

**REGIONAL FACILITY AGREEMENT
BY AND BETWEEN
COUNTY OF HUMBOLDT
AND
MENDOCINO
FOR FISCAL YEARS 2017-2018 THROUGH 2020-2021**

This Agreement, is entered into this 19th day of Sept., 2017, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as HUMBOLDT, and the County of MENDOCINO, a political subdivision of the State of California, hereinafter referred to as "MENDOCINO", is made upon the following considerations:

WHEREAS, HUMBOLDT, by and through the Humboldt County Probation Department, maintains and operates the New Horizons Program within the Northern California Regional Facility (NCRF) pursuant to California Welfare and Institutions Code Sections 5695 , et seq.; and

WHEREAS, Humboldt County Probation offers beds in the NCRF, on an as-available basis, to outside counties who desire to commit their juvenile court wards in the New Horizons Program; and

WHEREAS, MENDOCINO desires to commit certain of wards ("Wards") of the MENDOCINO County Juvenile Court in the New Horizons Program offered by HUMBOLDT at the NCRF; and

WHEREAS, the parties desire to enter into an agreement which sets forth each party's rights and responsibilities regarding the commitment of Wards in the New Horizons Program by MENDOCINO.

WHEREAS, HUMBOLDT, by and through its Department of Health and Human Services – Mental Health ("DHHS – Mental Health"), is separately contracting with MENDOCINO for the provision of mental health services to Wards placed at the NCRF;

NOW THEREFORE, the parties hereto mutually agree as follows:

1. DESCRIPTION OF SERVICES:

HUMBOLDT agrees to place certain Wards at the NCRF and provide the services made available through the New Horizons Program ("detention services") thereto. In providing such services HUMBOLDT agrees to fully cooperate with MENDOCINO'S Interim Chief Probation Officer, Kevin Kelley, or designee thereof.

2. MENDOCINO'S RESPONSIBILITIES:

Upon delivery of a Ward to the NCRF, MENDOCINO shall provide to NCRF staff a dispositional report and conformed court orders committing the Ward to the NCRF. MENDOCINO shall also provide to NCRF staff the following forms for consent to medical treatment signed by a parent, legal guardian, Indian Custodian or juvenile court judge, as applicable: (1) Northern California Regional Facility Consent for medical Treatment form; (2) DHHS – Mental Health Consent for Treatment form; (3) DHHS – Mental Health Release of Information form; and (4) Psychotropic Informed Consent form for the administration of psychotropic medications.

3. TERM:

This Agreement shall begin on July 1, 2017 and shall remain in full force and effect until June 30, 2021, unless sooner terminated as provided herein.

4. TERMINATION:

- A. Breach of Contract. Either party may immediately terminate this Agreement, upon written notice, in the event that the other party materially defaults in performing any obligation under this Agreement, or violates any ordinance, regulation or other law applicable to its performance herein. HUMBOLDT reserves the right to reject or return any ward of MENDOCINO who HUMBOLDT determines is unfit for the Northern California Regional Facility New Horizons Program. HUMBOLDT shall notify MENDOCINO by telephone upon the decision to terminate the ward's commitment. MENDOCINO shall physically take the ward within five (5) working days of HUMBOLDT'S telephone notice of the ward's termination.
- B. Compensation Upon Termination. In the event of any termination of this Agreement, HUMBOLDT shall be entitled to compensation for uncompensated services rendered hereunder through and including the effective date of such termination.

5. COMPENSATION:

- A. Maximum Amount Payable. The maximum amount payable by MENDOCINO for detention services rendered, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement is Five Hundred Twenty Thousand Dollars (\$520,000.00). In no event shall the maximum amount paid under this Agreement exceed One Hundred Thirty Thousand Dollars (\$130,000.00) per fiscal year, for fiscal years 2017-2018, 2018-2019, 2019-2020 and 2020-2021. HUMBOLDT agrees to perform all detention services required by this Agreement for an amount not to exceed such maximum amount payable. HUMBOLDT may terminate this Agreement, without penalty, if the maximum payable amount set forth herein is reached prior to the expiration date of the Agreement.
- B. General Reimbursement Rate. MENDOCINO agrees to reimburse HUMBOLDT at the rate of One Hundred and Eighty-Eight Dollars and Seventy-Two Cents (\$188.72) per day for each Ward receiving detention services pursuant to the terms and conditions of this Agreement.
- C. Rate Increases. HUMBOLDT may increase the general reimbursement rate set forth herein on an annual basis in order to cover any increases in the costs incurred by HUMBOLDT as a result of providing detention services pursuant to the terms and conditions of this Agreement. HUMBOLDT shall provide MENDOCINO forty-five (45) days advance written notice of any such increases in the general reimbursement rate set forth herein.
- D. Medical Services. MENDOCINO shall be responsible for any costs over Fifteen Thousand Dollars (\$15,000), per Ward, for the provision of medical and/or surgical services to Wards placed at the NCRF by HUMBOLDT's contractor for medical services therein, California Forensic Medical Group ("CFMG"). MENDOCINCO will receive invoices directly from CFMG for any medical and/or surgical costs over Fifteen Thousand Dollars (\$15,000), per Ward. MENDOCINO shall reimburse CMFG for such medical and/or surgical costs at the rates set forth in CFMG's current rate schedule.

