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**SERVICE AGREEMENT**

This Service Agreement (“Agreement”) is dated January 24, 2023, and is between Strategic Mechanical, Inc., a California corporation (“Contractor”), and the County of Fresno, a political subdivision of the State of California (“County”).

**Recitals**

A. Public Contract Code section 20128.5 authorizes a board of supervisors to award annual contracts for repair, remodeling, or other repetitive work to be done according to unit prices, to the lowest responsible bidder, based on plans and specifications for typical work.

B. County has a need for mechanical repair, remodeling, or other repetitive services to be performed pursuant to an annual contract.

C. County desires to engage Contractor to perform mechanical repair, remodeling, or repetitive work according to unit prices on an annual basis pursuant to the terms of this Agreement.

The parties therefore agree as follows:

**Article 1**

**Contractor’s Services**

1.1 **Scope of Services.** The Contractor shall perform all of the services provided in Exhibit A to this Agreement, titled “Scope of Services.”

1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and able to perform all of the services provided in this Agreement.

1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all applicable federal, state, and local laws and regulations in the performance of its obligations under this Agreement, including but not limited to workers compensation, labor, and confidentiality laws and regulations.

1.4 **Patent Indemnity.** Contractor shall hold County, its officers, agents, and employees, harmless from liability of any nature or kind, including costs and expenses (including attorney’s fees and costs), for infringement or use of any copyrighted or uncopyrighted composition, secret

1 process, patented or unpatented invention, article or appliance furnished or used in connection  
2 with this Agreement.

3 1.5 **Immigration Reform and Control Act of 1986.** Contractor warrants on behalf of  
4 itself and all subcontractors engaged for the performance of this Agreement that only persons  
5 authorized to work in the United States pursuant to the Immigration Reform and Control Act of  
6 1986 and other applicable laws shall be employed in the performance of the Contractor's Work  
7 under pursuant to the job order or orders under this Agreement ("Work").

8 1.6 **Data Security.** Contractor shall employ adequate controls and data security  
9 measures, both internally and externally, to ensure and protect the confidential information  
10 and/or data provided to Contractor by County, preventing the potential loss, misappropriation, or  
11 inadvertent access, viewing, use or disclosure of County data, including sensitive or personal  
12 client information; abuse of County resources; and/or disruption to County operations.

13 Individuals and/or agencies may not connect to or use County networks/systems via  
14 personally owned mobile, wireless, or handheld devices unless authorized by County for  
15 telecommuting purposes and provide a secure connection; up-to-date virus protection and  
16 mobile devices must have the remote wipe feature enabled. Computers or computer peripherals  
17 including mobile storage devices may not be used (County or Contractor device) or brought in  
18 for use into County's system(s) without prior authorization from County's Chief Information  
19 Officer and/or designee(s).

20 No storage of County's private, confidential, or sensitive data on any hard-disk drive,  
21 portable storage device or remote storage installation, unless encrypted according to advance  
22 encryption standards (AES of 128 bit or higher).

23 County will immediately be notified of any violations, breaches, or potential breaches of  
24 security related to County's confidential information, data, and/or data processing equipment  
25 which stores or processes County data, internally or externally.

26 County shall provide oversight to Contractor's response to all incidents arising from a  
27 possible breach of security related to County's confidential client information.  
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1 Contractor shall issue any notification to affected individuals as required by law, or as deemed  
2 necessary by County, in its sole discretion. Contractor will be responsible for all costs incurred  
3 as a result of providing the required notification.

4 1.7 **Confidentiality.** All services performed by Contractor shall be in strict conformance  
5 with all applicable Federal, State of California, and/or local laws and regulations relating to  
6 confidentiality, including but not limited to, California Civil Code, California Welfare and  
7 Institutions Code, California Health and Safety Code, California Code of Regulations, and the  
8 Code of Federal Regulations.

