



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 17, 2013

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Title	Agenda Item Type
Court Facilities: Indefinite Delay of Four SB 1407 Projects, and FY 2013–2014 One-Time and Ongoing Funding Requests for Facility Modifications and Facility Operational Costs for New Courthouses	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	January 17, 2013
Recommended by	Date of Report
Court Facilities Working Group	January 9, 2012
Hon. Brad R. Hill, Chair	Contact
Hon. Patricia M. Lucas, Vice-Chair	Judicial and Court Operations Services
Hon. Jeffrey W. Johnson, Chair of the Courthouse Cost Reduction Subcommittee	Division
	Curtis L. Child, Chief Operating Officer
	916-643-7030
	<a href="mailto:curtis.child@jud.ca.gov">curtis.child@jud.ca.gov</a>
	Judicial Branch Capital Program Office
	Lee Willoughby, Director
	916-263-1493
	<a href="mailto:lee.willoughby@jud.ca.gov">lee.willoughby@jud.ca.gov</a>
	Kelly Quinn, Assistant Director
	818-558-3078
	<a href="mailto:kelly.quinn@jud.ca.gov">kelly.quinn@jud.ca.gov</a>

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### Executive Summary

The Court Facilities Working Group (the working group) recommends the indefinite delay of four SB 1407 projects due to the potential redirection of funding from Senate Bill (SB) 1407 construction funds to fund the Long Beach courthouse project (Governor George Deukmejian Courthouse). Other projects are recommended to move forward based on previous council direction. The working group also recommends submission of fiscal year 2013–2014 one-time and ongoing funding requests for facility modifications and for facility operational costs for new courthouses, to be funded by construction funds.

## Recommendation

The Court Facilities Working Group recommends that the Judicial Council, effective January 17, 2013, take the following actions:

1. Pending the enactment of the FY 2013–2014 Budget Act, indefinitely delay and suspend the work on site acquisition, pre-design, and design on three SB 1407 projects: Fresno–Renovate Fresno County Courthouse, Los Angeles–New Southeast Los Angeles Courthouse, and Nevada–New Nevada City Courthouse, and move forward with site acquisition and seek necessary funding and acquisition approvals for the Sacramento–New Sacramento Criminal Courthouse preferred site but indefinitely delay and suspend work on pre-design and design.
2. Submit a FY 2013–2014 funding request for \$8 million one-time and \$10 million ongoing for facility modifications from construction funds to support the documented need for ongoing investment in existing facilities. The \$8 million one-time request is pending the enactment of the FY 2013–2014 Budget Act.
3. Submit a FY 2013–2014 funding request for \$2.237 million from construction funds for facility operating costs for new courthouses, and ongoing funding requests from construction funds to meet annual facility operational cost requirements for new courthouses when completed. Use of construction funds for facility operations requires a legislative change.
4. Delegate to the Administrative Director of the Courts the authority to make technical changes to FY 2013–2014 funding requests submitted to the state Department of Finance necessary to move forward all judicial branch construction projects, subject to the review and approval of the chair of the Court Facilities Working Group.

## Previous Council Action

On October 26, 2012, the council adopted the Court Facilities Working Group's<sup>1</sup> recommended actions for moving forward with the SB 1407 courthouse construction program, and the indefinite delay of seven projects due to the cumulative and ongoing redirection of SB 1407 funds to the state General Fund and trial court operations. A total of 23 SB 1407 projects were recommended to move forward in accordance with the working group's recommendations, in addition to 8 projects previously authorized to proceed to construction. The council also directed the Administrative Office of the Courts (AOC) staff to submit to the state Department of Finance the funding requests for the next phases of the SB 1407 projects requiring FY 2013–2014 funding as well as the annual update to the *Judicial Branch AB 1473 Five-Year Infrastructure Plan* for FY 2013–2014.

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<sup>1</sup> In July 2011, Chief Justice Tani G. Cantil-Sakauye appointed the 25-member Court Facilities Working Group as a standing advisory committee to the council to oversee the judicial branch program that manages new construction, renovations, facilities operations, maintenance, and real estate for trial and appellate courts throughout the state. The working group oversees the AOC's management of court facilities statewide and efforts to implement the judicial branch's capital improvement program and makes recommendations to the council for action.

