

**2018-2019 MEMORANDUM OF UNDERSTANDING
SERVICES FOR THE MENTAL HEALTH / DRUG COURT DIVISION
OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE**

THIS MEMORANDUM OF UNDERSTANDING is entered into as of _____, 2018, between the COUNTY OF TULARE – TULARE COUNTY HEALTH & HUMAN SERVICES AGENCY, referred to as the COUNTY, and the SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE, referred to as the COURT, with reference to the following:

The COURT desires, and the COUNTY is willing to support one critical support position, Courtroom Clerk, for the Porterville Drug Court and Mental Health Court programs and two critical support positions, Courtroom Clerks, for the Visalia Drug Court and Mental Health Court Programs. The provisions of this Memorandum of Understanding in regard to records kept by and audits of the COUNTY in regard to its services and costs shall apply to the COURT in regard to the position to provide staffing services as specified below to the COUNTY for Drug Court and Mental Health COURT operations in Porterville and Visalia, pursuant to the term and conditions set out below:

ACCORDINGLY, IT IS AGREED:

1. **TERM:** This Memorandum of Understanding shall be in effect as of July 1, 2018, and shall terminate on June 30, 2019, unless terminated sooner as provided in this Memorandum of Understanding or extended by an amendment in accordance with the terms and conditions set forth in this Memorandum of Understanding.
2. **SERVICES:** The COURT will provide to the COUNTY the following services: one (1) Courtroom Clerk in Porterville and two (2) Courtroom Clerks in Visalia.
3. **COST OF SERVICES:**
 - a. The COUNTY shall compensate the COURT for the services of one (1) Courtroom Clerk in the Porterville Division in the not to exceed amount of \$94,900.11 upon receipt of itemized expense invoices from the COURT. An itemization of the salary, benefits, and taxes to be paid for this position is attached as Exhibit A-1.
 - b. The COUNTY shall compensate the COURT for the services of two (2) Courtroom Clerks in the the Visalia Division in the not to exceed amount of \$154,665.81 upon receipt of itemized expense invoices from the COURT. Itemizations of the salary, benefits, and taxes to be paid for these positions are attached as Exhibit A-2.
4. **METHOD OF PAYMENT:** Except as otherwise provided, the COURT shall provide the COUNTY with an invoice within 30 days of the quarter in which the services were provided. The COUNTY shall make payment within 30 days of receipt of such invoice.
5. **COMPLIANCE WITH LAW:** The COURT shall provide services in accordance with applicable Federal, State and local laws, regulations and directives. With respect to the COURT'S employees, the COURT shall comply with all laws and regulations pertaining to

wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

6. RECORDS AND AUDIT: The COURT shall maintain complete and accurate records with respect to the services rendered and the costs incurred under this Memorandum of Understanding. In addition, the COURT shall maintain complete and accurate records with respect to any payments to employees or subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible.

7. INDEPENDENT CONTRACTOR STATUS: This Memorandum of Understanding is entered into by both parties with the express understanding that the COURT will perform all services required under this Memorandum of Understanding as an independent contractor. The COURT agrees to advise everyone it assigns or hires to perform any duty under this Memorandum of Understanding that they are not employees of COUNTY. Subject to any performance criteria contained in this Memorandum of Understanding, COURT shall be solely responsible for determining the means and methods of performing the specified services and COUNTY shall have no right to control or exercise any supervision over COURT as to how the services will be performed. Since COURT is not the COUNTY'S employee; COURT is responsible for paying all required state and federal taxes. In particular, COUNTY will not:

- a. Withhold FICA (Social Security) from COURT'S payments.
- b. Make state or federal unemployment insurance contributions on COURT'S behalf.
- c. Withhold state or federal income tax from payments to COURT.
- d. Make disability insurance contributions on behalf of COURT.
- e. Obtain unemployment compensation insurance on behalf of COURT.

8. INDEMNIFICATION: In lieu of and notwithstanding the pro rata allocation which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, to the maximum extent permitted by law, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead COURT and COUNTY agree that each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents harmless from any and all claims, expenses or costs, product infringement, copyright or trade secrets, damage to or destruction of tangible property, damages or liabilities imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Memorandum of Understanding. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties thereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Memorandum of Understanding.

9. CONFIDENTIALITY: COUNTY hereby agrees that: (a) Services and all other products received by COUNTY from COURT under this Memorandum of Understanding, whether received orally, in writing or in any other medium, is and shall be treated as the

confidential property of the COURT; and (b) COUNTY shall take all necessary action to protect and ensure the confidentiality of all and any COURT records accessed through the Services.

10. TERMINATION: Either party shall have the right to terminate this Agreement without cause by giving ninety (90) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. COUNTY will pay to the COURT compensation earned for work performed and not previously paid for to the date of termination. COUNTY shall reasonably cooperate with the COURT to ensure that a vital service for the COURT shall be available from the COUNTY or other entities that provide such services.