9 Contractor shall submit to County's monitoring of said compliance. Contractor may be a  
10 business associate of County, as that term is defined in the "Privacy Rule" enacted by the  
11 Health Insurance Portability and Accountability Act of 1996 (HIPAA). As a HIPAA Business  
12 Associate, Contractor may use or disclose protected health information ("PHI") to perform  
13 functions, activities or services for or on behalf of County as specified by County, provided that  
14 such use or disclosure shall not violate HIPAA and its implementing regulations. The uses and  
15 disclosures of PHI may not be more expansive than those applicable to County, as the "Covered  
16 Entity" under HIPAA's Privacy Rule, except as authorized for management, administrative, or  
17 legal responsibilities of the Business Associate.

18 Contractor shall not use or further disclose PHI other than as permitted or required by  
19 County, or as required by law without written notice to County. Contractor shall ensure that any  
20 agent, including any subcontractor, to which Contractor provides PHI received from, or created  
21 or received by the Contractor on behalf of County, shall comply with the same restrictions and  
22 conditions with respect to such information.

23 1.8 **Confidentiality of Inmates/Wards/Patients/Clients Identity.** Some the Work to be  
24 performed under this Agreement may occur in secured facilities or facilities that require  
25 confidentiality. Contractor shall alert and inform its employees and agents that State law  
26 requires that the identities of inmates/wards/patients/clients be kept confidential. Revealing the  
27 identities of inmates/wards/patients/clients is punishable by law.

1        1.9     **Intent of Agreement Documents.** Some of the Work may require Contractor to  
2 work in in-patient care facilities. The intent of Agreement Documents will be to construct or  
3 reconstruct the hospital facilities for an individual Job Order in accordance with Title 24,  
4 California Code of Regulations. If any conditions develop that are not covered by the Agreement  
5 Documents, wherein the completed Work shall not comply with said Title 24, California Code of  
6 Regulations, County shall develop a Job Order detailing any required Work and shall submit it to  
7 The Office of Statewide Health Planning and Development for approval prior to Contractor  
8 proceeding with the Work.

9        1.10    **Building Permits.** Contractor shall be responsible for all fees and costs incurred in  
10 connection with obtaining permits; however, County will reimburse Contractor for the actual cost  
11 of the permit or inspection fees, as part of the Job Order, with no additional allowance for  
12 overhead and profit.

13        1.11    **Codes and Regulations.** All work, materials, and equipment shall be in full  
14 compliance with the 2013 edition of the California Building Code; California Plumbing Code;  
15 California Electrical Code; Cal/Occupational Safety and Health Administration (OSHA) Safety  
16 Regulations; and all Federal, State and Local laws, ordinances, regulations, and Fresno County  
17 Charter Provisions applicable in the performance of the work.

18        1.12    **Coordination of Work.** Contractor shall coordinate all work with County to minimize  
19 any interruptions to the normal operation of County operations, particularly interruptions to air  
20 conditioning, electrical services, alarm system, communications, and computer systems.

21        1.13    **Workday.** All work shall be set forth as part of the Job Order. Saturday and Sunday  
22 work will not be allowed except by written approval of County, and upon 48 hours advance  
23 notice. Payment requirements for shift differential and overtime shall be as set forth in the  
24 Collective Bargaining Agreement for the trade, on file with the State Department of Industrial  
25 Relations, Division of Labor Statistics and Research. Contractors are urged to contact the  
26 Prevailing Wage Unit at 415/557-0561 or 415/703-4281 for information on these requirements.  
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1        1.14    **Schedule of Operation.** Time is of the essence in the performing of any Job Order  
2 under this Agreement. Contractor shall schedule the work in a manner that will progress to  
3 completion without interruption.

4        1.15    **Coordination Between Contractors.**

5            (A) If separate Agreements are left for Work within or adjacent to the Project site, as may  
6            further be hereinafter detailed in the Agreement Documents, Contractor shall  
7            conduct the Work so as not to interfere with or hinder the progress of completion of  
8            the Work being performed by other Contractors.

