

AMENDED MEMORANDUM OF UNDERSTANDING
BETWEEN HUMBOLDT COUNTY AND THE
CHILDREN AND FAMILIES COMMISSION

This Amended Memorandum of Understanding is entered into this ___ day of June 2022, by and between Humboldt County ("COUNTY") and the Humboldt County Children and Families Commission ("COMMISSION").

RECITALS

1. Through the passage of Proposition 10 in November, 1998, the voters of the State of California established the California Children and Families Act of 1998 ("the Act"), codified in Health and Safety Code Section 130100 et. seq; and
2. The Act, among other things, enables a county to establish a local children and families commission for the purpose of developing an early childhood development program funded by tobacco tax revenue collected pursuant to Section 30131.2 of the Revenue and Taxation Code; and
3. The County of Humboldt has elected to participate in the California Children and Families Program by creating the Humboldt County Children and Families Commission through the adoption of Ordinance No. 2185 which added Chapter 1 of Division 7 to Title V of the Humboldt County Code; and
4. The Act empowers the Board of Supervisors to provide for any other matters that it deems necessary or convenient for the conduct of the COMMISSION'S activities; and
5. The COMMISSION requires human resources, legal, fiscal and administrative support in order to operate effectively and, in recognition of said needs, the COUNTY finds it necessary and appropriate to establish a framework through which the COUNTY can provide support and ancillary services in a manner that is consistent with both the COMMISSION authority under the Act and with the interest of the COUNTY; and
6. The COUNTY and the COMMISSION desire to enter into a memorandum of understanding to facilitate the operation and management of the COMMISSION in order to attain the objectives of

the Act and of the COUNTY. The purpose of this amendment is to provide for the transfer of certain accounting and financial transaction responsibilities previously performed by the County Auditor-Controller from the County to the Commission.

NOW, THEREFORE, the COUNTY and the COMMISSION mutually agree as follows:

ARTICLE I

COMMISSION OPERATIONS AND OBLIGATIONS

I.I STATUS OF COMMISSION

- (a) The Children and Families Commission is a public agency, established as such by formal action of the Board of Supervisors, pursuant to the provisions of Proposition I 0, the California Children and Families Act of 1998.
- (b) The COMMISSION is possessed with the powers and duties prescribed by the Humboldt County Code, the Act, and other applicable general law.

CHILDREN AND FAMILIES TRUST FUND

- 1.2 (a) The COUNTY has established a local Children and Families Trust Fund ("Trust Fund"), as authorized by the Act, into which assets allocated by the State Children and Families Commission will be deposited.
- (b) Funds deposited into the Trust Fund shall be transferred to the COMMISSION monthly or as otherwise directed by the COMMISSION for the purposes authorized by the Act and related to the implementation of the Strategic Plan.
- (c) In the event that the Trust Fund is insufficient to finance the COMMISSION's activities or satisfy its obligations, the COMMISSION shall endeavor to secure additional funds from the California Children and Families Fund through the State Commission or other available sources.
- (d) In no event shall the COUNTY be obligated to satisfy the debts or obligations of the COMMISSION, or to loan money to the COMMISSION without the consent of the Board of Supervisors.

1.3 Investment Plan

- (a) The COMMISSION may elect to deposit moneys in the Trust Fund with the County Treasurer to be invested by him/her consistent with state and local law, and COUNTY policies and procedures.
- (b) The COMMISSION may utilize an alternate investment mechanism, if consistent with the requirements of state law.

1.4 Contracting

- (a) The Act imposes upon the COMMISSION the duty to implement the Act, and in so doing, it vests in the COMMISSION certain powers including, but not limited to, the power to adopt a strategic plan and expend allocated monies in furtherance of that strategic plan. To carry out its responsibilities, the COMMISSION is empowered to enter into contracts in its own name, but only as required to implement the strategic plan, and only where said contracting is consistent with the Act.
- (b) The COMMISSION shall be solely responsible for any and all liabilities associated with its contractual performance and obligations. The COMMISSION agrees to defend, indemnify and hold harmless the COUNTY, its officers, employees and agents, from any and all liabilities and any and all claims, suits, actions, judgments or losses by whomever asserted arising out of COMMISSION's performance, non-performance or obligations related to its contracting. The COMMISSION shall use Trust Funds as necessary for this purpose.
- (c) The COMMISSION shall be solely responsible for the supervision of, and the performance and conduct of, its contractors. The COMMISSION agrees to defend, indemnify and hold harmless the COUNTY, its officers, employees and agents, from any and all liabilities and any and all claims, suits, actions, judgments or losses by whomever asserted arising out of the performance or conduct of its contractors. The COMMISSION shall use Trust Funds as necessary for this purpose.
- (d) Any contract executed by and between the COMMISSION and other entity shall provide: (1) that the liabilities or obligations of the COMMISSION with respect to its performance, nonperformance or obligations pursuant to the contract shall be the liabilities or obligations of the COMMISSION and its Trust Fund, and shall not become the liabilities or obligations of the COUNTY; and 2) that the contractor shall defend, indemnify and hold harmless both the COMMISSION and the COUNTY, and their respective officers,