- E. Dental Treatment. MENDOCINO shall be responsible for all routine dental costs, including, without limitation, cleaning and cosmetic and/or aesthetic treatment, incurred by HUMBOLDT as a result of providing detention services pursuant to the terms and conditions of this Agreement. Dental care shall be limited to pain management, injured teeth/gums and conditions that may lead to malignancies (if incarceration is prolonged). MENDOCINO shall reimburse HUMBOLDT for any dental treatment provided to Wards as part of the detention services provided pursuant to the terms and conditions of this Agreement at the rates paid by HUMBOLDT for such dental treatment.
- F. Transportation. MENDOCINO shall be responsible for any transporting of Wards to or from MENDOCINO as part of the detention services provided pursuant to the terms and conditions of this Agreement.

6. PAYMENT:

HUMBOLDT shall submit to MENDOCINO monthly invoices which itemize all detention services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement during the applicable invoice period. In addition, HUMBOLDT shall submit an invoice for final payment no more than thirty (30) days following the expiration or termination date of this Agreement. Payment for detention services provided, and costs and expenses incurred, pursuant to the terms and conditions of this Agreement shall be made by MENDOCINO within thirty (30) days of receiving invoices submitted by HUMBOLDT. All payments shall be made out to HUMBOLDT COUNTY PROBATION DEPARTMENT and sent to HUMBOLDT at the following address:

HUMBOLDT: Humboldt County Probation – Revenue Recovery
2002 Harrison Avenue
Eureka, CA 95501

7. NOTICES:

Any and all notices required to be given pursuant to the terms of this Agreement shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

HUMBOLDT: Humboldt County Probation Department
Attention: Legal Office Business Manager
2002 Harrison Avenue
Eureka, California 95501

MENDOCINO: Mendocino County Probation Department
Attention: Cathy White, Admin. Services Manager II
589 Low Gap Road
Ukiah, CA 95482

8. RECORD RETENTION AND INSPECTION:

- A. Maintenance and Preservation of Records. Each party agrees to timely prepare accurate and complete financial, performance and payroll records relating to the detention services provided

pursuant to the terms and conditions of this Agreement, and to maintain and preserve said records for at least three (3) years from the date of final payment under this Agreement, except that if any litigation, claim, negotiation, audit or other action is pending, the records shall be retained until completion and resolution of all issues arising therefrom.

- B. Inspection of Records. Each party hereby agrees to make all records relating to the detention services provided pursuant to the terms and conditions of this Agreement available during normal business hours to inspection, audit and reproduction by any duly authorized local, state and/or federal agencies. Each party further agrees to allow interviews of any of its employees who might reasonably have information related to such records by any duly authorized local, state and/or federal agencies. All examinations and audits conducted under this section shall be strictly confined to those matters connected with the performance of this Agreement, including, but not limited to, the costs of administering this Agreement.

9. CONFIDENTIAL INFORMATION:

- A. Disclosure of Confidential Information. In the performance of this Agreement, each party may receive information that is confidential under local, state or federal law. Each party hereby agrees to protect all confidential information in conformance with any and all applicable local, state and federal laws, regulations, policies, procedures and standards, including, but not limited to: Division 19 of the California Department of Social Services Manual of Policies and Procedures B Confidentiality of Information; California Welfare and Institutions Code Sections 827, 5328, 10850 and 14100.2; California Health and Safety Code Sections 1280.15 and 1280.18; the California Information Practices Act of 1977; the California Confidentiality of Medical Information Act (ACMIA@); the United States Health Information Technology for Economic and Clinical Health Act (HITECH Act@); the United States Health Insurance Portability and Accountability Act of 1996 (AHIPAA@) and any current and future implementing regulations promulgated thereunder, including, without limitation, the Federal Privacy Regulations contained in Title 45 of the Code of Federal Regulations (AC.F.R.@) Parts 160 and 164, the Federal Security Standards contained in 45 C.F.R. Parts 160, 162 and 164 and the Federal Standards for Electronic Transactions contained in 45 C.F.R. Parts 160 and 162, all as may be amended from time to time.
- B. Continuing Compliance with Confidentiality Laws. The parties acknowledge that local, state and federal confidentiality laws are rapidly evolving and that amendment of this Agreement may be required to ensure compliance with such developments. Each party agrees to promptly enter into negotiations concerning an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the CMIA and any other applicable local, state and federal laws or regulations.

