

**MEMORANDUM OF UNDERSTANDING
FOR
COLLECTION SERVICES**

This Memorandum of Understanding ("MOU") is made and entered into as of this 23rd day of July, 2024 ("Effective Date") by and between the County of Mendocino (the "County") a political division of the State of California, and the Superior Court of California, County of Mendocino, an entity of the California Judicial Branch organized under Article VI of the California Constitution (the "Court") (individually, a "Party"; collectively, the "Parties").

RECITALS

WHEREAS, California Penal Code section 1463.010(b) requires the Parties to develop a cooperative plan to implement Judicial Council of California (JCC) guidelines in a Collection Program for the collection of fines, fees, restitution, forfeitures, penalties, and assessments imposed by court order;

WHEREAS, the Parties have developed a Collection Program for the collection of delinquent accounts (the "Collection Program") and desire to clarify their respective roles in the collection of fines, fees, restitution, forfeitures, penalties, and assessments;

WHEREAS, the Parties want to set forth their respective rights and responsibilities under the Collections Program, including Enhanced Collection Services, by entering into this MOU;

WHEREAS, the Court transitioned to a new case management system, Tyler Technologies' Enterprise Justice system, on February 8, 2021, which includes functionality to set up payment plans and perform collection activities for cases initiated in the Enterprise Justice system;

WHEREAS, California Assembly Bill 177 (Chapter 257, chaptered September 23, 2021) has eliminated most local fees used to defray the administrative cost of criminal felony, misdemeanor, and infraction case collections.

AGREEMENT

NOW THEREFORE, the Parties agree as follows:

A. ORIGINAL AGREEMENT

This MOU, including Exhibit A, attached hereto, and incorporated by reference herein (Exhibit A) constitutes the Parties' agreement with respect to the Collections Program, pursuant to Penal Code section 1463.010.

B. DEFINITIONS

Unless otherwise defined herein, terms used in this MOU have the meaning set out below.

1. Accounts Receivable – Monies owed by an individual for court-ordered fines, fees, restitution, forfeitures, penalties, and assessments, whether or not these amounts are defined as Delinquent Accounts.
2. Adjustment – Any change in a Debtor's fine, fee, forfeiture, penalty or assessment amount.
3. Allowable Collection Costs – Those costs of collection of Delinquent Accounts for which reimbursement is permitted under California Penal Code section 1463.007 and the guidelines adopted from time-to-time by the JCC and the State Controller's Office (SCO), comprising Direct Costs and Indirect Costs.
4. Comprehensive Collection Program – A program that collects eligible delinquent court-ordered fines, fees, restitution, forfeitures, penalties, and assessments on infraction, misdemeanor, and felony cases (Delinquent Accounts) as authorized by Penal Code section 1463.007.
5. Debtor - The party named on the Account Receivable.
6. Delinquent Accounts – For sentenced cases, the case is deemed Delinquent if not fully paid thirty (30) days after the date when payment is due, or not in compliance with the terms and conditions of an Installment Payment Plan. For unadjudicated infraction cases, the case is deemed Delinquent five (5) days after the deadline for appearance or any court-authorized continuance of that deadline.
7. Direct Costs – Actual costs and expenses directly incurred in connection with the establishment and operation of the Collections Program and evidenced in writing. Direct Costs incurred in connection with any services or resources jointly used for the Collections Program and for any other purpose shall be included within the definition of Allowable Collection Costs only in proportion to the actual time or the amount such resources are used for the Collections Program.
8. Distribute/Distribution – The act or process of apportioning collection revenues received to recipient agencies as required by law.
9. Enhanced Collections – Collections performed in the enforcement of court orders for fees, fines, forfeitures, restitutions, penalties, and assessments on Delinquent Accounts where costs are incurred and either paid directly by or reimbursed by the Court or County and may be part of the Comprehensive Collection Program. These collections would be reported in the reporting required under Penal Code section 1463.010 as part of the collections program.
10. Indirect Costs – Costs, which by their nature, cannot be readily associated with a specific organizational unit (cost center), program or project, as further specified in Section 15.02 of the Trial Court Financial Policies and Procedures Manual as applicable to the Court, or in the Manual of Accounting Standards and Procedures of Counties as applicable to the County.

