

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF TUOLUMNE

Memorandum of Understanding

Tuolumne Court Staff Association  
American Federation of State, County  
and Municipal Employees  
Local 10

**December 1, 2016 – November 30, 2018**

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## **PREAMBLE**

Pursuant to the provisions of the Trial Court Employment Protection and Governance Act, California Government Code §71600 et seq., and the Court Employee Labor Relations rules, Rule 2201 and following of the Rules of Court, representatives of the Tuolumne County Superior Court, hereinafter called "Court", and the Tuolumne Court Staff Association/American Federation of State, County and Municipal Employees, Local 10, hereinafter called the "Association", have met and conferred concerning the subject of wages, hours and terms and conditions of employment. This Memorandum of Understanding (MOU) represents the good faith effort of both the Court and the Association to reach agreement on matters of wages, hours, and terms and conditions of employment. The signatures at the end of this MOU on behalf of the Court and the Association are conclusive evidence that both parties have ratified this MOU.

This MOU shall become effective on December 1, 2016 upon approval by the Court and the Association and shall remain in full force and effect through November 30, 2018, and will continue in full force and effect on a month-to-month basis until such time as the parties have agreed upon and ratified a successor agreement. The parties shall commence negotiations no later than thirty (30) days following the date of Judicial Council of California approval of the budget allocations for all California Superior Courts.

### **1. Recognition**

The Court hereby recognizes the Tuolumne Court Staff Association/American Federation of State County and Municipal Employees, Local 10 (TCSA/AFSCME) as the exclusive recognized employee organization representing those classifications assigned to the General bargaining unit as listed in Appendix A of this MOU.

### **2. Non-Discrimination**

The Court shall not discriminate against anyone employed or applying for employment because of their membership in the Association or their activities on behalf of the Association. Neither the Court nor the Association shall interfere with, intimidate, restrain, coerce or discriminate against any employees because of the exercise of any rights protected by Government Code § 71635.1.

### **3. Court Rights**

Except as provided in this MOU and consistent with its obligation to meet and confer, the Court shall have the right to adopt, change or revoke any policies, practices or procedures. The Court reserves the right to set standards of service, determine the standards of selection for employment; direct and evaluate the performance of its employees, institute disciplinary action, relieve employees of duties or reduce staffing because of lack of work or other legitimate reason, determine the methods, means and personnel by which its operations are conducted, take all necessary actions to carry out its mission in emergencies, and control the allocation and use of its resources.

### **4. Association Rights**

#### **A. Negotiation Representatives**

The Association may designate up to three unit members as "meet and confer"

representatives. When necessary, these members shall be released from their duty assignments, without loss of pay or other employee benefits, in order to attend scheduled "meet and confer" sessions with Court representatives. Members shall be relieved from duty from one hour before to one hour after negotiating sessions.

**B. Access**

The Association shall have reasonable access to Court facilities and employees during reasonable business hours for the purpose of conducting Association business.

**C. Association Bulletin Board**

The Association shall have the right to maintain a bulletin board at a location in the Courthouse specified by the Court Executive Officer and accessible to all employees for Association business.

**D. Association Communications**

The Association shall have the right to use the Court's intra-office communications system for transmission of reasonable information concerning official Association business. This shall include reasonable use of telephone, fax, Court email and photocopiers.

**E. Grievances**

The Grievance Procedure set forth herein shall be the procedure to resolve all alleged violations, misapplications and misinterpretations of the MOU.

Members of the Association's Board of Directors shall be allowed to process grievances on behalf of employees in accordance with the provisions of the MOU as follows:

**1) Open Door Process**

The Court encourages employee participation in decisions affecting them and their daily professional responsibilities. Any employee who has job-related concerns or complaints is encouraged to address them at the earliest opportunity and at the lowest possible level by discussing them with his or her direct supervisor. If the employee is uncomfortable discussing these concerns with the supervisor, he or she can discuss them with any other Court management representative with whom the employee feels comfortable. Employees are also free to contact any Union Board Member to attempt to informally resolve their concerns before filing a formal grievance. Please note that participation in the Court's Open Door process is optional, and does not extend the time limit within which an employee may file a grievance.

Although the Court cannot guarantee that the employee will be satisfied with the result of their discussion(s), the Court will attempt in each instance to explain the result to the employee. The Court will also attempt to keep the concern(s) raised in the Open Door process, the results of its investigation, and the terms of the resolution confidential to the extent possible under the circumstances specific to the concern(s).

The Court believes that employee concerns can often be best addressed at this informal level and through open communication. Because no solution is possible without candid discussion, employees are encouraged to speak openly with their supervisor, and are assured that they may use the Court's Open Door process without fear of reprisal. This is not intended to discourage or restrict the use of the grievance process.

## **2) Grievance Procedures – Statement of Policy**

For those issues and concerns that are not resolved through open communication, the following grievance procedure steps are designed to assist represented employees to express their job-related complaints, to have them considered fairly by the Court, and to have them resolved at the lowest level possible. Grievance timeframes are not automatically extended by use of the Open Door policy.

Any employee who wishes to file a grievance shall complete the Grievance form that is available in the Public drive's Human Resources folder, and submit it to his or her Division Manager for review, or to another Court Manager (e.g., a different Operations Manager, the Fiscal Manager, or the IT Manager), if their Division Manager is the subject of the grievance.

If a grievance is filed, all parties involved in that grievance must act in good faith and strive for objectivity while working to reach a constructive resolution at the earliest step of the grievance process.

Every effort should be made to complete the action within the limits specified in the grievance procedures. The parties may extend the time limitations for any step through mutual consent.

### **a. Duty to Participate**

Every Court employee is required to participate in the grievance investigation process, as directed. This includes truthfully disclosing personally known facts relevant to the investigation.

### **b. Non-Retaliation**

Every Court employee involved in a grievance shall avoid retaliation against any person who cooperates with the grievance process. The aggrieved employee ("Grievant") shall also have the assurance that the filing of a grievance in good faith will not result in any kind of reprisal by the Court against that employee.

## **3) Grievance Defined**

A formal grievance is an asserted violation, misinterpretation, inequitable application or non-compliance with Court rules, regulations, or policies. A grievance is defined as an alleged violation, misapplication, or misinterpretation by the Court of any provision of an approved Memorandum of Understanding between the Court and a recognized employee organization. An employee may be represented by a steward or Union Representative at all steps of the grievance process.

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#### **4) Grievance Filing and Procedures**

Whenever an employee believes that he or she has a grievance, as defined in MOU Section 4.E.3 above, the employee shall bring the matter to the attention of his or her Division Manager; or, (if the Grievant's Division Manager is the subject of the grievance), to a Court Manager as specified in MOU section 4.E.2 above no later than ten (10) working days after the act or event that is the basis of the grievance becomes known to the employee. It is the responsibility of that Manager to promptly review the grievance, attempt to resolve it, and communicate a written decision on the grievance to the employee who filed the grievance within ten (10) working days of the responding Manager's receipt of the grievance.

#### **5) Grievance Review Process**

If the Grievant is not satisfied with the responding Manager's grievance decision, he or she may appeal that decision to the Human Resources Manager. It is the responsibility of the Human Resources Manager to then promptly review the grievance, attempt to resolve it, and communicate a written decision on the grievance to the employee who filed the grievance within ten (10) working days of the Human Resources Manager's receipt of the grievance, or as soon as possible thereafter.

Any employee who wishes to file an appeal for Human Resources (HR) to review the grievance shall complete the "HR Grievance Review Request" form that is available in the Public drive's Human Resources folder, and submit it to the Human Resources Manager within ten (10) working days of the employee's receipt of the responding Manager's grievance decision.

#### **6) Grievance Hearing Process**

If the Grievant is not satisfied with the Human Resources Manager's grievance decision, he or she may appeal that decision to a three-person Hearing Panel ("Panel").

Any employee who wishes to file an appeal for the Panel to review shall complete the "Hearing Panel Review Request" form that is available in the Public drive's Human Resources folder, and submit it to the Court Executive Officer within ten (10) working days of the employee's receipt of the HR Manager's grievance decision.

#### **7) Right of Representation and Access to Time and Facilities**

The Grievant shall have the right to be represented or accompanied by a non-management Court employee of the employee's choice if the grievance is not resolved at the earliest stage of the grievance procedure. As the grievance process is considered to be Court business, the Grievant and the Grievant's representative shall be provided reasonable time and facilities for the preparation of the employee's position with respect to the alleged grievance.

