



Judicial Council of California

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PATRICIA GUERRERO

*Chief Justice of California
Chair of the Judicial Council*

MILLICENT TIDWELL

Acting Administrative Director

April 27, 2023

Ms. Elishia Hayes
County Administrative Officer
Humboldt County
825 Fifth Street, Room 112
Eureka, California 95501-1153

Re: Reporting of Revenues and Expenditures per Government Code 70403(a)

Dear Ms. Hayes:

I am following up on correspondence sent previously regarding the conclusion of bond indebtedness on the Humboldt County Courthouse and the County's refusal to transfer the Courthouse Construction Fund (CCF) as required by Government Code section 70402. Per our records, the County retired the debt paid on Humboldt County Courthouse on December 4, 2017. Pursuant to Government Code section 70402(a), any amount in a county's CCF established per Government Code section 76100 shall be transferred to the State Court Facilities Construction Fund at the later of the following: (1) the date of the last transfer of responsibility for court facilities from the county to the Judicial Council, or December 31, 2009, whichever is earlier, or (2) the date of the final payment of bonded indebtedness for any court facility that is paid from that fund. There is no statutory authority that permits the County to hold onto the balance of its CCF funds and use those funds to repay the county General Fund for non-CCF funds it used to pay part of the bonded indebtedness.

As noted in previous correspondence, all agreements have been completed, and the facilities in your county have transferred to the state. A timeline of correspondence between the County and the Judicial Council is included as an attachment. Based upon the square footage transferred to the state, 91.06 percent of the balance of the county's CCF is subject to transfer to the State Court Facilities Construction Fund, as well as any future collections.

Additionally, an amended Board of Supervisors resolution should reflect a reduction from \$7 per \$10 to \$5.19 per \$10 upon every fine, penalty, or forfeiture imposed and collected by the courts

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for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code (Government Code section 76000).

Please remit a check to the State of California – Judicial Council and mail to the following address. Please include verification of the fund balance at time of issuance. Upon receipt, the check will be deposited into the State Court Facilities Construction Fund in accordance with Government Code section 70402(a).

Judicial Council
Attn: Accounts Receivable
455 Golden Gate Avenue
San Francisco, California 94102-3688

Please contact Becky Porter at 916-643-7035 or at becky.porter@jud.ca.gov if you have any questions related to this matter.

Sincerely,



Zlatko Theodorovic
Director, Judicial Council Budget Services

ZT/bp
Attachment

cc: Hon. Gregory Elvine-Kreis, Presiding Judge, Superior Court of Humboldt County
Ms. Kim Bartleson, Court Executive Officer, Superior Court of Humboldt County
Mr. Alexander Grotewohl, Deputy County Counsel, Humboldt County
Ms. Emma Jungwirth, Assistant Program Budget Manager, Department of Finance
Ms. Dawn Payne, Attorney, Legal Services, Judicial Council
Mr. Michael Giden, Managing Attorney, Legal Services, Judicial Council
Ms. Fran Mueller, Deputy Director, Budget Services, Judicial Council
Ms. Pella McCormick, Director, Facilities Services, Judicial Council
Mr. Jason Lopez, Director, Branch Accounting and Procurement, Judicial Council

Summary of Correspondence
Between Judicial Council and Humboldt County

Attachment 1

- **March 6, 2019:** Email to Ms. Amy Nilsen, Humboldt County Administrative Officer to alert the County pursuant to Government Code (GC) section 70402(a) any amount in a county's Courthouse Construction Fund (CCF) established per Government Code section 76100 shall be transferred to the State Court Facilities Construction Fund at the later of the following: (1) the date of the last transfer of responsibility for court facilities from the county to the Judicial Council, or December 31, 2009, whichever is earlier, or (2) the date of the final payment of bonded indebtedness for any court facility that is paid from that fund. According to our records, the County retired the debt paid on Humboldt County Courthouse on 12/4/2017.
- **March 18, 2019:** Response received from Mr. Jeffrey Blanck, Humboldt County Counsel stating that GC 76000(a)(2) allows the County to continue collecting CCF until the monies borrowed by the County are repaid. It is stated that the County's negative balance owed is over \$1.2M.
- **September 14, 2020:** Judicial Council responded to the County explaining that GC 70402 contains language that the county *shall* transfer funds to the State Court Facilities Construction Fund and there is no statutory authority for the County to recover non-CCF funds used to pay the bonded indebtedness.
- **September 24, 2020:** Received notification that our email was received, and that Mr. Blanck is no longer with the County. Mr. Jefferson Billingsley, Interim County Counsel would be reviewing the documents.
- **October 23, 2020:** Mr. Billingsley provided an update that he had obtained the underlying documents from storage regarding this matter.
- **December 30, 2020:** Email to Mr. Billingsley to touch base regarding his review.
- **January 21, 2021:** Email from Mr. Billingsley stating Humboldt was still reviewing and should have more information to communicate in the near future.
- **October 12, 2021:** Email to Mr. Billingsley requesting a status update.
- **October 21, 2021:** Email from Mr. Billingsley stating he would have a response from the County early next week.
- **October 25, 2021:** Letter from Humboldt County stating that they believe pre-existing contractual obligations documented in the MOU between the County and the State that predate the legislation entitles the County to continue to receive revenues to pay down accumulated debt for courthouse construction.
- **August 16, 2022:** Judicial Council's Legal Services office responded to County explaining that it provided no authority for its claim that it can continue to hold onto the CCF funds and instead the CCF funds must be transferred to the State Court Facilities Construction Fund.
- **August 30, 2022:** Legal Services email to Mr. Scott Miles, Interim County Counsel to confirm that he received response.
- **September 1, 2022:** Email from Mr. Miles that he received response and needed to consult with County Administrative Officer and other County officials.
- **October 11, 2022:** Legal Services email to Mr. Miles to follow up regarding County's response.

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- **October 27, 2022:** Email from Mr. Miles stating that County Counsel's office was working with other County departments and would contact Legal Services soon.
- **October 27, 2022:** Legal Service email to Mr. Miles explaining that it learned of the State Controller's preliminary finding in its audit that Humboldt Superior Court is incorrectly imposing \$7.00 for every \$10 portion of base fines in Government Code section 76100 local penalties. According to the preliminary finding, the court should only be imposing \$5.19 for every \$10 base fine after December 2017, as the county paid off its remaining bond indebtedness in December 2017.
- **November 8, 2022:** Legal Services had a conference call with Mr. Alex Grotewohl, Deputy County Counsel at Humboldt, where the County indicated that the County has not changed its position that it should be able to maintain holding onto and using the CCF funds and that they are also waiting to see whether the SCO will adopt its preliminary finding as a final finding.
- **November 8, 2022:** Legal Services email to Mr. Grotewohl after call confirming that County will provide written response by end of the month providing support for its position that, notwithstanding the auditor's preliminary finds and clear statutory language, it can continue to hold onto the CCF funds.
- **November 9, 2022:** Email from Mr. Grotewohl that he intends to provide written response by the end of the year, not end of the month.
- **January 4, 2023:** Legal Services email to Mr. Grotewohl checking on the status of the County's response.
- **January 9, 2023:** Email from Mr. Grotewohl stating that County is still working on its response.
- **February 3, 2023:** Legal Services email to Mr. Grotewohl checking on the status of the County's response.
- **February 16, 2023:** Letter from Mr. Grotewohl stating that continued collection of CCF funds is appropriate, but in light of pending audit results, the County Department of Revenue Recovery will ask Board of Supervisors to order a pause to the connection collection of additional 76000 penalties.