11. Installment Payment Plan – An agreement with the Debtor for repayment of an Account Receivable in fixed amounts at specified intervals over time.
12. Qualifying Accounts – Delinquent Accounts are eligible to be referred to the Court or County Collection Program responsible for the collection of the receivable.

C. COLLECTIONS PROGRAM RESPONSIBILITIES

1. The Collections Program, which constitutes a comprehensive collections program under Penal Code section 1463.007, will apply to the Qualifying Accounts and consist of the activities set out in Exhibit A. Each Party will have the responsibility and authority to perform under the Collections Program, and will perform the obligations, as set forth for that Party in Exhibit A.
2. County shall be solely responsible for collecting and distributing victim restitution payments on behalf of victims of crimes, upon receipt of an abstract of judgment from the District Attorney's Office, whether or not County has any other collection responsibilities related to the underlying cases. County shall be responsible for calculating interest due on victims' restitution and shall remit restitution payments to victims.
3. The Parties will operate the Collections Program pursuant to this MOU and in accordance with Penal Code section 1463.007, as well as the applicable guidelines and standards approved from time-to-time by the JCC.
4. County will provide Court with a copy of any proposed and signed agreement with a third-party collection vendor to subcontract any of County's responsibilities under this MOU.
5. The Parties will work together cooperatively to maximize revenue collections and to ensure that high quality customer service is being provided under the Collections Program.
6. Each Party will designate an employee to act as the contact person for each Party to facilitate the exchange of information and resolve any day-to-day issues.
7. As needed, the Parties will meet periodically to discuss issues of mutual interest and concern that may arise in connection with the Collections Program.
8. The Parties will safeguard as confidential all information shared between the Parties to carry out the purposes of this MOU. Neither Party will disclose the information shared between the Parties to a third party without the prior written consent of the other Party, which will not be unreasonably withheld, with the exception of audits or other performance reviews by the JCC and SCO.
9. Access will be provided as necessary for administrative purposes or for use of existing automated collection programs, effective as of the date of this MOU, and related to the implementation and continued operation of the Collections Program. Any costs for this access will be borne individually by the Parties and may be deducted as permitted by Penal Code section 1463.007.

10. The Parties will cooperate to complete the annual collections performance reports required by law. The Parties will report to the JCC annually on the effectiveness of the Collections Program, or as the JCC may otherwise require.
11. The Parties will monitor and implement any changes or modifications to State law and/or regulations affecting the Collections Program and notify the other Party of any change.

D. COST RECOVERY

1. The Parties may deduct, under Penal Code section 1463.007, their Allowable Collection Costs from revenue collected on Delinquent Accounts prior to the Distribution of revenue.
2. Each Party's responsibilities under this MOU are independent of the Party's right to deduct its Allowable Collection Costs from revenue collected. Neither Party has any obligation to pay or reimburse the other Party for any costs incurred in performing obligations under this MOU.
3. If the revenue collected under this MOU during any month is insufficient to allow a Party to recoup all Allowable Collection Costs for that month, and subject to the regulations and guidelines promulgated by the JCC and the SCO, that Party may rollover such shortfall to the subsequent month(s) for deduction.

E. TERM/TERMINATION

The term of this MOU will be for three years, starting on the effective date, and will automatically renew annually unless terminated by either Party in accordance with this this section.

Either Party may terminate this MOU by giving written notice to the other Party at least 180 calendar days prior to the end of the current fiscal year to be effective for the succeeding fiscal year. However, such termination will not be effective, and the MOU will remain in full force and effect, unless and until the Parties execute a new memorandum of understanding setting forth their agreement on the operation of a subsequent Collections Program.

F. DISPUTE RESOLUTION

1. Continuation of Services. Whenever County and Court disagree as to any matter governed by this Memorandum, the dispute resolution process discussed in this Section F shall govern. Until the dispute is resolved, the Parties shall continue to provide the services as set forth herein.
2. Request for Meeting. If after thirty (30) business days, the Court and County cannot resolve any dispute, either Party may give the other Party a written request for a meeting between Court Executive Officer and the County Executive Officer for the purpose of resolving the disagreement. If such a meeting is requested, the meeting shall be held within ten (10) business days of the receipt of such request.
3. Resolution of Disputes. If a dispute between the Parties regarding the interpretation or performance of this Memorandum is not resolved under Section F.2 above, the dispute shall be submitted to non-binding mediation in the City of Ukiah, or any other location agreed upon by the Parties. The cost

of the mediator and any associated costs resulting from mediation will be shared equally between the Parties.