#### **8) Grievance Hearing Panel**

The Panel shall be composed of the following members:

- a. One Court member selected by the Court Executive Officer;
- b. One Court or Union-representative member selected by the Grievant; and
- c. One member selected by the grievance parties from a list of names requested from the State Mediation and Conciliation Service.

**9) Grievance Hearing Timeline and Costs**

**a. Grievance Hearing**

The Panel shall hear the grievance within thirty (30) working days of the date the appeal was filed, or as soon as possible thereafter.

The Panel shall prepare a non-binding written recommendation and submit it to the Court Executive Officer within ten (10) working days of the Grievance Hearing, or as soon as possible thereafter.

**b. Grievance Costs**

Any costs associated with convening the Panel for the purpose of the Grievance Hearing shall be shared equally by the Grievant and the Court.

**10) Court Executive Officer Decision**

The Panel shall issue a recommendation to the Court Executive Officer as soon as practicable after conducting the hearing. The Court Executive Officer shall review the Panel's recommendation and render a written decision to the Grievant within twenty (20) working days of receiving the Panel's recommendation, or as soon as possible thereafter. The decision of the Court Executive Officer shall be final.

**11) Grievance Resolution**

The Grievant and the Court may resolve a grievance on such terms as are mutually agreeable at any time during the grievance process. Any grievance resolution shall immediately terminate the grievance process. The grievance may revert to a prior level upon mutual agreement of the parties.

**F. Agency Shop - Dues Check Off**

**1) Agency Shop**

Court employees who are assigned to the General Bargaining Unit are covered by the Agency Shop Provision, in the Letter of Agreement dated September 14, 2007, which is attached to this MOU as Appendix B.

**2) Dues/Fees Deductions**

Association dues and/or fees and charitable contributions made pursuant to the Agency Shop provision shall be deducted from the employee's paycheck on a bi-weekly basis pursuant to the terms of Appendix B.

**G. Right of Representation**

A bargaining unit employee is entitled to have an Association steward or representative present at an investigatory interview with the employee's supervisor when the employee reasonably believes that disciplinary action might result. A bargaining unit employee will have no right of representation where the only purpose of the meeting is to deliver notice of discipline to the employee.

It is the responsibility of the employee to request the presence of an Association steward or representative, and when the employee makes such a request, the investigatory interview shall be temporarily recessed for a reasonable period of time until an Association steward or representative can be present; however, the meeting shall not be



postponed because a bargaining unit employee requests a particular Association steward or representative who is unavailable and there is another Association steward or representative available, unless specifically agreed to by the Court. Nothing in this provision shall prevent bargaining unit employees from representing themselves in any meeting if they choose to do so.

#### **H. Advance Notice**

Except in cases of emergency, the Association shall have the right to reasonable written notice of any proposed change, addition or deletion of any court rule or policy directly relating to matters within the scope of representation, and to meet with the Court to consider the matter.

In cases of emergency, when the Court must act immediately without such notice or meeting, within fourteen (14) days the Court shall provide the Association with written notice and an opportunity to meet as soon as practical after the Court's action.

If the Association fails to respond in writing within fifteen (15) days to the Court's notice of a proposed change, the Association will be deemed to have waived any obligation for the Court to meet with the Association regarding the matter.

### **5. Term**

This MOU shall become effective on December 1, 2016 upon approval by the Court and the TCSA/AFSCME Local 10 and shall remain in full force and effect through November 30, 2018, and will continue in full force and effect on a month-to-month basis until such time as the parties have agreed upon and ratified a successor agreement.

### **6. Personnel Policies and Procedures**

The current Tuolumne County Superior Court Personnel Manual, including all revised sections to date, shall constitute the personnel policies and procedures for the Court. A copy of the Personnel Manual shall be available to all employees, on a "read only" basis, on the Court's computer system.

### **7. Compensation**

#### **A. Wages**

Each employee in the bargaining unit will receive a 2% base wage increase in the first full pay period following ratification of this agreement.

Each employee in the bargaining unit will receive a 2% base wage increase in the first full pay period following December 1, 2017.

#### **B. Merit Incentive Longevity Pay**

- 1) Bargaining unit employees with an overall performance evaluation of "Meets Expectations" or higher will receive Merit Incentive Longevity Pay as follows:
  - a. 6 completed years or more of continuous Court service as defined in Section 1.42 of the Personnel Manual: 2% increase to the base wage.

- b. 10 completed years or more of continuous Court service as defined in Section 1.42 of the Personnel Manual: an additional 2% increase to the base wage.
  - c. 22 completed years or more of continuous Court service as defined in Section 1.42 of the Personnel Manual: an additional 2% increase to the base wage.
- 2) The employee's most recent performance evaluation will be relied upon to determine eligibility. The effective date of either the implementation or the termination of this benefit will be the first full pay period following a qualifying event (being in a performance review status of "Meets Expectations" or higher) or disqualifying event (being in a performance review status of needs improvement). The benefit levels described above will be the maximum benefit payable. Merit Incentive Longevity Pay is not cumulative.
  - 3) If the qualifying service provision at the 6 completed years of service through 10 years of service level contained in paragraph 1 above would result in the loss of Merit Incentive Longevity Pay by any represented employee who previously received Merit Incentive Pay, such employee will receive Merit Incentive Longevity Pay at the 2% level until such time that he/she qualifies for a higher level benefit.

**C. Court Reporter Real-Time**

A Court Reporter who has signed an agreement with the Court that he/she possesses real-time equipment, is willing to provide real-time court reporting services at any time for any judicial officer requesting real-time reporting services, and who has been verified by the Court for real-time reporting proficiency shall receive a three (3%) percent adjustment to their hourly rate to provide real-time services for the Superior Court of California, County of Tuolumne.

A Court Reporter who holds a current National Court Reporters Association's Certified Real-time Reporter (CRR) certification in good standing shall receive an additional two percent (2%) to their hourly rate, total differential of five percent (5%), to provide real-time services for the Superior Court of California, County of Tuolumne. Written proof of this certification must be delivered to Human Resources in order for the court reporter to receive the additional 2%.

Any Court Reporter who has agreed to provide real-time court reporting services and is receiving the real-time reporting salary differential that does not provide real-time court reporting services upon request by any judicial officer will no longer be eligible to receive a Real-time salary differential.

**8. Benefits**

**A. General**

The Court shall not be responsible for the interruption, modification or discontinuation of any benefits caused by the County, any benefit provider, administrator, or vendor.

**B. Medical Insurance**

- 1) The Court will, for the term of this MOU, continue to contract with the California Public Employees' Retirement System (CalPERS) for the purpose of providing medical insurance benefits for active employees and eligible retired employees. Eligibility of active and retired employees and the dependents of active and retired employees to participate in this program shall be in accordance with CalPERS regulations.
- 2) The Court will continue to contribute one hundred and one dollars (\$101.00) per month on behalf of each active employee who subscribes for coverage. In the event CalPERS requires a minimum employer payment in excess of one hundred and one dollars (\$101.00), the Court will contribute such amount for the term of this MOU and the Court will reduce its contribution to the Insurance Premium Payment Plan pursuant to Section I below by an amount equal to the CalPERS increase.
- 3) The Court will continue to contribute one dollar (\$1.00) per month on behalf of each eligible retiree who subscribes for coverage. The Court contribution toward retiree medical premiums will be adjusted annually thereafter pursuant to Section 22892 (c) of the California Government Code.
- 4) Except as provided herein, represented employees shall purchase medical insurance through the CalPERS Medical Program. Represented employees who have medical insurance coverage from another source may, by providing written proof of such alternative coverage to the Court, opt out of the CalPERS Medical Program. Employees who opt out of the CalPERS Medical Program shall be required to provide written confirmation of alternative coverage annually thereafter, during the CalPERS Medical Program open enrollment period. If such confirmation is not provided, the employee shall be required to enroll in the CalPERS Medical Program.

**C. Dental Insurance**

- 1) The Court will, for the term of this MOU, continue to make dental insurance available to active employees and the eligible dependents of active employees through enrollment in the Court's Dental Plan.
- 2) Represented employees who have dental insurance coverage from an outside source may, by providing written proof of such alternative coverage to the Court, opt out of the dental plan. Employees who opt out of the dental plan shall be required to provide written confirmation of alternative coverage annually thereafter, during the dental plan open enrollment period. If such confirmation is not provided, the employee shall be required to enroll in the dental plan.

