



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-6

For the meeting of: Mar 21, 2017

Date: February 08, 2017
To: Board of Supervisors
From: Amy S. Nilsen, County Administrative Officer *AN*
Subject: First Amendment to Joint Occupancy Agreement Between Judicial Council and County of Humboldt

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the First Amendment to the Joint Occupancy Agreement (JOA) between the Judicial Council of California Administrative Office of the Courts and the County of Humboldt due to a change (increase) in "Court Exclusive Use Area" at the courthouse (No. 12-A1) located at 825 Fifth Street, Eureka, CA.
2. Authorize the Chair of the Board to sign the amendment.

SOURCE OF FUNDING:

County General Fund

Prepared by Christopher Shaver *CS*

CAO Approval *Eashiaclleg*

REVIEW:

Auditor _____ County Counsel *BC* Human Resources _____ Other _____

TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: 3/14/17

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor _____ Seconded by Supervisor _____

Ayes _____
Nays _____
Abstain _____
Absent _____

SEE ACTION SUMMARY

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: _____

By: _____
Kathy Hayes, Clerk of the Board

DISCUSSION:

On June 5, 2007, your Board approved the JOA between the Judicial Council, formerly the Administrative Office of the Court, and the county for responsibility of the provision of court facilities pursuant to the Court Facilities Act of 2002.

The current JOA provides that the "Court Exclusive Use Area" is 46,400 square feet and the "County Exclusive Use Area" is 92,675 square feet. However, the First Amendment to the JOA will transfer responsibility from the county to the Judicial Council for the space labeled Veterans on the attached Third Floor Plan Diagram. Due to the transfer of responsibility of space from the county to the Judicial Council, the First Amendment is necessary in order to redefine each entity's "Exclusive Use Area" and to transfer square footage and associated costs from the county to the Judicial Council.

The First Amendment mutually modifies the existing JOA by decreasing the "County Exclusive Use Area" by 570 square feet (originally 92,675 to 92,105); and, increasing the "Court Exclusive Use Area" by same amount (originally 46,400 to 46,970). The "County Share" of 66.23% and "Judicial Council Share" of 33.77% also adjusts the "Shared Costs", as defined in the 2007 JOA.

The Judicial Council has determined that the mediators, currently in room 305, are experiencing noise transfer, which is an issue when mediations are occurring. All attempts to resolve and abate noise transfer have been unsuccessful, such as the installation of wall insulation and a white noise system. The available space, as depicted in the plan diagram, will allow the Judicial Council to move staff to the said location, thus opening up two offices in room 305, which will create a separation between the mediators' offices and address the noise transfer issue.

FINANCIAL IMPACT:

Approval of the First Amendment to the JOA increases the "Judicial Council Share" annual payment by an estimated \$2,400 per year due to the reduction of 570 square feet in "County Exclusive Use Area".

The First Amendment to the JOA supports the Board's Strategic Framework by providing for and maintaining infrastructure along with building interjurisdictional cooperation.

OTHER AGENCY INVOLVEMENT:

The Judicial Council has developed the First Amendment to the JOA; and, the County Administrative Office and Public Works have assisted with negotiating the space and producing the Third Floor Plan Diagram.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board may choose not to approve and authorize the amendment to the JOA; and, direct staff to consider alternatives to the 570 square feet originally occupied by Veterans Services.

ATTACHMENTS:

First Amendment to the JOA (4 copies)

Exhibit A: Third Floor Plan Diagram

Exhibit B: Joint Occupancy Agreement

**FIRST AMENDMENT TO JOINT OCCUPANCY AGREEMENT
BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA
AND THE COUNTY OF HUMBOLDT**

THIS FIRST AMENDMENT TO JOINT OCCUPANCY AGREEMENT (“**Amendment**”) is made and entered into on this _____ day of _____, 2017, by and between the JUDICIAL COUNCIL OF CALIFORNIA (“**Judicial Council**”) and the COUNTY OF HUMBOLDT (“**County**”). For purposes of this First Amendment, the Judicial Council and County are each a “Party” and may be referred to collectively herein as the “Parties.”

RECITALS

A. Judicial Council and County have entered into that certain Joint Occupancy Agreement for the trial court facility located at 825 Fifth Street, in the City of Eureka, California, dated as of June 5, 2007 (“**JOA**”).

B. Pursuant to the JOA, the Parties each have the right to occupy and use the Real Property as described and depicted in Attachment “2” to the JOA. Pursuant to the JOA, the: (1) “Court Exclusive Use Area” means the 46,400 useable square feet of the floor space of the Building, which is exclusively occupied and used by the Court, representing 33.36% of the Total Exclusive Use Area; and (2) “County Exclusive Area” means the 92,675 usable square feet of the floor space of the Building, which is exclusively occupied and used by the County, representing 66.64% of the Total Exclusive Use Area. The Parties now intend to amend the JOA to reflect a mutually agreed upon modification to the Parties’ Exclusive Use Areas as set forth herein.