9            (B) Contractor shall assume all liability, financial or otherwise, in connection with this  
10           Agreement, and shall protect and hold harmless County from any and all damages or  
11           claims (including attorney's fees and costs) arising because of inconvenience, delay,  
12           or loss experienced by Contractor because of the presence and operations of other  
13           Contractors working within the limits of the same improvement. Contractor shall  
14           assume all responsibility for all Work not completed or accepted because of the  
15           presence and operations of other Contractors.

16           (C) Contractor shall arrange the Work and placement and disposal of the materials being  
17           used, so as not to interfere with the operations of other Contractors within or  
18           adjacent to the limits of the Project site. Contractor shall join the Work with that of  
19           others in an acceptable manner and shall perform it in proper sequence to that of  
20           others.

21        1.16    **Temporary Facilities.**

22           (A) Water and Electricity: Contractor may connect to existing water and electricity  
23           available on the site, provided it is suitable to Contractor's requirements. Water and  
24           electricity costs shall be paid by County. Contractor shall bear all expenses for  
25           carrying the water or electricity to the appropriate locations, and for connecting or  
26           tapping into existing lines. Contractor shall furnish fuel and other power for the  
27           operation of the heavy equipment, pneumatic tools, and compressors.  
28

1 (B) Toilet Facilities may be available on the site to the workers engaged in the  
2 performance of this Agreement. The use of such facilities may be revoked in the  
3 event of excess janitorial requirements, or at the discretion of County.

4 **1.17 Fire Protection and Fire Insurance.** Contractor shall not perform any fire  
5 hazardous operation adjacent to combustible materials. Any fire hazardous operation shall have  
6 proper fire extinguishers close by, and the adjacent area shall be policed before stopping work  
7 for the day.

8 Contractor shall provide not less than one OSHA / NFPA Class 10-ABC fire extinguisher  
9 for each 9,000 square feet of project area or fraction thereof.

10 **1.18 Dust Separation and Protective Barricades.** When directed as part of an individual  
11 Job Order, Contractor shall erect temporary dust separation partitions and floor mats as  
12 necessary to confine dust and debris within the area of Work. Contractor shall post signs, and  
13 erect, and maintain barriers and warning devices for the protection of the general public and  
14 Contractor and County personnel.

15 Contractor shall provide adequate protection for all parts of the present buildings and its  
16 contents and occupants wherever Work under this Agreement is to be performed. Contractor  
17 shall observe that the health and welfare of occupants of the existing buildings may be affected  
18 by noises and fumes produced by the construction. Contractor shall avoid creating loud and  
19 unnecessary noise, and noise-producing Work shall be performed as far away from occupied  
20 areas as is consistent with the efficient conduct of the Work.

21 **1.19 Damage to Existing Work.** Damage to existing construction, equipment, and  
22 planting by Contractor in the performance of the Work shall be replaced or repaired and  
23 restored to original condition by Contractor at Contractor's expense.

24 **1.20 Protection of Alarms, Security, Communications, and Computer Systems.**  
25 Contractor shall be responsible for all costs incurred by County on these systems as a  
26 result of Work by Contractor or damage caused by Contractor's operations, including costs  
27 associated with false fire alarms caused by Contractor operations.

1        1.21 **Parking.** County will provide parking spaces at the project site when parking is  
2 available. However, Contractor shall not rely on County to provide parking.

3        1.22 **Record Drawings.** Contractor shall be provided with xerox bond prints at no cost,  
4 upon which a record of all changes to the project plans shall be made. As the Work progresses,  
5 Contractor shall be responsible for and shall maintain a record of all deviations in the  
6 mechanical, electrical, plumbing, and other Work from that indicated on the plans. As a  
7 condition for considering the project complete, the record drawings must be delivered to the  
8 Engineer, and deemed acceptable.

