under which an Occupant is located in the Court Exclusive-Use Area.

7.1.9 No Violations of Law. The County has no actual knowledge of, nor has the County received any written notice from any State, federal, or other governmental or quasi-governmental authority relating to: (1) any violation of Law, whether or not appearing in public records, with respect to the Property, which violation has not been corrected to the satisfaction of the State, federal, or other governmental or quasi-governmental authority that issued the notice, or (2) any unrecorded restriction applicable to the Real Property.

7.1.10 Full and Complete Disclosure. The County conducted a reasonable and diligent search of its records for, and provided to the AOC, all existing Property

Disclosure Documents within the County's possession, custody, or control. The County maintains the Property Disclosure Documents in its ordinary course of business and has not intentionally altered any Property Disclosure Documents in any manner that renders them inaccurate, incomplete, or misleading.

7.1.11 No Condemnation. The County has not received a written notice of any pending modification of a street or highway contiguous to the Real Property, or any existing or proposed eminent domain proceeding that could result in a taking of any part of the Real Property.

7.1.12 No Environmental Violations. Except as set forth in the Property Disclosure Documents or in any environmental assessments or investigations of the Real Property performed by the AOC, the County has no knowledge of the actual, threatened, or suspected presence of any Hazardous Substance, and there are no existing violations of Environmental Laws, in, on, under, adjacent to, or affecting the Real Property, except for any Hazardous Substance used or held in conformity with Environmental Laws.

7.1.13 No Special Circumstances. The Building is not an "historical building" as defined in section 70301(f) of the Act.

7.2 AOC's Representations and Warranties. The phrase "to the best of the AOC's knowledge," or words of similar import, means the actual knowledge, after reasonable independent investigation and inquiry, of the Director, Office of Court Construction and Management, who the AOC hereby represents is the person within the AOC most knowledgeable with respect to the matters described in the AOC's representations and warranties.

7.2.1 Good Standing. The Administrative Office of the Courts is the staff agency to the Council, an entity established by the Constitution of the State, validly existing under the Law of the State.

7.2.2 Due Execution and Delivery. This Agreement and Closing Documents are legal, valid, and binding obligations of, and are fully enforceable against, the AOC.

7.2.3 No Conflict. This Agreement and the Closing Documents do not violate any provision of any agreement, obligation, or court order, to which the AOC is a party or by which the AOC or any of its property is subject or bound. No other action of any governmental agency or authority is required for, and the AOC has no actual knowledge of any Law in effect which would prohibit, the AOC's execution, delivery, or performance of its obligations under this Agreement or the Closing Documents.

8. INDEMNITIES

8.1 AOC's Indemnities. Subject to section 8.3, below, the AOC indemnifies, defends, and holds harmless the County Parties (with counsel reasonably acceptable to the County) from and against all Indemnified Loss asserted against the County Parties arising from the matters described below in this section 8.1:

8.1.1 AOC Breach. Any breach by a State Party of its obligations set forth in this Agreement or in the Closing Documents;

8.1.2 Representations and Warranties. Any breach of or inaccuracy in the AOC's representations and warranties contained in section 7.2 of this Agreement or in the Closing Documents.

8.2 County's Indemnities. Subject to section 8.3, below, the County indemnifies, defends, and holds harmless the State Parties (with counsel reasonably acceptable to the State Parties) from and against all Indemnified Loss asserted against the State Parties arising from the matters described below in this section 8.2:

8.2.1 County Breach. Any breach by a County Party of its obligations set forth in this Agreement or in the Closing Documents;

8.2.2 Representations and Warranties. Any breach of or inaccuracy in the County's representations and warranties contained in section 7.1 of this Agreement or in the Closing Documents;

8.2.3 Pre-Closing Events. Any event or Dispute occurring before the Closing Date, or which is otherwise attributable to the time prior to the Closing Date, related to the County's ownership, possession, operation, management, maintenance, repair of, or responsibility for, the Real Property, except such event or Dispute caused solely by the AOC, the Court, or a Court employee; and

8.3 Indemnity Exclusions. Neither Party is entitled to be indemnified, defended, or held harmless by the other Party under this Agreement in respect of any event, circumstance, or condition that arises from its own negligence or willful misconduct, nor from any property insurance claim for which the Party is responsible under this Agreement or the JOA. The obligations of a Party under section 8.1 or 8.2 of this Agreement, as applicable, will in no event release the other Party from, or diminish its obligation to fully and faithfully perform its duties under, the Agreement, the Closing Documents, or any other agreement.

8.4 CERCLA. The County acknowledges that it has certain indemnification obligations in respect of the Real Property under section 70393(d) of the Act. Nothing in this Agreement will in any manner be deemed or construed as an admission by the

County to any Third Party that the County has any obligation, responsibility, or liability of any kind or nature whatsoever as to the environmental condition of the Real Property surrounding the Building under CERCLA or any other Law, except that the County confirms that this provision does not alter, diminish, or negate the County's obligation to indemnify the State in accordance with the terms of section 70393(d) of the Act.

9. RIGHT TO AUDIT

The County will maintain all records relating to the County Facilities Payment due and owing from the County under the Act, according to the time limits contained in the instructions for calculation of the County Facilities Payment. The County will also maintain an accounting system, supporting fiscal records, and agreements related to the Property, including the Property Disclosure Documents, adequate to ensure that all claims and disputes arising under this Agreement or the Closing Documents can be resolved in accordance with the requirements of this Agreement and the Act. The County will also maintain records relating to all receipts and expenditures from the local courthouse construction fund established under Government Code section 76100, which the AOC has the right to audit under section 70391(d)(2) of the Act. The AOC may audit or inspect these County records upon reasonable prior notice.

10. DEFAULT NOTICE AND CURE

Upon a Party's breach or default of any provision of this Agreement, the non-defaulting Party will provide written notice to the defaulting Party of the breach or default ("**Default Notice**"). Upon receipt of the Default Notice, the defaulting Party will have 30 calendar days to cure the breach or default described in the Default Notice and to provide evidence of that cure to the non-defaulting Party. If the breach or default is not capable of cure within the 30 calendar day period, then no breach or default can be deemed to have occurred by reason of the failure to cure so long as the defaulting Party promptly begins and diligently and continuously performs the cure to completion within a reasonable time period, not to exceed 90 calendar days from commencement of the cure ("**Cure Period**"). If the defaulting Party does not provide evidence of the cure to the non-defaulting Party within the Cure Period, then the defaulting Party will be deemed to have committed an "**Event of Default**", and the non-defaulting Party will have the right, but not the obligation, to pursue its rights with respect to resolution of disputes under section 11 of this Agreement. The Parties may mutually agree to commence the dispute resolution procedures in section 11 of this Agreement before the end of the Cure Period.

11. DISPUTE RESOLUTION

11.1 Unassisted Negotiation: Mediation. In the event of a dispute between the Parties relating to performance of the Parties' obligations under this Agreement, or any aspect of the Transfer transaction contemplated in this Agreement, the County

Administrative Officer and an Assistant Director of the AOC's Office of Court Construction and Management, or their respective designees, will meet to discuss a resolution to the dispute. Any designee appointed must have the authority to negotiate for and to effectively recommend settlement to, the Party that he or she represents. If the Parties are not able to resolve their dispute within 30 calendar days through that unassisted negotiation, they will attempt to resolve the dispute by mediation under this section 11.1. If the dispute concerns a matter within the jurisdiction of the Court Facilities Dispute Resolution Committee ("**CFDRC**"), established by section 70303 of the Act, the Parties must first mediate the dispute before either Party may commence a dispute resolution proceeding before the CFDRC.

11.1.1 Initiation of Mediation. Either or both of the Parties may request the initiation of mediation for any dispute described in section 11.1, whether or not the dispute falls within the CFDRC's jurisdiction, by delivering a written request for mediation ("**Mediation Request**") to the other Party. The Mediation Request must (1) include a brief summary of the issues in dispute, and (2) state the dates on which the requesting Party is unavailable to attend the mediation within the immediately-succeeding 90 calendar days after the delivery to the other Party of the Mediation Request. Within seven calendar days after the requesting Party's delivery of a Mediation Request to the other Party, the responding Party must deliver to the requesting Party a response to the Mediation Request ("**Mediation Response**"), which must: (a) include a brief summary of the issues in dispute (which may or may not be the same as the summary provided by the requesting Party); and (b) state the dates on which, as of the date of the Mediation Request, the responding Party is unavailable to attend the mediation within the 83 calendar days immediately following the responding Party's receipt of the Mediation Request.

11.1.2 Selection of Mediator. Within 12 calendar days after delivery to the requesting Party of the Mediation Response, the Parties will attempt in good faith to agree upon a neutral mediator to preside over the mediation. If the Parties are not able to mutually agree upon a neutral mediator within 12 calendar days after delivery to the requesting Party of the Mediation Response, then within 17 calendar days after delivery to the requesting Party of the Mediation Response, each Party shall deliver to the other Party a list of five potential mediators which list shall rank the mediator candidates in order of preference and include at least two, but not more than three, of whom may be former judges who never sat on the Superior Court or Municipal Court of the County of Santa Cruz, and the remaining selections shall not include any former superior court or municipal court judges whatsoever. If the same mediator candidate appears on both lists, then such mediator candidate shall be deemed to be selected as the mediator. If more than one mediator candidate appears on both lists, then the mediator shall be selected based on the priority that each such mediator candidate is specified on both lists. If there is no mediator listed on both lists, the Parties shall, within 22 calendar days after delivery to the requesting Party of the Mediation Response, attempt in good faith to mutually

agree upon a single mediator from the names on the two lists. If the Parties are not able to agree upon a single mediator, then each Party, within 27 calendar days after delivery to the requesting Party of the Mediation Response, shall select one mediator on the other Party's list of five mediator candidates, and the mediation shall be done by two mediators.

11.1.3 Cost of Mediation. The Parties will share equally in payment of all costs of the mediation, including the compensation of the mediator. The Parties and the mediator must reach a written agreement regarding the mediator's compensation and expenses before the mediation is commenced.

11.1.4 Date, Time, and Place of Mediation. In consultation with the Parties, the mediator will fix the date, time, and place of each mediation session. The mediation may be held at any convenient location agreeable to the Parties and the mediator. Mediation must be completed within 90 calendar days after the requesting Party's delivery to the responding Party of the Mediation Request.

11.1.5 Attendance at Mediation. Both Parties must attend the mediation session(s). The Parties may satisfy this attendance requirement by sending a representative familiar with the facts of the dispute, who has the authority to negotiate on behalf of, and to effectively recommend settlement to, the Party he or she represents. Any Party to the mediation may have the assistance of an attorney or other representative of its choice, at its own cost. Other persons may attend the mediation sessions only with the consent of the Parties and the mediator.

11.1.6 Confidentiality. The mediation will be confidential in all respects, and the provisions of California Evidence Code sections 1152 and 1154 will apply to all written and verbal evidence presented in the mediation and to settlement communications made in the Premediation Statement, during the mediation itself, or otherwise in furtherance of or related to the mediation or the settlement of the dispute. The Premediation Statements shall be confidential, for settlement purposes only, and will not be admissible for any purpose other than for the mediation. Without limiting the foregoing, the provisions of California Evidence Code sections 1115 through 1128, inclusive, will apply in connection with any mediation under this Agreement.

11.2 Referral to CFDRC. After compliance with the terms of section 11.1 of this Agreement, any unresolved dispute involving any of the matters set forth in sections 70303(c)(1) through (5) of the Act will be referred to the CFDRC for hearing and recommendation to, and decision by, the Director of Finance, under the Act and the CFDRC Regulations.

12. NOTICES

Any notice or communication required to be sent to a Party pursuant to this Agreement must be sent in writing by personal delivery (including overnight courier service), certified U.S. mail, postage pre-paid and with return receipt requested, or facsimile transmission, sent during regular business hours of the recipient to the Parties at their addresses or fax numbers indicated below. Routine exchange of information may be conducted via telephone, facsimile, and/or electronic means, including e-mail.

If to the AOC:

Administrative Office of the Courts
 Attention: Assistant Director, Office of Court Construction and Management
 455 Golden Gate Avenue
 San Francisco, CA 94102
 Voice: 415-865-4040
 Fax: 415-865-8885

With a copy to:

Administrative Office of the Courts
 Office of Court Construction and Management
 Attention: Manager, Real Estate
 455 Golden Gate Avenue
 San Francisco, CA 94102
 Voice: 415-865-4048
 Fax: 415-865-8885

In addition, all audit requests and notices by the County relating to termination of this Agreement or alleged breach or default by the AOC of this Agreement or any other Closing Document must also be sent to:

Administrative Office of the Courts
 Attention: Senior Manager, Business Services
 455 Golden Gate Avenue
 San Francisco, CA 94102-3688
 Voice: 415-865-4090
 Fax: 415-865-4326
 Email: grant.walker@jud.ca.gov

If to the County:

County of Santa Cruz
 County Administrative Office
 Attention: Carol Girvetz
 701 Ocean Street, Room 520
 Santa Cruz, CA 95060
 Voice: 831-454-2100
 Fax: 831-454-3420

With a copy to:

County of Santa Cruz
 Office of the County Counsel
 Attention: Dana McRae
 701 Ocean Street, Room 505
 Santa Cruz, CA 95060
 Voice: 831-454-2034
 Fax: 831-454-2115

With a copy to:

County of Santa Cruz
 Attention: General Services Department
 701 Ocean Street, Room 330
 Santa Cruz, CA 95060
 Voice: 831 454-2210
 Fax: 831 454-2710

A Party may change its address for notice under this Agreement by giving written notice to the other Party in the manner provided in this section 12. Any notice or communication sent under this section 12 will be deemed to have been duly given as follows: (1) if by personal delivery, on the date actually received by the addressee or its representative at the address provided above, or (2) if sent by certified U.S. mail, return receipt requested, on the first business day that is at least three calendar days after the date deposited in the U.S. Mail, or (3) if sent by facsimile transmission, upon electronic confirmation of good receipt by the receiving facsimile machine except that facsimile notice received after normal business hours of the recipient will be deemed received at 9:00 a.m. on the first business day after the date on which the facsimile notice was confirmed electronically.