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**D. Vision Insurance**

- 1) The Court will, for the term of this MOU, continue to make vision care insurance available to active employees and the eligible dependents of active employees through enrollment in the Court's vision plan.
- 2) Represented employees who have vision care insurance coverage from an outside source may, by providing written proof of such alternative coverage to the Court, opt out of the vision plan. Employees who opt out of the vision plan shall be required to provide written confirmation of alternative coverage annually thereafter, during the vision plan open enrollment period. If such confirmation is not provided, the employee shall be required to enroll in the vision plan.

**E. Long-Term Disability Insurance**

- 1) The Court will, for the term of this MOU, continue to provide the core long-term disability (LTD) insurance to active employees through enrollment in the Court's private carrier plan. The Court will continue to contribute one hundred percent (100%) of the monthly LTD premium on behalf of each represented employee.
- 2) The Court will, for the term of this MOU, continue to make supplemental long-term disability (Supp-LTD) insurance available to active employees through enrollment in the Court's private carrier plan. Enrollment in the Supp-LTD program shall be voluntary and the supplemental long-term disability premiums will be paid by the enrolled employee.

**F. Short-Term Disability Insurance**

The Court will, for the term of this MOU, continue to provide short-term disability (STD) insurance to active employees through enrollment in the Court's private carrier plan. The Court will continue to contribute one hundred percent (100%) of the monthly STD premium on behalf of each represented employee.

**G. Life Insurance**

- 1) The Court will provide a life insurance policy in the amount of \$40,000 to bargaining unit employees. Enrollment in the basic life insurance benefit (\$40,000 policy amount) is mandatory. Enrollment in the supplemental life insurance benefit is voluntary. Premiums for voluntary supplemental life insurance shall be paid by the enrolled employee.

**H. Employee Assistance Program**

The Court will, for the term of this MOU, continue to provide an Employee Assistance Program (EAP) to active employees through enrollment in the Court's employee assistance plan. The Court will continue to contribute one hundred percent (100%) of the monthly EAP premium on behalf of each represented employee.

**I. Health Insurance Premium Payments**

Increases to premium payments will take effect in the first full month following ratification:

### **Employee Only**

If the premium is **more than** \$190, and the employee is enrolled in Employee Only in Medical, Dental, and Vision, or any combination, the employee is eligible for a monthly Premium paid of up to **\$805**. In the first full month following December 1, 2017, the employee is eligible for a monthly Premium paid of up to **\$830**.

### **Employee with Dependent(s)**

If the Premium is **more than** \$190, and the employee is enrolled in Employee with Dependent(s) and is enrolled in Medical, Dental, and Vision, or any combination with at least one (1) program, the employee is eligible for a monthly Premium paid of up to **\$1,240**. In the first full month following December 1, 2017, the employee is eligible for a monthly Premium paid of up to **\$1,290**.

### **Partial Participation**

If the Premium is **less than** \$190, and the employee is enrolled in Employee Only or Employee with Dependent(s) and is enrolled in Dental and Vision, or just Dental or just Vision, the employee is eligible for a monthly Premium paid of up to **\$190, PLUS a \$175 stipend**.

### **No Participation**

Employees waiving Medical, Dental, and Vision, with proof of insurance coverage from another source, will be entitled to a **\$275 stipend**.

## **J. Holidays - Floating Holidays**

The Court shall observe holidays in accordance with the Government Code and the Rules of the Court. All permanent full and part-time employees will receive their regular rate of pay for holidays observed by the Court.

Each employee shall receive two (2) floating holidays each fiscal year, which may be taken at any time during the year with prior written approval of the employee's manager. Floating Holidays must be used before using Personal Time Off and must be taken within the fiscal year that they are earned. Floating Holidays will not accumulate from year to year. Unused floating holidays will not be cashed out nor will they be paid upon separation from court employment.

## **K. Education and Career Development**

- 1) Tuition Reimbursement is designed to encourage court employees to continue their professional development by enrolling in courses, which will prepare them in new concepts and methods needed to meet the changing demands of Court service.
- 2) Eligibility of Court Employees of Tuition Reimbursement: Only full-time Court employees filling regular positions, on other than a limited term basis who have completed their initial Court probationary period and who have received a "Meets Expectations" or higher rating on their most recent performance evaluation are eligible for tuition reimbursement. Employees are not eligible for reimbursement if their educational cost is

being defrayed by another agency such as the US Veterans' Administration and/or the California State Department of Veterans' Affairs.

3) Policy for Tuition Reimbursement:

- a. Courses must be pre-approved by the Court Executive Officer before the course is undertaken, and shall be subject to the availability of funds for Tuition Reimbursement within the Court.
- b. Courses must be related to the work of the employee's position, career development or occupation in such a manner as will offer identifiable benefit to the Court.
- c. Tuition Reimbursement shall be subject to certification by the Court that the course of study is directly related to the work of the employee.
- d. Courses must be taken for credit; audited courses will not be eligible for reimbursement;
- e. Courses must be taken at accredited institutions. Courses are not eligible for tuition reimbursement if:
  - i) A course is taken to bring unsatisfactory performance up to a satisfactory level, unless the course is pre-approved to correct a deficiency.
  - ii) The course is taken to acquire skills or knowledge, which the employee was deemed to have when appointed.
  - iii) The course duplicates available in-service training.
  - iv) The course duplicates training that the employee has already received.
- f. Conventions, workshops, institutes, retreats, etc., are not eligible for tuition reimbursement.
- g. Reimbursement shall be made only upon evidence of payment for and successful completion of pre-approved course, as evidenced by a passing grade of "C" or better and a rating of "Meets Expectations" or higher on the employee's most recent performance evaluation.
- h. The maximum reimbursement shall be five hundred dollars (\$500) per fiscal year and is not cumulative.

**L. Computer Loan Program**

In order to increase computer literacy and promote our employees' professional skills, the Court shall establish an interest-free loan program for the purchase of computers and software by its permanent employees. Up to a maximum of

\$3,000 shall be available for loan to each permanent employee. The term of the loan shall not exceed 36 months and the loan shall be repaid by payroll deduction. The basic repayment schedule will be the amount borrowed divided into 78 equal bi-weekly payments. Nothing in this Section shall be construed to prevent the parties from mutually agreeing to a shorter repayment schedule and there shall be no pre-payment penalties associated with computer loans. The Court shall hold a security interest in the computer and software until the loan is repaid. Unpaid loan balances shall become immediately due and payable upon separation from employment. Such loan balances shall be withheld from the employee's final paycheck.

**M. Retirement**

Employees are responsible for the payment of the entire CalPERS monthly member contribution on a pre-tax basis. The current member contribution is seven (7%) of salary.

In the event that the Legislature enacts legislation authorizing any change(s) to our represented employees CalPERS retirement benefits, the Association may reopen this MOU to meet and confer on that issue.

**9. No Strike or Lockout**

There shall be no strike, picketing, shutdown, "sick-out" or other form of work stoppage or job action by the Association or its members and no lockout by the Court during the term of this MOU.

**10. Whole Agreement**

This MOU concludes all negotiations required by the Trial Court Employment Protection and Governance Act and sets forth the full and final understanding of the parties regarding all matters on which the parties are required to meet and confer. Any other agreements between the parties have either been incorporated herein or superseded.

No subsequent agreement or modification of any of the terms or provisions contained in this MOU shall be binding unless it is made and executed, in writing, by both parties.

**11. Salary and Benefit Parity**

If, during the term of this MOU, the Court increases the salary and/or the economic benefits of any other Court employee or group of Court employees by an amount greater than the increases provided pursuant to this MOU, then the higher level increase will be provided to the employees assigned to this bargaining unit, effective the same date that said increase(s) was provided to the other employee or group of employees.

**12. Severability**

In the event that any provision of this MOU should be found to be unenforceable, that finding shall have no effect on any other provision.

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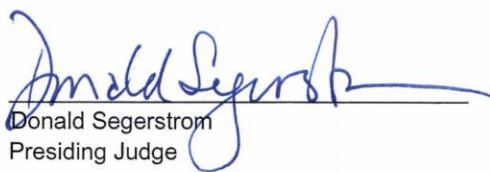
**IN WITNESS WHEREOF**, the Court and the Association hereunto affix their signatures this  
1<sup>st</sup> day of December, 2016.