C. On July 29, 2014, the Judicial Council of California amended rule 10.81 of the California Rules of Court to substitute the “Judicial Council” for the “Administrative Office of the Courts” or the “AOC” in all contracts, memoranda of understanding, and other legal agreements, documents, proceedings, and transactions, with no prejudice to the substantive rights of any Party.

NOW, THEREFORE, the Judicial Council and the County do hereby agree to amend the JOA, as follows:

1. **Incorporation of Recitals; Defined Terms.** The Parties agree the foregoing Recitals are true and correct and are incorporated into this First Amendment by this reference. Unless otherwise defined in this First Amendment, any capitalized term shall have the meaning prescribed to it in the JOA.

2. Definitions. The definition of the terms "AOC Share," "County Exclusive-Use Area," "County Share," and "Court Exclusive-Use Area," as set forth in Section 2 (Definitions) of the JOA, are hereby deleted in their entirety and replaced with the following:

"County Exclusive-Use Area" means the 92,105 usable square feet of the floor space of the Building, which are exclusively occupied and used by the County as depicted on **Attachment "2"** to this JOA, along with the Land.

"County Share" means 66.23% which is the percentage of the Total Exclusive-Use Area that is exclusively occupied and used by the County.

"Court Exclusive-Use Area" means the 46,970 usable square feet of the floor space of the Building, which is exclusively occupied and used by the Court and depicted on **Attachment "2"** to this JOA.

"Judicial Council Share" means 33.77%, which is the percentage of the Total Exclusive-Use Area occupied by the Court.

3. Notices. Section 12 is hereby deleted in its entirety and replaced with the following:

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 Judicial Council:

Judicial Council of California
Real Estate and Facilities Management
Attention: Portfolio Administration Analyst
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Voice: 415-865-5334
Fax: 415-865-4694

With a copy to:

Judicial Council of California
Real Estate and Facilities Management
Attention: Manager, Real Estate
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102-3688
Voice: 415-865-4048
Fax: 415-865-4694

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

Judicial Council of California
Branch Accounting and Procurement
Attention: Manager, Contracts
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102-3688
Voice: 415-865-7989
Fax: 415-865-4326
Email: stephen.saddler@jud.ca.gov

If to the County:

County of Humboldt
County Administrative Officer
825 Fifth Street, Room 111
Eureka, CA 95501-1153
Voice: 707-445-7266
Fax: 707-445-7299

With a copy to:

County of Humboldt
Chair of Board of Supervisors
825 Fifth Street, Room 111
Eureka, CA 95501-1153
Voice: 707-476-2390
Fax: 707-445-7299

With a copy to:

County of Humboldt
County Counsel
825 Fifth Street, Room 110
Eureka, CA 95501-1153
Voice: 707-445-7236
Fax: 707-445-6297

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.

4. Drawing A 2.5, Third Floor Site Plan, Attachment "2". Drawing A 2.5 – Third Floor Site Plan, included in Attachment "2" to the JOA is hereby deleted in its entirety and replaced with the Drawing A 2.5, Third Floor Site Plan attached hereto as **Exhibit "A."**

5. Substitution of "Judicial Council" for "Administrative Office of the Courts" Name. All references to "Administrative Office of the Courts" or "AOC" in the JOA shall be replaced by "Judicial Council" or "Council" with no prejudice to the substantive rights of the Parties, and the Judicial Council will continue to perform all duties, responsibilities, functions, or other obligations, and bear all liabilities, and exercise all rights, powers, authorities, benefits, and other privileges attributed to the "Administrative Office of the Courts" or "AOC" in the JOA.

6. No Other Changes. Except as it is expressly amended pursuant to this First Amendment, the JOA remains in full force and effect as originally signed and approved by the Judicial Council and the County. In the event of any conflict between the JOA and this First Amendment, the terms of this First Amendment shall prevail.

7. Governing Law. This First Amendment is exclusively governed by the laws of the State of California, without regard to its conflict of law principles.

8. Binding Effect. This First Amendment shall apply to, bind, and inure to the benefit of the Parties, and their respective governing boards, officers, members, legal representatives, successors, and assigns.