13. SURVIVAL OF TERMS AND PROVISIONS

The following sections of this Agreement will survive the Closing, and will thereafter remain in full force and effect: 3, 4, 5.3, 5.4, and 6 through 14, inclusive. All other rights and duties hereunder will cease upon termination of this Agreement or Closing. In the event of the termination of this Agreement, all documents, other tangible objects, and information containing or representing confidential or proprietary information disclosed by one Party to the other, and all copies that are in the possession or under the control of the other Party will be and remain the property of the Party that disclosed the documents, objects, and information, and all those documents and tangible objects will be promptly returned to the Party that disclosed them at that Party's written request.

14. MISCELLANEOUS

14.1 Waivers. No waiver of any provision of this Agreement will be valid unless it is in writing and signed by both the AOC and the County. Waiver by either Party at any time of any breach of this Agreement cannot be deemed a waiver of or consent to a breach of the same or any other provision of this Agreement. If a Party's action requires the consent or approval of the other Party, that consent or approval on any one occasion cannot be deemed a consent to or approval of that action on any later occasion or a consent or approval of any other action.

14.2 Force Majeure. Neither Party will be responsible for performance under this Agreement to the extent performance is prevented, hindered, or delayed by fire, flood, earthquake, elements of nature, acts of God, acts of war (declared and undeclared), riots, rebellions, revolutions, or terrorism, whether foreseeable or unforeseeable.

14.3 Assignment. Neither Party may assign this Agreement in whole or in part, whether by operation of law or otherwise, to any other entity, agency, or person without the prior written consent of the other Party. Even if that consent is given, any assignment made in contravention of any Law will be void and of no effect.

14.4 Binding; Effect. This Agreement binds the Parties and their permitted successors and assigns.

14.5 Third Parties Benefited. The State Parties are intended beneficiaries of all provisions of this Agreement and the Closing Documents for the benefit of the AOC.

14.6 Governing Law. This Agreement, and the Parties' performance under this Agreement, will be exclusively governed by the laws of the State without regard to its conflict of law provisions.

14.7 Construction. The headings used in this Agreement are for convenience only and will not affect the meaning or interpretation of this Agreement. The words “hereof,” “herein,” and “hereunder,” and other words of similar import, refer to this Agreement as a whole and not to any subdivision of this Agreement. This Agreement and the Closing Documents will not be construed against either Party as the principal draftsman. The words “include” and “including” when used are not exclusive and mean “include, but are not limited to” and “including but not limited to,” respectively. The capitalized terms used in this Agreement have the meanings ascribed to them in this Agreement.

14.8 Integration; Amendments. This Agreement and the Closing Documents contain the entire agreement of the Parties with respect to the Transfer, and supersede all previous communications, representations, understandings, and agreements, whether verbal, written, express, or implied, between the Parties. This Agreement may be amended only by written agreement signed by both of the Parties.

14.9 Incorporation By Reference. The factual recitals and Exhibits contained in or attached to this Agreement are all incorporated into and made a part of this Agreement for all purposes, and all references to this Agreement in any of the recitals or Exhibits will be deemed to include the entirety of this Agreement.

14.10 Severability. If a term of this Agreement is inconsistent with applicable Law, then on the request of either Party, the Parties will promptly meet and confer to determine how to amend the inconsistent term in a manner consistent with Law, but all parts of this Agreement not affected by the inconsistency will remain in full force and effect.

14.11 Further Assurances. The Parties agree to cooperate reasonably and in good faith with one another to (1) implement the terms and provisions set forth in this Agreement, the Closing Documents, and the Act, and (2) consummate the transactions contemplated herein, and shall execute any further agreements and perform any additional acts that may be reasonably necessary to carry out the purposes and intent of this Agreement, the Closing Documents, and the Act.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

I agree to the terms of this Agreement.

APPROVED AS TO FORM:

Administrative Office of the Courts,
Office of the General Counsel

By: Charles Martel
Name: Charles Martel
Title: Attorney
Date: 12-2-2008

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS**

By: Grant Walker
Name: Grant Walker
Title: Senior Manager, Business Services
Date: 12/2/08

ATTEST:

_____. Clerk of the Board

By: _____
Deputy

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Name: _____
Title: Chair, Board of Supervisors
Date: _____

APPROVED AS TO FORM:

Santa Cruz County
Office of the County Counsel

By: Dana McRae
Name: Dana McRae
Title: County Counsel
Date: 12/3/08

Facility: # 44-A2

Building Name: County Administration Building

Building Address: 701 Ocean Street, Santa Cruz, CA 95060

JOINT OCCUPANCY AGREEMENT
BETWEEN
THE JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS,
AND
THE COUNTY OF SANTA CRUZ

JOINT OCCUPANCY AGREEMENT

1. PURPOSE

The Judicial Council of California (“**Council**”), Administrative Office of the Courts (together, the “**AOC**”), and the County of Santa Cruz (“**County**”) set forth the terms and conditions for the Parties’ shared possession, occupancy, and use of the Real Property.

2. DEFINITIONS

“**Act**” means The Trial Court Facilities Act of 2002 (Government Code sections 70301-70404) as of the Effective Date.

“**Agreement**” means the Transfer Agreement for the Transfer of Responsibility for Court Facility, by and between the AOC and the County, dated as of even date herewith, under which the County transferred to the AOC responsibility for certain portions of the Real Property under the Act.

“**AOC Claim**” means any demand, complaint, cause of action, or claim related to the period on and after the Effective Date, alleging or arising from acts, errors, omissions, or negligence of the Court in the administration and performance of judicial operations in the Court Facility (e.g., allegations of civil rights violations made by a third party against a Court employee).

“**AOC Designated Representative**” means the individual designated as such in section 13 of this JOA.

“**AOC Share**” means 8.00 percent, which is the percentage of the Total Exclusive-Use Area occupied by the Court.

“**Appraiser**” means an MAI appraiser with at least five years experience in appraising real properties similar to the Real Property.

“**BI Documents**” means the agreements evidencing and securing the Bonded Indebtedness.

“**Bonded Indebtedness**” means “bonded indebtedness” as defined in section 70301(a) of the Act, to which the Real Property is subject.

“**Broker**” means a real estate broker licensed by the California Department of Real Estate with adequate knowledge and experience in assessing and providing opinions of value for real properties similar to the Real Property.

“Building” means the building on the Land occupied by the Court and the County, all connected or related structures and improvements, and all Building Equipment.

“Building Equipment” means the installed equipment and systems that serve the Building generally or the Common Area, excluding the Central Plant. The Building Equipment does not include the equipment and systems that exclusively serve the Exclusive-Use Area of only one Party.

“Campus Buildings” means the Building, the adjacent Main Courthouse (Building #44-A-01) and the Jury Assembly Modular (Building #44-A-03) all located on the Land.

“Campus Percentage” means 18.42 percent, which is the percentage of Total Exclusive-Use Area that is exclusively occupied and used by the Court in all Campus Buildings.

“Central Plant” means the central plant located in the basement of the Building, including its distribution lines running to the Building and to the adjacent Main Courthouse and Jury Assembly Modular facilities, which provides heat, air conditioning, and domestic hot and cold water to the Building and the Main Courthouse and Jury Assembly Modular facilities.

“Common Area” means the areas of the Land and the Building that are used non-exclusively and in common by, or for the common benefit of, the County and the Court, and includes (1) those portions of the Building depicted as Common Area on **Attachment “2”** to this JOA, including hallways and restrooms that are not located in either Party’s Exclusive-Use Area, (2) foundations, exterior walls, load-bearing walls, support beams, exterior windows, the roof, and other structural parts of the Building, (3) Building Equipment and Utilities that do not exclusively serve only one Party’s Exclusive-Use Area, and (4) driveways, walkways, and other means of access over the Land and through the Building to the Court Exclusive-Use Area. The Common Area does not include any part of the Exclusive-Use Area of either Party, except for any Building Equipment that is located in a Party’s Exclusive-Use Area.

“Common Parking” has the meaning given to it in the Agreement and is depicted on **Attachment “2”** to this JOA.

“Contractors” means all third-party contractors, vendors, service providers, and all levels of subcontractors, and their respective employees, consultants, and representatives, that provide goods, services, or supplies to the Real Property with respect to the Operation of the Building.

“Contributing Party” means the AOC.

“County Designated Representative” means the individual designated as such in section 13 of this JOA.

“County Exclusive-Use Area” means the 169,983 square feet of the floor space in the Building, which is exclusively occupied and used by the County as depicted on **Attachment “2”** to this JOA.

“County Parties” means the County, its political subdivisions, and their respective officers, agents, and employees.

“County Share” means 92.00 percent, which is the percentage of the Total Exclusive-Use Area that is exclusively occupied and used by the County.

“Court” means the Superior Court of California in and for the County of Santa Cruz.

“Court Exclusive-Use Area” means the 14,775 square feet of the floor space of the Building that are exclusively occupied and used by the Court, as depicted on **Attachment “2”** to this JOA.

“Court Parking” has the meaning given to it in the Agreement and is depicted on **Attachment “2”** to this JOA.

“Deficiency” means any condition of, damage to, or defect in the Common Area that: (1) threatens the life, health, or safety of persons occupying or visiting the Building, (2) unreasonably interferes with, disrupts, or prevents either Party’s occupancy or use of the Real Property, or its ability to conduct its business operations in its Exclusive-Use Area, in an orderly, neat, clean, safe, and functional environment, (3) threatens the security of the employees, guests, invitees, or patrons of either Party, (4) threatens to diminish the value of the Contributing Party’s Exclusive-Use Area or the Common Area, or threatens to damage or destroy the business personal property of the Contributing Party or the Court including files, records and documents located in the Building, , or (6) causes or exacerbates an unsafe, unsanitary, unlawfbl, or non-fbnctional condition affecting the Contributing Party’s Exclusive-Use Area or the Common Area.

“Effective Date” means the date on which the Transfer of Responsibility is completed under the terms of the Agreement.

“Emergency” means a sudden, unexpected event or circumstance, on or affecting the Common Area or the Real Property, that results in a Deficiency.

“Equipment Permits” means all permits, certificates, and approvals required for lawful Operation of any of the Building Equipment.

“Equity” means the term “equity” as used and referred to in the Act.

“Estimated Shared Costs” means the Managing Party’s reasonable, itemized estimate of the Shared Costs for a fiscal year; provided that, the Managing Party’s first estimate of the Shared Costs will cover the period from the Effective Date to the last day of the fiscal year in which the Effective Date occurs.

“Exclusive-Use Area” means the Court Exclusive-Use Area or the County Exclusive-Use Area, as determined by the context in which the term is used.

“Grounds Area” means the portion of the Land surrounding the Building.

“Hazardous Substance” means any material or substance regulated under any federal, state, or local laws, ordinances, regulations, rules, statutes, and administrative actions or orders respecting hazardous or toxic substances, waste, or materials, or industrial hygiene.

“Indemnified Loss” means all liability, damages, reasonable attorney fees, costs, expenses, or losses with respect to which either Party is obligated to indemnify the other Party under this JOA.

“JOA” means this Joint Occupancy Agreement.

“Land” means the real property described on **Attachment “1”** to this JOA.

“Law” means State and federal codes, ordinances, laws, regulations, the California Rules of Court, and judicial and administrative orders and directives, to the extent binding on the County and issued by a court or governmental entity with jurisdiction over the County.

“Liability Claim” means any demand, complaint, cause of action, or claim alleging (1) bodily injury to or death of third parties (excluding any employees of State Parties or County Parties acting within the scope of their employment as such) in, on, or about the Real Property, and (2) damage to or destruction of personal property of a third party (other than personal property of a County Party or a State Party) in, on, or about the Real Property, but excludes all AOC Claims.

“Major Deficiency” means any Deficiency in the Common Area: (i) that cannot, with reasonable diligence, be corrected within 30 days once commencement of the corrective work has begun, or (ii) as to which the estimated cost to correct will result in Excess Costs in an amount greater than 10 percent of the Estimated Shared Costs for the fiscal quarter in which the Parties anticipate the correction will be performed, under section 4.2 of this JOA.

“Managing Party” means the County, which is the Party responsible for the Operation of the Common Area under this JOA.

“Memorandum” means the document titled Memorandum of Joint Occupancy Agreement that has been recorded in the official records of the County as an encumbrance on the Land pursuant to the Agreement.

“Non-Ownning Party” means the AOC, which is the Party that does not own fee title to the Real Property.

“Occupancy Agreement” means any agreement between a Party and a third party that entitles any party other than the County or the AOC to occupy or use any part of the Real Property.

“Occupant” means any party that occupies or uses the Real Property under an Occupancy Agreement.

“Operation” means the administration, management, maintenance, and repair of designated areas of the Real Property, but does not include custodial services for the Common Area or either Party’s Exclusive-Use Area, which are not governed by this JOA.

“Owner” means the County, which is the Party that owns fee title to the Real Property.

“Parking Area” means the parking areas serving the Building, as depicted on **Attachment “2”** to this JOA, and includes the Court Parking and the Common Parking.

“Party” means either the AOC or the County, and **“Parties”** means the AOC and the County.

“Property Damage Claim” means any claim or demand arising from or related to direct, physical loss or damage to the Real Property that is required to be covered by the Property Insurance Policies.

“Property Insurance Costs” means all costs of providing the Property Insurance Policies, including premiums, deductibles, and self-insurance retention amounts under Owner’s self-insurance program provided that, Property Insurance Costs do not include (i) the cost of premiums, deductibles or self-insured retention amounts associated with seismic-related damage or injury to the Real Property, or (ii) premiums paid or incurred in respect of any earthquake insurance covering the Real Property that the Owner obtains on or after the Effective Date unless the Non-Ownning Party has given its prior, written consent to the inclusion of such premiums as Property Insurance Costs.

“Property Insurance Policies” means one or more policies of property insurance maintained by the Owner that insure the Real Property against those risks covered under a form of coverage with terms and conditions as comprehensive as those in an All-Risk/Special Form property insurance policy and, when applicable, the comprehensive

form of equipment breakdown insurance, with coverage amounts equal to at least the 100 percent Replacement Cost of the Real Property. Owner's obligation to provide the Property Insurance Policies may be satisfied, in whole or in part, by any self-insurance or deductible maintained by the Owner for the Real Property, or by Owner's participation in a joint powers authority established for the purpose of pooling self-insured claims. While any part of the Real Property is subject to the Bonded Indebtedness, the Property Insurance Policies will include all property insurance coverage the County is required to maintain for the Real Property under the BI Documents.