TUOLUMNE COURT STAFF  
ASSOCIATION/AMERICAN  
FEDERATION OF STATE, COUNTY,  
AND MUNICIPAL EMPLOYEES  
LOCAL 10

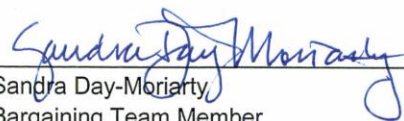
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COUNTY OF TUOLUMNE



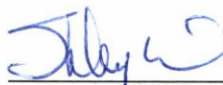
Elaine Sadler  
Bargaining Team Member



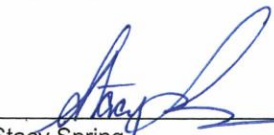
Donald Segerstrom  
Presiding Judge



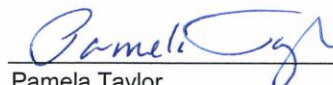
Sandra Day-Moriarty  
Bargaining Team Member



Shelley Walker  
Acting Court Executive Officer



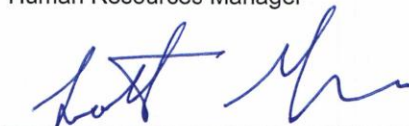
Stacy Spring  
Bargaining Team Member



Pamela Taylor  
Human Resources Manager



Corinne Wilson  
Chief Negotiator - Union



Scott Gannon  
Chief Negotiator - Court



**APPENDIX A**  
**GENERAL BARGAINING UNIT**

The General Bargaining Unit shall consist of the following Court Classifications:

- Court Reporter
- Superior Court Clerk III
- Superior Court Clerk II
- Superior Court Clerk I
- Information Technology Technician
- Fiscal Technician
- Training & Systems Specialist

## APPENDIX B

### AGENCY SHOP PROVISION

RECEIVED  
9/23/07



#### SUPERIOR COURT OF CALIFORNIA COUNTY OF TUOLUMNE

##### LETTER OF AGREEMENT

##### BETWEEN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF TUOLUMNE AND THE TUOLUMNE COURT STAFF ASSOCIATION/AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 10 REGARDING AGENCY SHOP

##### SECTION 1. AGENCY SHOP.

(a) Agency Shop Provision

The Parties mutually acknowledge and agree that as a result of the Agency Shop election held on August 3, 2007, employees within classifications within the General Unit represented by the Tuolumne Court Staff Association/American Federation of State, County, and Municipal Employees/TCSA/AFSCME Local 10 are covered by an Agency Shop provision.

(b) Definition

This agency shop provision requires all employees in the designated TCSA/AFSCME Local 10 bargaining unit shall, as a condition of continued employment, either:

1. Become a member of TCSA/AFSCME Local 10; or
2. Pay to TCSA/AFSCME Local 10 an agency shop fee in an amount which does not exceed the amount which may be lawfully collected under applicable constitutional, statutory, and case law, which under no circumstances shall exceed the monthly dues, initiation fees and general assessments in effect during the duration of this Agreement. It shall be the sole responsibility of TCSA/AFSCME Local 10 to determine an agency shop fee which meets the above criteria; or,
3. If an employee is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining of financially supporting recognized employee organizations, shall in lieu of periodic dues, initiation fees, or agency shop fees, pay an amount equal to the periodic dues described in number 1, above, to a non-religious, non-labor, charitable fund exempt from taxation under Section 501(c)(3) of Title 26 of the Internal Revenue Code, chosen by the employee from the following: United Way, American Red Cross, Boys & Girls Club of Tuolumne County, Local Humane Society. Proof of these payments shall be made on a monthly basis by the employee to the trial court as a condition of continued exemption from the requirement of financial support to the recognized employee organization. An employee claiming an exemption under this provision shall file the required written declaration with TCSA/AFSCME Local 10 and provide a copy to the Court.

*Approval  
w/ noted  
changes  
9/14/07  
KSD  
9/14/07*

(c) Election Process and Results

Prior to the implementation of the agency shop provision, the TCSA/AFSCME Local 10 and the Court jointly conducted a secret ballot election on August 3, 2007, pursuant to the provisions of the Trial Court Employment Protection and Governance Act. All eligible bargaining unit members had the opportunity to vote, irrespective of current dues-paying membership in the TCSA/AFSCME Local 10. Following the voting, ballots were counted jointly by representatives of the TCSA/AFSCME Local 10 and the Court. A majority of those who voted elected implementing agency shop.

The election results were as follows: 16 yes, 2 no and no challenge ballots.

## **SECTION 2. PAYROLL DEDUCTION, ANNUAL FINANCIAL REPORTING, AND INDEMNIFICATION.**

1. TCSA/AFSCME Local 10 will provide the Court the formula for calculating membership dues for members and fair share service fees for non-members. Such formula must be compatible with the Court payroll system. Any changes in the amount of dues/fees will be certified in writing to the Court by TCSA/AFSCME Local 10, and shall become effective no later than thirty (30) days following the date that the Court receives such written certification of the change. Additionally, TCSA/AFSCME Local 10 agrees to furnish any information needed by the Court to fulfill the provisions of this Section. The Court agrees to remit monthly to TCSA/AFSCME Local 10 such monies for whom such deductions have been taken.

2. Membership dues, agency shop fees, and/or charitable contributions specified herein shall be deducted from the salary of each bargaining unit employee covered by this section and remitted to TCSA/AFSCME Local 10 only upon written authorization on a mutually agreed upon approved authorization form requesting such deduction be made and remitted to TCSA/AFSCME Local 10. Any authorization for payroll deductions described in this section must be signed by the requesting bargaining unit employee and shall specifically require the employee to agree to hold the Court harmless from all claims, demands, suits or any other form of liability that may arise for or on account of any deduction made from the wages of such employee. The written membership authorization for TCSA/AFSCME Local 10 payroll deductions shall remain in full force and effect during the life of this Agreement between the Court and TCSA/AFSCME Local 10, unless cancelled in writing. If membership authorization is withdrawn, cancelled, or otherwise lapses, agency shop fees shall then be deducted.

3. TCSA/AFSCME Local 10 is responsible for notifying bargaining unit employees of agency shop fee requirements and payroll deductions. Agency shop fees and membership dues will only be charged prospectively after an employee has received adequate notice.

The Notice will advise bargaining unit employees that pursuant to the Trial Court Employment Protection and Governance Act, an agency shop election was held and a majority of the unit members who voted elected agency shop. The Notice will also advise bargaining unit members that as a result of the election all bargaining unit employees must either join the TCSA/AFSCME Local 10, pay an agency shop fee to the TCSA/AFSCME Local 10, or execute a written declaration claiming a religious exemption from this requirement and designate a qualifying 501(c)(3) charitable organization to receive a contribution equal to the periodic dues..

Such notice will also include the agreed upon form for the employee's signature authorizing a payroll deduction of membership dues, an agency shop fee, or a charitable contribution equal to

the periodic dues. It is the responsibility of the employee to complete and sign the form and return it to the TCSA/AFSCME Local 10, and it will be the responsibility of the TCSA/AFSCME Local 10 to submit the completed form(s) to the Court Human Resources Office.

The payroll deduction for membership dues, agency shop fee, or charitable contribution will begin no later than the beginning of the first pay period commencing fourteen (14) calendar days after the Court receives the completed authorization form(s) from the TCSA/AFSCME Local 10. After the other legal and required deductions are made, an employee's earnings must be sufficient to cover the amount of membership dues, an agency shop fee, or a charitable contribution equal to the periodic dues. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings.

4. Religious Exemption -- Any employee who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting labor organizations will be exempted from paying an agency shop fee. Instead, after completing and submitting a Declaration of Religious Exemption Form available from and provided by the TCSA/AFSCME Local 10, such employees will be required to pay a sum equal to the periodic dues. Such funds will be paid through payroll deduction to the TCSA/AFSCME Local 10, which will, in turn, pay the full amount to a nonreligious, non-labor charitable organization selected by the employee from those organizations identified in Section 1(b)(3) of this Letter of Agreement.

