



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on February 25-26, 2016

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Title	Agenda Item Type
Court Facilities: Disposition of Chico and Corning Courthouses	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	February 26, 2016
Recommended by	Date of Report
Facilities Policies Working Group	January 28, 2016
Hon. Douglas P. Miller, Chair	Contact
Hon. Marla O. Anderson, Vice-Chair	Eunice Calvert-Banks, 415-865-4048 <a href="mailto:eunice.calvert-banks@jud.ca.gov">eunice.calvert-banks@jud.ca.gov</a> Charles Martel, 415-865-4967 <a href="mailto:charles.martel@jud.ca.gov">charles.martel@jud.ca.gov</a>

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### Executive Summary

The Corning Courthouse in Tehama County and the Chico Courthouse in Butte County have been permanently closed by their respective courts and are unsuitable to the needs of the judicial branch. In each case, local county government has expressed a strong interest in acquiring the closed court facility, and the local court supports such a disposition. To eliminate the council's continuing liability and expense in holding these permanently closed court facilities and to realize the value of those assets in fair-market-value sales transactions, the Facilities Policies Working Group recommends authorizing and approving the sale of those courthouses as either nonsurplus or surplus properties, depending on how the Legislature frames the disposition of the San Pedro Courthouse, which was approved by the Judicial Council in 2015.

### Recommendation

The Facilities Policies Working Group recommends that the Judicial Council, effective February 26, 2016:

1. Authorize and approve the sale of the Corning Courthouse to Tehama County and the Chico Courthouse to Butte County in fair-market-value transactions, with the final form of the legislation authorizing sale of these court facilities conforming to the final form of legislation authorizing disposition of the San Pedro Courthouse;
2. Direct council staff to take all actions necessary to obtain statutory authorization to dispose of these facilities and to draft and negotiate purchase and sale agreements with the counties; and
3. Delegate to the Administrative Director the authority to sign a real property purchase and sales agreement for each facility, contingent on legislative authorization for the sale of the properties.

### **Previous Council Action**

In April 2015, the Judicial Council declared the San Pedro Courthouse as surplus, with proceeds from its sale to be deposited in accordance with article III, section 9 of the California Constitution into the Deficit Recovery Bond Retirement Fund until those bonds are paid off<sup>1</sup> and then into the Special Fund for Economic Uncertainties (SFEU), and authorized its disposition and sponsorship of legislation to accomplish that goal.

In October 2015, the Judicial Council approved a short-term lease of the Corning Courthouse to the County of Tehama pending the sale of the courthouse to the county.

In December 2015, the Judicial Council approved sponsorship of an alternative proposal to authorize the disposition of the San Pedro Courthouse as nonsurplus to allow the judicial branch to retain the proceeds of its sale in the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund.

### **Rationale for Recommendation**

#### **Background**

The State of California, acting by and through the Judicial Council of California, Administrative Office of the Courts, is the record title holder of both the Chico and Corning Courthouses, which it acquired through the Senate Bill 1732 transfer process.<sup>2</sup> The state holds 100 percent equity interest in both facilities.

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<sup>1</sup> The bonds were fully paid off in the 2015-2016 Budget Act and so any funds received on a surplus sale would go to the Special Fund for Economic Uncertainties.

<sup>2</sup> The Judicial Council in the past referred to its staff as “the Administrative Office of the Courts.” Rule 10.81(b)(4) of the California Rules of Court provides as follows:

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” arising from contracts, memorandums of understanding, or other legal agreements, documents, proceedings, or transactions. The Judicial Council may be substituted for the “Administrative Office of the Courts” or “AOC” wherever necessary, with no prejudice to the substantive rights of any party.

The Chico Courthouse is located at 655 Oleander Avenue in Chico and is an approximately 12,390-square-foot building on approximately 1.25 acres. The building contains two courtrooms (one large and one small), two chambers, and clerk and administrative space. It is situated between two county buildings, and the county's IT system is located in a large closet in the courthouse to which the county has access rights. The Superior Court of Butte County closed the Chico Courthouse to the public in March 2015 when it moved to the new North Butte County Courthouse. The Capital Outlay Budget Change Proposal (COBCP) for the new courthouse provided that operations in the Chico Courthouse would be consolidated into the new courthouse. In an appraisal dated May 2015, the fair market value of the Chico Courthouse was \$830,000. The Judicial Council is responsible for the costs of operations and maintenance of the Chico Courthouse.

The Corning Courthouse is located at 720 Hoag Street in Corning and is an approximately 4,300-square-foot building situated on a half-acre parcel of real property. The Superior Court of Tehama County closed the Corning Courthouse to the public in July 2013 as a result of budget cuts. The COBCP for the new Red Bluff Courthouse provided that operations in the Corning Courthouse would be consolidated into the new courthouse. Under council action in October 2015, the council leased the Corning Courthouse to the County of Tehama. That lease shifted to the county all costs of operating and maintaining the building and includes language wherein the council acknowledges the county's right under Government Code section 70391(c)(2) to purchase the property at its fair market value subject to prior legislative authorization.<sup>3</sup> According to an appraisal dated February 2014, the fair market value of the Corning Courthouse was \$275,000.

Both of the facilities are unsuitable to the needs of the judicial branch, in each case the court supports the sale of the facility back to the respective county (see Attachments A and B), and both counties are eager to proceed. The council and judicial branch as a whole will benefit from the transactions because of the elimination of operations and maintenance costs and liability risks associated with the closed facilities. The judicial branch would also benefit from the sales if proceeds are deposited into the ICNA.