4. Jurisdiction and Venue. If a dispute between the Parties regarding the interpretation or performance of this Memorandum is not resolved under Section F.3 above, either Party may bring legal action to interpret or enforce this Memorandum in the Superior Court of California, County of Mendocino, provided the party bringing such legal action has first given at least ten (10) business days' written notice to the other Party of the intent to bring such action.

G. COMPLIANCE WITH AUDITS; RECORDS RETENTION REQUIREMENTS

1. The Parties will comply with any audit of an appropriate State audit agency that directly relates to this MOU or to funds to be handled or disbursed hereunder. The Parties will maintain an accounting system and supporting fiscal records to comply with State audit requirements related to this MOU.
2. The Parties will maintain and preserve all records and documentation related to this MOU, including records related to billings and other financial records, in an accessible location and condition for a minimum of three (3) years after final payment on any referenced Delinquent or Qualifying Account, unless a longer period of records retention is stipulated by applicable law, and as necessary to comply with State audit requirements and the guidelines and standards of the JCC.

H. INDEMNIFICATION

1. The Parties waive, pursuant to Government Code section 895.4, the pro rata (per capita) risk allocation provided by Government Code section 895.6.
2. Indemnification by Court. The Court will indemnify and hold harmless and defend County, its offices, agents, and employees, from any and all liability, demands, damages, penalties, fines, interests, costs or expenses (including reasonable attorneys' fees) that arise out of, or are alleged to arise out of or are in any way connected with or incident to the duties or obligations of the Court pursuant to this MOU, including any error or omission of the Court in performing such duties and obligations, and including but not limited to the Court's underlying adjudication or orders that serve as the basis for the County's collection actions, except to the extent that such claims arise out of the negligence or willful misconduct of the County, its officers, agents or employees.
3. Indemnification by County. The County shall indemnify and hold harmless and defend the Court, its officers, judicial officers, agents, and employees, from any and all liability, demands, damages, penalties, fines, interest, costs or expenses (including reasonable attorneys' fees) that arise out of, or are alleged to arise out of or are in any way connected with or incident to the duties or obligations of the County pursuant to this MOU, including any error or omission of the County in performing such duties and obligations, except to the extent that such claims arise out of the negligence or willful misconduct of the Court, its officers, judicial officers, agents or employees.
4. Third-Party Claims. If any third party notifies a Party with respect to any matter (a "Third Party Claim") which may give rise to a claim for indemnification against the other Party

under this section H, then the Party seeking indemnification shall promptly and timely notify the indemnifying Party in writing of the Third-Party Claim. The indemnifying Party shall be relieved of any obligation or liability under this Section H, to the extent a delay by the Party seeking indemnification in giving notice of the receipt of the Third-Party Claim results in any damage or prejudice to the indemnified Party. If the indemnifying Party is conducting the defense of the Third-Party Claim in accordance with this section H, the indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the Third-Party Claim, without the prior written consent of the indemnified Party (which consent shall not be withheld unreasonably.)

I. GENERAL PROVISIONS

1. Entire Agreement. This MOU, and all exhibits hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous modifications, agreements, proposals, negotiations, representations, and commitments, both oral and written, between the Parties.
2. Amendment. No addition to or alteration of the terms of this MOU will be valid unless made in the form of a written amendment, which is formally approved and executed by the governing bodies of each of the Parties, or their respective authorized designees.
3. Further Assurances. Each Party hereto agrees to cooperate with the other, and to execute and deliver, or cause to be executed and delivered, all such other instruments and documents, and to take all such other actions as may be reasonably requested of it from time to time, to effectuate the provisions and purposes of this MOU.
4. Waiver. Any waiver by either Party of a term of this MOU must be in writing and executed by an authorized representative of the waiving Party and will not be construed as a waiver of any succeeding breach of the same or other terms of this MOU.
5. Severability. The provisions of this MOU are separate and severable. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way.
6. Notices. Any notices required or permitted hereunder shall be in writing and may (a) be personally delivered; (b) be mailed by depositing such notice in the United States mail, first class postage prepaid; or (c) be sent by reputable overnight delivery service; addressed as follows or to such other place as each party hereto may designate by subsequent written notice to the other party:

If to Court: Mendocino County Superior Court
 100 N. State Street, Room 303
 Ukiah, CA 95482
 Attn: Court Executive Officer

If to County: Mendocino County Executive Office
501 Low Gap Road, Room 1010
Ukiah, CA 95482
Attn: County Executive Officer

7. Assignment. A significant consideration for this Memorandum is the familiarity of County with Court operations and facilities that will allow County to efficiently provide the Services utilizing trained County staff. For this reason, County and Court agree that County shall not assign any interest in this MOU, or subcontract any of the Services County is to perform hereunder without the prior written consent from Court, and any such attempted assignment or subcontracting is void.
8. Binding Effect. This MOU shall be binding upon the successors and assignees of Court and County subject to the provisions of Section I.9 below.
9. Independent Contractor. Each Party will be, and is, an independent contractor, and is not an employee or agent of the other Party. Nothing in this MOU will be construed as creating an employment or agency relationship between the Parties. Each Party will determine the method, details, and means of performing its obligations under this MOU, including, without limitation, exercising full control over the employment, direction, compensation, and discharge of all persons assisting the respective Party. Neither Party nor any person engaged by a Party to perform the services described in this MOU will be responsible for withholding taxes with respect to any compensation to the other Party and is not covered by any employee benefit plans provided to employees of the other Party. Neither Party nor any person engaged by a Party to perform the services described in this MOU will have a claim against the other Party under this MOU or otherwise for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, unemployment insurance benefits or employee benefits of any kind. Each Party is liable for the acts and omissions of itself, its employees, its subcontractors, and its agents.
10. Counterparts. This MOU may be executed in counterparts, each of which is considered an original but all of which together shall constitute one instrument.
11. Counsel and Drafting. Each party hereto, by its due execution of this MOU, represents to the other party that it has reviewed each term of this MOU with its counsel, or has had the opportunity for such review with its counsel. No party shall deny the validity of this MOU on the ground that such party did not have the advice of counsel. Each party hereto has had the opportunity to participate in the drafting and preparation of this MOU. The provisions and terms of this MOU shall be interpreted in accordance with the plain meaning thereof and shall not be construed in favor or against either party.
12. Governing Law. This MOU shall be construed under the laws of the State of California, without regard to its conflict of law provisions.
13. Compliance with Laws. Notwithstanding any provision to the contrary contained in this Memorandum, the parties agree that no provision of this MOU shall require any party to violate any applicable statute, rule of law or regulation.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the day and year first written above.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MENDOCINO

COUNTY OF MENDOCINO

Dated:

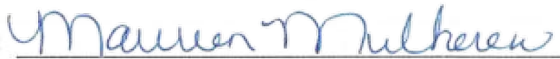
Dated: 07/23/2024

By:



Kim Turner, Court Executive Officer

By:



Maureen Mulheren, Chair
Mendocino County Board of Supervisors

ATTEST:

Dated: 07/23/2024

By:



Deputy

Darce Antle, Clerk of the Board
Mendocino County Board of Supervisors

APPROVED AS TO FORM:

Dated: 07/09/2024

By:



, County Counsel

Exhibit A

1. PURPOSE

The purpose of this Exhibit A is to set forth the Parties' respective roles and responsibilities for handling the assessment and collection of Qualifying Accounts (e.g. fines, fees, restitution, forfeitures, penalties, and assessments imposed by court order "Accounts").