To qualify for deduction of the charitable contribution, the employee must fill out the Religious Exemption Form and certify to the TCSA/AFSCME Local 10 and the Court that he/she is a member of a bona fide religion, body or sect which has historically held conscientious objection to joining or financially supporting public employee organizations. Such exempt unit member will be required to submit to the TCSA/AFSCME Local 10 and the Court a notarized letter signed by an official of the bona fide religion, body or sect certifying the employee's membership. The deduction shall not be forwarded to the designated charity until the TCSA/AFSCME Local 10 has approved of the exemption. The Court will receive from the TCSA/AFSCME Local 10 quarterly proof of payment of an amount equivalent to such remitted charitable representation fee(s) to one of the designated funds or organizations agreed to for alternative payment.

5. TCSA/AFSCME Local 10 shall keep an adequate itemized record of its financial transactions and shall annually provide to the Court and to the employees who are members of the organization, within 60 days of the end of its fiscal year, a detailed, written financial report thereof in the form of a balance sheet and an operating statement, certified as to the accuracy by its president and treasurer or corresponding principal officer, or by a certified public accountant.

6. It is specifically agreed that the Court assumes no obligation with respect to the Unit dues and fair share service fees other than those specified in this section. Consistent with Government Code Section 71632.5©, TCSA/AFSCME Local 10 shall defend, indemnify, and hold harmless the Court against any and all liability arising from any claims, demands, suits, or other action related to the Court's compliance with the agency shop fee obligation, including, but not limited to, improper deduction of fees, maintenance of records and improper reporting.

### SECTION 3. RECISSION OF AGENCY SHOP.

Shop Fee.  
Approved  
W. K. H. H.  
C. H. H.  
9/14/07  
K. H. H.  
9/14/07


The bargaining unit may rescind the agency shop agreement provided for in this Agreement by a majority vote of the bargaining unit employees, provided that (1) a request for such a vote is supported by a petition of at least thirty percent (30%) of the employees in the bargaining unit; (2) the vote is taken by secret ballot; and (3) the vote may be taken at anytime during the term of this Agreement, but only one such vote may be taken during that term.

#### SECTION 4. COURT APPROVAL.

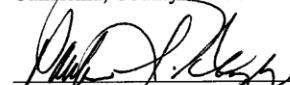
This Letter of Agreement is subject to the approval of the Executive Committee of the Court. The Court will promptly seek that approval.

The Parties enter into this Letter of Agreement on the 14<sup>th</sup> day of September, 2007.

On behalf of TCSA/AFSCME Local 10:

  
Keith Uriarte, Organizing Director  
AFSCME District Council 57

On behalf of the Superior Court of  
California, County of Tuolumne:

  
Paula Negley, Labor Relations  
Negotiator  
Judicial Council of California  
Administrative Office of the Court

## APPENDIX C

### CONTRACTING LETTER OF AGREEMENT Court Assistance Program

SUPERIOR COURT OF CALIFORNIA, COUNTY OF TUOLUMNE  
TCSA/AFSCME LOCAL 10

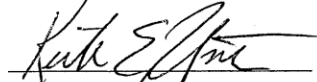
LETTER OF UNDERSTANDING  
October 3, 2008

Pursuant to Section 4.0 Court Rights, of the Superior Court of California, County of Tuolumne (Court) Employer/Employee Relations Policy and Section 71634(b)(5) of the California Government Code, the Court has elected to utilize the services of a Court Assistance Program (CAP) as defined in Section 11205.2 of the California Vehicle Code (CVC). Pursuant to these same provisions, the Court also has decided to contract with the California Traffic Safety Institute (Institute) to provide CAP services. A copy of the Court's agreement with the Institute is attached to this Letter of Understanding as Appendix A.

Pursuant to Section 71634(c) of the California Government Code, the Court and the Tuolumne Court Staff Association, AFSCME Local 10 (Association) have met and conferred in good faith regarding the impacts of the Court's above-described decision. As a result of the discussions, the Court and the Association mutually agree to the following:

1. The CAP will be utilized to assist the Court with the handling of traffic school related functions assigned to the Criminal/Traffic Division of the Court as described in Section 1 of Exhibit A of the Agreement between the Court and the Institute. The CAP will not be used to replace any existing Court employee nor will any allocated position be left vacant as a result of the CAP. If an allocated position is left vacant during the term of this Agreement for a reason or reasons not related to the existence of the CAP, to the extent that work allocated to the vacant position is reassigned, said work will be reassigned to Bargaining Unit employees.
2. Any additional services provided by the CAP pursuant to Section 2 of Exhibit A of the Agreement between the Court and the Institute will be provided for the purposes of assisting existing Court employees on an as needed and as available basis. No Bargaining Unit Work, as that term is generally applied within a collective bargaining context, will be reassigned to the CAP as a result of Section 2 of Exhibit A of the Agreement between the Court and the Institute. No Court employee will be reassigned from the Criminal/Traffic Division as a result of the CAP.

For The Association:



Date: 10/3/08

For The Court:



Date: 9/29/08

## APPENDIX D

### CONTRACTING LETTER OF AGREEMENT Minor Offense Notices

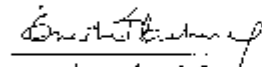
Pursuant to Section 4.0 Court Rights, of the Superior Court of California, County of Tuolumne (Court) Employer/Employee Relations Policy and Section 71634(b)(5) of the California Government Code, the Court has decided to contract with the Multi Business Systems to provide certain mailing services.

Pursuant to Section 71634(c) of the California Government Code, the Court and the Tuolumne Court Staff Association, AFSCME Local 10 (Association) have met and conferred in good faith regarding the impacts of the Court's above-described decision. As a result of these discussions, the Court and the Association mutually agree to the following:

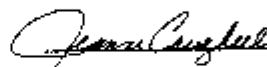
The contract with Multi Business Systems will not be used to replace any existing Court employee nor will any allocated position be left vacant as a result of this contract.

Once the contract with Multi Business Systems is executed, a copy will be attached to this Letter of Understanding.

For the Association:

  
Date: 6-18-09

For the Court:

  
Date: 7-2-09

## APPENDIX E

### **Trial Court Services Agreement**

This Trial Court Services Agreement (this "Agreement") dated as of, September 2, 2008 the "**Effective Date**") is entered into by and between California Traffic Safety Institute ("**Contractor**") and the Superior Court of California, County of Tuolumne, (**The Court**),

#### **Background**

WHEREAS, Contractor is a non-profit agency who operates under the legislative authority of CVC11205(l) & (M) of the Vehicle code, is well qualified by training and experience to monitor classroom and Home Study Program Traffic Schools, and to provide the services set forth herein; and

WHEREAS, Court desires to engage Contractor to provide such services in accordance with the terms and conditions set forth herein and Contractor desires to provide such services;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the parties do mutually agree as follows:

#### **Agreement**

- 1. Services.** Contractor will perform the Services as described in Exhibits A, which is called "Statement of Work."
- 2. Payment.** In consideration of Contractor's satisfactory performance of the Services, Court will pay Contractor the fees set forth in Exhibit B, "Payment Provisions".
- 3. General Terms and Conditions.** The general terms and conditions for this Agreement are in Exhibit C, which is called "General Provisions."
- 4. Definitions.** The capitalized terms in this Agreement have the meanings set forth in Exhibit D, which is called "Definitions"
- 5. Term.** This agreement shall be for the term beginning, September 2, 2008 (the "Effective Date") and shall continue in effect unless otherwise terminated by either party in accordance with Exhibit "C" Section 6 Termination.
- 6. Entire Agreement.** Exhibits A, B, C and D and any schedules attached to the exhibits are a part of this Agreement. This Agreement contains the entire understanding between Contractor and Court related to this matter, and this Agreement supersedes all previous agreements between Contractor and Court related to Contractor Services. If any conflict or inconsistency exists between any of the Exhibits, the terms and conditions of the Exhibits



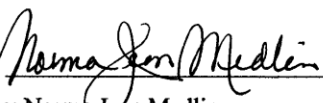
shall take precedence in the following order of priority: Exhibit C, General Provisions, Exhibit D, Definitions, Exhibition B, Payment Provisions, and Exhibit A, Statement of Work, unless both parties expressly agree that any term or condition shall take precedence over any conflicting or contrary term or condition.