The right to terminate this Memorandum of Understanding under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or in equity.

11. ENTIRE MEMORANDUM OF UNDERSTANDING REPRESENTED: This Memorandum of Understanding represents the entire Memorandum of Understanding between the COUNTY and the COURT as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Memorandum of Understanding may be modified without the written consent of both parties.

12. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

13. NOTICES: Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

| | | | |
|----------------|---|-----------------|--|
| COUNTY: | Board of Supervisors County Administration Building 2800 West Burrel Visalia, CA 93291 | Copy to: | Tulare County Health & Human Services Agency 5957 S. Mooney Blvd. Visalia, CA 93291 Attn: Contracts Unit |
|----------------|---|-----------------|--|

Phone No.: (559) 636-5000 / **Fax No.:** (559) 733-6318

COURT: Stephanie Cameron, Court Executive Officer
Tulare County Superior Court
221 South Mooney Blvd.
County Civic Center, Room 303
Visalia, CA 93291

Phone No.: (559) 730-5000 / **Fax No.:** (559) 737-4290

14. Notice delivered personally or sent by facsimile transmission is deemed received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

15. CONSTRUCTION: This Memorandum of Understanding reflects the contributions of both parties, and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

16. NO THIRD PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Memorandum of Understanding do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

17. GOVERNING LAW: This Memorandum of Understanding shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County, California.

18. WAIVERS: The failure of either party to insist on strict compliance with any provision of this Memorandum of Understanding shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Memorandum of Understanding by the other party.

19. EXHIBITS AND RECITALS: The Recitals and the Exhibits to this Memorandum of Understanding are fully incorporated into and are integral parts of this Memorandum of Understanding.

20. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY: This Memorandum of Understanding is subject to all applicable laws and regulations. If any provision of this Memorandum of Understanding is found by any COURT or other legal authority, or is agreed upon by the parties, to be in conflict with any code or regulation, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Memorandum of Understanding to either party is lost, the Memorandum of Understanding may be terminated at the option of the affected party. In all other cases, the remainder of the Memorandum of Understanding shall continue in full force and effect.

21. FURTHER ASSURANCES: Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Memorandum of Understanding.

22. ASSURANCES OF NON-DISCRIMINATION: The COURT expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

23. DISPUTE RESOLUTION: If a dispute arises out of or relating to this Memorandum of Understanding, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.

THE PARTIES, having read and considered the above provisions, indicate their Memorandum of Understanding by their authorized signatures below.

COUNTY OF TULARE

Date: _____

By: _____
Chairman, Board of Supervisors

ATTEST: MICHAEL C. SPATA
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

Date: _____

By: _____
Deputy Clerk

Approved as to Form
County Counsel

Date: _____

By: Smittle 5/17/18
Deputy 2018681

Superior Court of CA, County of Tulare

Date: 5-2-18

By: [Signature]
Presiding Judge

Salaries, Benefits and Taxes
07/01/18 - 06/30/2019

| | Drug Court SCJC |
|-----------------------------|------------------|
| | Courtroom Clerk |
| Regular Earnings | 51,166.55 |
| Social Security | 3,172.10 |
| Medicare | 741.40 |
| Employer - Dental | 1,720.45 |
| Employer - Health | 29,419.85 |
| Employer - Vision | 338.25 |
| Employer - Retirement | 6,851.02 |
| Worker's Compensation | 1,347.44 |
| SUI | 33.07 |
| Employer - Life Insurance | 14.30 |
| Employer - LTD | 72.02 |
| Employee Assistance Program | 23.66 |
| Total | 94,900.11 |

Salaries, Benefits and Taxes
07/01/18 - 06/30/2019

| | Drug Court Visalia | Mental Health | |
|-----------------------------|--------------------|------------------|-------------------|
| | Courtroom Clerk | Courtroom Clerk | Total |
| Regular Earnings | 46,554.30 | 51,166.55 | 97,720.85 |
| Social Security | 2,886.16 | 3,172.10 | 6,058.26 |
| Medicare | 674.57 | 741.40 | 1,415.97 |
| Employer - Dental | 1,720.45 | 1,720.45 | 3,440.90 |
| Employer - Health | 29,419.85 | - | 29,419.85 |
| Employer - Vision | 338.25 | 338.25 | 676.50 |
| Employer - Retirement | 6,233.46 | 6,851.02 | 13,084.48 |
| Worker's Compensation | 1,225.98 | 1,347.44 | 2,573.42 |
| SUI | 30.09 | 33.07 | 63.16 |
| Employer - Life Insurance | 14.30 | 14.30 | 28.60 |
| Employer - LTD | 64.48 | 72.02 | 136.50 |
| Employee Assistance Program | 23.66 | 23.66 | 47.32 |
| Total | 89,185.55 | 65,480.26 | 154,665.81 |