

**MUTUAL AID AGREEMENT BETWEEN THE COUNTY OF MENDOCINO AND
THE COUNTY OF HUMBOLDT FOR THE MUTUAL PROVISION OF TEMPORARY
SECURE DETENTION NON-EXCLUSIVE SPACE FOR DETAINED YOUTH DURING
AN EMERGENCY EVACUATION**

This agreement is entered into between the County of Mendocino, a political subdivision of the State of California, through its Probation Department ("Mendocino County") and the County of Humboldt, a political subdivision of the State of California, through its Probation Department ("Humboldt County"), collectively these two entities may be referred to as "Parties", individually a "Party", for the purpose of providing temporary secure detention non-exclusive space for detained youth during an emergency evacuation.

Section 1. DEFINITIONS

- A. Mutual Aid. "Mutual Aid" is defined as a reciprocal agreement between two or more counties wherein each agrees to assist the other when conditions exist that require the evacuation of youth residents from one county juvenile detention facility ("Sending County") to another county juvenile detention facility ("Receiving County"). Providing mutual aid is voluntary on the part of the Receiving County based on its ability at the time the aid is requested.
- B. Transferring Youth. "Transferring Youth" are those detained minors who cannot otherwise be released or furloughed by order of the juvenile court during the emergency evacuation of the Sending County. These youth must remain in secure custody regardless of the emergency necessitating the evacuation of the Sending County.
- C. Mendocino County Juvenile Hall Division Manager. The person in charge of overseeing all aspects of the operation of the Mendocino County Juvenile Hall.
- D. Humboldt County Division Director, Detentions. The person in charge of overseeing all aspects of the operation of the Humboldt County Juvenile Detention Facility.

Section 2. MUTUAL RESPONSIBILITIES AND RIGHTS

- A. Each Party acknowledges that the timing of the request for mutual aid is critical to ensure that the transportation, intake and housing of the Transferring Youth into the Receiving County is completed in a manner that maximizes safety and supports the mental, physical and emotional needs of the Transferring Youth.
- B. The Sending County is responsible for furnishing the following information when requesting mutual aid:

1. Identity of the person in charge of the evacuation, and their current contact information.
 2. The number of Transferring Youth
 3. The Estimated Time of Arrival of the Transferring Youth
 4. Special classification needs, such as, but not limited to:
 - a. The number of Transferring Youth who are required to room alone in single cells, a special security risk status, special dietary and/or medical needs, and any other information relevant to the special classification needs of any Transferring Youth.
 - b. Number of staff supervising the Transferring Youth during transport to the Receiving County.
- C. Receiving County shall house the Transferring Youth either with the general population or in a vacant pod, staffed by the Receiving County, at Receiving County's discretion.
- D. The Receiving County agrees to provide non-exclusive, secure, detention space that is in compliance with 28 Code of Federal Regulations, sections 115.5 *et. seq.*, California Code of Regulations Title 15 and Title 24 standards and regulations, and will ensure that the Transferring Youth have access to basic medical care, programs, rights and services as defined in Title 15.
- E. The Sending County shall pay and shall be solely responsible for providing any and all legal services for the Transferring Youth and is solely responsible for any costs of legal services provided. In the event a petition for a writ of habeas corpus or similar proceeding is initiated by or on behalf of a Transferring Youth in the Superior Court of the Receiving County, the Sending County shall defend said litigation at its own expense.
- F. The Sending County shall be responsible for providing conformed Juvenile Court orders committing the Transferring Youth to the Receiving County, and consent to medical treatment signed by a parent/legal guardian/Juvenile Court Judge to the Receiving County prior to placement or as soon as practicable.
- G. The Sending County shall promptly remove any Transferring Youth upon request of either County. Receiving County shall have sole discretion to request removal of any Transferring Youth. Upon decision to remove a Transferring Youth, the Receiving County shall notify the Transferring County by telephone and Transferring County shall pick-up Transferring Youth within five (5) working days of notification (or sooner if requested by Receiving County).