### Signatures

California Traffic Safety Institute (CTSI)

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF:

an entity of the California Judicial Branch  
organized under Article VI of the California  
Constitution

Signature: 

Print Name: Norma Jean Medlin

Title: Chief Executive Officer

Date Signed: 08-24-08

Address: 209 E. Avenue K-8 suite # 210

Lancaster, Ca. 93535

Phone: (888) 538-0005 (toll free)

Fax: (661) 940-7913

Email: [nmedlin@ctsi-courtnetwork.org](mailto:nmedlin@ctsi-courtnetwork.org)

Signature: 

Print Name: Richard D. Feldstein

Title: Court Executive Officer

Date Signed: 9/4/08

Address: 41 W. Yaney Avenue

Sonora, CA 95370

Phone: (209) 533-5556

Fax: (209) 533-5618

Email: [rick@tuolumne.courts.ca.gov](mailto:rick@tuolumne.courts.ca.gov)

**EXHIBIT A**  
**STATEMENT OF WORK**

**1. Services.** Contractor will perform the Services described below:

Contractor will employ and pay employee(s) to assist the Courts in handling the Court's Traffic School related functions. The selection of employee(s) is the joint task of Contractor and a designated representative of the Court. The Court will approve of and supervise the employee(s). Contractor will provide one (1) full time employee(s) for the Court's, to be located at the Washington Street Courthouse.

Contractor will provide back-up support staff for extended illness, for vacations and if there is a back-log in work that needs to be processed in a timely manner.

Employee(s) will be fingerprinted and bonded by Contractor.

Traffic School functions include signing up eligible defendants for traffic violator school. Updating cases in the Court's case management system to show sign up for traffic school, payments, completion of traffic school, traffic school not completed, etc.

**2. Additional Services.** Contractor's (Employees) will perform the Additional Services described below, as directed by the Court:

Provide assistance to Court in answering phone and assisting customers.

Provide assistance to customers at the Court's traffic counters, checking in parties and taking payments.

Data entry of citations and other documentation into the Court's case management system.

**3. List of Traffic Schools.** Contractor will provide Court a state-wide list of Traffic Schools on a monthly basis. The list will include only those schools that have been licensed and approved by the Department of Motor Vehicles ("DMV"). All classroom locations on the list must be licensed by the DMV. Each citizen complaint will be investigated and reports will be provided to the Court's designated representative. The Contractor will also provide a list of Home Study programs on a monthly basis and will only add additional schools to the list as approved by the Court.

**4. Monitoring Function.** Contractor will monitor the Traffic School courses in Tuolumne County Superior Court once every ninety (90) days and will provide reports to the Department and the Court in compliance with sections 11205(l) and (m) of the California

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Vehicle Code. The monitoring function will be performed by active and retired law enforcement personnel and experienced staff of Contractor. Contractor will also assume full responsibility to monitor and review Home Study curriculum as directed by the Court. All reports will be forwarded to Court's authorized representative.

**EXHIBIT B Amendment 08/01/16**

**PAYMENT PROVISIONS**

**1. Compensation.**

**1.1 Fees.**

(A) Court will pay Contractor the following amounts which shall be Contractor's full compensation for the Services satisfactorily performed during the Term of this Agreement:

The Court will collect the fee of \$ 27.00 for each defendant who signs up for Traffic School.

(B) If Contractor services are required following the Termination Date of this Agreement, Court will pay Contractor fees at the rate set forth in Section 1.1(A) above for Services satisfactorily performed after the expiration or early termination of this Agreement.

**1.2 Total Consideration.** The fees and amounts set forth in Section 1.1 of this Exhibit B shall be the total and complete Compensation to be paid to Contractor for the Services performed under this Agreement. Court and Contractor agree that if any time during this agreement the fees fall short of the services provided, CTSI (Contractor) and the Court will agree to renegotiate the contract. A (30) day notice would apply.

**2. Payment.** Court will forward the fees collected for each Traffic School sign up to Contractor no later than (45) forty-five days after the month ends. Contractor will immediately refund any payment made in error.

**3. Expenses and Taxes.** Contractor must pay all fees, fines, income taxes, or other costs of doing business related to performing the Services; provided. Court will not withhold any taxes on Contractor behalf, such as social security or income tax. If the Internal Revenue Service or any other federal or State governmental agency inquires about Contractor status as an independent contractor, Contractor must inform Court and let Court participate in any discussion or negotiation with the agency.

### Signatures

California Traffic Safety Institute (CTSI)

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF Tuolumne an entity of the  
California Judicial Branch organized under  
Article VI of the California Constitution

Signature: Wanda Paulson

Print Name: **Wanda Paulson**

Title: Chief Executive Officer

Date Signed: July 14, 2016

Address: 209 East Avenue K-8 Suite #210

Lancaster, Ca. 93535

Phone: (661) 940-1907

Fax: (661) 940-7913

Email: wpaulson@ctsi-courtnetwork.org

Signature: Shelley Walker

Print Name: Jeanine Tucker

**Shelley Walker**

Title: Court Executive Officer

Date Signed: NOV 07 2016

Address: 41 W. Yaney

Sonora, Ca. 95370

Phone: (209) 533-5556

Fax: (209) 728-5751

Email: jtucker@tuolumne.courts.ca.gov

**EXHIBIT C**  
**GENERAL PROVISIONS**

**1. PROFESSIONAL SERVICES**

- 1.1 Initial Services.** Court hereby retains Contractor to perform and complete all of the Services described in the agreement, and Contractor accepts such appointment and agree to perform the Services in a timely manner in accordance with the terms and conditions set forth in this Agreement.
- 1.2 Additional Services.** Court may from time-to-time during the term of this Agreement request Contractor to undertake additional Services. Unless otherwise agreed by the parties a description of the additional Services shall be set out in the agreement and such Services shall be governed by the terms and conditions of this Agreement.
- 1.3 Acceptance.** All Services provided by Contractor under this Agreement is subject to written acceptance by Court for conformity with the Acceptance Criteria set forth in the applicable agreement or as otherwise agreed by Court.
- 1.4 Unacceptable Services.** If Court reasonably determines that the Services do not conform to the Acceptance Criteria, Court may provide Contractor with written notice of such failure. Contractor will have ten business days from receipt of written notice to correct the defects and conform the Services to the Acceptance Criteria. Contractor will re-submit the Services and Court will re-apply the Acceptance Criteria to determine whether to accept the Services, repeating such process until Court issue a written acceptance of the Services. If Court rejects any Services two (2) times or more, Court will have the right to terminate this Agreement, at no expense to Court, as further set forth in Section 6, of these General Provisions.
- 1.5 Prior Services.** Any Services performed by Contractor pursuant to Court authorization but before execution of this Agreement will be considered as having been performed subject to the provisions of this Agreement.
- 1.6 Changes in Services.**
- (A) Court reserves the right to require Contractor to make changes in the Services, which may include additions, deletions, or modifications to the Services, or changes in the timing or level of effort for the Services. Contractor may also request additions, deletions or modifications to the Services, subject to Court prior written approval.
  - (B) For any change proposed under Section 1.6(A), Contractor agrees to submit to Court:
    - 1) a description of the proposed change and the reasons for the change;

- 2) a description of the total compensation to be paid to Contractor for undertaking the change, with a breakdown of tasks and costs, including any reduction in Services or costs resulting from the change; and
- 3) a statement of the expected impact on the schedule for completing the Services

- (C) With respect to any change requested by Court, if Court agrees to the terms submitted by Contractor under Section 1.6(B), Contractor shall be obligated to undertake such change following execution of the written Amendment by both parties. With respect to any change requested by Contractor, Contractor may undertake such change only if Court agrees in writing to the terms submitted by Contractor under Section 1.6(B)
- (D) If Court does not agree to the terms of a change, Contractor will proceed diligently with the Services as agreed upon previously, unless otherwise directed by Court. Contractor shall not proceed with any change prior to receiving a written directive or Amendment executed by Court. All costs for changes performed by Contractor without our prior written approval will be at Contractor's sole risk and expense.

#### **1.7 Stop Services**

(A) If at any time Legislation rescinds the Court's ability to collect the fee defined in CVCII205 (l) & (m) the Court may, at any time, by delivery of a written order to stop Services (a "Stop Services Order"), require Contractor to stop any or all of the Services. However, all fees collected and services rendered up to the time of the Stop Order, will be paid to the Contractor for services previously rendered.