"Property Loss" means any loss or damage to, or destruction of, the Real Property that arises from a cause that is required to be covered under the terms of the Property Insurance Policies.

"Real Property" means the Land and the Building, together.

"Restricted Area" means all areas (i) within the Court Exclusive-Use Area that are not generally accessible to the public, including judges' chambers, all non-public restrooms, break rooms, and corridors, and other non-public spaces that are dedicated for use only by judges or Court staff and employees, and (ii) public areas of the Common Area and the Court Exclusive-Use Area during non-business hours that are subject to security screening during normal business hours.

"Share" means the AOC Share or the County Share, as determined by the context in which the term is used.

"Shared Costs" means: (i) the cost of owned or rented capital replacement items, improvements, equipment, and repairs in or benefiting the Common Area; (ii) the cost of normal, day-to-day Operation of the Common Area including the cost of Utilities provided to the Common Area, including costs related to the Operation of the Central Plant as provided in section 4.5.3 of this JOA, and the cost of maintaining Equipment Permits (but excluding any late fees, interest, penalties, or other charges arising from the Managing Party's failure to timely pay those costs or keep the Equipment Permits in effect); (iii) the cost of Utilities provided to the Exclusive-Use Areas, if Utilities are not separately metered for the Exclusive-Use Areas; and (iv) any Property Insurance Costs, subject to section 4.6 below. Shared Costs do not include: (a) any cost that is primarily for the purpose of benefiting a Party's Exclusive-Use Area; (b) overtime charges or late fees related to any item that would otherwise be a Shared Cost, unless those overtime expenses or late fees are pre-approved by both Parties, or are necessary to remedy the imminent threat arising from an Emergency; or (c) any fees, fines, penalties, interest, or other charges arising from the Managing Party's Operation of the Real Property in a negligent manner or a manner that does not comply with Law. Notwithstanding anything to the contrary, Shared Costs do not include any costs relating to the Operations of the Parking Area or the Grounds Area, including without limitation the cost of any Utilities provided to the Parking Area or the Grounds Area. Notwithstanding anything to the

contrary set forth in this JOA, Shared Costs relating to the Operation of, or upgrades or improvements to, the Central Plant, including the components of the Central Plant that are located on the Real Property, will be shared by the Parties as set forth in section 4.5.3 of this JOA.

“State Parties” means the Council, the Administrative Office of the Courts, and the Court, their political subdivisions, and their respective officers, agents, and employees.

“Term” means the term of this JOA, which commences on the Effective Date and continues indefinitely until the Parties enter into a written agreement terminating this JOA and causing the Memorandum to be terminated and removed as an encumbrance on the Land.

“Termination Agreement” means the document titled Termination of Joint Occupancy Agreement in the form and content attached as **Attachment “4”** to this JOA.

“Total Exclusive-Use Area” means the Court Exclusive-Use Area and the County Exclusive-Use Area, together.

“Utilities” means the utilities services provided to the Real Property (which includes the Main Courthouse, the Jury Assembly Modular, and the Building), except for telephone, cable, internet, and other data services, which are governed by section 3.8 of this JOA, but specifically including heat, air conditioning, and domestic hot and cold water provided from the Central Plant.

“Vending Facility” means “vending facility” as defined in section 19626 of the California Welfare and Institution Code, as amended.

3. RIGHTS AND RESPONSIBILITIES

3.1 Rights to Exclusive-Use Area and Common Area. Under the Act, the Agreement, and this JOA, the AOC has the right to exclusively occupy and use the Court Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area, and the County has the right to exclusively occupy and use the County Exclusive-Use Area and the non-exclusive right to occupy and use the Common Area. Each Party’s non-exclusive right to use the Common Area must: (i) not interfere with the other Party’s use of its Exclusive-Use Area or the Common Area; (ii) not materially increase the other Party’s obligations under this JOA; and (iii) comply with Law. The Parties may from time to time agree on reasonable rules and regulations for their shared use of the Common Area. The AOC agrees to use reasonable efforts to ensure that Court employees adhere to any reasonable rules and regulations promulgated by the County with respect to the occupancy and use of the Building by such Court employees.

3.2 Responsibility for Exclusive-Use Areas and Common Area.

3.2.1 Exclusive-Use Areas. During the Term, each Party is responsible for the Operation of its Exclusive-Use Area at its sole cost and expense. Each Party may make alterations and additions to its Exclusive-Use Area, as long as those alterations and additions do not unreasonably interfere with the other Party's use of its Exclusive-Use Area or the Common Area.

3.2.2 Common Area. The Managing Party is responsible for the Operation of the Common Area and will provide and pay for Utilities to the Real Property under this JOA, subject to section 3.2.3, and the Contributing Party's obligations under section 4 of this JOA. The Managing Party may make reasonable additions and alterations to the Common Area, the cost of which will be a Shared Cost, but the Managing Party must first obtain the written consent of the Contributing Party to those additions or alterations, which consent will not be unreasonably withheld, conditioned, or delayed. If the Contributing Party neither consents, nor provides to the Managing Party a reasonably-detailed description of its reasons for withholding its consent, within 30 days after the Contributing Party's receipt of the Managing Party's request for consent to the Common Area additions or alterations, the Contributing Party will be deemed to have consented, and will be responsible to pay its Share of the costs and expenses incurred by the Managing Party in making the Common Area alterations or additions described in the Managing Party's request for consent. The County is responsible for the Operation of the Grounds Area and the Parking Area, at its sole cost and expense, and the costs and expenses incurred by the County for Operation of the Grounds Area and the Parking Area will not be included as a Shared Cost: Notwithstanding anything to the contrary in this JOA or the Agreement, the Shared Costs incurred by the County for Operation of, and upgrades and improvements to, the Central Plant, including the components of the Central Plant that are located on the Real Property, will be determined and paid as set forth in section 4.5.3 of this JOA.

3.2.3 Correction of Common Area Deficiencies.

3.2.3.1 Deficiency. Upon the Managing Party's discovery of a Deficiency, the Managing Party must either (i) correct the Deficiency within 30 days, or (ii) if the Deficiency is a Major Deficiency, send a written notice to the Contributing Party, within ten business days after determining that the Deficiency is a Major Deficiency, describing the Major Deficiency and providing an estimate of the cost and time needed to correct the Major Deficiency ("**Major Deficiency Notice**").

3.2.3.2 Contributing Party Deficiency Notice. Upon the Contributing Party's discovery of a Deficiency in the Common Area, the Contributing Party shall send a written notice to the Managing Party describing the Deficiency (the "**Contributing Party Deficiency Notice**"). Upon receipt of any Contributing Party Deficiency Notice, the Managing Party must: (i) correct the Deficiency within 10 days after the Managing Party's receipt of the Contributing Party Deficiency Notice; or (ii) within three business days after the Managing Party's receipt of the Contributing Party

Deficiency Notice, send a Major Deficiency Notice to the Contributing Party; or (iii) inform the Contributing Party in writing within three days of receipt of the Contributing Party Deficiency Notice that the Managing Party disputes the existence of a Deficiency. In the event that the Managing Party disputes the existence of a Deficiency as set forth in this section 3.2.3.2, the Parties will work together in good faith to resolve any such dispute to the mutual satisfaction of both Parties. If the Parties are unable to resolve such dispute within 30 days after the Managing Party's notice to the Contributing Party of such dispute, then the Parties will proceed to resolve such dispute in accordance with section 11 of this JOA.

3.2.3.3 Contributing Party's Right to Correct. If the Managing Party neither corrects the Deficiency, nor sends a Major Deficiency Notice within the time periods provided in section 3.2.3.2, nor disputes the existence of the Deficiency pursuant to section 3.2.3.2 above, then the Contributing Party may, but is not obligated to, upon giving prior notice to the Managing Party, but without waiving any of its rights set forth in section 10 of this JOA, correct the Deficiency in any reasonable manner under the circumstances. If the Contributing Party corrects the Deficiency, the Contributing Party will be entitled to reimbursement from the Managing Party, under section 3.2.3.4, below, of the Managing Party's Share of the actual costs incurred by the Contributing Party to correct the Deficiency, whether or not the Deficiency is a Major Deficiency.

3.2.3.4 Correcting Party; Reimbursement. The Party that actually performs the correction of a Deficiency or a Major Deficiency is the **"Correcting Party."** The Correcting Party is entitled to be reimbursed by the non-correcting Party for the non-correcting Party's Share of the actual costs that the Correcting Party incurs in correcting each Deficiency, as follows:

(a) If the Correcting Party is the Managing Party, the Correcting Party will be reimbursed for the non-correcting Party's Share of the actual costs to correct the Deficiency under section 4 of this JOA; provided, however, that in the event of a Major Deficiency, the Managing Party will not be entitled to reimbursement from the Contributing Party of any amount greater than the Contributing Party's Share of the estimated costs to correct the Major Deficiency that are set forth in the Correction Plan; or

(b) If the Correcting Party is the Contributing Party, the Managing Party will reimburse the Contributing Party for the Managing Party's Share of the costs to correct the Deficiency within 30 days after the Contributing Party has delivered to the Managing Party an invoice and reasonable supporting documents evidencing the actual costs to correct the Deficiency.

(c) If the non-correcting Party does not timely reimburse the Correcting Party for the non-correcting Party's Share of the costs of correction, the Correcting Party may offset the non-correcting Party's Share of the costs to correct the

Deficiency against any amounts that the Correcting Party owes to the non-correcting Party under this JOA or any other agreement.

3.2.3.5 Major Deficiency Correction Plan. If the Managing Party at any time sends the Contributing Party a Major Deficiency Notice, whether under section 3.2.3.1 or section 3.2.3.2 of this JOA, then within 10 days after the Contributing Party's receipt of the Major Deficiency Notice, the Parties will meet and confer, in good faith, in person or by telephone, to determine a plan ("**Correction Plan**") for the correction of the Major Deficiency, including the method, estimated cost, and time period for the correction. If the Managing Party does not thereafter complete the correction of the Major Deficiency in accordance with the Correction Plan, the Contributing Party may, but will not be obligated to, without giving any notice or commencing any cure period under section 10 of this JOA, correct the Major Deficiency in a manner consistent with the Correction Plan, and will thereafter be the Correcting Party for purposes of reimbursement of the Managing Party's Share of the actual costs of correcting the Deficiency under section 3.2.3.4(b) of this JOA.

3.2.3.6 Not Applicable to Emergencies. This section 3.2.3 will not apply to any Deficiency that: (i) arises from an Emergency, and (ii) constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of the Contributing Party's Exclusive-Use Area or the Common Area, or (c) to the preservation of the Contributing Party's files, records, and documents located in the Building. Rather, those Deficiencies will be governed by section 3.2.4 of this JOA. Any Deficiency that arises from an Emergency, but that does not constitute an imminent threat to the matters described in (ii) (a), (b), or (c) above, will be governed by section 3.2.3.

3.2.4 Emergencies. If any Emergency occurs, the Parties will endeavor to notify one another as soon as reasonably possible of the Emergency by telephone or any other means reasonable under the circumstances. The Managing Party must promptly take steps to correct any Deficiency that arises from the Emergency and that constitutes an imminent threat (a) to life, safety, health, or security, (b) of reduction in the value of the Contributing Party's Exclusive-Use Area or the Common Area, or (c) to the preservation of the Contributing Party's files, records, and documents located in the Building. If the Managing Party does not immediately correct any such Deficiency arising from an Emergency, the Contributing Party may, but will not be obligated to, without giving any notice or commencing any cure period under section 10 of this JOA, correct that Deficiency without making any further demand on the Managing Party, and will notify the Managing Party of the steps taken to correct the Deficiency as soon as reasonably possible. The Party that corrects a Deficiency arising from an Emergency under this section 3.2.4 is entitled to reimbursement from the other Party of the non-correcting Party's Share of the actual cost of correcting the Emergency pursuant to section 4 of this JOA. Notwithstanding the foregoing, if a Deficiency arises from an Emergency, but the Deficiency does not constitute an imminent threat to the matters

described in (ii) (a), (b), or (c) above, the correction of that Deficiency will be governed by section 3.2.3 of this JOA.

3.3 Parking. The County is responsible for the Operation of the Parking Area, at its sole cost and expense. At all times after Transfer, the Court's judges, staff, and Court users will have the right to use and occupy the Court Parking and the Common Parking in the Parking Area. After Transfer, if any of the Parking Area becomes unavailable for Court use, or if the County wishes to relocate any of the Parking Area, the County must provide, at the County's sole cost, alternate parking for the Court of comparable convenience to the Building, and of at least the same number and type of spaces, as the Parking Area. The County must consult with the Court and the AOC before any relocation of the Common Parking, and the County must obtain the prior, written consent of the AOC, which consent will not be unreasonably withheld, before relocating any secured or reserved Court Parking spaces allocated for exclusive use of the Court. The Parties will use the Common Parking on a first-come, first-served basis.

3.4 Cooperation. The Parties will cooperate with one another, reasonably and in good faith, to ensure that each Party can peacefully enjoy, possess, use, and occupy its Exclusive-Use Area and the Common Area. The Owner will cooperate in good faith with, and ensure that, the Non-Ownning Party can exercise its rights and responsibilities under this JOA. Subject to any reasonable rules and restrictions, each Party will allow the other Party to enter its Exclusive-Use Area for any reasonable purpose related to the terms of this JOA or any other written agreement between the Parties. Either Party may delegate its responsibilities under this JOA to the other Party or to a third party, but that delegation will not relieve the delegating Party from its obligations under this JOA.

3.5 Central Plant. The County will continue to provide heat, air conditioning, and domestic hot and cold water to the Building from the Central Plant at the cost described in section 4.5.3 of this JOA. **Occupancy Agreements.** Each Party is responsible for all Occupancy Agreements affecting its Exclusive-Use Area, and Owner is responsible for all Occupancy Agreements affecting the Common Area, in each case without contribution from the other Party. The Party that is responsible for each Occupancy Agreement is entitled to all income arising from it.