agents and employees, against any and all liabilities and any and all claims, suits, actions, judgments or losses by whomever asserted arising out of acts or omissions of the contractor.

1.5 Operating and Capital Budgets

The COMMISSION shall have the ultimate control over its operating and capital budgets, which shall be administered as set forth in this Memorandum of Understanding.

1.6 Audits

- (a) The COMMISSION shall conduct an annual audit of, and issue a written report on the implementation and performance of, its accounts and functions during the preceding fiscal year as required by the Act.

1.7 Conformity With Laws

COMMISSION shall at all times operate in conformity with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies, having jurisdiction over COMMISSION's operations.

II

COUNTY SUPPORT
SERVICES

2.1 General Support

The COUNTY shall engage in appropriate interaction with COMMISSION and assist COMMISSION, to the extent reasonable and feasible, in meeting its goals and objectives under the Act. In addition, COUNTY, through appropriate departments and offices, shall provide such administrative services or perform such administrative functions as provided herein.

2.2 Human Resources

- (a) Consistent with COUNTY ordinances, regulations and rules, COUNTY agrees to provide county-employed staff to assist the COMMISSION in the performance of specific tasks.
- (b) (1) Where feasible in the estimation of COUNTY, the County Personnel Department will create staff positions consistent with

the needs of the COMMISSION as set forth in the Strategic Plan.

- (2) The posting and filing of these County employee positions shall be pursuant to existing Merit System Rules.
- (3) Funding for salaries and benefits (including, but not limited to, retirement contributions and employee health services programs at the same level as available to all County employees) relating to these positions shall be provided by the COMMISSION with no net COUNTY cost. The Commission shall reimburse the COUNTY each pay period and shall initially advance one pay period of payroll to the COUNTY.
- (c) The COMMISSION, and not the COUNTY, shall be solely responsible for the supervision of employees provided to the COMMISSION through the COUNTY's Personnel Department. The COMMISSION, and not the County, shall be responsible for the conduct of said employees that occurs either within or without the course and scope of employment. Any and all liabilities associated with the conduct of said employees shall be the sole responsibility of the COMMISSION, and the COMMISSION shall be responsible for any liabilities and expenses arising out of such conduct.
- (d) Actions taken by COMMISSION with respect to said personnel shall be consistent with Merit System Rules, other COUNTY Policies and Procedures and with applicable state, federal, and local laws, regulations and ordinances.
- (e) Additional services from the Personnel Department may be provided to the COMMISSION from time to time as subsequently agreed upon.

2.3 Fiscal Services

(a) Deposits and Disbursements.

(1) **The Auditor-Controller shall transfer all monies received from the State Children and Families Commission, into the Trust Fund, less monies needed to cover payroll for the month of June and any outstanding invoices to be paid during June, no later than June 15, 2022. Any remaining monies in the trust fund shall be transferred no later than June 30, 2023.**

(2) County Auditor-Controller's current responsibility for

processing Commission Trust Fund withdrawals, other than transfers to the Commission as noted above, shall terminate at the end of the current fiscal year (i.e., June 30, 2022). All future financial functions, except for closing the books, will be transferred to the Commission by July 1, 2022. Commencing July 1, 2022 the Commission shall be responsible for accounting for its income and expenditures, and except for payroll, shall be responsible for payment of all debts, obligations and operating costs of the Commission.

- (b) Payroll Services. The COUNTY will continue to administer the COMMISSION'S payroll as per all current laws and regulations,utilizing the on-line data entry system which includes: specified employee information, timekeeping, issuance of pay, pay period updates, and report generation. In addition, services will include the processing of all employee benefits for which deductions are made, the conducting of open enrollment, the maintenance and monitoring and compliance systems for other employee benefits, the maintenance of accounting and compliance activities related to workers' compensation and state disability insurance programs and the development and provision of procedural guidelines for the above. The Commission shall reimburse the COUNTY each pay period, and shall initially advance one pay period of payroll to the County.
- (c) The COUNTY agrees to provide to the COMMISSION access to the County's Finance Enterprise system so that the COMMISSION has access to all electronic accounting data related to the COMMISSIONS's operations, including payroll.