Section 3. COMPENSATION

- A. Each Party agrees that it will not seek from the other Party compensation for services rendered under this agreement for the first seven calendar days. After seven calendar days, the Sending County shall compensate the Receiving County at the rate of \$80.00 per day per Transferring Youth.
- B. In the event that the emergency evacuation transitions into long-term housing and the Transferring Youth need to remain in the Receiving County for more than 21 calendar days, Sending County shall compensate the Receiving County at the rate of \$150.00 per day per Transferring Youth.
- C. One Party shall pay a maximum of \$50,000 per fiscal year, prorated on a monthly basis for the period from the Effective Date (refer to Section 6) to June 30, 2021, to the other Party for all reasonable and necessary costs in accordance with applicable Circulars of the Office of Management and Budget ("OMB") of the Executive Office of the President of the United States, for satisfactorily providing services pursuant to this agreement. In no event shall the maximum amount payable under this agreement exceed \$167,000, by either Party, for the entire term of the agreement.
- D. If either Party violates or breaches the agreement terms it may result in fiscal penalties, withholding of compensation, or termination of agreement by the other Party.

Section 4. BILLING AND PAYMENT

- A. The Receiving County shall submit to the Sending County within five days after completion of the services prescribed in this agreement, an itemized statement or invoice of services rendered. The Sending County shall make payment within 30 days of receipt of the Receiving County's correct and approved statement or invoice.
- B. Compensation under this agreement shall be reduced by applicable revenues. The term "applicable revenues" refers to those receipts or reductions in expenditures or costs which operate to offset or reduce expense or cost items that are allocable to the Receiving County's compensation under this agreement (such as but not limited to: purchase discounts, rebates or allowances, insurance refunds and adjustments or overpayment, or other erroneous charges). To the extent that applicable revenues, accruing or received by Receiving County relate to allowable costs, they shall be credited to the Sending County either as a reduction, or a cash refund, as appropriate and agreed to by both parties in writing.
- C. Should county, or the state or federal government, disallow any amount claimed by the Receiving County, the Receiving County shall reimburse the Sending County, or the state or federal government, as directed by county, or the state or federal government, for such disallowed cost.

Section 5. TERM OF AGREEMENT

The initial term of this agreement shall be from the date this Agreement becomes fully executed by all parties (the "Effective Date") and shall continue through June 30, 2024.

Section 6. TERMINATION OF AGREEMENT

- A. If either Party materially fails to perform its responsibilities under this agreement, or if either Party fails to fulfill in a timely and professional manner its responsibilities under this agreement, or if either Party violates any of the terms or provisions of this agreement, then the other Party shall have the right to terminate this agreement for cause effective immediately upon the giving written notice thereof.
- B. Either Party may terminate this agreement without cause on 30 days' written notice to other Party.
- C. Mendocino County's right to terminate this agreement may be exercised by the County Executive Officer or the Chief Probation Officer.
- D. Humboldt County's right to terminate this agreement may be exercised by the Chief Probation Officer.
- E. Receiving County shall only be paid for services satisfactorily completed and provided prior to the effective date of the termination.

Section 7. ENTIRE AGREEMENT; AMMENDMENTS; HEADINGS; EXHIBITS/APPENDICES

- A. This agreement supersedes all previous agreements relating to the subject of this agreement and constitutes the entire understanding of the Parties hereto. Parties shall be entitled to no other benefits other than those specified herein. Parties specifically acknowledge that in entering into and executing this agreement, Parties rely solely upon the provisions contained in this agreement and no others.
- B. No changes, amendments or alterations to this agreement shall be effective unless in writing and signed by both Parties.
- C. The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.

Section 8. NONASSIGNMENT OF AGREEMENT; NON-WAIVER

Inasmuch as this agreement is intended to secure the specialized services of each of the Parties to this agreement, neither Party may assign, transfer, delegate, or sublet any interest herein without the prior written consent of the other Party. The waiver by Parties of any breach of any requirement of this agreement shall not be deemed to be a waiver of any other breach.