3.7 Obtaining Equipment Permits. The Managing Party is responsible for maintaining and renewing the Equipment Permits.

3.8 Information Technology and Telephone Equipment. The Managing Party is responsible for the Operation of those portions of the telecommunications and information technology systems serving the Building that are shared by the Parties or that do not exclusively serve the Court Exclusive-Use Area or the County Exclusive-Use Area. The AOC and the County will each be responsible for the Operation of those portions of their respective information technology and telecommunications systems, cabling and equipment in the Building that are not shared by the Parties. Certain

components of the County's telecommunications and information technology cabling and equipment in the Building may be located in the Court Exclusive-Use Area and the Common Areas, and certain components of the Court's telecommunications and information technology cabling and equipment in the Building may be located in the County Exclusive-Use Area and the Common Areas. From and after the Transfer, each Party shall have the rights of ingress, egress, and access to the portions of the Building occupied by the other Party, as each Party may reasonably require in connection with its continued Operation of its telecommunications and information technology cabling and equipment located in the other Party's portion of the Building.

3.9 Criminal Background Screening.

3.9.1 Access to Restricted Areas. Unless a person is responding to and correcting a Deficiency arising from an Emergency under section 3.2.4 of this JOA, only County employees and County Contractor employees who are screened and approved pursuant to section 3.9.2 of this JOA ("**Approved Persons**") may have unescorted access to Restricted Areas. Unscreened County employees and unscreened County Contractor employees may access Restricted Areas if they are escorted and monitored by any of the following: (1) an Approved Person, or (2) an employee of the Court if the Court's Executive Officer, or their designee, consents to a Court employee escorting and monitoring the unscreened person. The Managing Party and the Contributing Party must take all reasonable steps to ensure that Operation in and of all Restricted Areas is at all times consistent with this section 3.9.

3.9.2 Screening and Approval Process. When conducting screenings of County employees and County Contractor employees, Managing Party must utilize a Live Scan background check or, if the Live Scan system becomes unavailable during the Term of this JOA, by other similar or successor system. **Attachment "5"** to this JOA sets forth the criteria for approval of a County employee or County Contractor employee based on the results of the screening. In lieu of the Managing Party conducting the screening and approval process set forth herein, the Contributing Party may, but is not obligated to, conduct the screening and approval of County employees or County Contractor employees that have access to the Restricted Areas, and, in such event, County agrees to cooperate with the AOC with respect to the screening of County employees or County Contractor employees that access the Restricted Areas.

3.9.3 Identification of Approved Persons. The County must issue and provide an identification badge to each Approved Person bearing the Approved Person's name and picture, which badge will indicate that the Approved Person is permitted to access the Restricted Areas. If the County issues identification badges to its employees, the County need not issue a separate badge to Approved Persons, but may affix a sticker or other marking on the existing badges of Approved Persons to indicate their right to access Restricted Areas. If the AOC has chosen to conduct the screening and approval of County employees or County Contractor employees, the AOC will either (1) notify the

County if an employee is approved, whereupon the County will provide and issue an identification badge for that Approved Person, or (2) provide an identification badge for the Approved Person to the County, and the County will be responsible for issuing the identification badge to that Approved Person. All Approved Persons must wear their identification badges in a readily-visible manner whenever they are in a Restricted Area.

3.9.4 DOJ and DMV Requirements. Notwithstanding anything in this JOA to the contrary, County must comply with background check and clearance requirements of the California Department of Justice (“**DOJ**”) and the California Department of Motor Vehicles (“**DMV**”) relating to any County employee or County Contractor employee who has physical access to any area which is either connected to, or contains records from, the DOJ criminal computer database, including, without limitation, the California Law Enforcement Telecommunications System (CLETS) and the Criminal Offender Record Information (CORI), or the DMV computer database (collectively the “**Databases**”). If requested by either the Court or the AOC, County must provide to either the Court or the AOC suitable documentation evidencing the County’s compliance with the policies, practices, and procedures of the DOJ and the DMV regarding background check and clearance requirements relating to access to the Databases.

3.10 County Facilities Payment. Nothing in this JOA diminishes or modifies the County’s obligations under the Act and the Agreement for payment of the County Facilities Payment.

4. **SHARED COSTS**

4.1 Payment of Estimated Shared Costs. The Managing Party will make timely, direct payment of all Shared Costs owed to third parties, and the Contributing Party is responsible to reimburse the Managing Party for its Share of all Shared Costs under this section 4. Within 90 days after the Effective Date, and within 30 days after the first day of each fiscal year thereafter, the Managing Party will deliver to the Contributing Party a statement (the “**Estimate Statement**”) itemizing the Estimated Shared Costs, which the Contributing Party will either comment on, disapprove, or approve within 30 days. If the Contributing Party disapproves any of the Estimated Shared Costs in the Estimate Statement, the Parties will promptly meet and discuss the reason for the disapproval within ten days after such disapproval. If the Parties reach agreement with respect to all Estimated Shared Costs, the Managing Party will, if necessary, revise the Estimate Statement, which both Parties will approve. The Contributing Party is not obligated to make any payments of its Share of the Shared Costs until it has approved the Estimate Statement in writing. However, until the Contributing Party approves the Estimate Statement, it will pay its Share of the Shared Costs based on the approved Estimate Statement for the prior fiscal year, or, during the initial fiscal year of the Term, based on the County Facilities Payment. Upon approving the Estimate Statement, the Contributing Party will pay its Share of the Estimated Shared Costs based

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Owned-Shared (TOR Only)

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on the approved Estimate Statement, plus all additional amounts owed by the Contributing Party for the period during which the Parties were in the process of reaching agreement as to the Estimate Statement. Payment of Estimated Shared Costs will be made in equal quarterly installments on the first day of each fiscal quarter, subject to this JOA.

4.2 Payment of Actual Shared Costs. Within 30 days after the end of each fiscal quarter, the Managing Party will deliver to the Contributing Party a statement (the “**Quarterly Invoice**”) itemizing the actual Shared Costs incurred during the previous fiscal quarter (“**Actual Shared Costs**”). Within 30 days after a written request by the Contributing Party, the Managing Party will also deliver to the Contributing Party copies of supporting documents for any of the Actual Shared Costs shown on the Quarterly Invoice. If the Actual Shared Costs are less than the Estimated Shared Cost for the applicable fiscal quarter, the Managing Party will refund the amount overpaid to the Contributing Party within 30 days after the Managing Party’s delivery of the Quarterly Invoice, except that if the Contributing Party consents, the Managing Party may retain the overpayment and offset it against future amounts owed by the Contributing Party under this JOA. If the Actual Shared Costs are greater than the Estimated Shared Costs for the applicable fiscal quarter (“**Excess Costs**”), the Contributing Party will pay such Excess Costs to the Managing Party within 30 days after its receipt of the Quarterly Invoice, except that (a) if the Excess Costs are more than 10 percent of the Estimated Shared Costs for any fiscal quarter, or (b) if the Contributing Party has requested, but not received, supporting documents for any Excess Costs by 10 days prior to the date that payment is due, the Contributing Party will continue to make payment of its Share of the Shared Costs based on the Estimate Statement, or as otherwise agreed under section 4.3 of this JOA, but may defer payment of the Excess Costs (or, in the case of (b) above, the Excess Costs to which the supporting documents relate) for that fiscal quarter, until the Parties have met and reached an agreement regarding the amount of the Excess Costs, under section 3.2.3.5 or section 4.3 of this JOA, whichever is applicable.

4.3 Notice of Anticipated Excess Costs. Prior to incurring any Shared Cost that the Managing Party reasonably believes will result in an Excess Cost in an amount greater than 10 percent of the Estimated Shared Costs shown on the Estimate Statement, the Managing Party must give written notice to the Contributing Party describing the amount and reason for that Excess Costs; except that (a) no notice must be given to the Contributing Party if the Excess Costs will be incurred to correct a Deficiency arising from an Emergency under section 3.2.4 of this JOA, and (b) if the Excess Costs will be incurred in connection with the correction of a Deficiency under section 3.2.3 of this JOA, notice of the Excess Costs, and resolution of any issues related to the Excess Costs, will be handled under section 3.2.3, and this section 4.3 will not apply. If the Contributing Party objects in writing to the Excess Costs within 30 days after receiving the Managing Party’s notice, the Parties must meet and confer, in person or by telephone, within 10 calendar days to resolve their dispute concerning the Excess Costs. If the

Parties do not reach agreement concerning the Excess Costs during that meet and confer process, the Parties will promptly seek to resolve their dispute concerning the Excess Costs under the terms of section 11 of this JOA. If the Contributing Party does not respond to the Managing Party's notice within 30 days of receiving the notice, the Managing Party may proceed with expenditure of the Excess Cost in the amount and for the purpose described in the notice, and the Contributing Party must pay its Share of those Excess Costs.

4.4 Audit Rights. The Contributing Party may, at its sole cost and upon reasonable notice to the Managing Party, inspect the Managing Party's books, records, and supporting documents concerning all Actual Shared Costs incurred for up to 12 calendar months prior to the date of the Contributing Party's inspection. The Parties will cooperate reasonably with each other to ensure that the inspection is performed promptly and without undue interference to either Party. If, after its inspection, the Contributing Party disputes any Actual Shared Costs for any of the immediately-preceding 12 calendar months, the Contributing Party may engage an independent certified public accountant, acceptable to both Parties, to audit the Managing Party's books and records to determine the amount of the Actual Shared Costs in dispute. The results of the audit will be binding on both Parties. If the audit reveals that the Contributing Party overpaid or underpaid Actual Shared Costs for a fiscal quarter, the Parties will make the payments necessary to resolve that overpayment or underpayment within 30 days following the completion of the audit. The Contributing Party must pay the entire cost of the audit. The Contributing Party's payment of Shared Costs will not prevent it from disputing the accuracy of any Actual Shared Costs under this section 4.4.

4.5 Parking Area Costs, Grounds Area Costs, and Central Plant Costs.

4.5.1 Parking Area Costs. The County is responsible, at its sole cost and expense, for all costs incurred with respect to the Operation of the Parking Area, and those costs and expenses will not be included as a Shared Cost.

4.5.2 Grounds Area Costs. The County is responsible, at its sole cost and expense, for all costs incurred with respect to the County's Operation of the Grounds Area, and those costs and expenses will not be included as a Shared Cost.

4.5.3 Utilities and Central Plant Costs. Notwithstanding anything to the contrary in this JOA, Shared Costs arising from the provision of Utilities to the Campus Buildings (including the Building) and from Operation of the Central Plant will be determined and allocated between the Parties as follows: (a) The County will determine the total amount of cost and expense of Utilities provided to the Campus Buildings and for Operation of the Central Plant, and then (b) the County will then determine the AOC's pro rata portion of those costs based on the Campus Percentage and the County's pro rata portion equal the remainder. The resulting amounts will be the percentage of costs of Utilities and of Operation of the Central Plant that will be allocated with respect

to the Campus Buildings and that will be paid by the Parties for Utilities and for Operation of the Central Plant as part of Shared Costs.

4.6 Property Insurance Costs. The AOC will reimburse the County for the AOC's Share of the Property Insurance Costs in the same manner set forth in section 4 of this JOA, with the County having the rights and duties of the Managing Party and the AOC having the rights and duties of the Contributing Party, only as it relates to reimbursement of the Property Insurance Costs. The County will promptly notify the AOC of any change to the Property Insurance Policies or the Property Insurance Costs that the County is required to make in connection with the Bonded Indebtedness or under the BI Documents, and the County will not change any deductible or self-insurance retention amount to an amount greater than \$100,000 per occurrence in respect of the Property Insurance Policies without the prior, written consent of the AOC.

4.7 Shared Cost Notifications. Notwithstanding section 12 of this JOA, all communications and notices between the Parties relating to Shared Costs including, without limitation, Estimate Statements, Quarterly Invoices, or any other communication or notice required by this section 4, will be made between the following County and AOC representatives :

If to the AOC:

Administrative Office of the Courts
Office of Court Construction and Management
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Attention: Nick Cimino
Regional Manager of the Bay Area and North Coast
Region of the Facilities Management Unit
Phone: (415) 865-8070
Fax: (415) 865-7524

If to the County:

County of Santa Cruz
Attention: General Services Department
701 Ocean Street, Room 330
Santa Cruz, CA 95060
Voice: 831-454-2718
Fax: 831-454-2710

5. RIGHT OF FIRST REFUSAL, COMPATIBLE USES, AND VACATE RIGHTS

5.1 Right of First Refusal and Increase of Space In Building

5.1.1 Right of First Refusal for Excess Area. At least 30 days before a Party rents or otherwise transfers to a third party all or any portion of its Exclusive-Use Area (“**Excess Area**”), that Party must, by written notice, offer the Excess Area to the other Party on the same terms and conditions set forth in any offer to or from a third party for the Excess Area (“**Third Party Terms**”). The Third Party Terms must separate the rent for the Excess Area from any amounts to be paid by the third party for Operation, Utilities, and other costs in respect of the Excess Area. If the other Party elects not to occupy the Excess Area on the Third Party Terms, or fails to respond to the notice within a 30 day period, the Party with the Excess Area may, subject to section 5, permit a third party to occupy and use the Excess Area on the Third Party Terms. Before a third party can occupy the Excess Area on terms that are more favorable to the third party than the Third Party Terms, the Party with the Excess Area must again first offer the Excess Area to the other Party on those more favorable terms under this section 5.1.1. If the other Party elects to accept the Excess Area on the more favorable terms, the Parties will enter into a separate written agreement setting forth the terms for the other Party’s occupancy and use of the Excess Area, consistent with the more favorable terms.

5.1.2 Request for Increase of Exclusive-Use Area. If a Party wishes to increase the size of its Exclusive-Use Area (“**Additional Area**”), and the Parties reach agreement on mutually-acceptable terms for the Additional Area, the Parties will enter into a separate written agreement setting forth the terms for the occupancy and use of the Additional Area, which terms may include a reasonable rent, subject to section 5.1.4 of this JOA.

5.1.3 No Adjustment to Shares. If a Party rents any Excess Area or Additional Area under section 5.1.1 or 5.1.2, above, the rental transaction will not result in a change to the Parties’ Shares. Rather, the rent paid by the Party renting the Excess Area or the Additional Area will include the Shared Costs applicable to the Excess Area or the Additional Area, as applicable. The Parties’ Shares will only be adjusted if one Party at any time buys the other Party’s rights to occupancy and use of the Real Property for fair market value under section 5.3 of this JOA, or otherwise.