2.4 Legal Services

- (a) COUNTY shall provide general legal counsel to the COMMISSION through the Office of the Humboldt County Counsel. COMMISSION will cooperate with the County Counsel and provide information to County Counsel as necessary for the provision of legal services. Compensation for legal services shall be as mutually agreed upon by the COMMISSION and the County Counsel.
- (b) COMMISSION shall be responsible for the expense of

defending COMMISSION in any and all legal proceedings, including administrative proceedings and arbitrations, brought against the COMMISSION, except that COUNTY and COMMISSION shall equally bear the expense of defending any legal actions brought against the COUNTY and the COMMISSION as a result of their joint acts or omissions under this Agreement. With respect to any legal action between COUNTY and COMMISSION arising out of this Agreement, each party shall be responsible for its own legal expenses.

2.5 Purchasing

- (a) The COMMISSION may consult with the Purchasing Department and with the County Counsel with respect to any and all requests for proposals, requests for information, etc. that the COMMISSION desires to distribute.
- (b) Purchasing and related services from the Purchasing Dept may be provided to the COMMISSION from time to time as subsequently agreed upon.

2.6 Use of County Buildings, Telephone Communications, Electronics, Motor Vehicles

(a) COUNTY shall permit the COMMISSION the use of mutually agreed upon, COUNTY owned or leased property and equipment including computer electronics and telephone systems. Support services from the Information Technology and Administrative Services Departments may be provided as subsequently agreed upon.

2.7 Insurance/Self-insurance/Risk Management Services

- (a) In order to protect the COMMISSION and COUNTY against claims and liability for injury, loss, damage or death as a result of Commission's operations, COMMISSION shall maintain insurance coverage consistent with the COUNTY's program of self insurance and purchased insurance as follows: (a) comprehensive general liability; (b) comprehensive automobile liability; (c) directors' and officers' liability; (d) blanket fidelity and public officials bonds; (e) workers' compensation; (f) property and related programs providing coverage for loss or damage to equipment and other personal property used in the course and scope of the functions of the COMMISSION;

- (b) COMMISSION hereby agrees that it will satisfy its insurance obligation as set forth above through participation in the COUNTY's program of self-insurance and purchased insurance. The COMMISSION shall comply with all applicable requirements, rules and policies of the County Risk Management Division relating to the provision of insurance, the handling of claims, the charging of premiums, and other administrative responsibilities and functions. Risk Management shall be responsible for the investigation, settlement or defense and appeal of any claim made, suit brought, or proceeding instituted, arising out of a loss covered by a self-insurance program under this agreement. Risk Management may develop and implement standards for the administration of claims for each self-insured program under this agreement subject to Board approval. The Risk Management Division shall provide services under this Memorandum of Understanding, including but not limited to, risk management administration, occupational health services, risk management consulting, loss prevention and control, centralized loss reporting, actuarial consulting, claims adjusting, the acquisition of legal defense services, and other administrative services as deemed necessary. The COMMISSION will be allocated its share of the premiums and other charges annually, in the same manner as applied to all COUNTY Departments.

2.8 Additional Services

COUNTY shall provide additional ancillary services to the COMMISSION pursuant to mutually agreed-upon terms.

2.9 Compensation for County Services

The COMMISSION shall be billed for and agrees to pay the COUNTY the full and actual costs incurred in providing services to the COMMISSION, which shall include the burdened hourly rates of pay for staff time, as well as actual and necessary expenses and indirect overhead costs. Payment for services shall be due and payable thirty (30) days following receipt of billing.

If payment for services is not made within this time period, the County may charge interest on the amount due at the County pooled money investment rate.

ARTICLE III

ADDITIONAL PROVISIONS

3.1 Term

The effective date of this Memorandum of Understanding shall be the date of full execution by authorized representatives of the COMMISSION and the COUNTY, and shall continue until June 30, 2001 after which it shall automatically renew for subsequent one year periods until such time as it is terminated pursuant to its terms. The Memorandum will be reviewed by the COMMISSION and COUNTY on an annual basis to assess whether adjustments in the MOU need be made by the COMMISSION and the COUNTY.