On December 13, 2011, the council adopted the Court Facilities Working Group's recommended action to seek additional funding for both facility modifications and facility operating costs.

## **Rationale for Recommendation**

### **Recommendation 1**

Since 2009, nearly \$1.5 billion of SB 1407 courthouse project funds have been loaned, swept to the state General Fund, or redirected to trial court operations. This fiscal year alone, \$240 million of those funds—originally designated for both courthouse construction and facility modifications—were redirected to trial court operations to back-fill a General Fund redirection. And most significantly, the FY 2012–2013 Budget Act included an ongoing \$50 million redirection of SB 1407 funds to trial court operations. Due to these one-time and ongoing redirections of construction funds, the council has adopted the working group recommendations to cancel 2 courthouse projects, indefinitely delay a total of 7 projects, and reduce budgets on all other projects. With the adoption of this recommendation to indefinitely delay another 4 projects, a total of 11 projects would be indefinitely delayed.

The most recent development in funding the judicial branch construction program is that all indications are there will not be General Fund dollars available next year to pay for the Governor George Deukmejian Courthouse. The new Long Beach courthouse is scheduled to open in August 2013, triggering the first of ongoing payments for the construction, operations, and maintenance of this facility. General Fund monies for this project have been planned since 2007. The annual service fee for this new courthouse, ongoing for 35 years for the development, operations, and maintenance of this facility, averages \$61.1 million.

There is only one viable source of funds that can be used to pay for the Long Beach project if no General Funds are available: SB 1407 funds must bear the burden of the Long Beach payments. Until a General Fund appropriation is received to fund these Long Beach payments, the branch cannot move forward on approximately \$550 million in SB 1407 construction phase project costs. This estimate is based on review of the long-term cash flow analysis of the SB 1407 fund, including all key variables such as revenue projections, project costs, borrowing rates, and funding other critical facility needs including facility modifications and facility operating costs for new courthouses.

Based on the working group's recommendations to the council in October, the council directed that a total of 23 SB 1407 projects move forward. Based on the possibility that SB 1407 funds may be needed to fund the annual Long Beach project payments, the working group met on December 13, 2012 to review those 23 projects. This meeting was a continuation of the working group's meeting in September 2012, during which two-and-a-half days and 26 hours of public

meeting discussion, including presentations by each of the 24 courts with one or more SB 1407 project, was conducted on 31<sup>2</sup> SB 1407 projects.

In July 2012, the working group developed both a draft process for how it would develop recommendations to the council regarding indefinite delay of projects and a draft list of 16 criteria to be used to determine which projects would move forward with limited funds and which projects would be indefinitely delayed. Prior to their September meeting, the working group solicited written comments from the superior courts and public on the draft criteria and process for reevaluating the projects.<sup>3</sup>

As part of the process, the working group invited each of the 24 courts with one or more of the 31 projects to submit written information on each of the 16 draft criteria, demonstrating why each project should move forward with the branch's limited funds. During their September 2012 meeting, the working group listened to informative presentations by each of the 24 courts, which were represented by their judicial officers and court administrators and, in some cases, local government partners. Before the working group began deliberations on which projects would proceed with limited funds, the working group adopted the 16 draft criteria for use in developing their draft recommendations. In addition to the written information on each of the 16 draft criteria, the working group factored in all information presented by the courts at the September meeting.

Based on their December meeting, the working group developed the attached *Court Facilities Working Group Recommendations on SB 1407 Projects*, which proposes that four courthouse construction projects be indefinitely delayed in order to provide SB 1407 funds for the Long Beach project. The estimated total construction phase budgets for the four projects totals \$558.9 million. The working group recommends the other 19 SB 1407 projects move forward based on previous council direction.

The four projects recommended to be *indefinitely delayed* would be delayed until SB 1407 funds become available sometime in the future or if General Funds are provided for the Long Beach project. On these projects, no site acquisition, pre-design, or design work would continue, with the exception of the Sacramento–New Sacramento Criminal Courthouse. The working group recommends that site acquisition proceed for this project and the AOC continue to move forward with the acquisition of the \$10 million Railyards site in downtown Sacramento to allow the project to proceed as planned on this downtown site when funding for this project becomes available.