## **2. Representations and Warranties.**

### **2.1 Contractor Representations and Warranties.**

**Services Warranty.** Contractor represents and warrants that the services rendered and Services performed under this Agreement will be performed in a competent and professional manner with requisite skill and diligence consistent with professional standards for the industry and type of Services being performed, and in compliance with all applicable laws, rules and regulations. Contractor further warrants and represents that each of their employees, subcontractors, and agents assigned to perform the Services shall possess the training, background, and skills reasonably commensurate with the level of performance required. Contractor hereby acknowledges that Court relies upon the accuracy, competence, and completeness of the Services to be performed hereunder by Contractor.

**Non-Infringement.** Contractor represents and warrants to Court that Contractor owns, or are authorized to use for Contractor's own and our benefit, all Intellectual Property Rights used and to be used in connection with providing and/or performing the Services, or in our quiet enjoyment and use of the Services, and that all Services and Deliverables to be provided hereunder will not and do not infringe upon the Intellectual Property Rights of any third party.

**Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 2.1, CONTRACTOR MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THIS AGREEMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH REGARD TO THE SUBJECT MATTER HEREOF, AND CONTRACTOR IS NOT BOUND BY ANY REPRESENTATION OR INDUCEMENT NOT SET FORTH HEREIN.

**No Gratuities.** Contractor has not directly or indirectly offered or given any gratuities (in the form of entertainment, gifts, or otherwise) to any Judicial Branch Personnel with a view toward securing this Agreement or securing favorable treatment with respect to any determinations concerning the performance of this Agreement.

**No Conflict of Interest.** Contractor has no interest that would constitute a conflict of interest under California Government Code section 1090 *et seq.*, or section 87100 *et seq.*, or under California Rules of Court 6.103 or 6.104, which restrict employees and former employees from contracting with Judicial Branch Entities. Contractor further agree that Contractor has no interest that would directly or indirectly conflict in any manner with Contractor's ability to fully and completely perform the Services.



**No Interference with other Agreements.** This Agreement does not constitute a conflict of interest or default under any other of Contractor's other agreements.

**No Litigation.** No suit, action, arbitration, or legal, administrative, or other proceeding or governmental investigation is pending or threatened which may adversely affect Contractor, Contractor business, Contractor financial condition, or the Services to be performed under this Agreement. Contractor will provide Court with notice of any such claim or complaint filed against Contractor in connection with any professional services provided by Contractor under this Agreement or otherwise.

**Drug Free Workplace.** Contractor provides a drug-free workplace as required by California Government Code sections 8355-8357.

**Work Eligibility.** Contractor personnel assigned to perform the Services are able to work legally in the United States and possess valid proof of work eligibility.

**Compliance with Laws.**

**General.** Contractor is in compliance in all material respects with all laws, rules and regulations applicable to Contractor business, and Contractor pays all undisputed debts when they come due.

**Specific.**

**Non-discrimination.** Contractor does not unlawfully discriminate in employment practices or delivery of services because of age (40 and over), ancestry, color, creed, disability (mental and physical) including HIV and AIDS, marital and domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, request for family and medical care leave, veteran status, sex (including gender identity), sexual orientation, or any other basis prohibited by law.

**No Harassment.** Contractor does not engage in unlawful harassment, including sexual harassment, with respect to any persons with whom Contractor may interact in the performance of this Agreement. Contractor takes all reasonable steps to prevent harassment from occurring.

**Employment and Labor Laws.** Contractor also complies with the federal Americans with Disabilities Act (42 U.S.C. 12101, *et seq.*), California's Fair Employment and Housing Act, California Government Code section 12990 *et seq.*, and California Code of Regulations, title 2, section 7285 *et seq.*

**2.2 Representations and Warranties to Remain True.** During the term of this Agreement, Contractor will not take an action, or omit to perform any act, that may result in a representation and warranty becoming untrue. Contractor will promptly notify Court if any representation and warranty becomes untrue.

**3 Indemnity.** Contractor will defend (with counsel satisfactory to the Court), hold harmless and indemnify Court and any and all Court officers, judges, and personnel, from all claims and expenses, including attorney fees and costs, resulting from (A) a matter or event related to Contractor Services under this Agreement including but not limited to any claim or expense arising from any determination that Contractor is not an independent Contractor or (B) Contractor default under this Agreement, or both, except to the extent a claim or loss is due to the active negligence or willful misconduct of an indemnified party.

#### **4 Insurance.**

**4.1 Basic Coverage.** Contractor will purchase and maintain at Contractor expense the following insurance during the term of this Agreement:

**4.1.1 Commercial General Liability.** The policy must cover premises operations, broad-form property damage, personal-injury hazards, and contractual liability, at minimum limits of \$1 million per occurrence, combined single limit.

**4.1.2 Professional Liability.** The policy must cover Contractor performance under this Agreement, at minimum limits of \$1 million per occurrence.

**4.1.3 Employer's Liability.** This policy is required only if Contractor has employees. It must include workers' compensation to meet minimum requirements of the California Labor Code, and it must cover bodily injury and property damage at minimum limits of \$1 million per occurrence, combined single limit.

**4.1.4 Commercial or Business Automobile Liability.** This policy must cover bodily injury and property damage and be applicable to all vehicles, whether owned, non-owned, leased, or hired. Contractor may substitute personal automobile liability insurance, if Contractor has no transportation or hauling responsibilities under this Agreement. The minimum liability limit will be \$1 million per occurrence, combined single limit.

- 4.2 "Claims Made" Coverage.** If any required policy is written on a "claims made" form, Contractor will maintain the coverage continuously throughout the term of this Agreement, and, without lapse, for three years beyond the termination or expiration of this Agreement and our acceptance of all Services provided under this Agreement. The retroactive date or "prior acts inclusion date" of any "claims made" policy will be no later than the date that Services commence under this Agreement.
- 4.3 Umbrella Policies.** Contractor may satisfy basic coverage limits through any combination of basic coverage and umbrella coverage.
- 4.4 Deductibles and Self-Insured Retentions.** Contractor will declare to Court all deductibles and self-insured retentions, and they are subject to Court's approval. Deductibles and self-insured retentions do not limit Contractor liability.
- 4.5 Certificates of Insurance.** Before Contractor begins performing Services, Contractor will give Court certificates of insurance attesting to the existence of coverage and providing that the policies cannot be canceled, terminated or amended to reduce coverage without 30 days' prior written notice to Court. Contractor will require Contractor Commercial General Liability policy carrier and any Commercial or Business Automobile Liability policy carrier to name Judicial Branch Entities and Judicial Branch Personnel as additional insureds with respect to liability arising out of Contractor Services.
- 4.6 Qualifying Insurers.** For insurance to satisfy the requirements of this section, all required insurance must be issued by a carrier with an A.M. Best rating of A - or better.
- 4.7 Required Policy Provisions.** Each policy must provide, as follows:
- 4.8 Insurance Primary; Waiver of Subrogation.** The policy is primary and non-contributory with any insurance or self-insurance programs carried or administered by Judicial Branch Entities and Judicial Branch Personnel, and the insurer waives any and all rights of subrogation against Judicial Branch Entities and Judicial Branch Personnel; and
- 4.8.1 Application.** The policy applies separately to each insured against whom a claim is made and/or a lawsuit is brought, to the limits of the insurer's liability;
- 4.9 Consequences of Lapse.** If required insurance lapses during the Term of this Agreement, Court is not required to process payment of fees collected after such lapse until Contractor provides evidence of reinstatement that is effective as of the lapse date.

## **5 Default and Remedies.**

**5.1 Default.** A default exists under this Agreement if Contractor:

**5.1.1** makes a material misrepresentation in writing; or

**5.1.2** fails or is unable to meet or perform any material promise in this Agreement, and is incapable of curing this failure, or does not cure this failure within 30 days following notice.

**5.2 Notice.** Contractor will notify Court immediately if Contractor defaults, or if a third party claim or dispute is brought or threatened that alleges facts that would constitute a default under this Agreement.

### **5.3 Remedies.**

**5.3.1 Available Remedies.** In the event of a default, Court may do any of the following: require Contractor to enter into non-binding mediation; terminate this Agreement in accordance with this Exhibit C; and seek any other available remedy at law or in equity.

**5.3.2 Remedies Cumulative.** All remedies provided in this Agreement may be exercised individually or in combination with any other available remedy.

## **6 Termination; Effect of Expiration or Termination**

### **6.1 Early Termination.**

Court may terminate this entire Agreement immediately "for cause" if Contractor is in default. Court may also limit Contractor Services and, proportionately, Contractor compensation, if: Court determines that having Contractor provide the Services has become infeasible due to changes in applicable laws or regulations, or expected or actual funding to compensate Contractor is withdrawn, reduced or limited.

