

ORIGINAL

#259-M1610

**Memorandum of Understanding  
Between  
The EI Dorado County Probation Department  
And  
Superior Court of California  
County of EI Dorado  
Regarding Collaborative Justice Courts Substance Abuse Focus Grant Program  
(SAFG)**

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This Memorandum of Understanding #259-M1610 ("Agreement" or "MOU") is entered into by and between the EI Dorado County Probation Department (hereinafter referred to as "Probation") and the Superior Court of California, County of El Dorado (hereinafter referred to as "Court"). This MOU sets forth each agency's role and responsibility as it relates to the Fiscal Year 2015-2016 Collaborative Justice Courts Substance Abuse Focus Grant Program (SAFG) for continuous alcohol monitoring for DUI court offenders and Drug Court offenders.

**WHEREAS**, Court is to receive from the Judicial Council of California funding for the Collaborative Justice Court Substance Abuse Focus Grant Program (Program) under the terms and conditions of Contract No. 1031075 (the "Contract");

**WHEREAS**, Court desires to subcontract with Probation, subject to the authorization of the County of El Dorado, for Probation to provide to Court services necessary to complete the Program objectives;

**WHEREAS**, it is the intent of the parties that such services be in conformity with the Contract and all applicable federal, state and local laws; and

**NOW, THEREFORE**, Court and Probation mutually agree as follows:

- 1. Scope of Services:** Consistent with the terms and conditions of the Contract and this Agreement, Probation agrees to provide DUI Court offenders, Drug Court offenders, Behavioral Health Court offenders and Adult Domestic Violence Court offenders continuous alcohol monitoring, presumptive urine testing, saliva testing, presumptive saliva testing, and testing through other technologies, to monitor offenders compliance on a more frequent schedule to foster program compliance, and to assist the Court Program Manager, as requested by the Court Program Manager, to comply with responsibilities under the Contract. The Court Program Manager is Jackie Davenport or designee.

2. **Term:** This Agreement is effective July 1, 2015, through November 30, 2016. Either party may terminate this MOU by providing written notice of intent to terminate to the other party at least thirty (30) days before the termination date. In addition and upon notice to Probation, Court may terminate this Agreement in whole or in part, without prejudice to any right or remedy of Court, if expected or actual funding is withdrawn, reduced, or limited in any way.
3. **Reporting:** Probation agrees to provide data relevant to the deliverables in a timely manner and as outlined in the Contract and Attachment A to this Agreement or as otherwise requested by the Court Program Manager so Court can meet its reporting obligations to the Judicial Council.
4. **Compensation for Services:** The total amount of this Agreement shall not exceed \$16,745.00.

Probation shall submit invoices to Court monthly with documentation acceptable to Court to supporting actual costs billed. Such documentation to be provided to Court monthly includes:

- a. Copies of vendor invoices for alcohol monitoring services;
- b. Adequate backup documentation with invoices that substantiate expenses claimed; and
- c. Such additional information as Court may require from Probation to comply with the terms of the Contract.

Subject to compliance with the requirements and not-to-exceed limit of this section 4, Court shall reimburse Probation for actual costs incurred following Court's receipt of SAFG funds from the Judicial Council and after submission to and acceptance by the Judicial Council of required reports identified in the Contract and Attachment A – Deliverables of this Agreement.

## 5. General Provisions

- a. Entire Agreement. This MOU 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 to this MOU.
- b. 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.

- c. Further Assurances. Each party 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, in order to effectuate the provisions and purposes of this MOU.
- d. Waiver. Any waiver by either party of the terms 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 term of this MOU.
- e. Severability. The provisions of this MOU are separate and severable. If any provision of this MOU shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. Any such provision will be enforced to the maximum extent possible so as to effect the reasonable intent of the parties and will be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.
- f. Independent Contractor. Each party will be, and is, an independent contractor, and is not an employee or agent of the other party, and neither party nor any person engaged by a party to perform the services described herein is covered by any employee benefit plans provided to the employee of the other party. Each party is liable for the acts and omissions of itself, its employees and its agents. 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. Each party will be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding any and all employee benefits, and all regulations governing such matters.
- g. Risk Allocation. It is the intention of both parties that neither will be responsible for the negligent and/or intentional acts and/or omissions of the other, or its judges, subordinate judicial officers, directors, officers, agents and employees. The parties therefore disclaim in its entirety the pro rata risk allocation that could otherwise apply to this MOU pursuant to Government Code 895.6. Instead, pursuant to Government Code section 895.4, the parties agree to use principles of comparative fault when apportioning any and all losses that may arise out of the performance of this MOU.

