Resolution authorizing Chairman to sign a Memorandum of Understanding with the Administrative Office of the Courts and the County of Mariposa for the continued use of the historic Mariposa County Courthouse pursuant to Government Code Section 70329.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Pursuant to the Trial Court Facilities Act of 2002 the State Legislature enacted legislation for the transfer of court facilities throughout the State from County to Judicial Council. Mariposa County was concerned with the potential loss of the oldest functioning Courthouse in the State of California and a building that was central to the identity of Mariposa County. The Board of Supervisors directed staff to enter into negotiations that would allow retention of the Courthouse by the County. The Board of Supervisors has previously met in open session and authorized staff to offer the agreement presented for final approval.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Pursuant to the Trial Court Facilities Act of 2002 the County of Mariposa would still be obligated to negotiate the future use of the facility by the Judicial Council.

Financial Impact? ( ) Yes (x) No
Current FY Cost: $
Annual Recurring Cost: $
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded
Amount in Budget: $
Additional Funding Needed: $
Source:
Internal Transfer
Unanticipated Revenue
Transfer Between Funds
Contingency
( ) General ( ) Other

MOU

List Attachments, number pages consecutively

The foregoing instrument is a correct copy of the original on file in this office.
Date:
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: Deputy

CAO: [Signature]
TO: TOM GUARINO, County Counsel
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Adopt a Resolution Authorizing the Chairman of the Board of Supervisors to Sign a Memorandum of Understanding with the Administrative Office of the Courts and the County of Mariposa for the Continued use of the Historic Mariposa County Courthouse Pursuant to Government Code Section 70329

RESOLUTION 06-302

THE BOARD OF SUPERVISORS OF MARIPosa COUNTY, CALIFORNIA

ADOPTED THIS Order on June 27, 2006

ACTION AND VOTE:

11:12 a.m. Tom Guarino, County Counsel;
Adopt a Resolution Authorizing the Chairman of the Board of Supervisors to Sign a Memorandum of Understanding with the Administrative Office of the Courts and the County of Mariposa for the Continued use of the Historic Mariposa County Courthouse Pursuant to Government Code Section 70329

BOARD ACTION: Tom Guarino presented the staff report, and he asked the Board to recess the meeting to the Courthouse after taking action for the official signing of the Memorandum of Understanding. Board members commended Tom Guarino for his efforts in obtaining this Memorandum of Understanding which provides for the protection of the Courthouse. (M)Pickard, (S)Fritz, Res. 06-302 was adopted approving the Memorandum of Understanding/Ayes: Unanimous. Chairman Stetson called for input from the public and none was received.

11:16 a.m. Recess

11:40 a.m. The Board reconvened at the Courthouse for the signing ceremony of the Memorandum of Understanding between the Administrative Office of the Courts and the County of Mariposa for the continued use of the historic Mariposa County Courthouse pursuant to Government Code Section 70329. Chairman Stetson welcomed everyone and provided information on the history of the Courthouse. Judge Wayne Parrish, Presiding Judge of the Superior Court, acknowledged the presence of Judge Walton, Superior Court, and the members of the Board of Supervisors. He recognized Supervisor Pickard and former Supervisor Balmain for their work with Senator Poocigian and Assemblyman Cogdill and the Administrative Office of the Courts in reaching this agreement. Judge Ronald M. George, Chief Justice of California and Chair of the Judicial Council, noted that Mariposa is the first county in the state to complete the provisions outlined by the Trial Court Facilities Act of 2002 concerning the State’s stewardship under the governance of the Judicial Council. He noted that this caps
nine years of efforts by the legislature, the Trial Court Funding Act of 1997, which made funding of court operations a state responsibility.
William “Bill” C. Vickrey, Administrative Director of the Courts, invited the following to join him in signing the Memorandum of Understanding: Judge Parrish, Chairman Stetson and Tom Guarino. After signing the Memorandum of Understanding, Bill Vickrey presented resolutions from the Administrative Office of the Courts to the Chairman Stetson, Judge Parrish and Cyndi Busse, Court Executive Officer. Mary Alice Kaloostian, representing Senator Poochigian, and Bob Wiedman, representing Assemblyman Cogdill, presented a Certificate of Recognition to the County for being the first in the state to complete the provisions of the Trial Court Facilities Act of 2002.
Chairman Stetson recognized the presence of former Supervisor Garry Parker.

Cc: Mary Hodson, Deputy CAO
Cyndi Busse, Court Executive Officer
Dana Hertfelder, Public Works Director
Chris Ebie, Auditor
File
MEMORANDUM OF UNDERSTANDING
BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS,
THE COUNTY OF MARIPosa, AND
THE SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MARIPosa,
FOR THE CONTINUED USE OF
THE HISTORIC MARIPosa COUNTY COURTHOUSE
IN SATISFACTION OF
GOVERNMENT CODE SECTION 70329

This MEMORANDUM OF UNDERSTANDING ("MOU") is entered into on the 27th day of June, 2006 among the Judicial Council of California, Administrative Office of the Courts ("AOC"), the County of Mariposa, a political subdivision of the State of California ("County"), and the Superior Court of California, County of Mariposa ("Court"), together referred to in this MOU as "the Parties."