2. COURT RESPONSIBILITIES

- 2.1 The Parties acknowledge that the Court is responsible for determining whether and how much to impose as the total fine or bail amount on any infraction, misdemeanor case, or felony case.
- 2.2 With respect to Accounts where Debtor has failed to appear or pay fully any amount on the date when payment is due or within five (5) calendar days thereafter, the Court will, in addition to any other process or penalty available to the Court by law, begin an adjudication process as follows:
 - 2.2.1 Issue a warrant as appropriate;
 - 2.2.3 For eligible traffic cases, conduct a trial under Vehicle Code section 40903 for possible finding of guilt in absentia. For traffic and non-traffic cases, if found guilty in absentia, send notice of entry of judgment to Debtor.
 - 2.2.4 For criminal cases, send Qualifying Account to Court or County Collections Program when identified as a Delinquent Account. **NOTE: All infraction cases filed prior to February 8, 2021, have already been referred to County Collections.**
- 2.3 For all adjudicated cases, in which Debtor has previously entered a plea of guilty or nolo contendere and has been ordered by the Court to pay Account in full or by using an Installment Payment Plan and has failed to comply with the court order, Account shall be processed as follows:
 - 2.3.1 Issue a warrant as appropriate;
 - 2.3.2 Send Qualifying Account to Court or County Collections Program when identified as a Delinquent Account.
- 2.4 County and Court shall collaborate to compile and complete the County-Court Comprehensive Collection Program annual report for their respective programs.

3. COUNTY RESPONSIBILITIES

- 3.1 The County may establish Installment Payment Plans and perform further collections services as set forth in this MOU, on all Qualifying Accounts referred by the Court under this MOU. The County shall have no independent duty to verify the accuracy of any

information provided by the Court upon referral of Qualifying Accounts for further collection services and is entitled to rely upon the completeness and accuracy of the information so provided.

- 3.2 The County may establish and process payments on Installment Payment Plans for (a) collection of all fines, fees, restitution, forfeitures, penalties, and assessments imposed on a defendant in an adjudicated case, including cases where the defendant is subject to Formal (Supervised) Probation, and (b) collection of amounts due under all court orders directing payment of victim restitution under Penal Code section 1202.4(f).
- 3.3 All Accounts on which an Installment Payment Plan has been established by the County will remain subject to the Court's responsibilities set forth in Section 2 of this Exhibit A.
- 3.4 The County is responsible for determining the best collection activities for the Qualifying Accounts referred to it under this MOU, which may include any of the activities listed in Penal Code section 1463.007.
- 3.5 For Qualifying Accounts, County will process the payments for distribution and reconciliation and deposit those payments as authorized by law.

4. DISTRIBUTION AND FURTHER ACTIONS ON ACCOUNTS

- 4.1 The Court may, in any case and in its sole discretion, make adjustments to Accounts in accordance with applicable law and judicial rulings, including authorizing community service. The Court will provide the County with daily notice of all adjustments made to Accounts transferred to the County and will clarify or verify adjustments upon request. The County cannot make adjustments to any Account, with the exception of County probation fees, local County fees, or to any Account approved for discharge of accountability under Section 5 of this Exhibit A, unless the County is in receipt of appropriate Court orders for the respective Account.
- 4.2 The Court may recall any Qualifying Account transferred to County without charge or penalty. County will cease collection services on such Account no later than the next business day. On the Court's request, the County will forward to the Court any correspondence, contact or other information received from the accountholder regarding the Account.

5. DISCHARGE OF ACCOUNTABILITY

- 5.1 The County will submit Accounts to the Board of Supervisors, at least annually, for discharge of accountability when any of the following conditions are met:
 - 5.1.1 It has been determined that the cost of recovery exceeds that of collection.
 - 5.1.2 The Debtor is deceased;
 - 5.1.3 The Debtor's tax liability is unlikely to be satisfied for 7 – 9 years;

- 5.1.4 The Debtor's billing information is insufficient to properly identify and locate assets for collection efforts;
- 5.1.5 The County has determined that the Debtor is without ability to pay; indigent; and/or, at least seven (7) years have elapsed from the due date of the Account.
- 5.2 Minimum collection efforts required under Section 5.1 include at least four of the following collection efforts: (i) warning letters have been sent to the Debtor; (ii) telephone contact has been made or repeatedly attempted; (iii) skip-tracing has been done to locate the Debtor, his or her assets, and/or social security number; (iv) the Account has been referred to a third party collection agency; (v) the Account has been referred to the Franchise Tax Board Interagency Intercept and/or Court-Ordered Debt program.

[End of Exhibit]