RESOLUTION - ACTION REQUESTED 2020-450

MEETING: July 28, 2020

TO: The Board of Supervisors

FROM: Pete Judy, Chief Probation Officer

RE: Ratify MOU with County of Tuolumne and Mariposa County for Youth in Need of Detention

RECOMMENDATION AND JUSTIFICATION:
Ratify the Signature of the Chief Probation Officer for a Memorandum of Understanding (MOU) with the County of Tuolumne for the Placement and Detention of Youth at the Motherlode Regional Detention Facility.

Mariposa County has been operating since August 23, 2017 under an MOU signed by officials in Tuolumne County and the Chief Probation Officer for Mariposa County. A process error forwarded the document back to Tuolumne County with only the Chief Probation Officer of Mariposa County’s signature. Since there is a request to make an addendum to the 2017 MOU before the Board today, it is necessary to have the Board ratify the original MOU.

Historically Mariposa County has not had MOU’s with all of the counties that have provided detention services for the county. This is due to our low need for those services and were provided on availability by various counties and invoiced on a case by case basis. The Mariposa Juvenile Hall budget has a line item for detention services that is approved each year by the Board and detention services invoiced are paid to that line item.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has approved MOU’s with other counties in California for the detention of Mariposa youth.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Tuolumne County could refuse to detain Mariposa youth. Since it is a facility with a stellar operational plan and services we would be forced to seek an alternative detention facility that might be further away from Mariposa and or have programming less suitable for the needs of our youth.

FINANCIAL IMPACT:
There is no impact to the general fund.

ATTACHMENTS:
Resolution - Action Requested 2020-450

MOU with Tuolumne (PDF)

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Marshall Long, District III Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF TUOLUMNE
AND
THE COUNTY OF MARIPOSA
FOR
The Placement of Mariposa County Detained Juveniles at the
Motherlode Regional Juvenile Detention Facility.

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this 23rd
day of August, 2017, by and between the County of Tuolumne, a Political Subdivision of the
State of California, ("County"), and the County of Mariposa, ("Agency").

WITNESSETH:

WHEREAS, Tuolumne County has established a Juvenile Detention Facility designed for the
reception and temporary care of minors pursuant to Title 15 of the California Code of
Regulations and detailed in accordance with the provisions of the California Welfare and
Institutions Code; and

WHEREAS, Agency wishes to house juveniles detained in The Motherlode Regional Juvenile
Detention Facility ("Facility") and Tuolumne County wishes to provide available beds to
Agency, as needed and available.

NOW, THEREFORE, in consideration of their mutual covenants and conditions, the parties
hereeto agree as follows:

1. PURPOSE

The purpose of this MOU is to provide secure detention beds as available to Agency at the
Motherlode Regional Juvenile Detention Facility in Tuolumne County.

2. TERM

The term of this MOU shall commence on the execution date first herein written above
and continue until terminated per section 3 below.

A. SERVICES

i. Tuolumne County shall provide beds in its Facility for Agency to utilize as needed, if beds are available. The beds will be provided on a space available basis as determined by the Tuolumne County Chief Probation Officer in his or her sole discretion.

ii. All Agency minors accepted for placement and placed in the Facility shall receive the same accommodations and services as provided to Tuolumne
County juveniles in accordance with federal, state and local laws and regulations. Such services shall include facilitation of appropriate educational services, medical care and mental health care. Dental care shall be limited to pain management, injured teeth/gums, and conditions which may lead to malignancies if detention is prolonged.

iii. Tuolumne County may provide emergency medical services without prior authorization from Agency.

iv. Agency minors are not eligible to participate, and therefore will not participate, in the Tuolumne County Children's System of Care program and/or its equivalent.

B. PAYMENT

i. Board and Care: Agency shall pay Tuolumne for the costs of board and care for each minor placed at the Facility under this Agreement. The payment amount shall be at a per diem rate of ($100.00) for each 24-hour period or portion thereof. The per diem rates set forth in this Agreement are subject to change by the Tuolumne County Chief Probation Officer upon provision of thirty (30) days advance written notice to the Agency of said change.

ii. Legal Services: Agency shall be solely responsible to make certain that those minors detained in the Facility by order of the Agency Juvenile Court receive all legal services required by applicable law.

iii. Writ of Habeas Corpus: In the event a petition for a writ of habeas corpus or similar proceedings is initiated by or on behalf of any Agency minors placed in the, Agency shall be fully responsible to defend this writ and shall defend, indemnify, and hold harmless Tuolumne County, its elected representatives, officers, employees, volunteers and agents from all costs, damages, claims and allegations associated in any way with such a writ.

iv. Medical and Psychological Services: Agency shall pay for or reimburse Tuolumne County for the actual costs of any necessary surgical/medical/psychological, dental care, prescription medications or mental health care required by the Agency minor placed at the Facility under this Agreement. To the extent permitted by law, Tuolumne County is hereby authorized, without the need for any further authorization by Agency, to obtain such emergency medical, dental, and mental health care for Agency minors housed at the Facility as determined necessary by the appropriate providers of these services at the Facility. All other medical, dental, and mental health care services shall also be the financial responsibility of Agency but are subject to pre-authorization by the Agency Chief Probation Officer, or his or her designee.
v. Education: Agency shall reimburse Tuolumne County for any and all costs of schooling or education not compensated for by the State of California. The cost of regular school expenses is included in the per diem rate.

vi. Billing and Payments: Agency shall pay Tuolumne County within thirty (30) days after receiving notice of payment due. Payment shall be made out to Tuolumne County Probation and mailed to:

Tuolumne County Probation  
Attention Business Manager  
465 South Washington Street  
Sonora, CA 95370

C. TRANSPORTATION

i. Agency shall be responsible for providing transportation of the minors between Agency and the Facility. In the event Agency fails to provide transportation for a minor from Tuolumne County to Agency within the time frame requested by Tuolumne County, then Tuolumne County shall transport the minor to Agency and Agency shall be responsible for payment of all costs incurred by Tuolumne County for such transportation.

ii. Tuolumne County provides routine transportation for each Agency minor for the purposes of medical, mental health, dental, or other appropriate care within Tuolumne County. The costs of such transportation are included in the per diem rate.