- h. Counterparts. This MOU may be executed in counterparts, each of which is considered an original but all of which together shall constitute one instrument.
- i. Notices. Any notices required to be given pursuant to the terms and provisions of the MOU shall be in writing and shall be delivered to:

County: El Dorado County Probation Department  
Shingle Springs Main Office  
3974 Durock Road, Ste. 205  
Shingle Springs, CA 95682  
Attn: Chief Probation Officer

Court: Superior Court Executive Officer  
2850 Fairlane Court, Ste. 110  
Placerville, CA 95667  
Attn: Court Executive Officer

- j. California State Auditor. This Agreement is subject to examination and audit by the State Auditor for a period of three years after final payment.

IN WITNESS WHEREOF, Court and Probation executed this MOU # 259-M1610 on the date or dates indicated below:

-- COUNTY OF EL DORADO --

Dated: 12/8/15

By: Brian K. Veerkamp, Chairman  
Board of Supervisors  
"County"

ATTEST:

James S. Mitrisin, Clerk  
of the Board of Supervisors

By: Marcie MacLulad Dated: 12/8/15  
Deputy Clerk  
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**Superior Court of California  
County of El Dorado**

By: Suzanne N. Kingsbury  
Suzanne N. Kingsbury  
Presiding Judge Superior Court

By: Tania Ugrin-Capobianco  
Tania Ugrin-Capobianco  
Court Executive Officer

**El Dorado County Probation Department**

By: Brian Richart  
Brian Richart  
Chief Probation Officer  
Contract Administrator

**Attachment A  
Deliverables**

Probation is required to provide the following deliverables to Court by the Due Date for submission to, and approval by, the Judicial Council:

Deliverable	Due Date	Firm Fixed Price per Deliverable
<p style="text-align: center;"><b>FIRST DELIVERABLE:</b></p> <p><b>For each collaborative justice court program type receiving these grant funds, submit a Progress Report which contains the following:</b></p> <ul style="list-style-type: none"> <li><b>a. Indicate whether the collaborative justice court program uses a pre-admission/pre-plea model, post-admission/post-plea model, uses a model developed for noncriminal cases, or is education-only;</b></li> <li><b>b. Collaborative justice court program capacity (maximum number of participants the program can serve <u>or</u> maximum number of educational events that an education-only program can deliver), if applicable;</b></li> <li><b>c. Number of participants currently in the collaborative justice court, if applicable;</b></li> <li><b>d. The challenges keeping the collaborative justice court program from being at or near capacity, if applicable.</b></li> </ul>	February 29, 2016	One-half of grant award amount.

Deliverable	Due Date	Firm Fixed Price per Deliverable
<p style="text-align: center;"><b>SECOND DELIVERABLE:</b></p> <p><b>For grant period July 1, 2015 to June 30, 2016, submit a Final Report that includes the following statistical information as applicable:</b></p> <ul style="list-style-type: none"> <li><b>a. Total number of court users served through this grant or number of attendees for education-only programs;</b></li> <li><b>b. Number of successful completions;</b></li> <li><b>c. Number of unsuccessful terminations;</b></li> <li><b>d. Number of high school graduations or GED completions during the grant period;</b></li> <li><b>e. Number of participants who had their children returned to their home by the court, if applicable.</b></li> <li><b>f. Has this program experienced any changes as a result of criminal justice realignment? If so, what changes have occurred?</b></li> </ul>	<p>July 29, 2016</p>	<p>One-half of grant award amount.</p>