### **Legal authority**

Every sale of state-owned real property, including these two closed court facilities, must be specifically authorized by statute.<sup>4</sup> The language of the legislation will determine whether proceeds from those sales stay within the judicial branch in the ICNA or are diverted outside the branch to the SFEU. The final form of the legislation authorizing sale of these court facilities will be determined by the Legislature, with input from the judicial and executive branches. To date, no sale of any court facility has been finally approved by the Legislature, though legislation for the sale of the San Pedro Courthouse, referenced above, is currently in process. The final

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<sup>3</sup> All future code references in this report are to the Government Code, unless otherwise noted.

<sup>4</sup> *People v. Chambers*, 37 Cal.2d 552.

form of the San Pedro legislation will serve as precedent for the legislation required for the Chico and Corning Courthouses. A brief discussion of the legal authority for each of the two main alternatives follows.<sup>5</sup>

Under the preferred and recommended alternative, the disposition is framed as a nonsurplus exchange whereby an unsuitable court facility is exchanged for one or more suitable court facilities—a position supported by existing legislation. The Government Code (§§ 14673.3, 14673.9, 14673.10, and 14673.11) contains several provisions that appear to rely on this principle, authorizing disposition by the Department of General Services of state-owned property that has been declared to be nonsurplus. Relying on the grant of general authority under 70391(a) and the fact that disposition of a nonsurplus court facility is not expressly prohibited, disposition of a court facility through an exchange for a replacement court facility should therefore not be subject to article III, section 9 of the California Constitution. If the Legislature authorizes the sales of the Chico and Corning Courthouses in a manner similar to those sections of the Government Code, proceeds from those sales would be deposited in the ICNA and retained for use by and for the judicial branch.

Alternatively, if the sales of the Chico and Corning court facilities are treated as surplus, then under section 70391(c) and article III, section 9 of the Constitution, proceeds from those sales would be directed outside the judicial branch to the SFEU.<sup>6</sup>

### **Comments, Alternatives Considered, and Policy Implications**

This proposal was not circulated for comment. Staff has received written communication from both the Superior Court of Butte County and the Superior Court of Tehama County stating that the respective facility is no longer being used for court operations, the court does not intend to resume court operations at the court location, and the court supports the disposition of the facility through a sale to the transferring county (see Attachments A and B).

### **Implementation Requirements, Costs, and Operational Impacts**

In informal discussions with the counties, staff has been informed that the counties are very interested in reacquiring the facilities. If for some reason either county changes its position and is no longer interested in reacquiring the facility after staff has obtained legislative authorization, the facility will then be offered to other state and local government agencies before staff considers other methods of disposition.

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<sup>5</sup> Note that some variation of these alternatives may emerge as the San Pedro legislation is finalized.

<sup>6</sup> Article III, section 9 of the Constitution provides that proceeds from the sale of surplus state property shall be used to pay the principal and interest on bonds issued under the Economic Recovery Bond Act authorized at the March 2, 2004, statewide primary election and that, after those bonds are fully paid off, the proceeds shall be deposited into the SFEU, or any successor fund. The fiscal year 2015–2016 budget provided for full repayment of the bonds, and so proceeds from the sale of state property that has been declared surplus, such as the Chico and Corning Courthouses, would be deposited into the SFEU.

Out-of-pocket costs will be incurred in the disposition process, including costs of appraisals and title and escrow fees. Any such costs incurred by the council will, however, be offset by the sale proceeds.

### **Attachments and Links**

1. Attachment A: E-mail from Caryn A. Downing, Court Executive Officer, Superior Court of California, County of Tehama
2. Attachment B: E-mail from Kimberly Flener, Court Executive Officer, Superior Court of California, County of Butte
3. Link C: [Government Code section 14673.3](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.3),  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=14673.3](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.3)
4. Link D: [Government Code section 14673.9](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.9),  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=14673.9](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.9)
5. Link E: [Government Code section 14673.10](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.10),  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=14673.10](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.10)
6. Link F: [Government Code section 14673.11](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.11),  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=14673.11](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=14673.11)
7. Link G: [Government Code section 70391](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=70391),  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=70391](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=70391)
8. Link H: [California Constitution Article III, section 9](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS&sectionNum=SEC.%209.&article=III),  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=CONS&sectionNum=SEC.%209.&article=III](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS&sectionNum=SEC.%209.&article=III)

**Calvert-Banks, Eunice**

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**Subject:** FW: Corning

Hi Eunice,

The Court supports the sale of the Corning courthouse. Please let me know if you have any other questions.

Have a great weekend.

Thanks, Caryn

Caryn A. Downing  
Court Executive Officer  
Superior Court of California, County of Tehama  
633 Washington Street  
Red Bluff, CA 96080  
530-527-6198

**Calvert-Banks, Eunice**

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**From:** Kimberly Flener <kflener68@gmail.com>  
**Sent:** Friday, January 29, 2016 11:40 AM  
**To:** Calvert-Banks, Eunice  
**Cc:** Holst, Rich; Orr, Jarrod  
**Subject:** Butte Superior Court

Good morning, Eunice,

This email is to confirm that Butte Superior Court supports the sale of the Chico Courthouse property located at 655 Oleander, Chico, CA, to the County of Butte.

If you need anything further, please advise.

Kimberly Flener  
Court Executive Officer  
Butte Superior Court  
(530) 532-7013

Sent from my iPhone