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<sup>2</sup> During the September 2012 meeting, the working group reviewed 31 of the 39 SB 1407 projects, deciding that 8 projects in the Working Drawings phase and authorized for construction this fiscal year should move forward without further review based upon previous council direction.

<sup>3</sup> The draft criteria and process documents were posted for a five-week comment period on the California Courts public website at [www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm), as well as on the Serranus website at [http://serranus.courtinfo.ca.gov/jc/court\\_facilities\\_sept12\\_meeting.htm](http://serranus.courtinfo.ca.gov/jc/court_facilities_sept12_meeting.htm). In addition, the AOC posted the draft data to be provided to the working group by the AOC, and addressed all comments from the courts requesting amendments. The final AOC-provided data incorporating those changes was reposted.

## **Recommendation 2**

There is a documented substantial need for facility modifications in most, if not all, existing courthouses in California. Due to limited funding, only the most urgently needed facility modifications can proceed, leaving unaddressed significant system replacements—to roofs and mechanical and electrical systems, for example—that often result in more costly repairs in future years.

The estimated total construction phase costs of the four projects recommended to be indefinitely delayed is \$558.9 million. The working group recommends that the \$8 million in additional construction phase project costs (beyond the estimated target of \$550 million in deferred construction phase costs needed to fund the Long Beach payments) be directed to facility modifications in FY 2013–2014 from SB 1407 resources. If the FY 2013–2014 Budget Act provides General Fund monies for Long Beach, this proposal would be withdrawn.

The working group recommends that on an ongoing basis \$10 million be allocated to facility modifications from SB 1732 resources, specifically the State Court Facilities Construction Fund, to bring the average annual budget for facility modifications between both SB 1407 and SB 1732 funding sources to \$60 million. This recommendation does not close the gap between the need for facility modifications and proposed resources; a budget of \$60 million annually for facility modifications still falls tens of millions of dollars short of what is needed to maintain existing courthouses in California.

## **Recommendation 3**

Another facility need requiring funding is the cost of operating each new courthouse constructed using SB 1732 or SB 1407 funds. The new courthouses—while more efficient than the facilities they replace—are larger to meet current functional requirements and therefore cost more to operate and maintain. The estimated FY 2013–2014 need for facility operations of \$2.237 million is the sum of estimates for maintenance, utility, and insurance costs based on the size of each new courthouse scheduled to be operational next fiscal year. This amount includes the offset of the county facility payment provided for each of the existing court facilities being replaced by each new courthouse.<sup>4</sup> The estimated cost of facility operation needs for all new SB 1732 and SB 1407 courthouses currently under way for each fiscal year moving forward is estimated to increase to \$19.4 million by FY 2018–2019, with subsequent years adjusted to accommodate inflation as needed.

Senate Bill 1732, the Trial Court Facilities Act of 2002 (Stats. 2002, ch. 1082), specifically Government Code section 70351, stipulated that the intent of the Legislature is for the state to fund ongoing operations and maintenance of court facilities that are in excess of the county facilities payment. Due to the current General Fund shortfall, to date the judicial branch has been

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<sup>4</sup> Pursuant to SB 1732, the Trial Court Facilities Act of 2002 (Stats. 2002, ch. 1082), specifically Government Code section 70351, with each transferred facility, counties are required to make quarterly remittance to the state, on a perpetual basis in the form of a county facility payment (CFP) based on the historical costs of operating the existing facilities.

unsuccessful in receiving approval of new General Fund resources to fund these increased costs. Therefore the working group recommends that SB 1407 legislation be modified to allow for operation, repair, and maintenance of new and expanded court facilities, and that resources be provided to maintain these new courthouses.

#### **Recommendation 4**

Technical changes to FY 2013–2014 funding requests may be necessary in response to schedule adjustments that occur to the courthouse projects as they move forward. For example, such changes may require adjusting the timing of a funding request from one fiscal year to another or allow for making a new funding commitment for another courthouse project. Adoption of this recommendation eliminates the burden on the working group and the council of reviewing each technical change by deferring that responsibility—subject to the review and approval of the chair of the working group—to the Administrative Director of the Courts.

Appropriation authority for construction-phase funding was provided in prior fiscal years for the San Joaquin–New Stockton Courthouse and the San Joaquin–Renovation and Addition to Juvenile Justice Center; however, owing to scheduling, funding for this phase of each project is required to be reappropriated in FY 2013–2014.

