



# Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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December 8, 2009

**VIA E-MAIL AND U.S. MAIL**

Edward L. Knapp, Esq.  
Chief Assistant County Counsel  
El Dorado County  
330 Fair Lane  
Placerville, California 95667

Re: ***AOC Responses to Questions Posed By El Dorado County  
Board of Supervisors***

Dear Ed:

During the conference call between the County and the AOC on October 29, 2009, you informed the AOC that the El Dorado County Board of Supervisors had requested a formal, written response from the AOC concerning two questions related to the anticipated "equity exchange" transaction involving the court facility transferred to the AOC in December 2008 in the El Dorado Center and approximately 3,616 square feet of space in the basement level of the Juvenile Hall in Placerville. The AOC understands the Board's questions to be:

- (1) Will the AOC waive the County Facilities Payment ("CFP") for the El Dorado Center/Juvenile Hall in consideration of the County's willingness to participate in the "equity exchange" transaction?
- (2) The Court Exclusive-Use Area at the Juvenile Hall is approximately 221 square feet larger than the Court's exclusive-use area at the El Dorado Center. Will the AOC give the County "credit" in the future for the 221

square feet of additional space that the Court will occupy in the Juvenile Hall upon completion of the “equity exchange”?

The AOC’s responses are as follows:

- (1) Waiver of CFP. The CFP is a statutory requirement set forth in Article 5 of the Trial Court Facilities Act of 2002 (Gov’t Code sections 70301, *et seq.*) (the “Act”), and the AOC does not have the authority to waive the CFP in consideration of the “equity exchange” transaction. The CFP was originally calculated and approved by the Department of Finance for the court facility in the El Dorado Center as required by the Act, and the parties previously agreed, in concept, that the AOC will continue to accept that same CFP for the Juvenile Hall court facility after the “equity exchange” transaction is completed.

Under the terms of the Act, it is not within the AOC’s purview to waive the County’s statutory obligation to pay the CFP. As you know, the County submits its quarterly CFP payments to the State Controller, not to the AOC, pursuant to the express requirements of the Act, and once the CFP for a court facility has been approved by the Department of Finance, any modification or waiver requires the prior approval of the Department of Finance. Moreover, the CFP is paid to the State in order to provide for ongoing operations, maintenance, and repair costs that the AOC will incur with respect to the originally-transferred court facility, as well as any future substitute court facility. The County’s CFP payments are a critically-needed source of revenue for the AOC, used to fund ongoing operations, maintenance, and repair of the transferred court facilities.

This is particularly true in the case of the court facility that will be located in the County’s Juvenile Hall facility upon completion of the “equity exchange” transaction because, as the County has pointed out, the court facility in the Juvenile Hall will be approximately 221 square feet larger than the Court exclusive-use area that was transferred to the AOC in the El Dorado Center building. Since the AOC has agreed in concept that it will not require the County to calculate a new CFP for the court facility that will be located in the Juvenile Hall basement, but will continue to accept the El Dorado Center CFP for the slightly larger Juvenile Hall court facility, the AOC will already be responsible to fund the ongoing operations, maintenance, and repair of the additional 221 square feet at Juvenile Hall without any related CFP revenue support.

As such, it is not within the AOC's purview or authority to waive the statutorily-proscribed CFP, nor would it be fiscally prudent for the AOC to seek to do so even if the AOC had the authority to waive the CFP. By agreeing to continue to accept the El Dorado Center CFP notwithstanding the "equity exchange" transaction, the AOC has already agreed to accept a CFP for the Juvenile Hall court facility that is favorable to the County.

- (2) Credit for Additional Space at Juvenile Hall. An analysis of the merits of the "equity exchange" transaction contemplated by the County and the AOC must include consideration of certain other cooperative transactions entered into by the County and the Court with respect to the El Dorado Center that predate the completion of the December 29, 2008 transfers of responsibility for the County's court facilities. The AOC and the Court have already given, and agreed to give, various considerations benefitting the County in connection with the "equity exchange" transaction, and the AOC will not agree, in addition to those considerations, also to give the County future credit for the approximately 221 additional square feet of court exclusive-use space in the Juvenile Hall basement.

As described above, the AOC has agreed to continue to accept the CFP originally calculated and approved for the El Dorado Center court facility as the CFP for the Juvenile Hall court facility, which will leave the AOC solely responsible for the cost of ongoing operations, maintenance, and repair of those additional 221 square feet without the related CFP revenue support contemplated in the Act. In addition, the AOC will be responsible for a greater share of the common area costs for the Juvenile Hall since the additional 221 square feet increase the AOC's pro rata share of the Juvenile Hall building.

Additionally, the Court staff vacated the court space in the El Dorado Center in or about April 2005 and agreed to allow the County's Department of Child Support Services ("DCSS") to occupy approximately 500 square feet of the vacated Court space, as reflected in a June 1, 2005 letter agreement signed by the County Counsel and the Presiding Judge of the Court. This arrangement allowed the County to terminate a costly lease and relocate DCSS personnel and operations from the leased premises into the County-owned El Dorado Center. Notwithstanding vacation of the El Dorado Center by Court staff in 2005, the Court continued to maintain the courtroom in the El Dorado Center for occasional overflow proceedings, as well as space for a surplus, high-density filing system (the "TAB Filing System") that the County donated to the Court and moved into the El Dorado Center building, as more fully described below. In the June 1, 2005

letter agreement, the parties agreed that the occupancy arrangements contemplated therein would not prejudice the position of the County or the Court under the Act with respect to the El Dorado Center.

