

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: June 28, 2011- Consent	AGENDA NO.: 47
SUBJECT: 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.	
DEPARTMENT: RMA - Public Works	

RECOMMENDATION:

It is recommended that the Board of Supervisors approve and authorize delegation of authority to the Director of Public Works, or designee, to execute Amendment No. 2 to the Transfer Agreement ("TA") 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.

SUMMARY/DISCUSSION:

The Lockyer – Isenberg Trial Court Funding Act of 1997 transferred responsibility for trial court facilities from California counties to the Administrative Office of the Courts (AOC) via transfer agreements. On December 29, 2008, the County transferred title for the Marina Courthouse to the AOC. The County's four remaining court facilities (Monterey, King City, Juvenile, and Salinas North Wing) were transferred to the AOC on March 29, 2009, but title did not pass to the State. The County retained title to the four facilities due to either long-term debt issuance on the property (Monterey and Salinas North Wing) or majority occupancy. Upon completion of extensive restoration and construction work on October 12, 2010, the Superior Court of California, Monterey County (the Court) commenced 100% occupancy of the Salinas North Wing facility. Transfer of title to the AOC for the Salinas North Wing facility will occur at the expiration of the long term encumbrance.

Section 4.3.6 of the Salinas North Wing Transfer Agreement (TA) provides that, in the event, on or after October 12, 2010 any of the utilities serving the building are not separately metered or sub-metered from other buildings in the Monterey Government Center Complex ("MGCC"), then the AOC and the County would amend the TA to provide for "...appropriate prorata allocation and payment of the fees and charges" for utilities. Although at the time the TA was negotiated, Public Works anticipated the installation of separate metering for the North Wing, no sub-meter was established prior to the Court's occupancy of the building. Instead, utilities collectively serve both the Salinas North Wing facility and MGCC.

Amendment No. 2 to the TA establishes a prorata allocation for utilities that serve the North Wing and the MGCC. The prorata allocation is based upon the North Wing's square footage as a percentage of the combined total occupied square footage of the North Wing and MGCC. Excluded from the allocation of utility costs are facilities within the MGCC that are vacant and not in use, and in which the utilities have been turned off.

A copy of the Amendment No. 2 can be found in Attachment A of this Board Report.

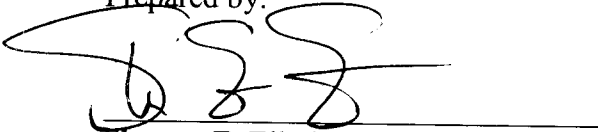
OTHER AGENCY INVOLVEMENT:

County Counsel, and Facilities Management have been involved in the negotiation process with the AOC.

FINANCING:

The utilities for the MGCC are currently paid for out of the Facilities Bureau under Unit 8182. Approval of Amendment No. 2 provides a mechanism for the County to recover from the AOC the share of the utility costs the Court utilizes until separate metering or sub-metering is established for the Salinas Courthouse North Wing. 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.

Prepared by:



Shawne E. Ellerbee 755-4794
Finance Manager III

Approved by:



Yazdan T. Emrani, M.S., P.E.
Director of Public Works

Dated: June 20, 2011

Attachments: Board Order: Attachment A -Amendment No. 2 to the Transfer Agreement for the Salinas Courthouse North Wing