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

For the past year, the working group has advised the council on how to move forward with SB 1407 projects in an evolving fiscal environment. In the process of developing the recommendations, the working group acknowledged that the four projects recommended for indefinite delay could return to active status should General Funds become available for the Long Beach project. Also, the working group’s Courthouse Cost Reduction Subcommittee will continue to find ways to free up SB 1407 funds for these and other projects. However, until the fiscal environment stabilizes, the working group will continue to face making future recommendations on which projects can and cannot continue to move forward.

At several meetings, the working group has discussed the need for increased funds for facility modifications to existing courthouses and the need for adequate facility operational cost funding for new courthouses. The working group’s recommendations attempt to balance many competing demands in an environment of significant redirection of construction funds to trial court operations.

#### **Comments from interested parties**

Following their meeting on December 13, 2012, the working group solicited written comments from the superior courts and public on the working group’s draft recommendations on the SB 1407 projects. These recommendations were posted for a two-week comment period on the California Courts public website at [www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm). A final version of these recommendations is attached. Also attached for reference are all three written comments received, listed verbatim in a summary table, with responses by the working group.

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

No costs are involved in implementing the recommended council actions, as they are performed on behalf of the council by the AOC.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The recommended council actions supports Goal III (Modernization of Management and Administration) and Goal VI (Branchwide Infrastructure for Service Excellence).

### **Attachments**

1. *Court Facilities Working Group Recommendations on SB 1407 Projects*, at page 8
2. *Comments Summary on Draft Court Facilities Working Group Recommendations on SB 1407 Projects*, at pages 9–10

**Court Facilities Working Group Recommendations on SB 1407 Projects:  
Due to Potential Funding of Long Beach Project from Construction Funds**

County	Project Name	Funded by Budget Act in Current Fiscal Year 2012–2013 and Proceeding
1 Alameda	<a href="#">New East County Courthouse</a>	Selection of designer-builder under way; construction award by mid-2013, pending reauthorization of lease purchase authority
2 Butte	<a href="#">New North Butte County Courthouse</a>	Bonds sold, in bid phase, construction scheduled to begin in early 2013
3 Kings	<a href="#">New Hanford Courthouse</a>	In working drawings; ready to start construction in 2013 pending spring bond sale
4 San Joaquin	<a href="#">Renovate Juvenile Justice Center</a>	In working drawings; will be bid this year for a construction start in mid-2013
5 Santa Clara	<a href="#">New Santa Clara Family Justice Center</a>	In working drawings; ready to start construction in 2013 pending spring bond sale
6 Solano	<a href="#">Renovation to Fairfield Old Solano Courthouse</a>	Bonds sold, subcontractor bidding under way, construction scheduled to begin in early 2013
7 Sutter	<a href="#">New Yuba City Courthouse</a>	In working drawings; ready to start construction in 2013 pending spring bond sale
8 Yolo	<a href="#">New Woodland Courthouse</a>	Bonds sold, in bid phase, construction scheduled to begin in early 2013