9        1.23 **Warranty Response.** In lieu of any time limits imposed or implied by the above-  
10 referenced Agreement Documents or stated in standard product warranties or special  
11 warranties, Contractor shall respond within 24 hours' notice from County that repairs or changes  
12 are required in connection with guaranteed Work, or equipment within the guarantee period.

13        1.24 **Asbestos Containing Material (ACM).** When the Job Order requires Contractor not  
14 to remove ACM, Contractor shall exercise caution when working around ACM to prevent the  
15 release of ACM into the atmosphere. If damage to ACM results in release of airborne asbestos  
16 fibers to the atmosphere, then control measures required by Federal and State regulations must  
17 be instituted at Contractor's expense. Any ACM damaged by Contractor's operations shall be  
18 repaired at Contractor's expense in accordance with applicable Federal, State, and local laws  
19 and regulations. When the Job Order requires the removal of ACM, Contractor shall remove,  
20 transport, and dispose of either non-friable ACM or less than 100 square feet of friable ACM in  
21 accordance with Federal, State, and local statutes and regulations. Contractor shall furnish  
22 project notification documents, employee information, equipment certifications, material  
23 specifications and samples, project work plan and air monitoring plan, and other project  
24 submittals or documentation as required by statute or regulation. The methods for removal and  
25 disposal of either non-friable ACM or friable ACM selected by Contractor shall be approved by  
26 County before commencing removal operations. If, during the course of removal operations,  
27 County determines that removal methods used by Contractor result or may result in releasing  
28 airborne asbestos fibers to the atmosphere, Contractor shall immediately cease Contractor's

1 current ACM removal operations, and propose a new method for removal of ACM for the  
2 approval of County. If removal of ACM results in release of airborne asbestos fibers to the  
3 atmosphere, then control measures required by Federal and State regulations must be instituted  
4 at Contractor's expense. Work area air monitoring may be required for individual Job Orders, at  
5 the discretion of County. Work area air monitoring shall be paid for by Contractor. The Engineer  
6 reserves the right to require Contractor, at Contractor's expense, to utilize a Contractor certified  
7 by Contractors State License Board and registered with the Division of Occupational Safety and  
8 Health to remove and dispose of ACM, if, in the opinion of the Engineer based on Contractor's  
9 performance of ACM removal, only a certified and registered Contractor would possess the  
10 technical skills and resources required to remove the ACM. At Contractor's option, removal and  
11 disposal of non-friable ACM or friable ACM where removal and disposal may result in release of  
12 airborne asbestos fibers to the atmosphere may be subcontracted to a Contractor certified by  
13 Contractors State License Board and registered with the Division of Occupational Safety and  
14 Health.

15       1.25 **Security.** Security is of great concern to County. Failure to comply with the security  
16 requirements listed below will be considered a breach of contract, and may result in termination  
17 of this Agreement and any Job Order for default. Contractor's personnel shall cooperate with all  
18 County security personnel at all times, and shall be subject to and conform to County security  
19 rules and regulations, including, but not limited to County security rules and procedures, as  
20 detailed in Exhibits B, E through G. Any violations or disregard of these rules may be cause for  
21 denial of access to County property. The background checks required, and policies listed below,  
22 may change throughout the life of this Agreement. It is Contractor's responsibility to request  
23 updates from County. All of Contractor's employees, agents, and subcontractors must read the  
24 policies listed below. Please see the following Exhibits:

- 25       • Exhibit B – Probation Juvenile Detention Facilities – No Hostage Policy.
- 26       • Exhibit E – Fresno Sheriff – Coroner's Office (FSCO) Jail Detention Facilities – No  
27       Hostage Policy.
- 28       • Exhibit F – The Prison Rape Elimination Act.



- Exhibit G – Background Investigations & Identification (ID) Badges.

Security provisions will be strictly enforced. All parties who are required to perform their individual services at the site shall be limited to the area required to complete the Work. Such access shall be obtained by notification to the Facilities Services Manager or his designee, of the time and place, prior to commencing the Work.