10. NON-DISCRIMINATION COMPLIANCE:

- A. Professional Services and Employment. In connection with the execution of this Agreement, neither party shall unlawfully discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over forty (40) years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, denial of family care leave or any other classifications protected by local, state or federal laws or regulations. Nothing herein shall be construed to require the

employment of unqualified persons.

- B. Compliance with Anti-Discrimination Laws. Each party further assures that it will abide by the applicable provisions of: Title VI and Title VII of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; the Food Stamp Act of 1977; Title II of the Americans with Disabilities Act of 1990; the California Fair Employment and Housing Act; California Civil Code Sections 51, et seq.; California Government Code Sections 4450, et seq.; California Welfare and Institutions Code Section 10000; Division 21 of the California Department of Social Services Manual of Policies and Procedures; United States Executive Order 11246, as amended and supplemented by United States Order 11375 and 41 C.F.R. Part 60; and any other applicable local, state and/or federal laws and regulations, all as may be amended from time to time. The applicable regulations of the California Fair Employment and Housing Commission implementing California Government Code Section 12990, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

11. NUCLEAR FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

MENDOCINO certifies by its signature below that it is not a Nuclear Weapons Contractor, in that MENDOCINO is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. MENDOCINO agrees to notify HUMBOLDT immediately if it becomes a Nuclear Weapons Contractor as defined above. HUMBOLDT may immediately terminate this Agreement if it determines that the foregoing certification is false or if MENDOCINO subsequently becomes a Nuclear Weapons Contractor.

12. INDEMNIFICATION:

- A. Mutual Indemnity. Each party hereto shall hold harmless, defend and indemnify the other party and its agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities, expenses and costs of any kind or nature, including, without limitation, attorney's fees and other costs of litigation, arising out of, or in connection with, the negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of the other party or its agents, officers, officials, employees or volunteers.
- B. Comparative Liability. Notwithstanding Section 11(A) – Mutual Indemnity – above, in the event that both parties are held to be negligently or willfully responsible, each party will bear their proportionate share of liability as determined in any such proceeding. In such cases, each party will bear their own costs and attorney's fees.
- C. Effect of Insurance. Acceptance of insurance required by this Agreement does not relieve either party from liability under this provision. This provision shall apply to all claims for damages related to the detention services performed pursuant to the terms and conditions of this Agreement regardless if any insurance is applicable or not. The insurance policy limits set forth herein shall not act as a limitation upon the amount of indemnification or defense to be provided by either party hereunder.

13. INSURANCE REQUIREMENTS:

- A. General Insurance Requirements. Without limiting the parties' indemnification obligations set forth herein, each party will maintain at all times during the performance of this Agreement, at its own expense, any appropriate insurance coverage or self-insurance to cover its operations, including, without limitation, comprehensive general liability, comprehensive automobile, workers= compensation and professional liability B error and omission policies, in the amount of One Million Dollars (\$1,000,000.00) for each individual policy.
- B. Insurance Notices. Any and all insurance notices required to be given pursuant to the terms of this Agreement shall be sent to the addresses set forth below in accordance with the notice provisions described herein.

HUMBOLDT: County of Humboldt
Attention: Risk Management
825 Fifth Street, Room 131
Eureka, California 95501

MENDOCINO: County of Mendocino
Attention: Risk Manager
501 Low Gap Road
Ukiah, CA 95482

14. RELATIONSHIP OF THE PARTIES:

It is understood that this is an Agreement by and between two independent entities and is not intended to, and shall not be construed to, create the relationship of agents, servant, employee, partnership, joint venture or any other similar association.

15. COMPLIANCE WITH APPLICABLE LAWS:

Each party agrees to comply with all local, state and federal laws and regulations applicable to the detention services provided pursuant to the terms and conditions of this Agreement, including without limitation, the Prison Rape Elimination Act of 2003. Each party further agrees to comply with all applicable local, state and federal licensure and certification requirements.

16. PROVISIONS REQUIRED BY LAW:

This Agreement is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the provisions, terms or funding of this Agreement. This Agreement shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

17. REFERENCE TO LAWS AND RULES:

In the event any law, regulation, policy or procedure referred to in this Agreement is amended during the term hereof, the parties agree to comply with the amended provision as of the effective date of such amendment.