D. REMOVAL OF MINORS.

i. Agency shall promptly remove any minors placed in the Facility upon sole determination of the Tuolumne County Chief Probation Officer, or his or her designee, that the effective operation of the Facility requires removal of the minor.

E. COURT DOCUMENTATION:

i. Agency shall be responsible for providing confirmed Court orders committing minors to the Detention Facility, dispositional reports committing minor to the Facility, and consent to medical treatment signed by a parent/legal guardian/Juvenile Court Judge to Tuolumne County staff at the at the time of booking.

3. TERMINATION

This MOU may be terminated by either party upon the giving of thirty (30) days advance written notice of an intention to terminate.
4. NON-ASSIGNMENT

Neither party shall assign, transfer or sub-contract this MOU nor their rights or duties under this MOU without the prior written consent of the other party.

5. RECORDS

All Parties subject to this MOU shall maintain a record of services provided in sufficient detail to permit an evaluation of the MOU. All such records shall be made available during normal business hours to authorized representatives of County, Agency, State, and Federal governments during the term of this MOU and during the period of record retention for the purpose of program review and/or fiscal audit.

6. COMPLIANCE WITH LAWS/POLICIES

The parties shall comply with all applicable rules and regulations set forth and any subsequent reporting requirements as directed by the State.

7. CONFIDENTIALITY

The parties shall act in strict conformance with all applicable Federal, State of California and/or local laws and regulations relating to confidentiality, including but not limited to, California Civil Code section 56 et seq., Welfare and Institutions Code sections 827 et seq., 5328, 10850 and 14100.2, Health and Safety section 11812, 22 California Code of Regulations section 51009, Title 15 of the California Code of Regulations, and 42 Code of Federal Regulations sections 2.1 et seq. The parties shall ensure that no list of persons receiving services under this MOU is published, disclosed, or used for any other purpose except for the direct administration of the program or other uses authorized by law that are not in conflict with requirements for confidentiality.

8. NON-DISCRIMINATION

During the performance of this MOU, the parties shall not unlawfully discriminate against any employee or applicant for employment, or recipient of services, because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age or gender, pursuant to all applicable State and Federal statutes and regulations.

9. RELATIONSHIP OF PARTIES

It is understood that this is a Memorandum of Understanding by and between two (2) separate public agencies and is not intended to and shall not be construed to create a relationship of agent, servant, employee, partnership, joint venture or association.
10. NO THIRD PARTY BENEFICIARIES

The County and Agency agree it is their specific intent that no other person or entity shall be a party to or a third party beneficiary of this MOU or and attachment or addenda to this MOU.

11. INDEMNIFICATION

Each party hereto agrees to be responsible and assume liability for its own wrongful or negligent acts or omissions, or those of its officers, agents, or employees to the full extent required by law.

12. NOTICE

Any and all notices, reports or other communications to be given to County or Agency shall be given to the persons representing the respective parties at the following addresses:

**AGENCY:**
Chief Probation Officer
County of Mariposa
P.O. Box 76
Mariposa, CA 95338
Fax: (209) 742-5961

**COUNTY:**
Chief Probation Officer
County of Tuolumne
2 South Green Street
Sonora, CA 95370
Fax: (209) 533-5510

13. PUBLIC RECORDS ACT

Agency is aware that this MOU and any documents provided to the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Agency to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

14. ENTIRE AGREEMENT AND MODIFICATION

This MOU contains the entire agreement of the parties relating to the subject matter of this MOU and supersedes all prior agreements and representations with respect to the subject matter hereof. This MOU may only be modified by a written amendment hereto, executed by both parties. If there are exhibits attached hereto, and a conflict exists between the terms of this MOU and any exhibit, the terms of this MOU shall control.

15. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this MOU shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.
16. DISPUTES

The parties agree to use good faith efforts to resolve any disputes prior to bringing any action to enforce the terms of this MOU.

Should it become necessary for any party to this MOU to enforce any of the provisions hereof, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney’s fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Tuolumne, State of California.

17. CAPTIONS

The captions of this MOU are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this MOU.

18. COUNTERPARTS

This MOU may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

19. OTHER DOCUMENTS

The parties agree that they shall cooperate in good faith to accomplish the object of this MOU and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

20. CONTROLLING LAW

The validity, interpretation and performance of this MOU shall be controlled by and construed under the laws of the State of California.

21. AUTHORITY

Each party and each party’s signatory warrant and represent that each has full authority and capacity to enter into this MOU in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to the MOU shall comply with all requirements of law, including capacity and authority to amend or modify the MOU.
IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding on the day and year first herein above written.

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<tr>
<th>COUNTY:</th>
<th>Agency:</th>
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<tbody>
<tr>
<td>Tuolumne</td>
<td>Pete Judy, Chief Probation Officer</td>
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<tr>
<td>Craig Pedro, County Administrator</td>
<td>Pete Judy, Chief Probation Officer</td>
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<tr>
<td>Linda Downey, Chief Probation Officer</td>
<td>Kevin Cann, Chair, Board of Supervisors</td>
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<td>APPROVED AS TO LEGAL FORM:</td>
<td>APPROVED AS TO LEGAL FORM:</td>
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<tr>
<td>Sarah Carrillo, County Counsel</td>
<td>Steve Dahlem, Mariposa County Counsel</td>
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