All keys used during construction shall be numbered. Each key issued shall be recorded, and its prompt return shall be strictly enforced. Duplication of any keys issued is strictly prohibited. These keys shall be returned to County's representative at the end of each working day, when required.

Some of the Projects to be done under this Agreement may be in secured facilities such as jails. Prior to commencement of Work, Contractor, including all Sub-Contractors and Contractors, shall obtain security clearances for all employees that will be working or making deliveries to the sites.

When Work is performed in secured facilities, it is incumbent upon all Contractors to alert all workmen of the necessity for extreme care in accounting for, and keeping all areas free of any and all types of hand tools, power tools, small parts, scrap material, and all other materials which might be concealed upon the person of an inmate/ward/patient, at all times when such tools and materials are not used for the task at hand.

Each Work area shall be kept clean and in order both during working hours and at the completion of the working day.

**1.26 Trenching and Excavation.** In accordance with section 7104 of the California Public Contract Code, the following provisions shall apply to any contract involving digging of trenches or other excavations that extend deeper than four feet below the surface:

(A) Contractor shall promptly, and before the following conditions are disturbed, notify County, in writing, of any:

- (i) Material that Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code that is required to be

1 removed to a Class I, Class II, or Class III disposal site in accordance with  
2 provisions of existing law.

3 (ii) Subsurface or latent physical conditions at the site differing from those  
4 indicated.

5 (iii) Unknown physical conditions at the site of any unusual nature, different  
6 materially from those ordinarily encountered and generally recognized as  
7 inherent in work of the character provided for in the Job Order.

8 (B) County shall promptly investigate the conditions, and if it finds that the conditions do  
9 materially so differ, or do involve hazardous waste, and cause a decrease or  
10 increase in Contractor's cost of, or the time required for, performance of any part of  
11 the work, shall issue an additional Job Order.

12 (C) In the event that a dispute arises between County and Contractor whether the  
13 conditions materially differ, or involve hazardous waste, or cause a decrease or  
14 increase in Contractor's cost of, or time required for, performance of any part of the  
15 Work, Contractor shall not be excused from any scheduled completion date provided  
16 for by the Agreement but shall proceed with all Work to be performed under the  
17 Agreement. Contractor shall retain any and all rights provided either by contract or by  
18 law which pertain to the resolution of disputes and protests between the contracting  
19 parties.

20 **1.27 Rights and Remedies of County for Default.** In case of default by Contractor,  
21 County may procure the articles or service from another source and may recover the cost  
22 difference and related expenses from any unpaid balance due Contractor or by proceeding  
23 against performance bond of Contractor, if any, or by suit against Contractor. The prices paid by  
24 County shall be considered the prevailing market price at the time such purchase is made.

25 Articles or services, which upon delivery inspection do not meet specifications, shall be  
26 rejected, and Contractor will be considered in default. Contractor shall reimburse County for  
27 expenses related to delivery of non-specified goods or services.

28 Regardless of F.O.B. point, Contractor agrees to bear all risks of loss, injury or

1 destruction to goods and materials ordered herein which occur prior to delivery; loss, injury, or  
2 destruction shall not release Contractor from any obligation hereunder.

3       1.28    **Assignment of Moneys.** Contractor agrees to furnish all labor and materials,  
4 including tools, implements, and appliances required, and to perform all the Work in a good and  
5 workmanlike manner, free from any and all liens and claims of mechanics, material-men,  
6 subcontractors, artisans, machinists, teamsters, day-men, and laborers required for completing  
7 specific Job Orders, as directed by County.

8       1.29    **Inspection.** All material and workmanship (if not otherwise designated by the  
9 Agreement Documents) shall be subject to inspection, examination, and test by the Director of  
10 the specific project or designated County official (hereinafter "Director") at any and all times  
11 during manufacture and/or construction, and at any and all places where such manufacture  
12 and/or construction are carried on. The Director shall have the right to reject defective material  
13 and workmanship or require its correction.

