

Facilities Nos. 43-B3; 43-B4; 43-C1; 43-E1; 43-J1; 43-M1;  
Building Names: Probate Investigators Office; Superior Court  
Administration Office; Criminal Courts Annex;  
Family Court; Traffic Court; and  
Notre Dame Courthouse and associated parking

**FIRST AMENDMENT TO MASTER TRANSFER AGREEMENT  
BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,  
ADMINISTRATIVE OFFICE OF THE COURTS,  
AND THE COUNTY OF SANTA CLARA FOR THE TRANSFER OF  
RESPONSIBILITY FOR COURT FACILITY**

This First Amendment to Master Transfer Agreement (this “**First Amendment**”) is made and entered into by and between the Judicial Council of California (“**Council**”), Administrative Office of the Courts (together, the “**AOC**”), and the County of Santa Clara (“**County**”). The AOC and the County are sometimes together referred to in this First Amendment as the “**Parties**” and individually as a “**Party**”.

A. The County and the AOC entered into a Master Transfer Agreement dated December 16, 2008 (“**Transfer Agreement**”), which sets forth the terms and conditions for the transfer of responsibility for funding and operation of the leased trial court facilities commonly known as: (1) Probate Investigators’ Office (#43-B3) at 111 North Market Street, Suites 950 and 960, San Jose; (2) Superior Court Administration (#43-B4) at 111 West St. John, Suite 100, San Jose; (3) Criminal Courts Annex (#43-C1) at 115 Terraine Street, San Jose; (4) Family Court (#43-E1) at 170 Park Center Plaza, San Jose; (5) Traffic Court (#43-J1) at 935 Ruff Drive, San Jose; (6) Notre Dame Courthouse (#43-M1) at 99 Notre Dame Avenue, San Jose; and (7) Notre Dame Parking (#43-M1) at 85 Notre Dame Avenue, San Jose (collectively, “**Existing Facilities**”).

B. All capitalized terms used in this First Amendment and not otherwise defined herein have the same definitions given to them in the Transfer Agreement.

C. The Parties have continued to negotiate the Project Agreements for the development of a New Courthouse Facility (to be known as the Family Justice Center) and wish to modify the Transfer Agreement to provide for the deferral of the transfer of responsibility for the Existing Facilities thereunder.

The Parties therefore agree as follows:

1. Section 4.4 of the Transfer Agreement, entitled “Amendment Event” is hereby deleted in its entirety and replaced with the following:

“4.4 Amendment Event. If the Parties at any time determine that they will no longer pursue the development of a New Courthouse Facility and that the Project Agreements will not be executed, then within 60 calendar days after such determination is made by the Parties and memorialized in a writing signed by the

County and the AOC, the AOC will assume responsibility for the Existing Facilities or the Relocation Facilities, as applicable, on terms consistent with the Act. To this end, for each Existing Facility or Relocation Facility, as applicable, the Parties will enter into an amendment to this Agreement in substantially similar form as the Form of Schedule Amending Transfer Agreement attached hereto as **Exhibit "A"**, as revised for the particular facts of each Existing Facility or Relocation Facility, which amendment is intended to include: (1) assignments of the applicable Leases for the Existing Facilities (or leases for the Relocation Facilities) from the County to the AOC; and (2) the commencement of the County's obligation to pay the County Facilities Payment in the amounts set forth in section 5.2 of this Agreement, as adjusted under Government Code section 70359; however, there shall be no further adjustment pursuant to Government Code section 70355. In such event, the Parties shall endeavor to execute the Form of Schedule Amending Transfer Agreement along with the applicable exhibits within 60 days. In the event that a landlord does not agree to any proposed amendments by the AOC, pursuant to Government Code section 70323(c)(2), the AOC shall still be required to take assignment of the applicable Lease and complete the transfer of responsibility for the Existing Facility or Relocation Facility, as applicable, as long as that landlord does not require any further modification of the Lease as a condition of the assignment of the Lease. The County's payment of the County Facilities Payment will begin upon completion of the transfers of responsibility for the Existing Facilities or Relocation Facilities as provided in this Agreement."

2. The Parties hereby agree to add the following as section 4.4.1 to the Transfer Agreement:

"4.4.1 Amendments Before Closing Date. The Parties acknowledge that the County's Leases for certain of the Existing Facilities will expire, if not extended or renewed, prior to July 1, 2010. In the event AOC wishes to commence negotiations with the landlords of the Existing Facilities prior to the Closing Date in order to preserve the County's leasehold interest in, and the Court's right to occupy and use, a particular Existing Facility, the County will facilitate AOC's negotiation of such an amendment of the applicable Lease or Leases, including the County's approval and execution of any such amendment, which shall take effect no sooner than July 1, 2010, if necessary."

3. The Parties hereby agree to add the following as section 4.4.2 to the Transfer Agreement:

"4.4.2 Allocation of Responsibility for Payment of Rent Under Leases Amended Before Closing Date. In the event that the AOC negotiates any amendment to a Lease prior to the Closing Date, pursuant to section 4.4.1 of this Agreement, at all times on and after the commencement date of the extended term of the Lease

provided for in such amendment, the AOC shall be solely responsible to pay any and all annual rent due under the Lease, as amended, that is in excess of the rent component of the annual County Facilities Payment that was approved by the DOF for the Existing Facility to which the Lease amendment relates. During the extended term of any such Lease, the County shall be and remain solely responsible to pay the portion of the rent due under each such Lease, as amended, that is equal to the rent component of the annual County Facilities Payment that was approved by the DOF for the applicable Existing Facility. Notwithstanding the foregoing, in the event that the AOC negotiates any amendment to a Lease prior to the Closing Date, pursuant to section 4.4.1 of this Agreement, in which the annual rent due for some or all of the extended term of the Lease is an amount less than the rent component of the annual County Facilities Payment approved by the DOF for the Existing Facility to which the Lease amendment relates, then the County shall annually contribute toward the project for development of the New Courthouse Facility the difference between (a) the annual amount of the rent component of the County Facilities Payment that was approved by the DOF for the applicable Existing Facility, minus (b) the total, annual amount of rent due and payable by the County under the amended Lease for such Existing Facility (“**Rent Savings**”). The County shall contribute such Rent Savings to the New Courthouse Facility project by depositing the Rent Savings amount into the Architecture Revolving Fund managed by the AOC on an annual basis 60 days before the end of each fiscal year.

4. Except as expressly amended by this First Amendment, all terms and conditions of the Transfer Agreement remain in full force and effect as originally written and approved by the Parties.

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The Parties hereby agree to the terms of this First Amendment.

**APPROVED AS TO FORM:**

**ADMINISTRATIVE OFFICE OF THE  
COURTS, OFFICE OF THE  
GENERAL COUNSEL**

By: K. Levy  
Name: Kenneth Levy  
Title: Attorney  
Date: 10/8/09

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

By: G. Walker  
Name: Grant Walker  
Title: Senior Manager, Business Services  
Date: 10/9/09

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

By: \_\_\_\_\_  
Name: Liz Kniss, President  
Board of Supervisors  
Date: \_\_\_\_\_

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

**ATTEST:**

\_\_\_\_\_  
Maria Marinos  
Clerk of the Board of Supervisors

**APPROVED AS TO FORM AND LEGALITY:**

**COUNTY OF SANTA CLARA,  
OFFICE OF COUNTY COUNSEL**

By: \_\_\_\_\_  
Katherine Harasz,  
Deputy County Counsel