Whereas, the Lockyer-Isenberg Trial Court Funding Act of 1997, AB 233 (Escutia and Pringle), provides for the transfer of the primary obligation for funding of court operations from the counties to the State of California, and;

Whereas, the restructuring of funding for the trial court operations accomplished by the Lockyer-Isenberg Trial Court Funding Act of 1997 ended a dual system of county and state funding of, and created a more stable and consistent funding source for, trial court operations, and;

Whereas, the Trial Court Facilities Act of 2002 (SB 1732) (Escutia) ("the Act") was enacted to provide for the transfer of responsibility for funding and operation of trial court facilities from the counties to the State of California on behalf of the Judicial Council of California, and;

Whereas, Government Code section 70329 provides for an exception to the transfer of court facilities for historical buildings containing court facilities, and;

Whereas, the Mariposa County Historic Courthouse is the center of the legal community of the county and has served as the primary site for community and government functions since its construction in 1854, and;

Whereas, the County’s only Court Facility is located in the Mariposa County Historic Courthouse ("Historic Courthouse" to include "Court Facility");

Whereas, the Historic Courthouse is an essential part of the Mariposa community and is of singular significance to California judicial history serving as the oldest fully functioning courthouse in the State of California, and;
Whereas, the Historic Courthouse sits on land obtained from Mr. John C. Fremont, and;

Whereas, the Historic Courthouse has served as the primary government center for the County until very late in the twentieth century and has served for over 150 years as the County Courthouse, and;

Whereas, the Parties wish to preserve the significant legal legacy of the County and State by providing for the Court’s continued use of the Historic Courthouse,

NOW, THEREFORE, the AOC, County, and Court agree as follows:

AGREEMENT

1. Purpose

This Memorandum of Understanding constitutes an agreement among the AOC, County, and Court under Government Code Section 70329 (all further references to sections are to the Government Code unless otherwise specified) by which the County will continue to make available to the AOC and the Court the Court Facility (as that term is used in the Act) in the Historic Courthouse, commonly known as the Mariposa County Courthouse, located at 5088 Bullion Street, County of Mariposa, California 95338. The Parties make and enter into this MOU with the intention that it be consistent with the provisions of the Act.

2. Authorized Signatories

The AOC’s authorized signatory for this Agreement is the AOC’s Administrative Director of the Courts, William C. Vickrey. The County’s authorized signatory for this Agreement is the Chairman of the County’s Board of Supervisors, Lee Stetson. The Court’s authorized signatory for this Agreement is the Presiding Judge, Hon.Wayne R. Parrish.

3. No Transfer/Continuation of Operational Responsibilities

a. For as long as the Court occupies the Historic Courthouse, no transfer of title to the real property or transfer of responsibility for the Court Facility to the State will occur.

b. The Parties agree that Section 70329 relieves the County of its responsibilities to pay a County Facilities Payment (CFP) under Section 70312 so long as the County continues to make the Historic Courthouse available to the AOC and Court for use as a Court Facility.

c. The County will continue to be responsible for the operation and maintenance of the Historic Courthouse, performing all necessary repairs and maintenance, including deferred maintenance, so that the Historic Courthouse remains suitable for use as a Court Facility. Neither the AOC nor the Court will be responsible for the operation and maintenance of the Historic Courthouse. Because the Historic Courthouse is the only Court Facility in the County, the AOC will bear responsibility for the operation and maintenance, except as provided in
Section 4 of this agreement, of any new Court Facilities required to accommodate future program growth, including but not limited to new judgeships.

d. The Courthouse Construction Fund (County Fund No. 502), established by Section 76100, will continue to be available to the County subject to Sections 70403 and 70404 and the terms of this agreement. When the AOC and Court vacate the Historic Courthouse, the authority for the Courthouse Construction Fund ("the Fund") will expire consistent with Sections 70375 and 76000. In lieu of the procedures set forth in Section 70404, County will provide to the Presiding Judge a written description of any proposed expenditure from the Fund; the Presiding Judge will review and approve or deny in writing all expenditures or encumbrances from the Fund.

e. If the AOC should elect to relocate the Court Facility in its entirety from the Historic Courthouse to a replacement facility, the State will have the sole responsibility to acquire, design, construct, operate, and maintain the replacement Court Facility, and the County will have no further responsibilities for Court Facilities other than the CFP under Section 70353 and as provided in Section 4 herein. At all times before the State elects to relocate the Court Facility into a replacement facility, the County will continue to have the right to provide, with consent of the Judicial Council and the Presiding Judge of the Superior Court, alternative court facilities of at least comparable size, condition, and utility under Section 70329(b)(2).

f. The AOC acknowledges the significant legal legacy of the Historic Courthouse and its importance to both State and county jurisprudence. The AOC acknowledges the County's desire to maintain and continue the more than 150 years of continuous California judicial history which the Historic Courthouse represents, and agrees that upon the AOC's relocation of the Court Facility to a new location, the Parties will negotiate for a continued judicial presence at the Historic Courthouse sufficient to maintain its status as the oldest functioning courthouse in the State of California.