14           Contractor shall furnish promptly without additional charge, all reasonable facilities,  
15 labor, and materials necessary for the safe and convenient inspection and tests that may be  
16 required by the Director.

17           If considered necessary or advisable by the Director at any time either before  
18 acceptance of the entire Work, or after acceptance and within the guaranty period, to make an  
19 examination of Work already completed, by removing or tearing out same, Contractor shall, on  
20 request, promptly furnish all necessary facilities, labor, and material. If such Work is found to be  
21 defective in any material respect, due to the fault of Contractor or his/her Sub-Contractors, he  
22 shall defray all the expenses of such examination and of satisfactory reconstruction. If, however,  
23 such Work is found to meet the requirements of this Agreement, Contractor's costs necessarily  
24 incurred in the examination and replacement, as determined by use of the Construction Task  
25 Catalog®, shall be reimbursed to Contractor and Contractor shall, in addition, if completion of  
26 the Work has been delayed thereby, be granted a suitable extension of time on account of the  
27 additional Work involved.

28           When the Work is completed, Contractor shall notify County in writing that the Work shall

1 be ready for final inspection and test on a definite date, which shall be stated in such notice.

2 1.30 Contractor shall not assign moneys due or to become due to Contractor under the  
3 Agreement without the written consent of the Auditor-Controller of Fresno County. Any  
4 assignment of moneys shall be subject to all proper set-offs in favor of County of Fresno, and to  
5 all deductions provided for in the Agreement, and particularly all money withheld, whether  
6 assigned or not, shall be subject to being used by County for the completion of the Work in the  
7 event that Contractor defaults under this Agreement.

8 1.31 Contractor shall use The Gordian Group, Inc.'s Job Order Contracting System for its  
9 JOC program. The Gordian Group, Inc.'s Job Order Contracting System includes proprietary  
10 JOC applications that shall be used by Contractor to prepare and submit JOC proposals,  
11 subcontractor lists, and other requirements as specified by County. Contractor shall be  
12 assessed a Contractor license fee by The Gordian Group, Inc. of one percent (1%) of the value  
13 of construction of each project awarded by County ("Contractor License Fee"). Such Contractor  
14 License Fee shall be billable by The Gordian Group, Inc., and is payable to The Gordian Group,  
15 Inc.

16 1.32 In accordance with Labor Code section 1770, et seq., the Director of the Department  
17 of Industrial Relations of the State of California has determined the general prevailing wage  
18 rates and employer payments for health and welfare, pension, vacation, travel time and  
19 subsistence pay as provided for in section 1773.1, apprenticeship or other training programs  
20 authorized by section 3093, and similar purposes applicable to the work to be done.

21 Information pertaining to applicable Prevailing Wage Rates may be found on the website  
22 for the State of California – Department of Industrial Relations:

23 <http://www.dir.ca.gov/oprl/PWD/index.htm>.

24 Information pertaining to applicable prevailing wage rates for apprentices may be found  
25 on the website for the State of California – Department of Industrial Relations:

26 <http://www.dir.ca.gov/oprl/pwappwage/PWAppWageStart.asp>.

27 It shall be mandatory upon Contractor and upon any Sub-Contractor to pay not less than  
28 the prevailing wage rates, including overtime and holiday rates, to all workers, laborers, or

1 mechanics employed on this public work project, including those workers employed as  
2 apprentices. Further, Contractor and each subcontractor shall comply with Labor Code sections  
3 1777.5 and 1777.6 concerning the employment of apprentices. A copy of the above-mentioned  
4 prevailing wage rates shall be posted by Contractor at the job site where it will be available to  
5 any interested party.