5.1.4 Terms of this JOA Not Affected. Any transfer of the Excess Area or the Additional Area to a Party or to a third party will not relieve the Parties of their rights and responsibilities under this JOA with respect to the Excess Area or the Additional Area. Rather, any re-allocation of the Parties’ rights and responsibilities under this JOA will be set forth in any separate agreement entered into by the Parties for rental of the Excess Area or the Additional Area.

5.2 Compatible Use; Hazardous Substances.

5.2.1 Compatible Use. Each Party must use, and must require that any Occupant use, its Exclusive-Use Area in a manner that is compatible with the Parties' use of the Building on the Effective Date and that does not deteriorate or diminish the other Party's ability to use its Exclusive-Use Area or the Common Area effectively. The Managing Party must ensure that any Occupant that occupies any of the Common Area uses its space in a manner compatible with the Parties' use of the Building.

5.2.2 Hazardous Substances. Neither Party will store, use, treat, manufacture, or sell, or allow any other person to store, use, treat, manufacture, or sell, any Hazardous Substance on the Real Property except in compliance with Law.

5.3 Vacate Right Pursuant to Section 70344(b) of the Act. After the Effective Date, if either Party is entitled to and does exercise its rights under section 70344(b) of the Act, the Party that is required to vacate the Building ("**Vacating Party**") must remove all of its property from, and surrender to the other Party full possession of, the space vacated ("**Vacated Space**") within 90 days after the Parties agree on the amount of compensation to be paid to the Vacating Party for (i) its Equity in the Vacated Space, and (ii) its relocation costs. The Vacating Party must repair, at its sole cost, any damage it causes to any part of the Real Property in removing its property from the Vacated Space. If the Parties cannot agree on the value of the Vacating Party's Equity in the Vacated Space, the Parties will select a mutually-acceptable Appraiser or a Broker to determine the fair market value of the Vacating Party's Equity in the Vacated Space. If the Parties cannot agree on the fair market value of the Vacating Party's relocation costs, the Parties will select a mutually-acceptable relocation expert with at least five years of experience in determining relocation costs in California ("**Expert**"), to determine the fair market value of the Vacating Party's relocation costs. Any Appraiser, Broker, or Expert will deliver to both Parties its determination of value, and each Party will be responsible for one-half of the costs of the Appraiser, Broker, or Expert. Any disputes under this section 5.3 will be resolved under section 11 of this JOA. The Parties will enter into an Equity Rights Purchase Agreement, substantially similar to **Attachment "3"** attached to this JOA, to memorialize the terms of the purchase of the Vacating Party's Equity in the Vacated Space, and the Parties must enter into a Termination Agreement, substantially similar to **Attachment "4"** attached to this JOA, when the Vacating Party has vacated the Vacated Space.

5.4 Amendment to JOA; Equity Rights. If the Parties' Equity rights will be modified, whether under section 7 of this JOA, or as a result of any other purchase of Equity rights to which the Parties may agree under this JOA or the Act, the Parties will amend this JOA to: (i) adjust their Exclusive-Use Areas; and (ii) adjust each Party's Share and their Equity rights in the Real Property.

6. INSURANCE

6.1 Property Insurance. Until the Bonded Indebtedness no longer encumbers any part of the Real Property: (i) the terms of the BI Documents govern the County's obligation to obtain and maintain in full force and effect the Property Insurance Policies; and (ii) any inconsistency between the terms of this JOA and the terms of the BI Documents regarding the County's obligation to insure the Real Property will be resolved in favor of the terms of the BI Documents. Subject to the foregoing, the terms of this section 6 will apply and govern the rights and responsibilities of the Parties.

6.1.1 Property Insurance Policies to be Maintained. Owner will provide the Property Insurance Policies and maintain them in full force and effect, and will make direct payment of all Property Insurance Costs, subject to the Non-Owning Party's obligation to pay its portion of those costs, as a Shared Cost, under section 4.6 of this JOA. Owner will include by specific endorsement to each of the Property Insurance Policies the Judicial Council of California, the Administrative Office of the Courts, and the Court as insureds or covered parties, as appropriate, and joint loss payees for any Property Damage Claim payable under the terms and conditions of the Property Insurance Policies, with the same coverages and limits as the named insured under the Property Insurance Policies.

6.1.2 Allocation of Risk for Property Damage Claims. While Owner is providing and maintaining the Property Insurance Policies, and the Non-Owning Party is paying its portion of the Property Insurance Costs under section 4.6, above, Owner will bear all of the risk arising from Property Damage Claims, and Owner hereby waives, and will cause the providers of its Property Insurance Policies to waive, all rights of recovery against the other Party and its applicable insurer(s) for any Property Damage Claims payable under, the terms and conditions of the Property Insurance Policies. Owner will be solely and exclusively responsible to tender to the providers of its Property Insurance Policies, and to process and pursue to final resolution, any and all Property Damage Claims, including (if covered by the Property Insurance Policies) claims for costs associated with obtaining, and relocating Court operations to, alternate space while any portion of the Real Property is being repaired or replaced. The Parties acknowledge that property insurance is "no fault" insurance; therefore, if any Property Loss occurs, there are no exclusions or conditions to payment, irrespective of the acts or omissions of either Party, other than those exclusions specifically set forth in the Property Insurance Policies.

6.1.3 Compliance with Property Insurance Policies. While Owner is providing and maintaining the Property Insurance Policies under this JOA, Owner will provide the Non-Owning Party with verification that the Property Insurance Policies are in full force and effect and, at the request of the Non-Owning Party, with copies of the Property Insurance Policies, as the Property Insurance Policies may be issued or modified from time to time. The State Parties and the County Parties will comply in all material

respects with all requirements for the use of the Real Property that are set forth in the Property Insurance Policies and that Owner has provided to the Non-Ownning Party.

6.1.4 Application of this Section. While the Real Property is subject to the Bonded Indebtedness, this section 6.1.4 will apply, and section 7 of this JOA will be of no force or effect. When the Real Property is no longer subject to the Bonded Indebtedness, this section 6.1.4 will be of no further force or effect whatsoever, and section 7 of this JOA will govern and control.

6.1.4.1 Property Insurance Proceeds. Upon the occurrence of any Property Loss, the Parties will promptly meet and confer, in good faith, to determine how the proceeds of the Property Insurance Policies arising from the Property Damage Claim will be allocated and used including whether to restore or replace the damaged parts of the Real Property (“**Damaged Property**”) provided, however, that the County shall have the right to make that decision in its sole discretion.

6.1.4.2 Decision Not to Restore or Replace. If the County decides that the insurance proceeds arising from the Property Damage Claim will not be used to restore or replace the Damaged Property, and if any of the Court Exclusive-Use Area is uninhabitable as a result of the Property Loss, then the County will compensate the AOC for its Equity rights in the uninhabitable part of the Court Exclusive-Use Area. The compensation to be paid to the AOC will be determined in the manner described in section 5.3 of this JOA. To the extent covered by the Property Insurance Policies, the AOC will be entitled to that portion of the proceeds from the Property Damage Claim that are directly related to compensation for the Court’s relocation costs arising from Property Loss. If the Court will no longer occupy the Building due to Property Loss that the County decides not to restore or replace, then when the AOC has been compensated for its Equity rights under this section 6.1.4.2, the Parties will terminate this JOA by signing a Termination Agreement and recording it in the County Recorder’s Office.

6.1.5 No Waiver of Equity Rights. The provisions of section 6.1.4 of this JOA will not be deemed or construed to waive, diminish, release, or otherwise affect the Equity rights of either Party in respect of the Real Property.

6.2 Reporting and Processing Claims.

6.2.1 Incident Reports. The Managing Party will maintain copies of any Incident reports that it prepares for a period of five years, and at the request of the Contributing Party, the Managing Party will provide the Contributing Party with a complete copy of, or reasonable access to, those Incident reports.

6.2.2 Party Responsible for Claims. If either Party receives any demand, complaint, notice, document, or information alleging the existence or occurrence of any incident, event, circumstance, or occurrence in, on, or about the Real Property

(“**Incident**”) that is or could result in any Property Damage Claim or Liability Claim (each, a “**Claim**”, and together, “**Claims**”) or an AOC Claim, or if a Party otherwise becomes aware that an Incident has occurred, that Party will make best efforts to promptly notify the other Party of that Incident. Following that notice, the Parties will work together, diligently and in good faith, to determine which of them bears responsibility for the loss or injury alleged, and whether either Party is entitled to indemnification by the other in respect of the Incident under sections 8.1 or 8.2 of this Agreement. If the Parties are not able to so agree, then they will resolve those matters under section 11 of this JOA.

6.3 Third-party Contractor Insurance. Each Party must require each of its Contractors to (i) obtain and maintain insurance of the type and with coverage amounts that are usual and customary to the type of business or exposures related to the work being performed on the Real Property, (ii) name both Parties as additional insureds by specific endorsement to their general liability policies, (iii) provide a waiver of subrogation in favor of both Parties with respect to all property insurance policies, and (iv) provide to the Parties a 30-day notice of cancellation or material change in any insurance coverage required hereunder. Unless the Parties otherwise agree, all Contractors must indemnify, defend, and hold harmless the County Parties and the State Parties from and against all claims, demands, liabilities, damages, attorney fees, costs, expenses, and losses arising from the performance by the Contractors under their contracts, and neither Party waives any right of recovery or subrogation against the other in respect of their contractual arrangements with the Contractors.

6.4 Workers’ Compensation Coverage. Each Party will each maintain its own workers’ compensation insurance covering its own employees, and neither Party will have any liability or responsibility for workers’ compensation insurance coverage for employees of the other Party.

7. DAMAGE OR DESTRUCTION

7.1 Property Loss After Bonded Indebtedness Satisfied. While the Real Property is subject to the Bonded Indebtedness, the terms of section 6.1.4 of this JOA govern in respect of any Property Loss, and this section 7 is of no force or effect. When the Real Property is no longer subject to the Bonded Indebtedness, this section 7 will govern and apply in respect of any Property Loss or Property Damage Claim, and section 6.1.4 of this JOA will be of no further force or effect whatsoever, except only as to any Property Loss or Property Damage Claim that occurred or commenced while the Real Property was subject to the Bonded Indebtedness.

7.1.1 Allocation of Property Insurance Proceeds. In the event of a Property Loss, each Party will be entitled to the proceeds payable under the Property Insurance Policies to the extent the Property Loss is attributable to its Exclusive-Use Area or its Share of the Common Area. If one or more Property Damage Claims is fully

and finally resolved in an amount that exceeds the applicable amount payable under all of the Property Insurance Policies, or if any Property Loss is not covered by the Property Insurance Policies through no fault of the Owner, then if both Parties elect to restore or replace the Damaged Property, each Party will pay the amounts that exceed the coverage of the Property Insurance Policies to the extent the Property Loss is attributable to its Exclusive-Use Area or its Share of the Common Area. By way of example only, if the total amount of the Property Damage Claim is \$1,250,000, and if 40 percent is attributed to damage in the Court Exclusive-Use Area, 35 percent is attributed to damage in the County Exclusive-Use Area, and 25 percent is attributed to damage in the Common Area, and the total amount payable under the Property Insurance Policies is \$1,000,000, then the AOC would be entitled to insurance proceeds in the amount of \$400,000 (for the damage to the Court Exclusive-Use Area), the County would be entitled to insurance proceeds of \$350,000 (for damage to the County Exclusive-Use Area), and the Parties would share the remaining \$250,000 of insurance proceeds in accordance with their respective Shares. With respect to the uninsured \$250,000 portion of the Property Damage Claim, the AOC would be responsible to pay \$100,000 (40 percent of \$250,000) in respect of its Exclusive-Use Area, plus an amount equal to the AOC Share of the \$62,500 (25 percent of \$250,000) in respect of the Common Area, and the County would be responsible to pay (if both Parties elect to restore or replace the Damaged Property) the balance of the uninsured loss. The Owner will assign and deliver to the Non-Ownning Party all insurance proceeds owed to the Non-Ownning Party effective upon its receipt of those proceeds.

7.2 Damage or Destruction Event. If, due to Property Loss, the Real Property cannot be occupied by one or both Parties, each Party will be solely responsible to arrange for its own relocation to and occupancy of alternate space. Promptly after a Property Loss, the Parties will comply with the provisions of sections 6 and 7.1, and as promptly as possible, but in no event later than 180 days after a Property Loss, each Party will notify the other in writing (**“Restoration Election Notice”**) whether it wishes to restore or replace the Damaged Property.

7.3 Both Parties Elect to Restore or Replace. If both Parties elect to restore or replace the Damaged Property, the Parties will cooperate in good faith to restore or replace the Damaged Property, with each Party contributing the proceeds it receives as indemnity for direct physical loss or damage under the Property Insurance Policies and otherwise paying its portion of the cost to restore or replace the Damaged Property, as set forth in section 6.1.4 or 7.1, above. If the Parties restore or replace the Damaged Property in a way that results in a change to the Parties’ Shares or their Equity rights, the Parties will each pay the costs and expense to restore or replace the Damaged Property according to their newly-determined Shares or Equity rights.

7.4 Only One Party Elects to Restore or Replace. If, based on the Restoration Election Notices, only one Party elects to restore or replace the Damaged Property, then

within 30 days after the Parties' Restoration Election Notices are given, the Parties must meet and confer in good faith to determine how to proceed with respect to (i) the Damaged Property; (ii) the proceeds of the Property Insurance Policies, if any, to which each Party is entitled as indemnity for direct physical loss or damage under section 6.1.4 or 7.1, above, and (iii) compensation for the Equity rights of either Party in the Real Property, if applicable. If the Parties cannot agree on those matters, they will proceed as set forth in section 11 of this JOA. Until the Parties have reached a final agreement concerning how the foregoing issues will be resolved, neither Party will use any applicable insurance proceeds that are in dispute. Those insurance proceeds will only be used in accordance with the Parties' final resolution of those issues.