9. Effective Date. The Parties agree that this Amendment shall become effective on the date it is fully executed.

[SIGNATURE PAGE FOLLOWS]

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

APPROVED AS TO FORM:
Judicial Council of California,
Legal Services

JUDICIAL COUNCIL OF CALIFORNIA

By: CR Martel
Name: Charles R. Martel
Title: Supervising Attorney
Date: Feb 28, 2017

By: Stephen Saddler
Name: Stephen Saddler
Title: Manager, Contracts
Date: 2/28/17

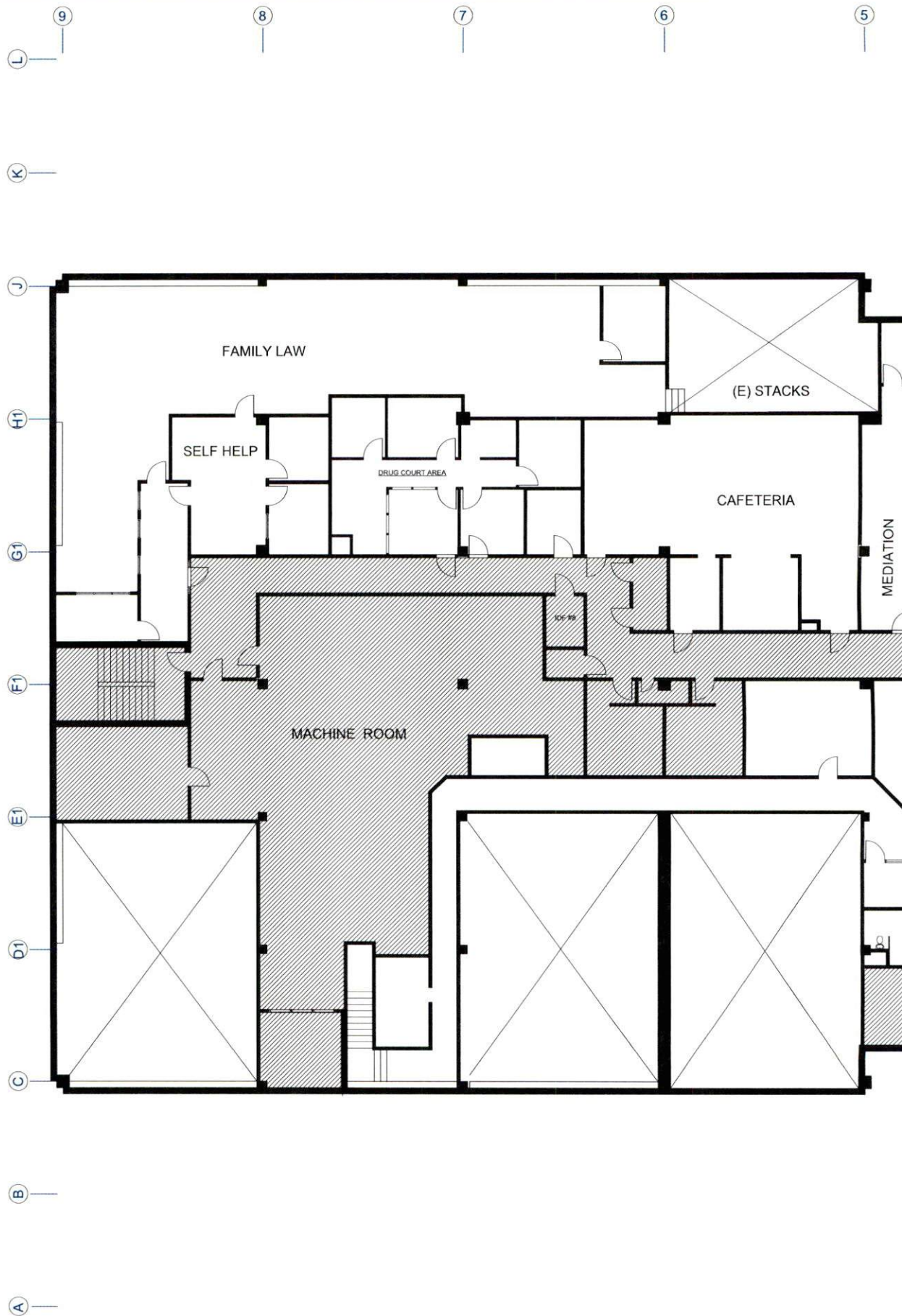
ATTEST:
_____, Clerk of the Board

COUNTY OF HUMBOLDT, a political
subdivision of the State of California

By: N/A
Name: _____
Title: Deputy
Date: _____

By: Virginia Bass
Name: Virginia Bass
Title: Chairperson, Board of Supervisors
Date: _____

**EXHIBIT "A" TO FIRST AMENDMENT TO
JOINT OCCUPANCY AGREEMENT
(COUNTY OF HUMBOLDT)
Drawing A 2.5, Third Floor Site Plan
Attachment "2" to JOA
(See Attached)**



1 THIRD FLOOR PLAN