Section 9. EMPLOYMENT STATUS OF PARTIES

Each of the Parties to this agreement shall, during the entire term of this agreement, and any renewal periods, be construed to be an independent contractor, and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, a separate legal entity, or to allow either Party to exercise discretion or control over the professional manner in which the other Party performs the work or services that are the subject matter of this agreement; provided, however, that the work or services to be provided by each of the Parties shall be provided in a manner consistent with the professional standards applicable to such work or services in the State of California. No additional benefits arise due to participation in assistance under this agreement.

Section 10. MUTUAL INDEMNIFICATION

The Parties shall defend, indemnify, and hold each other, their respective officials, officers, employees, agents, and volunteers harmless from and against any and all liability, loss, injuries, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the respective Party, its officials, officers, employees, agents, or volunteers. There shall be no liability imposed on any Party or its personnel for failure to respond to requests for aid. All damages or repairs to any equipment or apparatus that occur in the normal operation during the provision of aid under this Agreement shall be the responsibility of the owning Party.

Section 11. INSURANCE

- A. Each Party shall secure and maintain in full force and effect during the full term of this agreement commercial general liability and workers' compensation insurance or participation in a self-insurance program, including coverage for owned and non-owned automobiles with limits of liability of not less than \$1 million combined single limit bodily injury and property damage. Policies shall be written by carriers reasonably satisfactory to each Party. On request, a certificate evidencing the insurance requirements of this paragraph shall be provided.
- B. There shall be no liability imposed on either Party or its personnel for failure to respond to requests for mutual aid. All damages or repairs to any equipment or apparatus at either facility that occur in the normal operation during the provision of mutual aid under this agreement shall be the responsibility of the owning Party.

Section 12. NOTICE OF CLAIM/APPLICABLE LAW VENUE

- A. If any claim for damages is filed with either Party or if any lawsuit is instituted concerning either Party's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect the other Party, claiming Party shall give prompt and timely

notice thereof to the other Party. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit.

- B. Any dispute between the Parties, and the interpretation of this agreement, shall be governed by the laws of the State of California. Litigation filed in Mendocino County shall be venued in Mendocino County. Litigation filed in Humboldt County shall be venued in Humboldt County.

Section 13. COMPLIANCE WITH LAWS; NON-DISCRIMINATION

- A. Parties shall observe and comply with all applicable federal, state, and local laws, ordinances, and codes that relate to the work or services to be provided pursuant to this agreement.
- B. Parties shall not discriminate in employment practices or in the delivery of services on the basis of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, medical condition (including cancer, HIV and AIDS) physical or mental disability or use of family care leave under either the Family & Medical Leave Act or the California Family Rights Act, or on the basis of any other status or conduct protected by law.
- C. Parties represent that they are in compliance with and agree that they shall continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. sections 12101, *et seq.*), the Fair Employment and Housing Act (Government Code sections 12900, *et seq.*), and regulations and guidelines issued pursuant thereto.
- D. No funds or compensation received by either Party under this agreement shall be used by the Party for sectarian worship, instruction, or proselytization. No funds or compensation received by either Party under this agreement shall be used to provide direct, immediate, or substantial support to any religious activity.

Section 14. ACCESS TO RECORDS; RECORDS RETENTION

- A. County, federal, and state officials shall have access to any books, documents, papers, and records of both Parties that are directly pertinent to the subject matter of this agreement for the purpose of auditing or examining the activities of either Party. Except where longer retention is required by federal or state law, the Parties shall maintain all records for five years after final payments are made hereunder. This provision shall survive the termination, expiration, or cancellation of this agreement.
- B. Both Parties shall maintain appropriate records to ensure a proper accounting of all funds and expenditures pertaining to the work performed or the services provided pursuant to this agreement. Both Parties shall maintain records providing information that account for all funds and expenses related to the provision of services provided pursuant to this agreement. Access to these records shall be provided during working days, 8:00 a.m. to 5:00 p.m. and at other times upon reasonable notice by the other Party, and upon request of state and federal agencies charged with the administration of programs related to the work or

services to be provided pursuant to this agreement.