County	Project Name	Draft Recommendations of CFWG based on December 13, 2012 Meeting
9 El Dorado	<a href="#">New Placerville Courthouse</a>	Proceed with site acquisition and reduce hard construction budget by an additional 10%
10 Fresno	<a href="#">Renovate Fresno County Courthouse</a>	<b>Indefinitely delay</b>
11 Glenn	<a href="#">Renovate and Addition to Willows Courthouse</a>	Proceed with design
12 Imperial	<a href="#">New El Centro Family Courthouse</a>	Proceed with design and reduce hard construction budget by an additional 10%
13 Inyo	<a href="#">New Inyo County Courthouse</a>	Proceed with site acquisition and reduce hard construction budget by an additional 10%
14 Lake	<a href="#">New Lakeport Courthouse</a>	Proceed with working drawings when funding is authorized
15 Los Angeles	<a href="#">New Eastlake Juvenile Courthouse</a>	Proceed with site acquisition of a proposed site from the County of Los Angeles at a reduced cost for a collocated new construction project of the planned New Eastlake Juvenile and Los Angeles Mental Health Courthouses
16 Los Angeles	<a href="#">New Los Angeles Mental Health Courthouse</a>	
17 Los Angeles	<a href="#">New Southeast Los Angeles Courthouse</a>	<b>Indefinitely delay</b>
18 Mendocino	<a href="#">New Ukiah Courthouse</a>	Proceed with site acquisition for project with one less courtroom
19 Merced	<a href="#">New Los Banos Courthouse</a>	Proceed with design
20 Nevada	<a href="#">New Nevada City Courthouse</a>	<b>Indefinitely delay</b>
21 Riverside	<a href="#">New Hemet Courthouse (Mid-Cnty Reg)</a>	Proceed with reassessment of project to explore lease option. If project proceeds as a new construction project, proceed with site acquisition
22 Riverside	<a href="#">New Indio Juvenile and Family Courthouse</a>	Proceed with design
23 Sacramento	<a href="#">New Sacramento Criminal Courthouse</a>	<b>Indefinitely delay, but move forward on site acquisition</b>
24 San Diego	<a href="#">New Central San Diego Courthouse</a>	Proceed with working drawings
25 Santa Barbara	<a href="#">New Santa Barbara Criminal Courthouse</a>	Proceed with study and estimating renovation and expansion project using property currently owned by the state based on court proposal, and begin design when funding is authorized
26 Shasta	<a href="#">New Redding Courthouse</a>	Proceed with design when funding is authorized for preliminary plans
27 Siskiyou	<a href="#">New Yreka Courthouse</a>	Proceed with design when funding is authorized for preliminary plans
28 Sonoma	<a href="#">New Santa Rosa Criminal Courthouse</a>	Proceed with design when funding is authorized for preliminary plans
29 Stanislaus	<a href="#">New Modesto Courthouse</a>	Proceed with site acquisition
30 Tehama	<a href="#">New Red Bluff Courthouse</a>	Proceed with design
31 Tuolumne	<a href="#">New Sonora Courthouse</a>	Proceed with design when funding is authorized for preliminary plans

County	Project Name	Delayed
32 Kern	<a href="#">New Delano Courthouse</a>	<b>Indefinitely delayed as of October 26, 2012, Judicial Council meeting</b>
33 Kern	<a href="#">New Mojave Courthouse</a>	
34 Los Angeles	<a href="#">New Glendale Courthouse</a>	
35 Los Angeles	<a href="#">New Santa Clarita Courthouse</a>	
36 Monterey	<a href="#">New South Monterey County Courthouse</a>	
37 Placer	<a href="#">New Tahoe Area Courthouse</a>	
38 Plumas	<a href="#">New Quincy Courthouse</a>	

**Proceed** – Projects will move forward as indicated above. Proceeding with a project does not supersede previous direction from the Judicial Council, including April 2012 direction on reassessments, most of which still need to be done. Each project moving forward will complete a review of trial court operations, as required by the state Department of Finance.

**Indefinitely Delay** – Projects are indefinitely delayed until funds become available sometime in the future. No work to proceed on site acquisition or design, unless specified above.

Two SB 1407 projects, for Alpine and Sierra Counties, were canceled by the Judicial Council in December 2011. In October 2012, the council referred one project, a renovation of the Lancaster (McCourtney Juvenile) Courthouse in Los Angeles, to the Trial Court Facility Modifications Working Group for consideration of funding as a facility modification.