3.2 Termination

- (a) Under the Act, the COUNTY has the option to elect not to continue its participation in the California Children and Families Program. In the event this option is exercised by the Board of Supervisors, the COUNTY may terminate this MOU upon providing 180 days written notice in the event of such election. Among other bases for termination by the COUNTY, this MOU may be terminated in the event of an amendment to, or judicial or administrative interpretation of, the Act that would prohibit use of the Trust Fund to satisfy debts, obligations, or liabilities of whatever nature associated with the conduct of the COMMISSION.
- (b) This MOU may be terminated by the COMMISSION for any reason upon providing 180 days written notice to the COUNTY.
- (c) This Memorandum of Understanding may be terminated at any time by the mutual agreement of the COMMISSION and the COUNTY.

3.3 Indemnification

- (a) The COMMISSION agrees to defend, indemnify and hold harmless the County of Humboldt, its officers, employees and agents from any and all liabilities and any and all claims, suits, actions, judgments or losses by whomever asserted arising out of acts or omissions of the COMMISSION, its Commissioners, administrative staff, employees or agents or arising out of the acts or omissions of any of its contractors. The COMMISSION shall use Trust Funds as necessary to

so defend, indemnify and hold harmless the COUNTY as set forth herein.

- (b) The COUNTY agrees to defend, indemnify and hold harmless the COMMISSION, its officers, employees and agents from any and all liabilities and any and all claims, suits, actions, judgments or losses by whomever asserted arising out of acts or omissions of the COUNTY, its employees or agents.

3.4 Severability

Should any part or provision of this Memorandum be finally decided to be in conflict with any applicable law or otherwise be unenforceable, the validity of the remaining provisions shall be deemed severable and not affected thereby, provided such remaining provisions can be construed in substance to constitute the MOU which the COMMISSION and COUNTY intended to enter into at the outset, and provided the MOU is not terminated by the COUNTY. In the event of a change of law that affects a term or terms of this Memorandum, COMMISSION and COUNTY agree to negotiate in good faith to amend the Memorandum to conform to the law.

3.5 Limitations on Liability

- (a) Any obligation of the COMMISSION, be it derived from statute, contract or otherwise, shall be the obligation solely of the COMMISSION and shall not be the obligation of the COUNTY. This provision shall not apply to obligations entered into jointly by the COMMISSION and the COUNTY.
- (b) The COMMISSION, and not the COUNTY, shall be responsible for the acts or omissions of the COMMISSION or its agents or employees relating to the design and implementation of the Strategic Plan including, but not limited to, the selection of providers of services, the disbursement of Trust Funds and the conduct of, and COMMISSION's supervision of, the COMMISSION's contracted providers of early childhood services or other contractors. The COMMISSION shall be solely responsible for any and all liabilities associate~~d~~ therewith and COMMISSION agrees that any and all liabilities and any and all claims, suits, actions, judgments or losses by whomever asserted arising out of such conduct shall be satisfied through the use of the Trust Fund and not the COUNTY's funds.
- (c) Any and all other conduct, acts or omissions of the COMMISSION, its appointed members, employees, or agents shall be the sole responsibility of the COMMISSION and not the COUNTY, consequently, any and all claims,

suits, actions, judgments or losses by whomever asserted arising out of such conduct shall be satisfied through the use of the Trust Fund and not the COUNTY's funds except to the extent that liability is attributable to the conduct of the COUNTY.

3.6 Dispute Resolution

The COMMISSION and the COUNTY will endeavor in good faith to convene the appropriate individuals to address any issues or concerns relating to the implementation of the terms of this Memorandum of Understanding.

3.7 Amendments

This Memorandum may be modified or amended by a written document executed by the COMMISSION and the Humboldt County Board of Supervisors.

3.8 Signatories

In executing this Memorandum of Understanding, the undersigned are acting pursuant to their respective lawful authority as set forth in the bylaws or resolution of the COMMISSION or applicable law.

IN WITNESS WHEREOF, this Memorandum of Understanding has been executed by the parties hereto upon the date first written above.

HUMBOLDT COUNTY CHILDREN AND FAMILIES COMMISSION

By: _____ Date: _____
Mary Ann Hansen
Executive Director

COUNTY OF HUMBOLDT

By: _____ Date: _____
Virginia Bass
Board of Supervisors, Chairperson

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED

By: _____ Date: _____
Risk Management