7.5 Neither Party Elects to Restore or Replace. If neither Party elects to restore or replace the Damaged Property, then both Parties will retain the proceeds of the Property Insurance Policies to which they are entitled under section 6.1.4 or 7.1. If any of the Non-Owning Party's Exclusive-Use Area is uninhabitable as a result of the Property Loss, then, in lieu of its obligations under section 70344(c) of the Act, the Owner will compensate the Non-Owning Party for its Equity rights in the uninhabitable part of the Non-Owning Party's Exclusive-Use Area, determined in the manner described in section 5.3 of this JOA, except that all insurance proceeds the Non-Owning Party has received, or will receive, as indemnity for direct physical loss or damage from final resolution of any Property Damage Claims made in respect of the Damaged Property will be deducted from the Equity rights compensation paid by the Owner to the Non-Owning Party for its Equity rights in the uninhabitable parts of its Exclusive-Use Area. To the extent covered by the terms of the Property Insurance Policies, the Non-Owning Party will be entitled to that portion of the proceeds from the Property Damage Claim that is directly related to compensation for the Non-Owning Parties' relocation costs arising from the Property Loss. If the Non-Owning Party will no longer occupy the Building due to Property Loss that neither Party elects to restore or replace, then when the Non-Owning Party has been compensated for its Equity rights under this section 7.5, the Parties will terminate this JOA by signing a Termination Agreement and recording it in the County Recorder's Office.

8. INDEMNIFICATION

8.1 Indemnification Obligation of State Parties. The State Parties will and do indemnify, defend, and hold harmless the County Parties, with counsel reasonably acceptable to the County Parties, from and against all Indemnified Loss arising from (1) all AOC Claims, and (2) Liability Claims where and to the extent that the Liability Claims result from the willful misconduct or negligent acts, errors, or omissions of a State Party.

8.2 Indemnification Obligation of County Parties. The County Parties will and do indemnify, defend, and hold harmless the State Parties, with counsel reasonably acceptable to the State Parties, from and against all Indemnified Loss arising from

Liability Claims where and to the extent that the Liability Claims result from the willful misconduct or negligent acts, errors, or omissions of a County Party.

8.3 Indemnified Party's Participation. The indemnifying Party must manage and be entirely responsible to handle and resolve all Liability Claims for which it is responsible under sections 8.1 or 8.2, as applicable. The indemnified Party may elect, but is not required, to retain its own attorney, at the indemnified Party's sole expense, to participate in the litigation, settlement negotiations, or other dispute resolution procedures for any Liability Claim as to which it is the indemnified Party. If the indemnified Party elects to retain its own attorney to participate in the litigation, settlement negotiations, or other dispute resolution procedures for a Liability Claim, the indemnifying Party will cooperate with the indemnified Party, and the attorney retained by the indemnified Party.

8.4 Effect of Indemnification Rights. The rights of a Party to be indemnified under sections 8.1 or 8.2 of this JOA cannot be deemed or construed to limit or diminish the obligation of the indemnified Party to perform its duties at Law or under any agreement between the County Parties and the State Parties.

9. CONDEMNATION

If either Party receives written notice advising of an actual or intended condemnation of the Real Property ("**Condemnation Notice**"), that Party will immediately deliver a copy of the Condemnation Notice to the other Party. In the event of an actual condemnation, the Parties will cooperate with each other in good faith to obtain the maximum award that may be obtained from the condemning authority, and each Party will be entitled to its Share of the condemnation proceeds.

10. DEFAULT NOTICE AND CURE

Upon a Party's breach or default of any other provision of this JOA, the Parties will comply with the terms for notice of default and cure period set forth in section 10 of the Agreement, which terms are incorporated into this JOA as though fully set forth herein. Notwithstanding anything in this JOA or the Agreement to the contrary, no default or breach will be deemed to have occurred if the AOC is unable to timely pay any amounts due and owing under this JOA as a result of the State of California's failure to timely approve and adopt a State budget. Should the AOC fail to timely pay any amounts due and owing under this JOA as a result of the State of California's failure to timely approve and adopt a State budget, the AOC will promptly pay any previously due and unpaid amounts due and owing under this JOA upon approval and adoption of the State budget.

11. DISPUTE RESOLUTION

In the event of a dispute between the Parties relating to performance of the Parties' obligations under this JOA, the Parties will comply with the terms for dispute resolution set forth in section 11 of the Agreement, which terms are incorporated into this JOA as though fully set forth herein.

12. NOTICES

Subject to section 4.7 of this JOA, any notice or communication required to be sent to a Party under this JOA must be sent in accordance with the terms for giving of notices in section 12 of the Agreement, which terms are incorporated into this JOA as though fully set forth herein.

13. DESIGNATED REPRESENTATIVES

The Parties shall each identify and appoint an individual who shall have authority to bind it to all matters and approvals related to Operations undertaken with respect to the Real Property under this JOA. Each Party may change its Designated Representative by written notice to the other. Each Party hereby acknowledges and agrees that its Designated Representatives shall bear primary responsibility for the giving and receipt of notices, and for the coordination of its administrative obligations, under this JOA, but neither Party's Designated Representative has any authority to alter, amend, or modify the rights or obligations of such Party under this JOA. The contact information for the initial AOC Designated Representative is:

Administrative Office of the Courts
Office of Court Construction and Management
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Attention: Nick Cimino
Regional Manager of the Bay Area and North Coast
Region of the Facilities Management Unit
Phone: (415) 865-8070
Fax: (415) 865-7524

The contact information for the initial County Designated Representative is:

County of Santa Cruz
General Services Department
Attention: Gerald Dunbar
701 Ocean Street, Room 330
Santa Cruz, CA 95060
Voice: 831-454-2718

Fax: 831-454-2710

14. MISCELLANEOUS

14.1 Waivers. No waiver of any provision of this JOA will be valid unless it is in writing and signed by both Parties. Waiver by either Party at any time of a breach of this JOA cannot be deemed a waiver of or consent to a breach of the same or any other provision of this JOA. If a Party's action requires the consent or approval of the other Party, that consent or approval on one occasion cannot be deemed a consent to or approval of that action on any later occasion or a consent or approval of any other action.

14.2 Force Majeure. Neither Party is responsible for performance under this JOA to the extent performance is prevented, hindered, or delayed by fire, flood, earthquake, elements of nature, acts of God, acts of war (declared and undeclared), riots, rebellions, revolutions, or terrorism, whether foreseeable or unforeseeable.

14.3 Assignment. Neither Party may assign this JOA in whole or in part, whether by operation of law or otherwise, to any other entity, agency, or person without the prior written consent of the other Party. Even if that consent is given, any assignment made in contravention of any Law will be void and of no effect.

14.4 Binding Effect. This JOA binds the Parties and their permitted successors and assigns.

14.5 Third Parties Benefited. The Court is an intended beneficiary of all provisions of this JOA for the benefit of the AOC.

14.6 Construction. The headings used in this JOA are for convenience only and will not affect the meaning or interpretation of this JOA. The words "hereof," "herein," and "hereunder," and other words of similar import, refer to this JOA as a whole and not to any subdivision of this JOA. Both Parties have reviewed and negotiated this JOA, and this JOA will not be construed against a Party as the principal draftsman. The words "include" and "including" when used are not exclusive and mean "include, but are not limited to" and "including but not limited to," respectively.

14.7 Integration; Amendments. This JOA and the Agreement contain the entire agreement of the Parties with respect to the subject matter of this JOA, and supersede all previous communications, representations, understandings, and agreements, whether verbal, written, express, or implied, between the Parties. This JOA may be amended only by written agreement signed by both of the Parties.

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14.8 Incorporation By Reference. The Attachments to this JOA are incorporated into and made a part of this JOA for all purposes, and all references to this JOA in any of the Attachments mean and include the entirety of this JOA.

14.9 Severability. If any term of this JOA is inconsistent with applicable Law, then on the request of either Party, the Parties will promptly meet and confer to determine how to amend the inconsistent term in a manner consistent with Law, but all parts of this JOA not affected by the inconsistency will remain in full force and effect.

14.10 Further Assurances. The Parties agree to cooperate reasonably and in good faith with one another to (i) implement the terms and provisions set forth in this JOA and the Act, and (ii) consummate the transactions contemplated herein, and will execute any further agreements and perform any additional acts that may be reasonably necessary to carry out the purposes and intent of this JOA and the Act.

14.11 Conflicts Between JOA and Agreement; Capitalized Terms. The Agreement supersedes and controls to the extent of any conflicts between the terms of the Agreement and this JOA. Capitalized terms used in this JOA and not otherwise defined herein will have the meanings given to them in the Agreement.

14.12 Signature Authority. The individuals signing this JOA on behalf of the AOC and the County certify that they are authorized to do so.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

I agree to the terms of this **JOA**.

APPROVED AS TO FORM:

Administrative Office of the Courts,
Office of the General Counsel

By: Charles Martel
Name: Charles Martel
Title: Attorney
Date: 12-2-2008

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS**

By: Grant Walker
Name: Grant Walker
Title: Senior Manager, Business Services
Date: 12/2/08

ATTEST:

_____, Clerk of the Board

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Deputy

By: _____
Name: _____
Title: Chair, Board of Supervisors

APPROVED AS TO FORM:

Santa Cruz County
Office of the County Counsel

By: Dana McRae
Name: Dana McRae
Title: County Counsel
Date: 12/3/08

Date: _____

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LIST OF ATTACHMENTS

Attachment “1”	Legal Description of Land
Attachment “2”	Site Plan of Real Property
Attachment “3”	Form of Equity Rights Purchase Agreement
Attachment “4”	Form of Termination of Joint Occupancy Agreement
Attachment “5”	Criteria for Approving County Employees and County Contractors with Respect to Background Checks

ATTACHMENT "1" TO JOA
LEGAL DESCRIPTION OF LAND

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Beginning at an iron pipe at the Southwestern corner of the Lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958 and recorded August 12, 1959, in Volume 1264, at Page 558, of the Official Records of said Santa Cruz County and from which City Triangulation Station "Baker" bears North 17° 50' 20" West 156.42 feet and North 72° 14' 45" East 230.26 feet distant; thence from said point of beginning and along the Southern boundary of said lands of Faneuf North 72° 11' 05" East 107.07 feet to an iron pipe set in concrete; thence South 17° 50' 05" East 578.24 feet to an iron pipe set in concrete; thence South 72° 36' 16" West 613.79 feet to an iron pipe set in concrete on the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz, as recorded in Volume 1154, at Page 128, of Official Records of said Santa Cruz County; thence along said Western boundary of said lands of the Redevelopment Agency of the City of Santa Cruz and the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz by deed recorded in Volume 1150, at Page 352 of the Official Records of said Santa Cruz County the following courses and distances: North 18° 24' 40" West 31.92 feet to a station and thence North 19° 54' 40" West 104.72 feet to a station; thence North 22° 54' 40" West 104.72 feet to a station; thence North 25° 54' 40" West 104.72 feet to a station; thence North 28° 54' 40" West 104.72 feet to a station; thence North 30° 24' 40" West 50.00 feet to a station; thence North 39° 30' 40" West 101.00 feet to a station; thence leaving said last mentioned boundary North 24° 19' 40" West 20.95 feet to a station; thence North 6° 02' 20" East 20.95 feet to an iron pipe set in concrete; thence North 20° 52' 48" East 46.63 feet to an iron pipe set in concrete; thence North 55° 13' 30" East 141.54 feet to an iron pipe set in concrete; thence North 72° 14' 45" East 432.24 feet to an iron pipe set in concrete on the Western boundary of said lands of Faneuf; thence along said Western line of the lands of Faneuf South 17° 50' 20" East 133.42 feet to the point of beginning.

Excepting therefrom the lands conveyed to the City of Santa Cruz, a Municipal Corporation by deed recorded June 6, 1966, in Volume 1768, at Page 416, Official Records of Santa Cruz County.

PARCEL TWO:

Beginning at a station on the Southern boundary of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961 and

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recorded November 29, 1961, in Volume 1438, at Page 658, of the Official Records of said Santa Cruz County, said station being also at the Northeastern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, of the Official Records of said Santa Cruz County; thence from said point of beginning along said Southern boundary of the lands of the County of Santa Cruz and the Eastern Projection thereof North 72" 36' 16" East 423.57 feet to a station; thence South 17" 22' 41" East 11.17 feet to a station; thence South 72" 36' 16" West 423.65 feet to a station on the Eastern boundary of said lands of the City of Santa Cruz; thence along said last mentioned boundary North 17" 23' 44" West 11.17 feet to the point of beginning.

PARCEL THREE:

Beginning at a station at the Southeastern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961, recorded November 29, 1961, in Volume 1438, Page 658, Official Records of Santa Cruz County, and from which City Triangulation Station "Baker" bears the following courses and distances: North 17" 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72" 11' 05" West 107.07 feet to an iron pipe and North 17" 50' 20" West 156.42 feet to a station and North 72" 14' 45" East 230.26 feet distant and from which point of beginning an iron pipe at the Southwestern corner of the lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958, and recorded August 12, 1959, in Volume 1264, Page 558, Official Records of Santa Cruz County bears the following courses and distances; North 17" 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72" 11' 05" West 107.07 feet distant; thence from said point of beginning and along the Eastern boundary of said lands of the County of Santa Cruz North 17" 50' 05" West 578.24 feet to a station on the Southern boundary of the lands described in said Owner Participation Agreement with Faneuf; thence along said last mentioned boundary North 72" 11' 05" East 25.74 feet to a station at the Northwestern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated September 2, 1965 and recorded September 17, 1965, in Volume 1718, Page 263, Official Records of Santa Cruz County; thence along the Western boundary of said lands conveyed to the City of Santa Cruz South 17° 22' 41" East 578.40 feet to a station from which the point of beginning bears South 72" 36' 16" West; thence South 72" 36' 16" West 21.18 feet to the point of beginning.

PARCEL FOUR:

An easement for the unobstructed passage of light and air, said easement being 30.00 feet in width at right angles to its centerline running from the Western boundary of the lands conveyed to the City of Santa Cruz by deed dated January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, Official Records of Santa Cruz County, to the Eastern boundary of said lands of the City of Santa Cruz and being more particularly described by its Northern boundary as follows: to wit:

Beginning at a station at the Northwestern corner of said lands of the City of Santa Cruz; thence from said point of beginning North 72" 36' 16" East 211.40 feet to a station at the Northeastern corner of said lands of the City of Santa Cruz.