Court or Contractor may terminate this entire Agreement, with or without cause, by giving Contractor sixty (60) days' notice.

**6.1.1** In the event a federal or State agency concludes that an independent contractor relationship does not exist, either Contractor or Court may terminate this Agreement immediately upon written notice.

### **6.2 Effect of Expiration and Early Termination; Survival.**

**6.2.1** Upon the Termination Date: Court will be released from compensating Contractor for Services, other than those Contractor satisfactorily performed before the Termination Date. Court will be

released from any indirect costs. Contractor will be released from performing additional Services.

**6.2.2** All rights and duties in this Exhibit C will survive the expiration or termination of this Agreement, except for promises regarding the maintenance of insurance in sections 4.1(A), (C) and (D).

**7 Assignment and Subcontracting.** This is an agreement for Contractor services as a non-profit agency. Court has relied upon Contractor's skills, knowledge, experience and training as an inducement to enter into this Agreement. Contractor shall not assign this Agreement, either in whole or in part, without Court's prior consent in the form of an Amendment nor shall Contractor subcontract any of the Services required under this Agreement without Court's prior written consent in the form of an Amendment. No permitted assignment or subcontract will release either party of its duties under this Agreement. This Agreement shall be binding upon and inure to the benefit of successors and assigns of the parties.

**8 Notices.** Notices under this Agreement must be in writing. Notices can be delivered in person, via a reputable express carrier, or by registered or certified mail (postage pre-paid) to the address provided in the signature section at the beginning of this Agreement. Notice is effective on receipt; however, any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified will be deemed effective as of the first date that the notice was refused, unclaimed, or deemed undeliverable. Either party may change its address for receipt of notice by giving notice at any time to the other party in the manner permitted by this paragraph.

**9 Miscellaneous Provisions; Interpretation.**

**9.1 Independent Contractor.** Contractor is an independent contractor to Court. No employer-employee, partnership, joint venture, or agency relationship exists between Contractor and Court. Nothing Contractor does, or fails to do, will make Contractor or any of Contractor's employees agents or subcontractors an employee of Court. Court will not provide to Contractor or any of Contractor's employees, agents, or subcontractors the benefits that Court gives to employees, such as unemployment compensation or insurance, vacation pay, sick leave, retirement benefits, social security benefits, or disability insurance benefits. Contractor will determine the specific methods, details, and means of performing the Services within the Court's standard operating procedures and professional standards for the Services. The Court shall be obligated to review Contractor performance only to the extent required by law and the California Rules of Court. The Court shall not otherwise control or direct the methods, details and means by which Contractor shall perform the Services.

**9.2 Background Checks.** Contractor will cooperate with Court if Court decides to perform background checks on Contractor or its employees, agents, or subcontractors by providing, at no additional cost, all releases, waivers and permissions Court requires. Contractor will give all original materials to Court or to another party at Courts direction. Contractor will maintain all other materials in an accessible location and condition for a period of not less than four years after the termination of this agreement.

**9.2.1 Copies.** Contractor may retain copies of any original documents Contractor provides to Court.

### **9.3 Confidential Information, Publicity.**

**9.3.1 Confidential Information.** Contractor agrees to hold in confidence the following Confidential Information: The terms and conditions of this Agreement; All information that Court discloses to Contractor; and All information to which Contractor gains access while providing Services.

Confidential Information does not include any information that Contractor can demonstrate has been made available to the public (other than through a breach of this Agreement). As between Contractor and Court, Court owns the Confidential Information, and Court authorizes Contractor to use it only for purposes of performing this Agreement. For example, Contractor may give Confidential Information on a "need-to-know" basis to Contractor professional services providers or employees who have also executed confidentiality agreements that protect Court's Confidential Information to the same extent as this Section 9.4. Contractor may also disclose Court's Confidential Information to the extent necessary to comply with law, provided Contractor gives Court advance notice.

**9.3.2 Publicity.** Contractor will not make any public announcement or press release about this Agreement without Court's approval.

**9.3.3 Specific Performance.** Contractor understands a default under this Section 9.4 may result in irreparable damage for which no adequate remedy may be available. Accordingly, injunctive or other equitable relief will be a remedy available to Court.

**9.4 Choice of Law.** California law, without regard to its choice-of-law provisions, governs this Agreement.

**9.5 Negotiated Agreement.** This Agreement has been arrived at through negotiation between the parties. Neither party is the party that prepared this

Agreement for purposes of construing this Agreement under California Civil Code section 1654.

**9.6 Amendment and Waiver.** No amendment to this Agreement will be effective unless in writing. A party's waiver of enforcement of any of this Agreement's terms or conditions will be effective only if in writing. A party's specific waiver will not constitute a waiver by that party of any earlier, concurrent, or later breach or default.

**9.7 Authority and Binding Effect.** Each party warrants it has the authority to enter into this Agreement, it may perform the matters provided for in this Agreement, and its representative who signs this Agreement has the authority to do so. Each party warrants this Agreement constitutes a valid and binding obligation of the party, enforceable in accordance with its terms.

**9.8 Severability.** If any part of this Agreement is held unenforceable, all other parts remain enforceable.

**9.9 Headings.** All headings are for reference purposes only and do not affect the interpretation of this Agreement.

**9.10 Time of the Essence.** Time is of the essence in the performance of Services under this Agreement. The term "day" in this Agreement refers to a calendar day.

**9.11 Counterparts.** This Agreement may be executed in counterparts, each of which is considered an original.

**EXHIBIT D**  
**DEFINITIONS**

As used in this Agreement, the following terms have the indicated meanings:

**“Acceptance Criteria”** means any specifications, requirements, or criteria set forth in the agreement which the Services are required to meet, and if not expressly set forth in the agreement, then it shall mean Court’s reasonable expectations regarding the performance of the Services as described in the Agreement.

**“Compensation”** means all remuneration owed to Contractor in respect of Services, and shall be construed to cover all professional fees, direct costs, indirect costs (including overhead expenses), profit, and taxes that Contractor incurs in performing the Services.

**“Confidential Information”** is defined in Exhibit C, Section 9.3.

**“Deliverable”** means any materials, lists, data, information or the like provided by Contractor hereunder.

**“Effective Date”** means the date first stated in this Agreement.

**“Initial Term”** is defined in the Trial Court Services Agreement, Section “Term” 5.

**“Intellectual Property Rights”** means any copyright, trademark, patent or trade secret.

**“Option Period”** is defined in the Trial Court Services Agreement, Section “Term” 5.

**“State”** means the state of California.

**“Statement of Work” or** means the Statement of Work attached hereto as Exhibit A, including any subsequently executed Statements of Work executed by the parties and intended to be governed by the terms and conditions set forth in this Agreement.

**“Term”** comprises the Initial Term and the Option Period.

**“Services”** means those services, deliverables and tasks described in the agreement, Exhibit A, Section 1.

**“Termination Date”** means the date when this Agreement expires or is validly terminated.



## APPENDIX F

### Contract Amendment to Superior Court of California County of Tuolumne's agreement with the California Traffic Safety Institute

An agreement was entered into between the Superior Court, in and for the County of Tuolumne hereinafter called "Court" and California Traffic Safety Institute, hereinafter called "CTSI" on September 2, 2008

In recognition and consideration of needs and circumstances that have arisen since the execution of the agreement to collect a fee to offset the services provided by CTSI the parties wish to amend the agreement as follows:

**Increase the fee collected for CTSI from \$15.00 to \$17.00 effective September 1, 2011.**

Reason for request: The increase in the contract amount is necessary to cover the cost of the Secured Certificate Management System which provides completion certificates electronically to the Court and will have the ability to interface with the Department of Motor Vehicles electronic filing system and still allow CTSI to follow up with the rejected certificates of completion and assist the Court's clients with any issues they may encounter. In addition to saving the Court resources and funds associated with correspondence, phone calls and storage space.

All other terms and conditions of the agreement remain unchanged.

Change requested by: Wanda Paulson, Chief Executive Officer  
California Traffic Safety Institute

Amendment to Contract Approved by: Superior Court County of Tuolumne

Signature:



Jeanne Caughell  
Court Executive Officer  
Superior Court of California, County of Tuolumne

Date: 9.1.2011