

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Agreement No. A-12014

Approve and Authorize Delegation of Authority to the)
 Director of Public Works, or designee, to Execute)
 Amendment No. 2 to the Transfer Agreement for the)
 North Wing Court Facility to provide for the prorata)
 allocation and payment of the fees and charges for)
 utilities by the Administrative Office of the Courts.)
 Delegation of authority shall expire on June 30, 2011...)

Upon motion of Supervisor Salinas, seconded by Supervisor Calcagno, and carried by those members present, the Board hereby;

Approved and Authorized Delegation of Authority to the Director of Public Works, or designee, to Execute Amendment No. 2 to the Transfer Agreement for the North Wing Court Facility to provide for the prorata allocation and payment of the fees and charges for utilities by the Administrative Office of the Courts. Delegation of authority shall expire on June 30, 2011.

PASSED AND ADOPTED on this 28th day of June, 2011, by the following vote, to wit:

AYES: Supervisors Calcagno, Salinas, and Parker

NOES: None

ABSENT: Supervisors Armenta and Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on June 28, 2011.

Dated: June 28, 2011
 Revised: July 7, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors
 County of Monterey, State of California

By 
 Deputy

Court Facility: #27-A1
Building Name: Salinas Courthouse North Wing
Address: 240 Church Street, Salinas, California 93901

**AMENDMENT NO. 2 TO THE
TRANSFER AGREEMENT FOR THE
SALINAS COURTHOUSE NORTH WING**

THIS AMENDMENT NO. 2 TO THE TRANSFER AGREEMENT FOR THE SALINAS COURTHOUSE NORTH WING ("**Second Amendment**") is made and entered into June 28, 2011, by and between the Judicial Council of California ("**Council**"), Administrative Office of the Courts (together with the Council, the "**AOC**"), whose present address is 455 Golden Gate Avenue, San Francisco, California 94102, and the County of Monterey ("**County**"), whose present address is 168 West Alisal Street, Salinas, CA 93901 (the AOC and the County are collectively referred to as the "**Parties**") with respect to the following facts:

RECITALS

- A. AOC and County have entered into that certain Transfer Agreement for the Transfer of Responsibility for the Salinas Courthouse North Wing, with an Effective Date of March 30, 2009, ("**TA**"). The TA sets forth the terms governing the Parties' respective rights and responsibilities regarding possession, occupancy, and use of the Building and the Real Property. Unless specifically defined herein, all defined terms are as set forth in the TA.
- B. Section 4.3.6 of the TA provides that in the event that at any time on or after the Transition Date, any of the Utilities that serve the Building are not separately metered or sub-metered to Building, then the Parties shall promptly amend the TA to provide for appropriate prorata allocation and payment of the fees and charges for such Utilities between the Parties.
- C. The Parties recognize that no separate meter or sub-meter was established for the Building by the Transition Date, and that the Utilities collectively serve the Building and the Monterey Government Center Complex ("**MGCC**"), excluding the County facilities currently vacant within the MGCC.
- D. By this Second Amendment to the TA, the Parties intend to provide for an appropriate prorata allocation and payment of the fees and charges for the Utilities ("**Utilities Costs**") that serve the Building and the MGCC based upon the Building's square footage as a percentage of the combined total occupied square footage of the Building and MGCC. Excluded from the allocation of Utilities Costs are facilities within the MGCC that are vacant and not in use, and in which the Utilities have been turned off.

E. The AOC and the County now wish to amend the TA as set forth in this Second Amendment.

NOW, THEREFORE, the County and the AOC do hereby agree as follows:

1. Building's Square Footage Percentage of the Total Occupied MGCC Square Footage. The Building constitutes 38.35 percent ("**Building's Share**") of the combined total occupied square footage of the Building and the MGCC, as set forth in Exhibit "A" attached hereto and made a part hereof.
2. Utilities Included in the Allocation of Utilities Costs. The following Utilities serve the Building and the MGCC and are not separately identifiable to a specific facility within the Building or MGCC: garbage and recycling, water service, water service-fire protection, sewer, electric and natural gas and boiler permit. The charges and fees for such Utilities are included in the allocation of Utilities Costs.
3. Commencement Date of the Allocation of Utilities Costs. The commencement of the allocation and payment of the Utilities Costs for the Building is the Transition Date, which is October 12, 2010.
4. Quarterly Invoice. The County will be responsible to maintain all Utility accounts and cause all Utilities to be provided to the Building and MGCC. The AOC will be responsible for the Building Share of the Utilities Costs on and after the Transition Date. Within 30 days of the end of each quarter, the County will deliver to the AOC a quarterly invoice itemizing the actual Utilities Costs for the AOC Building Share for the preceding quarter. The County's quarterly invoice shall provide a summary of expenditures by utility provider for each applicable month of the quarter, along with copies of the utility provider's invoices for the quarter as supporting documentation. AOC will reimburse the County the Building Share of the Utilities Costs within 30 days after its receipt of the County's quarterly invoice.
5. Estimate of Utilities Costs. Within 30 days of the commencement of each Fiscal Year, the County will deliver to the AOC a statement (the "**Estimate Statement**") itemizing the estimated Utilities Costs.
6. Annual Review. The allocation of Utilities Costs will be reviewed no less than annually, or at any time that a change occurs in occupancy of the MGCC by the County.
7. Termination of This Amendment No. 2. This Amendment No. 2 shall terminate when the Utilities that serve the Building, referred to in section 2 above, are separately metered or sub-metered to serve only the Building. Thereafter the County will no longer be responsible to maintain such Utilities for the Building.

8. No Other Changes. Except as it is expressly amended pursuant to this Amendment No. 2, the TA remains in full force and effect as originally signed and approved by the AOC and the County.

9. Construction. The capitalized terms used in this Amendment No. 2, and not otherwise defined herein will have the meanings given to them in the TA.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Amendment 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

By: Rachel J. Dragolovich
Name: Rachel Dragolovich
Title: Attorney
Date: 6-21-11

JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE
COURTS

By: Grant Walker
Name: Grant Walker
Title: Senior Manager, Business Services
Date: 6/22/11

ATTEST:
Gail Borkowski, Clerk of the Board

By: Gail Borkowski
Deputy

COUNTY OF MONTEREY

By: Yazdan Emrani
Name: YAZDAN EMRANI
Title: Chair, Board of Supervisors
Date: Director of Public Works
6/28/11

APPROVED AS TO FORM:
County of Monterey, Office of the
County Counsel

By: Cynthia L. Hasson
Name: Cynthia L. Hasson
Title: Deputy County Counsel

EXHIBIT "A"

**BUILDING'S SQUARE FOOTAGE PERCENTAGE OF THE
TOTAL OCCUPIED MGCC SQUARE FOOTAGE**

Government Center Complex	Total Square Footage	Current Occupancy	Total Occupied Square Footage	Occupied Square Footage as a % of Total
Administration Building	136,500	100%	136,500	53.70%
Salinas Courthouse - North Wing	97,500	100%	97,500	38.35%
Salinas Courthouse - East Wing	22,200	0%	0	0.00%
Salinas Courthouse - West Wing	50,500	0%	0	0.00%
Modular Building #1	9,420	0%	0	0.00%
Modular Building #2	8,700	100%	8,700	3.42%
Modular Building #3	17,711	65%	11,512	4.53%
Modular Building #5	6,600	0%	0	0.00%
		Total:	254,212	100.00%