APN: 005-261-25

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ATTACHMENT "2" TO JOA
SITE PLAN OF REAL PROPERTY

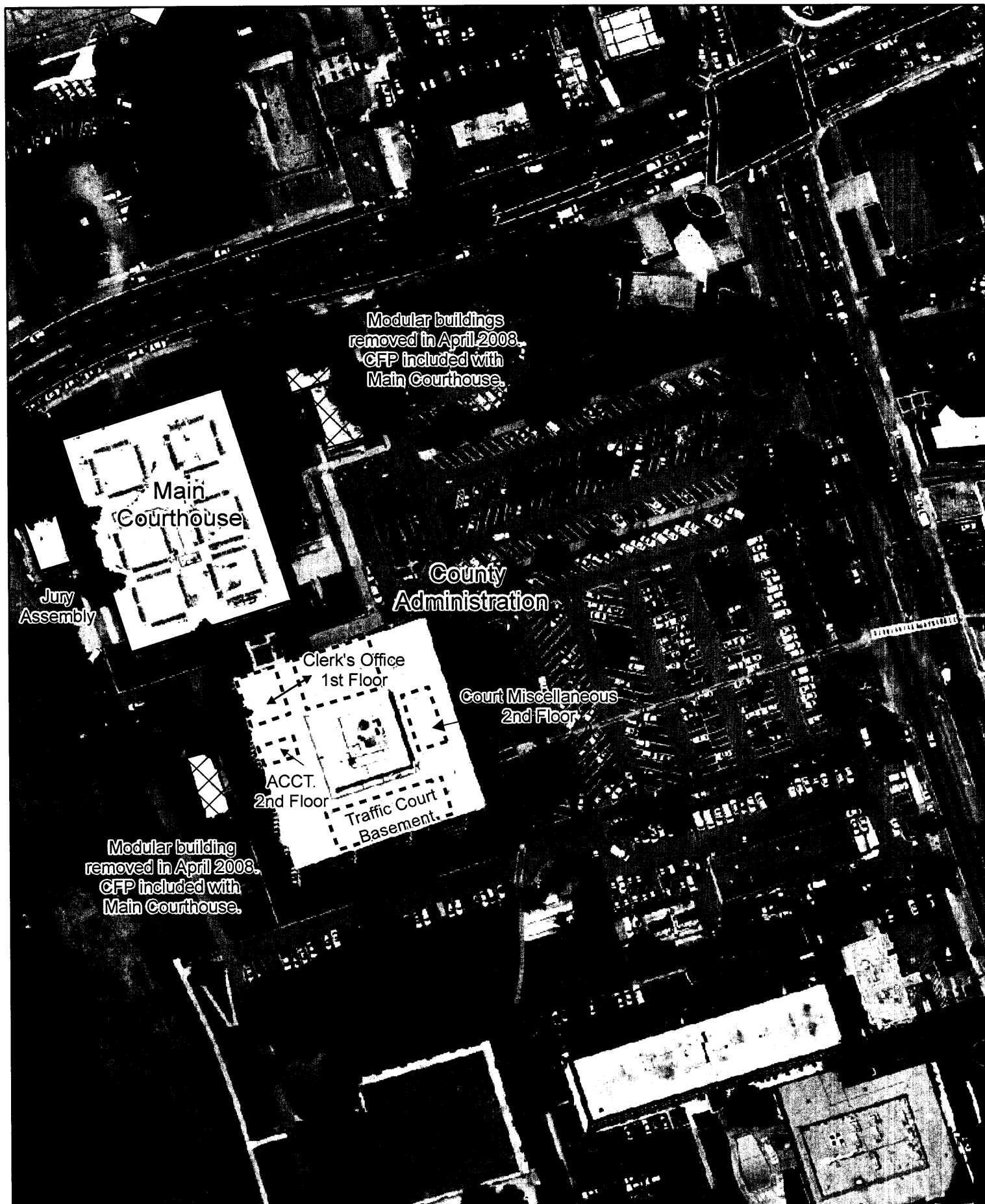
13

Court Facility: #44-A2

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Santa Cruz - County Administration - Joint Occupancy Agreement 11252008.DOC



Main Courthouse and County Administration
701 Ocean St. Santa Cruz, Ca. 95060

ATTACHMENT “3” TO JOA

FORM OF EQUITY RIGHTS PURCHASE AGREEMENT

1. PURPOSE

The Judicial Council of California (“**Council**”), Administrative Office of the Courts (together, the “**AOC**”), and the County of Santa Cruz (“**County**”) enter into this Agreement under section 70344(b) of the Trial Court Facilities Act of 2002, Government Code section 70301, *et seq.*, as it exists as of the Effective Date (the “**Act**”), to set forth the terms and conditions for the purchase of Equity Rights in the Real Property.

2. DEFINITIONS

“**Agreement**” means this Equity Rights Purchase Agreement.

“**Building**” means the “Building” as defined in the Transfer Agreement.

“**Common Area**” means the “Common Area” as defined in the Transfer Agreement.

“**Compensation**” means the amount paid by the Majority Occupant to the Minority Occupant in exchange for the Minority Occupant’s Equity Rights.

“**Court Facility**” means the trial court facility commonly known as the County Administration Building, as further defined in the Transfer Agreement.

“**Effective Date**” means the date this Agreement is signed by the last Party to sign.

“**Equity**” means “equity” as used in section 70344(b) of the Act.

“**Equity Purchase**” means the Majority Occupant’s purchase of the Minority Occupant’s Equity Rights in the Real Property under section 70344(b) of the Act and this Agreement.

“**Equity Rights**” means (1) all rights, interests, and entitlement of the Minority Occupant in and to the _____ square feet of space in the Building that is occupied exclusively by the Minority Occupant on the Effective Date, and which space comprises approximately _____ percent of the total Building square footage, as depicted on **Exhibit “A”** attached to this Agreement, and (2) all non-exclusive rights, interests, and entitlement of the Minority Occupant in and to the Common Area.

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“Grant Deed” means the “Grant Deed” as defined in the Transfer Agreement.

“Majority Occupant” means the Party that occupies 80 percent or more of the total Building square footage on the Effective Date of this Agreement. For purposes of this Agreement, the County is the Majority Occupant.

“Minority Occupant” means the Party that occupies 20 percent or less of the total Building square footage on the Effective Date of this Agreement. For purposes of this Agreement, the AOC is the Minority Occupant.

“Party” means the AOC or the County, and **“Parties”** means the AOC and the County.

“Real Property” means the “Real Property” as defined in the Transfer Agreement.

“Transfer Agreement” means the Transfer Agreement For the Transfer of Responsibility For Court Facility, and all attached Exhibits and Schedules, dated as of _____, 20__, which sets forth the terms for the transfer of responsibility for and the transfer of title to the Court Facility under the Act.

3. PURCHASE OF EQUITY RIGHTS

3.1 Exercise of Vacate Right. The Majority Occupant has elected to exercise its right to require the Minority Occupant to vacate the Building under section 70344(b) of the Act and has given the Minority Occupant reasonable notice of its election to so exercise.

3.2 Compensation. The Compensation for the Equity Purchase is \$_____, which amount will be paid by the Majority Occupant to the Minority Occupant [in a lump sum on the earlier of (1) the date that the Minority Occupant actually vacates the Building, or (2) the date on which the Grant Deed is recorded in connection with the transfer of title under the Transfer Agreement.] **OR** [describe].

3.3 Relocation Costs. The Majority Occupant will be responsible for the moving expenses of the Minority Occupant at the fair market rate. The Majority Occupant will, at its sole expense, make arrangements for the furniture, equipment, supplies, and other personal property of the Minority Occupant that are located in the Building to be packed and moved, by a professional business relocation service, from the Real Property to the alternate location specified by the Minority Occupant or, at the sole option of the Minority Occupant, the Minority Occupant may engage its own moving and relocation company to perform its move and the Majority Occupant will reimburse the Minority Occupant’s actual relocation costs in an amount not to exceed the amount that would have been charged by the Majority Occupant’s professional relocation company

for the same relocation services. In no event will the Majority Occupant be responsible for any costs incurred by the Minority Occupant in searching for, identifying, leasing, purchasing, improving, furnishing, or otherwise preparing for occupancy the Minority Occupant's alternate premises, including without limitation, any brokerage commissions, finders' fees, closing costs, tenant improvement costs, or consultant's fees. The terms of this section 3.3 will survive the consummation of the Equity Purchase until _____, 200__ **[Note: This should be the same date as the deadline for vacation of the Real Property by the Minority Occupant set forth in section 4.3 below].**

3.4 Rights and Responsibilities. Upon completion of the Equity Purchase, the rights and responsibilities of the Parties in respect of the Equity Rights purchased by the Majority Occupant will be as set forth in the Transfer Agreement.

3.5 Representations and Warranties. Each Party makes the following representations and warranties to the other to the best of its knowledge after reasonable investigation and inquiry:

3.5.1 The Compensation is equal to the fair market value of the Minority Occupant's Equity Rights in the Real Property;

3.5.2 The person who has signed this Agreement on behalf of the Party has been duly authorized and empowered, by a resolution or other formal action of the Party, to sign this Agreement on its behalf, and no other or further approval or consent is required to authorize or empower the Party to enter into and perform this Agreement; and

3.5.3 This Agreement and the Equity Purchase contemplated in this Agreement do not and will not violate any agreement, obligation, or court order by which the Party is bound or to which it or its assets is subject.

4. CLOSING THE EQUITY PURCHASE TRANSACTION

4.1 Delivery of Signed Agreement. The last Party to sign this Agreement must deliver to the AOC, within three business days after signing, ____ fully-signed originals of this Agreement.

4.2 When the Equity Purchase Takes Effect. The Equity Purchase will be effective and deemed consummated immediately and automatically upon the Majority Occupant's payment of the Compensation to the Minority Occupant, whether or not the Minority Occupant has then vacated the Real Property.

4.3 When Minority Occupant Must Vacate the Real Property. The Minority Occupant agrees that it will entirely vacate its occupancy of the Real Property by no later than _____, 200__ . If the Minority Occupant fails to complete its vacation the Real Property by _____, 200__ through no fault of the Majority Occupant, the

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Minority Occupant will be deemed to have fully and forever waived and relinquished its rights, under section 70344(b) of the Act and section 3.3 of this Agreement, to require the Majority Occupant to pay the Minority Occupant's relocation costs.

4.4 Delivery of Possession. When the Equity Purchase has been completed and the Minority Occupant has vacated the Real Property, the Minority Occupant will deliver to the Majority Occupant possession and control of the Equity Rights, and the Minority Occupant will thereafter have no right, claim, or interest in the Equity Rights whatsoever.

5. MISCELLANEOUS

5.1 Dispute Resolution. Any dispute between the Parties concerning this Agreement must be resolved under the terms for "Dispute Resolution" in section 11 of the Transfer Agreement.

5.2 Amendments. This Agreement may be amended only by written agreement signed by both of the Parties.

5.3 Waivers. No waiver of any provision of this Agreement will be valid unless it is in writing and signed by both Parties. Waiver by either Party at any time of any breach of this Agreement cannot be deemed a waiver of or consent to a breach of the same or any other provision of this Agreement. If a Party's action requires the consent or approval of the other Party, that consent or approval on any one occasion cannot be deemed a consent to or approval of that action on any later occasion or a consent or approval of any other action.

5.4 Binding Effect. This Agreement binds the Parties and their permitted successors and assigns. The State Parties are intended beneficiaries of all provisions of this Agreement for the benefit of the AOC. Otherwise, this Agreement is for the benefit only of the Parties, and no third parties are intended to be benefited by this Agreement.

5.5 Governing Law. This Agreement, and the Parties' performance under this Agreement, will be exclusively governed by the laws of the State without regard to its conflict of law provisions.

5.6 Construction. The headings used in this Agreement are for convenience only and will not affect the meaning or interpretation of this Agreement. This Agreement will not be construed against any Party as the principal draftsman. The words "include" and "including" when used are not exclusive and mean "include, but are not limited to" and "including but not limited to," respectively.

5.7 Integration. This Agreement and the Transfer Agreement contain the entire agreement of the Parties with respect to the Equity Purchase, and supersede all previous and concurrent communications, understandings, and agreements, whether verbal,

written, express, or implied, between the Parties concerning the subject matter of this Agreement.

5.8 Capitalized Terms. Any capitalized terms that are not otherwise defined in this Agreement will have the meanings given to them in the Transfer Agreement.

5.9 Severability. If any term of this Agreement is inconsistent with applicable law, then upon the request of either Party, the Parties will promptly meet and confer to determine how to amend the inconsistent term in a manner consistent with Law, but all parts of this Agreement not affected by the inconsistency will remain in full force and effect.

5.10 Further Assurances. The County and the AOC agree to cooperate reasonably and in good faith with one another to (1) implement the terms of this Agreement, and (2) consummate the Equity Purchase, and will execute any further agreements and perform any additional acts that are reasonably necessary to carry out the terms of this Agreement.

5.11 Notices. Any notices or other communications to be sent by one Party to the other under this Agreement will be sent and deemed received in accordance with the “Notices” provision of section 12 of the Transfer Agreement.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

13

I agree to the terms of this Agreement.

APPROVED AS TO FORM:

Administrative Office of the Courts,
Office of the General Counsel

**JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS**

By: _____
Name: Charles Martel
Title: Attorney
Date: _____

By: _____
Name: Grant Walker
Title: Senior Manager, Business Services
Date: _____

ATTEST:

_____. Clerk of the Board

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Deputy

By: _____
Name: _____
Title: Chair, Board of Supervisors
Date: _____

APPROVED AS TO FORM:

Santa Cruz County
Office of the County Counsel

By: _____
Name: Dana McRae
Date: _____

EXHIBIT “A” TO ATTACHMENT “3” TO JOA

COPY OF FLOOR PLAN

[See Attached]

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Court Facility: #44-A2

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ATTACHMENT "4" TO JOA
FORM OF TERMINATION OF JOINT OCCUPANCY AGREEMENT

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

STATE OF CALIFORNIA
c/o Judicial Council of California
Administrative Office of the Courts
Office of the General Counsel
455 Golden Gate Avenue
San Francisco, CA 94102
Attn: Melvin Kennedy, Managing Attorney, Office of the General
Counsel, Real Estate Unit

OFFICIAL STATE BUSINESS - EXEMPT FROM RECORDING FEES PURSUANT TO GOVT. CODE SECTION 27383 AND DOCUMENTARY
TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.

