

MEMORANDUM OF UNDERSTANDING
2021/22 SUPERIOR COURT SERVICES AGREEMENT

I. INTRODUCTION

THIS AGREEMENT is entered into as of July 1, 2021 between the COUNTY OF TULARE, referred to as the COUNTY, and the SUPERIOR COURT OF TULARE COUNTY, referred to as the COURT, with reference to the following:

II. RECITALS

A. WHEREAS, the Brown-Presley Trial Court Funding Act (commonly known as the "Trial Court Funding Act"), as set out and incorporated in Government Code section 77000 *et seq.*, provides that services and supplies relating to court operations shall be considered Trial Court Operations;

B. WHEREAS, The Trial Court Funding Act provides that a county may bill trial courts, such as this Superior Court, for the costs of its services and supplies provided to the trial courts for Trial Court Operations;

C. WHEREAS, both the COURT and the COUNTY agree to the terms and conditions of this Agreement as set forth below:

ACCORDINGLY, IT IS AGREED:

III. SPECIFIC TERMS

1. **TERM:** This Agreement shall become effective as of July 1, 2021, and shall terminate on June 30, 2022, unless otherwise terminated as provided in this Agreement.
2. **SERVICES TO BE PERFORMED:** See attached EXHIBIT A.
3. **PAYMENT FOR SERVICES:** See attached EXHIBIT B.

4. COMPLIANCE WITH LAW: The COUNTY shall provide services in accordance with applicable Federal, State and local laws, regulations and directives. With respect to the County's employees, the COUNTY shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

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

6. INDEPENDENT CONTRACTOR STATUS: This Agreement is entered into by both parties with the express understanding that the COUNTY will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the COUNTY or any of its agents, employees or officers as an agent, employee or officer of the Court.

7. TERMINATION: (a) Subject to Government Code section 77212 (regarding continuation of certain services by counties), the COUNTY may give notice to the COURT at least ninety (90) days prior to the end of the applicable fiscal year that it will no longer provide a specific service, except that the COUNTY shall reasonably cooperate with the COURT to ensure that a vital service for the Court shall be available from the COUNTY

or other entities that provide such services. The termination of the specified service(s) shall be effective on the first day of the succeeding fiscal year.

(b) Subject to Government Code section 77212, the COURT may give notice to the COUNTY at least ninety (90) days prior to the end of the applicable fiscal year that it will no longer use a specific service or services.

(c) The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or in equity.

(d) As to Temporary Services requested by the COURT (including telecommunication, mail, courier, copier and custodial services), the COURT may terminate such services by providing to the COUNTY sixty (60) days prior written notice of such termination. As to termination of such temporary services, the parties specifically waive the notice provisions provided in Government Code section 77212.

8. ENTIRE AGREEMENT REPRESENTED: This Agreement represents the entire agreement between the COUNTY and the COURT as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

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

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

COUNTY: Board of Supervisors
County Administration Building
2800 West Burrel
Visalia, CA 93291

Copy To: Tulare County
Auditor/Controller
221 South Mooney Blvd.
County Civic Center, 101E
Visalia, CA 93291

Fax No.: (559) 733-6898 / **Confirming No.:** (559) 636-5000

COURT: Tulare County Superior Court
221 South Mooney Blvd.
County Civic Center, Room 303
Visalia, CA 93219

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

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

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

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

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

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

15. EXHIBITS AND RECITALS: The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

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

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

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

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

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

COUNTY OF TULARE

Date: 6/29/2021

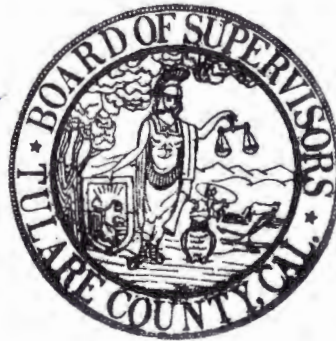
By *Ang Shullian*
Chair, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By *Mercedes Camar*
Deputy Clerk

Approved as to Form
County Counsel

By *Jeffrey Kuhn*
Deputy
File No. 2021663



TULARE COUNTY SUPERIOR COURT

Date: 6-11-2021

By *Stephanie*
Court Executive Officer

EXHIBIT A

SERVICES TO BE PERFORMED

1. The COUNTY will provide to the COURT the following services:

- (a) Internal Services,
- (b) Fleet Services,
- (c) Any other temporary services the COURT requests and the COUNTY is willing to provide, including telecommunications, mail, courier, copier, and custodial, but use of such services on a temporary basis will not activate the provisions of Government Code section 77212 as to either party.

EXHIBIT B

PAYMENT FOR SERVICES

20. COST OF SERVICES: The COUNTY shall be compensated for the services as provided in "Exhibit B - 1."

21. DOCUMENTATION AND RECONCILIATION OF INDIRECT AND OVERHEAD COSTS: The parties acknowledge and agree that "Exhibit B - 2" documents how the COUNTY shall determine indirect costs and overhead costs, and that the COUNTY shall continue to calculate such costs consistent with such method of calculation unless the parties otherwise agree.

RECONCILIATION: The parties further agree that after the fourth quarter of the fiscal year the service departments shall reconcile the charges billed to the COURT and all other departments serviced. In the event such reconciliation results in a finding that the COURT has been overcharged for services during the term, the COUNTY shall adjust its rates to reimburse the COURT for the amount of the overcharge. In the event such reconciliation results in a finding that the COURT has been undercharged for services during the term, the COURT shall pay the COUNTY for the amount of the undercharge.

22. METHOD OF PAYMENT: Except as otherwise provided, the COUNTY shall bill the COURT within 30 days of the month in which the services were provided. The COURT shall make payment within 30 days.

EXHIBIT B - 1

Projected Court Costs: FY 2021/2022

Service	Courts & Law Library- Direct Bill Estimate	Collections – Direct Bill Estimate
Copier	327	-
Courier	19,142	-
Custodial	-	-
Grounds	-	1,011
Invensys	-	-
Mail	72,879	17,858
Maintenance	4,350	4,433
Motor Pool	1,418	-
Print	16,458	1,007
Telecommunications	-	-
Utilities	-	2,866
Total	\$114,574	\$27,175

EXHIBIT B - 2

Indirect and Overhead Costs: FY 2021/2022

Service	Direct Bill Charges			Indirect Charges	
	Tulare County Courts	Law Library	Collections	Judicial Council	Unallowable
Copier	-	327	-	-	176
Courier	18,048	1,094	-	-	-
Custodial	-	-	-	-	64,689
Grounds	-	-	1,011	-	123,346
Invensys	-	-	-	-	-
Mail	72,879	-	17,858	-	290
Maintenance	4,350	-	4,433	327,472	201,537
Fleet (Motor Pool)	1,418	-	-	-	236
Print	16,355	103	1,007	-	2199
Telecommunications	-	-	-	-	71,552
Utilities	-	-	2,866	253,636	171,149
Total	\$113,050	\$1,524	\$21,348	\$581,108	\$635,174