18. SEVERABILITY:

If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

19. ASSIGNMENT:

Neither party shall delegate its duties or assign its rights hereunder, either in whole or in part, without the other party's prior written consent. Any assignment in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. This provision shall not be applicable to service agreements or other arrangements usually or customarily entered into by the parties to obtain supplies, technical support or professional services.

20. AGREEMENT SHALL BIND SUCCESSORS:

All provisions of this Agreement shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, administrators, successors and permitted assigns.

21. WAIVER OF DEFAULT:

The waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

22. NON-LIABILITY OF OFFICIALS AND EMPLOYEES:

No official or employee of either party shall be personally liable for any default or liability under this Agreement.

23. AMENDMENT:

This Agreement may be amended at any time during the term of this Agreement upon the mutual consent of both parties. No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

24. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

25. ADVERTISING AND MEDIA RELEASE:

All informational material related to this Agreement shall receive approval from HUMBOLDT prior to being used as advertising or released to the media, including, but not limited to, television, radio, newspapers and internet. MENDOCINO shall inform HUMBOLDT of all requests for interviews by the media related to this Agreement before such interviews take place; and HUMBOLDT shall be entitled to

have a representative present at such interviews.

26. SURVIVAL:

The duties and obligations of the parties set forth in Section 4B – Compensation Upon Termination, Section 8B – Record Retention and Inspection, Section 9 – Confidential Information and Section 12 – Indemnification shall survive the expiration or termination of this Agreement.

27. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this Agreement, the terms and conditions set forth herein shall have priority.

28. INTERPRETATION:

This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

29. INDEPENDENT CONSTRUCTION:

The titles of the sections, subsections and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

30. FORCE MAJEURE:

Neither party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

31. ENTIRE AGREEMENT:

This Agreement contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties hereto. In addition, this Agreement shall supersede in its entirety any and all prior agreements, promises, representations, understandings and negotiations of the parties, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms of this Agreement are hereby ratified.

32. AUTHORITY TO EXECUTE:

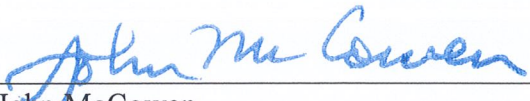
Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations

hereunder have been duly authorized.

[Signatures on Following Page]

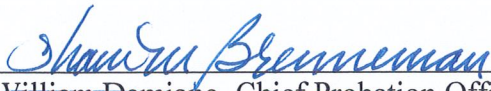
IN WITNESS WHEREOF, the parties have entered into this Agreement as of the first date written above.

MENDOCINO:

By: 
John McCowen
Chair, MENDOCINO Board of Supervisors

Date: 9/20/17

COUNTY OF HUMBOLDT:


~~William Damiano, Chief Probation Officer~~
(Pursuant to the authority granted by the Humboldt
County Board of Supervisors on March 10, 2015)
Shaun Brenneman, Chief Probation Officer

Date: 1/14/2019

INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:

By: 
Risk Management

Date: 1/15/2019

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

DEPARTMENT FISCAL REVIEW:

DEPARTMENT HEAD

DATE

Budgeted: ☒ Yes ☐ No

Budget Unit: 2550 2560

Line Item: 862189

Grant: ☐ Yes ☒ No

Grant No.:

CONTRACTOR/COMPANY NAME

By: Shawn Brennenman 1/14/19
William Damiano, Chief Probation Officer

NAME AND ADDRESS OF CONTRACTOR:

Shawn Brennenman
Humboldt County Probation

2002 Harrison Avenue

Eureka, CA 95501

COUNTY OF MENDOCINO

By:

John McCowen
JOHN MCCOWEN, Chair
BOARD OF SUPERVISORS SEP 20 2017

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By:

Karla Van Hagen
Deputy SEP 20 2017

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

CARMEL J. ANGELO, Clerk of said Board

By:

Karla Van Hagen
Deputy SEP 20 2017

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

KATHARINE L. ELLIOTT,
County Counsel

By:

Blanton
Deputy

INSURANCE REVIEW:

RISK MANAGER

By:

Alan D. Flora
ALAN D. FLORA, Risk Manager

FISCAL REVIEW:

By:

Gile Martin
Deputy CEO/Fiscal

EXECUTIVE OFFICE REVIEW:

APPROVAL RECOMMENDED

By:

Gile Martin
CARMEL J. ANGELO, Chief Executive Officer

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; \$50,001+ Board of Supervisors

Exception to Bid Process Required/Completed ☐

Mendocino County Business License: Valid ☐

Exempt Pursuant to MCC Section: _____