6 Contractor shall comply with Labor Code section 1775, and shall forfeit as a penalty to  
7 County Two Hundred Dollars (\$200.00) for each calendar day or portions thereof, for each  
8 worker paid less than the prevailing wage rates for the work or craft in which the worker is  
9 employed for any work done under this project by Contractor or by any subcontractor under  
10 Contractor in violation of Labor Code section 1770, et seq. In addition to the penalty, the  
11 difference between the prevailing wage rates and amount paid to each worker for each calendar  
12 day or portion thereof for which each worker was paid less than the prevailing wage rate shall  
13 be paid to each worker by Contractor or subcontractor.

14 Contractor and each of its subcontractors shall keep a log showing the name, address,  
15 social security number, work classification, straight time and overtime hours worked each day  
16 and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other  
17 employee employed by him or her in connection with this public work project. In accordance  
18 with Labor Code section 1776, each payroll record shall be certified and verified by a written  
19 declaration under penalty of perjury stating that the information within the payroll record is true  
20 and correct, and that Contractor or subcontractor has complied with the requirements of Labor  
21 Code sections 1771, 1811 and 1815 for any work performed by its employees on this public  
22 work project. These records shall be open at all reasonable hours to inspection by County, its  
23 officers, and agents, and to the representatives of the State of California – Department of  
24 Industrial Relations, including but not limited to the Division of Labor Standards Enforcement.

25 **1.33 Supervision Procedures.**

26 (A) Contractor shall give efficient supervision to the Work, using skill and diligence for  
27 which Contractor is compensated in the Agreement Adjustment Factors. Contractor  
28 shall carefully inspect the site, and study and compare all Agreement Documents

1 and other instructions, as ignorance of any phase of any of the features or conditions  
2 affecting the Agreement shall not excuse Contractor from carrying out its provisions  
3 to its full intent.

4 (B) Contractor shall employ a competent superintendent and necessary assistants who  
5 shall attend the project site during the progress of the Work. The superintendent  
6 shall represent Contractor, and all communications given to the superintendent shall  
7 be as binding as if given to Contractor. Contractor shall identify in writing the name  
8 and experience of the Superintendent for County review. Contractor's superintendent  
9 shall not manage more than four (4) projects that are in construction at any one time.

10 (C) Contractor shall be responsible to County for the acts and omissions of his/her  
11 employees, subcontractors and their agents and employees, and other persons  
12 performing any of the Work under a contract with Contractor.

13 (D) Contractor shall at all times enforce strict discipline and good order among  
14 Contractor's employees and agents, and shall not employ on the Work any unfit  
15 person or anyone not skilled in that person's task.

16 (E) Contractor shall not be relieved from Contractor's obligations to perform the Work in  
17 accordance with the Agreement Documents, either by the activities or duties of the  
18 Director in his/her administration of the Agreement, or by inspections, tests or  
19 approvals required or performed by persons other than Contractor.

20 **1.34 Construction Procedures.**

21 (A) Means and Methods - Contractor shall be solely responsible for, and control of  
22 construction means, methods, techniques, sequences, and procedures for all the  
23 Work of this Agreement. Additionally, Contractor shall be responsible for safety  
24 precautions and programs in connection with the Work.

25 (B) Progress Schedule - Contractor, immediately after being awarded a Job Order, shall  
26 update the schedule submitted as part of the Proposal, and submit for County's  
27 information an estimated progress schedule.  
28

1 (C) Laws of City, County and State - Contractor must comply with all rules, regulations,  
2 and ordinances of the City and County in which the work is being done, and all Local,  
3 State, and Federal laws pertaining to the work.

4 (D) Safeguards -Contractor shall provide, in conformity with all state and local laws,  
5 codes, and ordinances, and as may be required, such temporary walls, fences,  
6 guard-rails, barricades, lights, danger signs, and enclosures, and shall maintain such  
7 safeguards until all Work is completed.

8 (E) When County furnishes equipment or materials to Contractor for use or inclusion in  
9 the Work, Contractor's responsibility for all such equipment and materials shall be

10 Housekeeping - Contractor shall keep the premises free of excess accumulated  
11 debris, and clean up as required, and as directed by the Engineer. At completion of  
12 Work, all debris shall be removed from the site.