4. County Facilities Payment

a. When the Court vacates the Historic Courthouse, the County will then begin to pay to the State the estimated quarterly County Facilities Payments (CFP) under Section 70353. As the State has not appropriated any funding for a replacement Court Facility for the Historic Courthouse, the Parties do not expect that the AOC and Court will vacate the Historic Courthouse in the near future. The CFP will provide a source of funding for the ongoing operation and maintenance of future Court Facilities consistent with the intent of the Legislature in enacting Government Code Section 70351.

b. Consistent with the Legislature's intent, the CFP will be limited to that amount the County historically expended for operation and maintenance of the Court Facility, and the State will pay for ongoing operation and maintenance of any new Court Facility in excess of the County's CFP.

c. The Parties agree that when the CFP commences upon the relocation of the Court Facility from the Historic Courthouse, the first four quarterly CFP's will be based upon the
State’s and County’s good faith estimates of the operating, maintenance, repair, insurance, and utility expenses projected for those expenses of the replacement Court Facility during the first year of its operation adjusted proportionately to reflect only the gross area that the Court occupied in the Historic Courthouse.

d. After one year of occupancy in the replacement Court Facility, the actual expenses of the first year of court operations, proportionately adjusted as above, will be used to determine the permanent quarterly CFP. The AOC and the County will compare the estimated and actual expenses for the first year of occupancy of the replacement Court Facility at the end of the first year to determine the amount of a one-time reconciliation payment to either the County or State. It is anticipated that the County will benefit by this approach because the Parties assume that the cost to operate and maintain a modern Court Facility will be less than those costs for the Historic Courthouse.

5. **Disposition of Historic Courthouse, Furniture, and Fixtures**

Because no transfer of responsibility or title will occur for the Historic Courthouse, Section 70391(c) will not apply. The AOC relinquishes any rights under the Act to the Historic Courthouse, including but not limited to, all real property, and all improvements, historical fixtures, and historical furniture, except for any personal property determined to the property of the Court under AB 233.

6. **Dispute Resolution**

a. Any dispute between the Parties relating to this Agreement will first be subject to informal negotiations consisting of a letter from the party alleging the dispute to the other parties and identifying it as a request for dispute resolution under this paragraph of the Agreement. Any party receiving such a request for dispute resolution must respond within thirty calendar days. The Parties will then engage in an unassisted negotiation regarding the dispute within the next ninety days or as otherwise mutually agreed in writing. At the conclusion of the informal negotiations, the Parties will mediate the dispute, at the request of any party.

b. The Parties will within sixty days mutually agree to a mediator. If the Parties within sixty days do not agree to a mediator, any party may seek to have the Court appoint a qualified mediator.

c. Within thirty days of the selection or appointment of the mediator, the mediator must set a date, not more than ninety days in the future unless the Parties so agree, for the Parties to submit a written summary of issues and disputes. The Parties will equally share the costs of the mediator and any other associated expenses. A written agreement regarding compensation expenses must be reached between the mediator and the Parties before the mediation is commenced.

d. After consulting with the Parties, the mediator will fix the date, time, and place of each mediation session to be held at any convenient location agreeable to the Parties and the mediator. The mediation must be completed within sixty calendar days after the date designated
for the delivery of the mediation statements unless the Parties and mediator otherwise mutually agree in writing.

e. The Parties must attend the mediation sessions and have a representative familiar with the facts of the dispute and the authority either to negotiate on behalf of or to effectively recommend settlement to the entity he/she represents. Parties to the mediation may have the assistance of an attorney or other representative of their choice at its sole expense. Other persons may attend the mediation sessions only with the consent of all Parties and the mediator.

f. The mediation statements and mediation will be confidential in all respects, and the provisions of California Evidence Code Sections 1152 and 1154 will apply to all written and oral evidence presented in the mediation and to any and all settlement communications or mediation communications made during the mediation itself or otherwise in furtherance of or related to the mediation or settlement of the dispute.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the day and year first above written.

JUDICIAL COUNCIL OF CALIFORNIA,
ADMINISTRATIVE OFFICE OF THE COURTS

By: __________________________
Name: William C. Vickrey
Title: Administrative Director of the Courts
Date: 6-27-06

THE COUNTY OF MARIPOSA

By: __________________________
Name: Lee Stetson
Title: Chairman, Mariposa County Board of Supervisors
Date: 6-27-06

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MARIPOSA

By: __________________________
Name: Hon. Wayne R. Parrish
Title: Presiding Judge
Date: 6-27-06

APPROVED AS TO FORM:

By: __________________________
Name: Thomas P. Guarino
Title: County Counsel
Date: 6-27-06