TERMINATION OF JOINT OCCUPANCY AGREEMENT

This Termination of Joint Occupancy Agreement ("**Termination**") is made and entered into this _____ day of _____, 20__, by and between the Judicial Council of California, Administrative Office of the Courts ("**AOC**"), and the COUNTY OF SANTA CRUZ ("**County**"). The AOC and the County each constitute a "**Party**" and collectively constitute the "**Parties**" to this Termination.

RECITALS

A. On _____, 200__, the County and the AOC entered into a Transfer Agreement For The Transfer of Responsibility For Court Facility (the "**Transfer Agreement**"). Under the Transfer Agreement, the County transferred to the AOC responsibility for funding and operation of the County Administration Building, which is located in a building on certain real property in the City of Santa Cruz, County of Santa Cruz, State of California and having a street address of 701 Ocean Street (as more completely described in the Transfer Agreement, the "**Real Property**"). The legal description of the Real Property is attached to this Termination as **Attachment 1**

B. Under the Transfer Agreement, the AOC and the County also entered into a Joint Occupancy Agreement dated _____, 2008 ("**JOA**"), setting forth the parties' respective rights and obligations with respect to the shared occupancy and use of the Real Property.

C. To memorialize the parties' respective rights and duties under the JOA, the parties signed a Memorandum of Joint Occupancy Agreement ("**Memorandum**"), which was recorded in the Official Records of the County as Instrument No. _____

D. The JOA has now been terminated by the County and the AOC, and is no longer of any force or effect, except for the terms of the JOA that expressly survive the termination of the JOA.

E. The County and the AOC now wish to record this Termination to memorialize the termination of the JOA and the Memorandum.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and AOC do hereby agree as follows:

1. The JOA and the Memorandum are terminated, and are no longer of any force or effect, except for those terms of the JOA that the parties have expressly agreed in writing will survive the termination of the JOA.

2. This Termination is to be recorded in the Official Records of the County with respect to the Real Property, whereupon the Memorandum will automatically be removed as an encumbrance on the title to the Real Property.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF, this Termination has been executed as of the day and year first above written.

APPROVED AS TO FORM:

Administrative Office of the Courts,
Office of the General Counsel

**JUDICIAL COUNCIL OF
CALIFORNIA, ADMINISTRATIVE
OFFICE OF THE COURTS**

By: _____
Name: _____
Title: Attorney
Date: _____

By: _____
Name: _____
Title: Senior Manager, Business Services
Date: _____

ATTEST:

_____, Clerk of the Board

**COUNTY OF SANTA CRUZ, a political
subdivision of the State of California**

By: _____
Deputy

By: _____
Name: _____
Title: Chairperson, Board of Supervisors
Date: _____

APPROVED AS TO FORM:

Santa Cruz County
Office of the County Counsel

By: _____
Name: Dana McRae
Date: _____

STATE OF CALIFORNIA**COUNTY OF** _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

STATE OF CALIFORNIA**COUNTY OF** _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

13

EXHIBIT "1"**LEGAL DESCRIPTION OF THE REAL PROPERTY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Beginning at an iron pipe at the Southwestern corner of the Lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958 and recorded August 12, 1959, in Volume 1264, at Page 558, of the Official Records of said Santa Cruz County and from which City Triangulation Station "Baker" bears North 17° 50' 20" West 156.42 feet and North 72° 14' 45" East 230.26 feet distant; thence from said point of beginning and along the Southern boundary of said lands of Faneuf North 72° 11' 05" East 107.07 feet to an iron pipe set in concrete; thence South 17° 50' 05" East 578.24 feet to an iron pipe set in concrete; thence South 72° 36' 16" West 613.79 feet to an iron pipe set in concrete on the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz, as recorded in Volume 1154, at Page 128, of Official Records of said Santa Cruz County; thence along said Western boundary of said lands of the Redevelopment Agency of the City of Santa Cruz and the Western boundary of the lands conveyed by the City of Santa Cruz to the Redevelopment Agency of the City of Santa Cruz by deed recorded in Volume 1150, at Page 352 of the Official Records of said Santa Cruz County the following courses and distances: North 18° 24' 40" West 31.92 feet to a station and thence North 19° 54' 40" West 104.72 feet to a station; thence North 22° 54' 40" West 104.72 feet to a station; thence North 25° 54' 40" West 104.72 feet to a station; thence North 28° 54' 40" West 104.72 feet to a station; thence North 30° 24' 40" West 50.00 feet to a station; thence North 39° 30' 40" West 101.00 feet to a station; thence leaving said last mentioned boundary North 24° 19' 40" West 20.95 feet to a station; thence North 6° 02' 20" East 20.95 feet to an iron pipe set in concrete; thence North 20° 52' 48" East 46.63 feet to an iron pipe set in concrete; thence North 55° 13' 30" East 141.54 feet to an iron pipe set in concrete; thence North 72° 14' 45" East 432.24 feet to an iron pipe set in concrete on the Western boundary of said lands of Faneuf; thence along said Western line of the lands of Faneuf South 17° 50' 20" East 133.42 feet to the point of beginning.

Excepting therefrom the lands conveyed to the City of Santa Cruz, a Municipal Corporation by deed recorded June 6, 1966, in Volume 1768, at Page 416, Official Records of Santa Cruz County.

PARCEL TWO:

Beginning at a station on the Southern boundary of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961 and recorded November 29, 1961, in Volume 1438, at Page 658, of the Official Records of said Santa Cruz County, said station being also at the Northeastern corner of the lands conveyed by the

Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, of the Official Records of said Santa Cruz County; thence from said point of beginning along said Southern boundary of the lands of the County of Santa Cruz and the Eastern Projection thereof North 72° 36' 16" East 423.57 feet to a station; thence South 17° 22' 41" East 11.17 feet to a station; thence South 72° 36' 16" West 423.65 feet to a station on the Eastern boundary of said lands of the City of Santa Cruz; thence along said last mentioned boundary North 17° 23' 44" West 11.17 feet to the point of beginning.

PARCEL THREE:

Beginning at a station at the Southeastern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the County of Santa Cruz by deed dated October 12, 1961, recorded November 29, 1961, in Volume 1438, Page 658, Official Records of Santa Cruz County, and from which City Triangulation Station "Baker" bears the following courses and distances: North 17° 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72° 11' 05" West 107.07 feet to an iron pipe and North 17° 50' 20" West 156.42 feet to a station and North 72° 14' 45" East 230.26 feet distant and from which point of beginning an iron pipe at the Southwestern corner of the lands described in the Owner Participation Agreement between the Redevelopment Agency of the City of Santa Cruz and Charles Henry Faneuf, et al, dated February 19, 1958, and recorded August 12, 1959, in Volume 1264, Page 558, Official Records of Santa Cruz County bears the following courses and distances; North 17° 50' 05" West 578.24 feet to an iron pipe set in concrete and South 72° 11' 05" West 107.07 feet distant; thence from said point of beginning and along the Eastern boundary of said lands of the County of Santa Cruz North 17° 50' 05" West 578.24 feet to a station on the Southern boundary of the lands described in said Owner Participation Agreement with Faneuf; thence along said last mentioned boundary North 72° 11' 05" East 25.74 feet to a station at the Northwestern corner of the lands conveyed by the Redevelopment Agency of the City of Santa Cruz to the City of Santa Cruz by deed dated September 2, 1965 and recorded September 17, 1965, in Volume 1718, Page 263, Official Records of Santa Cruz County; thence along the Western boundary of said lands conveyed to the City of Santa Cruz South 17° 22' 41" East 578.40 feet to a station from which the point of beginning bears South 72° 36' 16" West; thence South 72° 36' 16" West 21.18 feet to the point of beginning.

PARCEL FOUR:

An easement for the unobstructed passage of light and air, said easement being 30.00 feet in width at right angles to its centerline running from the Western boundary of the lands conveyed to the City of Santa Cruz by deed dated January 9, 1964 and recorded February 4, 1964, in Volume 1595, at Page 595, Official Records of Santa Cruz County, to the Eastern boundary of said lands of the City of Santa Cruz and being more particularly described by its Northern boundary as follows: to wit:

Beginning at a station at the Northwestern corner of said lands of the City of Santa Cruz; thence from said point of beginning North 72° 36' 16" East 211.40 feet to a station at the Northeastern corner of said lands of the City of Santa Cruz.

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APN: 005-261-25

Court Facility: #44-A2

Owned-Shared (TOR Only)

Santa Cruz County Administration • Joint Occupancy Agreement 11252008.DOC

ATTACHMENT “5” TO JOA

CRITERIA FOR APPROVING COUNTY EMPLOYEES AND COUNTY CONTRACTORS WITH RESPECT TO BACKGROUND CHECKS

No County employee or County Contractor may access or work unescorted in any Restricted Area of the Real Property if any of the following applies to that employee or Contractor:

1. Any conviction or charge pending court disposition with respect to felonies or misdemeanors involving violence, weapons, theft, robbery, burglary, embezzlement, dishonesty, moral turpitude, drugs (excluding misdemeanor marijuana convictions), or sexual activity (for a list of crimes constituting moral turpitude, please see **Appendix 1** to this **Attachment “5”**).
2. Any conviction or charge pending court disposition involving a serious felony which is listed in Penal Code section 1192.7(c) or any violent felony which is listed in Penal Code section 667.5(c).
3. Any conviction or charge pending court disposition with respect to felonies or misdemeanors contributing to the delinquency of a minor.
4. Any conviction or charge pending court disposition with respect to felonies or misdemeanors involving mob action (a.k.a. gang activity).
5. Any conviction or charge pending court disposition with respect to felonies or misdemeanors involving any crime (other than a minor traffic violation) not included in paragraphs 1 through 4, above, for which the AOC’s Emergency & Response Unit (“**ERS**”) has not provided a written exemption for that conviction or pending charge.
6. Outstanding bench warrant.
7. Failure to appear in court within six (6) months.

In order to obtain a written exemption with respect to paragraph 5, above, the County must submit all relevant information relating to the conviction or pending charge (e.g. type of offense, date of conviction, and sentence) to the Senior Manager of ERS. The County will not include the name of the employee with this information. After review of the submitted information, the Senior Manager of ERS will notify the County in writing if an exemption for that conviction or pending charge will be provided by the AOC.

For purposes of these criteria, “conviction” includes a verdict of guilty, a plea of guilty, a plea of *nolo contendere*, or a forfeiture of bail in municipal, superior, or federal court regardless of whether sentence is imposed by the court.

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Court Facility: #44-A2

5-2

Owned-Shared (TOR Only)

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APPENDIX 1 TO ATTACHMENT "5" TO JOA

The appellate courts have determined that the following crimes are crimes of moral turpitude:

1. Property Crimes. Arson; auto theft; attempted auto theft; burglary (any degree); attempted burglary; embezzlement; forgery; grand theft; receiving stolen property; theft; and vandalism (felony).

2. Assaultive Crimes. Assault by force likely to produce grievous bodily injury; assault with deadly weapon; assault with intent to murder; assault with intent to rape; battery of non-inmate by inmate; battery on peace officer; corporal injury to child; discharge a firearm; false imprisonment; robbery; shooting at inhabited dwelling; and spousal battery.

3. Homicide. Murder; second degree murder; and voluntary manslaughter.

4. Sex Crimes. Assault with intent to rape; indecent exposure; lewd act on child; pimping and pandering; rape; statutory rape; and sexual battery.

5. Escape. Escape with or without violence; and evading a peace officer.

6. Drug Crimes. Maintaining a drug house; possession of heroin for sale; possession of marijuana for sale; sale of drugs; and transportation of controlled substance.

7. Weapons. Felon in possession of firearm; possession or conspiracy to possess illegal firearm; and possession of deadly weapon with intent to assault.

8. Other. Felony drunk driving; felony false imprisonment; felony hit and run; kidnapping; terrorist threat; bribery; extortion; and perjury.

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

Resolution No. _____

On the motion of Supervisor _____

Duly seconded by Supervisor _____

The following resolution is adopted:

RESOLUTION ACCEPTING AND APPROPRIATING UNANTICIPATED REVENUE

WHEREAS, the County of Santa Cruz is a recipient of funds from **the State of California-Administrative Office of the Court (AOC)** for reimbursement for **the Main Courthouse and County Administrative Building facility related costs (CFP)**; and

WHEREAS, the County is recipient of funds in the amount of **\$103,194** which are either in excess of those anticipated or are not specifically set forth in the current fiscal year budget of the County; and

WHEREAS, pursuant to Government Code Section 29130 (c) /29064 (b), such funds may be made available for specific appropriation by four-fifths of the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Santa Cruz County Auditor-Controller accept funds in the amount of **\$103,194** into Index 451000-General Fund Contribution to the Superior Court.

<u>T/C</u>	<u>Index Number</u>	<u>Revenue Subobject No.</u>	<u>User Code</u>	<u>Account Name</u>	<u>Amount</u>
<i>001</i>	451000	0840		St- Trial Court	\$33,131
	451000	0840		St- Trial Court	\$70,063

and that such funds be and are hereby appropriated as follows:

<u>T/C</u>	<u>Index Number</u>	<u>Expenditure Subobject No.</u>	<u>User Code</u>	<u>Account Name</u>	<u>Amount</u>
<i>021</i>	451000	5185		CRT FAC PMT	\$33,131
	451000	5185		CRT FAC PMT	\$70,063

DEPARTMENT HEAD I hereby certify that the fiscal provisions have been researched and that the Revenue has been received within the current fiscal year.

By  Department Head

Date 12/2/08

COUNTY ADMINISTRATIVE OFFICER ✓ / ✓ Recommended to Board

/ _____ / Not recommended to Board

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 20____ by the following vote (requires four-fifths vote of approval):

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSENT: SUPERVISORS

Chair of the Board

ATTEST:

Clerk of the Board-

APPROVED AS TO FORM:

[Signature]
County Counsel

APPROVED AS TO ACCOUNTING DETAIL:

C. Huff 12/2/18
Auditor-Controller

Distribution:

Auditor-Controller
County Counsel
County Administrative Officer
Originating Department

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