## Comments Summary: Draft Recommendations of the Court Facilities Working Group on SB 1407 Projects

All comments are verbatim

	Commentator	Position	Comments	CFWG Responses
1.	John R. Knight District I, Board of Supervisors County of El Dorado 330 Fair Lane Placerville, CA 95667 (530) 621-5390	A	<p><b>RE: EL DORADO – NEW PLACERVILLE COURTHOUSE</b></p> <p>The County of El Dorado Board of Supervisors urges you and the members of the Facilities Working Group to continue recognizing the needs for a new Courthouse in the County of El Dorado. In our letter to you dated August 28, 2012, we outline several reasons why the Judicial Council should proceed with the purchase and closing of escrow for the planned Placerville area courthouse. These compelling reasons are reaffirmed as follows:</p> <ol style="list-style-type: none"> <li>1) Except for completing the environmental documents, staff time and escrow costs, there is no cost to the State of California as we are trading the value in Building "C" for the value in the new court site.</li> <li>2) In addition to relatively no cost for the subject site, the County of El Dorado will deposit into an escrow account \$1,500,000 for the cost associated with the driveway and road improvements for the Forni Road extension.</li> <li>3) The funds set aside for site acquisition can now be removed from the Placerville Courthouse and reallocated to another courthouse (\$2,705,000).</li> <li>4) The AOC finds the site acceptable with utilities adjacent to the proposed courthouse.</li> <li>5) This site is adjacent to El Dorado County's jail and will help lower cost and improve safety issues with prisoner transportation.</li> <li>6) This particular property and associated property exchange, along with the County's \$1,500,000 contribution, might not be available in the future, thus driving up the total cost of the New Placerville Courthouse.</li> </ol> <p>In addition to these points, the County has continued its efforts to ensure the property acquisition with the Board of Supervisors approving an agenda item on December 18, 2012 which provides a property transfer with an adjacent property owner. This transaction will provide the AOC with their preferred piece of property, in the preferred location and move the County and AOC one step further in the process of site acquisition. The County remains committed to the success of this project.</p> <p>From the inception of this project the County's intent has been to provide the Courts with a Courthouse location that will meet the needs of the Courts, the Community, and the County. The property currently under review by the Facilities Working Group meets all of the needs stated above. The County continues to work with the City of Placerville, the El Dorado County Transportation Commission and other agencies to compete for funding that will improve roads and infrastructure that will be of benefit to the future Courthouse at this location. Again, the County remains committed to success of this project.</p> <p>In closing, we ask that you continue to view this project as a priority and carefully consider all of the facts presented as you make your decisions at your meeting on January 17, 2013. The County of El Dorado will stand ready to assist the AOC towards site acquisition once the notice to proceed is given. If we can be of any further assistance or provide additional information, please advise.</p>	Comments support recommendation on this project, which is for it to proceed based on the Judicial Council's previous action taken on October 26, 2012: Proceed with site acquisition and reduce hard construction budget by an additional 10 percent.

## Comments Summary: Draft Recommendations of the Court Facilities Working Group on SB 1407 Projects

All comments are verbatim

	Commentator	Position	Comments	CFWG Responses
2.	Paul Matson Dave Brennan, Chair, Nevada City Courthouse Committee City of Nevada City City Hall 317 Broad Street Nevada City, CA 95959 (530)265-2496	D	<p><b>RE: NEVADA – NEW NEVADA CITY COURTHOUSE PROCEEDING WITH COST ENGINEERING STUDY FOR NEVADA CITY COURTHOUSE PROJECT</b></p> <p>We respectfully urge you to modify the current recommendation to postpone all funding for the Nevada City Courthouse project and proceed to authorize the minimal cost for completing the cost engineering analysis for the Nevada City Courthouse reuse project.</p> <p>The preparation of the cost engineering analysis at this time would be an efficient use of time and resources while preserving projected cost savings. The project would then be ready to move forward immediately into the design phase when funding becomes available once again.</p> <p>During this period, we will continue to examine opportunities for additional cost savings for the courthouse project.</p> <p>Thank you for your careful consideration of our request.</p>	The working group will review and discuss this recommendation at its next meeting.
3.	Robert Bergman rcontrol@pacbell.net	D	<p><b>RE: NEVADA – NEW NEVADA CITY COURTHOUSE</b></p> <p>I am not certain at this late date if Nevada City has submitted its comment on the changes proposed by the Working Group. If it has, I apologize for the similar content here. The following was what I passed on for the city to use in its comment.</p> <p>I urge you to modify your recommendations and set aside funding for the limited purpose of completing the reanalysis of the Nevada City courthouse authorized in November. Doing this work before implementing an indefinite delay on the project would be effective and efficient use of resources. The cost of such work is very, very low and those individuals conversant with the courthouse project are available to assist in whatever way is possible. I cannot say too strongly how important it is to the entire community to keep the courthouse downtown.</p> <p>I am keenly aware of the hard choices the Working Group has struggled with, but if the reanalysis is finished now, then when construction funding is again available, the project will be ready to move forward quickly and without controversy.</p> <p>Your consideration is appreciated.</p>	The working group will review and discuss this recommendation at its next meeting.

### Response Totals

	Agreement	Do Not Agree	Position Not Specified	Total Respondents
<b>Totals</b>	1	2	0	3