- C. Both Parties agree to accept responsibility for receiving, replying to, and/or complying with any audit exception by appropriate federal, state, or county audit directly related to the provisions of this agreement. Both Parties agree to repay the other Party the full amount of payment received for duplicate billings, erroneous billings, audit exceptions, or false or deceptive claims. Both Parties agree that the Sending County may withhold any money due and recover through any appropriate method any money erroneously paid under this agreement if evidence exists of less than full compliance with this agreement including, but not limited to, exercising a right of set-off against any compensation payable to Receiving County.

Section 15. COMPLIANCE WITH CHILD, FAMILY, AND SPOUSAL SUPPORT REPORTING OBLIGATIONS

Both Parties agree to comply with state and federal child, family, and spousal support reporting requirements regarding the Parties' employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this agreement. Either Party's failure to cure such default within 90 days of notice by the other Party shall be grounds for termination of this agreement.

Section 16. LICENSES AND PERMITS

Both Parties agree that their officers, employees, and agents performing the work or services required by this agreement, shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, the applicable county, and all other appropriate governmental agencies, including any required certification and credentials. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this agreement and constitutes grounds for the termination of this agreement.

Section 17. NOTICES

- A. Any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first-class mail to the following addresses:

If to Mendocino County: Mendocino County Probation Department
Chief Probation Officer
589 Low Gap Road
Ukiah, CA 95482

If to Humboldt County: Humboldt County Probation Department
Chief Probation Officer
2002 Harrison Avenue
Eureka, CA 95501

- B. Written notice shall be deemed to be effective two days after mailing.

Section 18. AGREEMENT PREPARATION

It is agreed and understood by both Parties that this agreement has been arrived at through negotiation and that neither Party is to be deemed the Party which created any uncertainty in this agreement within the meaning of Civil Code section 1654.

Section 19. SEVERABILITY

If any portion of this agreement or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation or county ordinance, the remaining provisions of this agreement, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this agreement are severable.

Section 20. CONFIDENTIALITY

During the term of this agreement, both Parties may have access to information that is confidential or proprietary in nature. Both Parties agree to preserve the confidentiality of and to not disclose any such information to any third party without the express written consent of the other Party or as required by law. This provision shall survive the termination, expiration, or cancellation of this agreement.

Section 21. PERFORMANCE STANDARDS

Parties shall perform the services required by this agreement in accordance with the industry and/or professional standards applicable to the services to be provided pursuant to this agreement.

Section 22. CONFLICTS OF INTEREST

Parties' officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property, or source of income that could be financially affected by or otherwise conflict in any manner or degree with the performance of the work or services required under this agreement.

Section 23. COMPLIANCE WITH POLITICAL REFORM ACT

Parties shall comply with the California Political Reform Act (Government Code sections 87100, *et seq.*), with all regulations adopted by the Fair Political Practices Commission pursuant thereto, and with the applicable County's Conflict of Interest Code, with regard to any obligation on the part of Parties to disclose financial interests and to recuse from influencing the other Parties decision which may affect Parties' financial interests. Both Parties agree to comply with the ethics training requirements of Government Code section 53234 *et seq.*

Section 24. COUNTERPART EXECUTION

This agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. A signed copy of this agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this agreement and any amendments hereto.

IN WITNESS WHEREOF, the Parties have executed this agreement on the day and year set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this agreement and to bind the Party on whose behalf his/her execution is made.

COUNTY OF HUMBOLDT

ATTEST:
KATHY HAYES
Clerk of the Board of Supervisors

Virginia Bass 3/16/2021
Virginia Bass Date
Chair, Humboldt County Board of Supervisors

[Signature] 3/16/2021
Deputy Clerk Date
Ryan Sharp

Approved as to Form:

Natalie Duke 3-11-21
Natalie Duke Date
Deputy County Counsel, Humboldt County

Risk Management:

Linda Le 12 March 2021
Linda Le Date
Director - Human Resources/
Risk Management

Shaun Brennehan 3-11-2021
Shaun Brennehan Date
Chief Probation Officer, Humboldt County