Therefore, in late December 2008, the County and the AOC proceeded to execute and enter into a Transfer Agreement and a Joint Occupancy Agreement for the El Dorado Center in accordance with the Act. Pursuant to the El Dorado Center Transfer Agreement and Joint Occupancy Agreement, on January 2, 2009, the AOC accepted responsibility for, and has performed, the funding and operation of the Court's exclusive-use area in the El Dorado Center, including the 500 square feet occupied by DCSS under the June 1, 2005 letter agreement. Under the El Dorado Center Joint Occupancy Agreement, the AOC has, since January 2, 2009, paid the "AOC Share" of the "Shared Costs" (as those terms are defined in the El Dorado Center Joint Occupancy Agreement) with respect to the El Dorado Center building notwithstanding that Court staff has not been in daily occupancy of the El Dorado Center court facility for several years, and notwithstanding the County's occupancy of 500 square feet of the Court's exclusive-use area pursuant to the June 1, 2005 letter agreement. Those "Shared Costs" represent a pro rata portion of the costs incurred by the County in operating, maintaining, and repairing the "Common Area" of the El Dorado Center building, including building systems, equipment, and structural features, as well as utilities costs and insurance premiums, among other things. The AOC's agreed "Share" of these "Shared Costs" was determined based on both the space occupied by the overflow courtroom and TAB Filing System, as well as the 500 square feet occupied by DCSS, which constitutes slightly more than 14.5 percent of the Court's exclusive-use area in the El Dorado Center.

When the Court vacated the El Dorado Center court facility, it relocated the Court's personnel and operations into space in the South Lake Tahoe building commonly known as the Johnson Building, for which responsibility was also transferred to the AOC in 2008 pursuant to the Act. As such, the AOC has continued to pay its allocated, pro rata portion of the Common Area costs for the El Dorado Center, a building that the Court no longer occupies, while relocating the Court into alternate space for which the AOC is also responsible to pay operations, maintenance, and repair costs under the terms of the Act and the December 29, 2009 Johnson Building Transfer Agreement. This arrangement has represented a net cost benefit to the County.

Additionally, in response to the County's urgent need for additional space at the El Dorado Center, the AOC agreed to allow the County to take occupancy of the balance of the vacated Court exclusive-use area in the El Dorado Center prior to completion of the "equity exchange" transaction. Although DCSS had already taken occupancy of 500 square feet of the Court's space in the El Dorado Center in 2005, on September 30, 2009, the County occupied the balance of the space that was vacated by Court staff in the El Dorado Center in or around April 2005.

Finally, in consideration of the Court's willingness to permit the DCSS to occupy 500 square feet in the El Dorado Center starting in 2005, the County donated to the Court the TAB Filing System, which the County had determined was surplus County property. This donation is described in that certain Agreement For Use of Donated Surplus Property between the County and the Court ("Donation Agreement"). After DCSS relocated from its former leased space into the 500 square feet of El Dorado Center space, DCSS paid to relocate the TAB Filing System to the El Dorado Center and donated the TAB Filing System to the Court pursuant to the Donation Agreement.

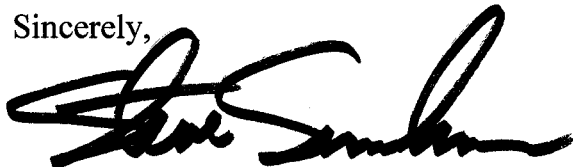
Now, as part of the overall terms of the contemplated "equity exchange" transaction, the AOC and the Court are considering the feasibility of buying a new high-density filing system for the Court to be installed in the Johnson Building, which would allow the Court and the AOC to leave the TAB Filing System in the El Dorado Center building for County use, in which case, the Court would transfer the ownership of the TAB Filing System back to the County at no cost, as contemplated in the Donation Agreement.

Cumulatively, the AOC believes that these considerations offered to the County in connection with the "equity exchange" transaction already constitute a sufficient exchange for the additional 221 square feet that the Court will occupy, and that the AOC will pay to operate, maintain, and repair in the Juvenile Hall basement.

The various interests, rights, and assets that have been and will be exchanged by the AOC/Court and the County in the anticipated "equity exchange" transaction are part of an overall deal negotiated over the past few months with an eye toward a balanced result for both the AOC and the County. Either of the changes proposed by the County Board of Supervisors would likely require a broader reconsideration of the presently-anticipated terms of the "equity exchange" transaction by the AOC and the Court, which would further delay the completion of the exchange. The AOC believes that the anticipated terms of the "equity exchange" transaction cumulatively represent a deal that

is favorable to the interests of the County, the AOC, and the Court, as well as the members of the public within the County community who are served by each of them. The AOC therefore urges the County Board of Supervisors to authorize County staff to proceed with the "equity exchange" transaction on the terms presently contemplated so that it can be completed at the earliest possible date.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Sundman". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Steven Sundman  
Senior Project Manager  
Design and Construction Services  
(916) 263-1378

cc: Kenneth Levy, Esq.  
Ms. Peggy Symons  
Ms. Jacqueline Davenport  
Rachel Dragolovich, Esq.