13 (F) Contractor shall keep the premises free of excess accumulated debris, and clean up  
14 as required, and as directed by the Engineer. At completion of work, all debris shall  
15 be removed from the site.

16 (G) Contractor's Right to Stop Work or Terminate Agreement – If, through no fault of  
17 Contractor or of anyone employed by Contractor (1) the Work is stopped by order of  
18 any court or governmental authority, or (2) County fails to issue any certificate for  
19 payment within forty-five days after it is due, or (3) County fails to pay Contractor  
20 within forty-five days after its presentation, any sum certified by County, then  
21 Contractor may, upon ten days' written notice to County, stop Work or terminate the  
22 Agreement.

23 (H) Hazardous Substances - With the invoice, or within twenty-five (25) days of delivery,  
24 Contractor must provide to County a Material Safety Data Sheet for any product  
25 used by Contractor, which contains any substance on "The List of 800 Hazardous  
26 Substances", published by the State Director of Industrial Relations. (See Hazardous  
27 Substances Information and Training Act, California State Labor Code sections 6360  
28 through 6399.7)

1 (I) Recycled Products/Materials – Contractor is encouraged to provide recycled or  
2 recyclable products/materials which meet stated specifications per Job Order.

3 1.35 Contractor shall bind every Sub-Contractor to the terms of this Agreement to carry  
4 out its provisions insofar as applicable to their work, and Contractor further agrees to pay to  
5 each Sub-Contractor his/her or their due portion promptly upon issuance of certificate of  
6 payment.

7 (A) Neither the acceptance of the name of a Sub-Contractor, the suggestion of such  
8 name, any other act of the County, nor anything contained in the Agreement, shall be  
9 construed as creating any contractual relationship between County and any Sub-  
10 Contractor.

11 (B) County reserves the right to reject any proposed Sub-Contractor, installer, or supplier  
12 who cannot show satisfactory evidence of meeting the qualifications required by this  
13 Agreement. In the event of such rejection, Contractor shall, within the time frame  
14 listed for submittal of revised Proposals, submit the name and qualifications of a  
15 replacement Sub-Contractor, installer, or supplier satisfactory to County. Such  
16 replacement submittal shall be in accordance with this Agreement. No adjustment of  
17 a Job Order price proposal shall be made in the event of such replacement.

18 (C) This Agreement is subject to nondiscrimination requirements, including, but not  
19 limited to, compliance by Contractor and its Sub-Contractors with the provisions of  
20 Government Code section 12940.

21 (D) When an individual Job Order utilizes Federal Funds, and Contractor elects to  
22 require Disadvantaged Business Enterprise (DBE) participation, Contractor shall  
23 follow the Federal Good Faith Effort requirements for inclusion of DBE Sub-  
24 Contractors and suppliers.

## 25 **Article 2**

### 26 **County's Responsibilities**

27 2.1 The Work to be performed pursuant to this Agreement includes a comprehensive  
28 listing of detailed repair, remodeling, and other repetitive tasks and specifications that have



1 preestablished units of measure and unit prices listed in The Gordian Group, Inc.'s proprietary  
2 Construction Task Catalog®. The Work performed under this Agreement shall be carried out  
3 pursuant to individual tasks or job orders, and shall involve repair, remodeling, or other  
4 repetitive work for public buildings, streets, utilities, and other public works ("Job Order(s)").

5 2.2 County shall identify projects, as well as County's intended results for each project,  
6 and may, at County's discretion, work with Contractor to develop a scope and specifications.

7 2.3 County shall issue a Notice to Proceed for each Job Order and shall issue any  
8 required subsequent Job Orders for each project.

9 2.4 County shall provide inspection and written acceptance of the Work.

10 2.5 County shall provide a County representative ("County Representative") to represent  
11 County, who will work with Contractor to carry out Contractor's obligations under this  
12 Agreement. The County Representative will be County's Facilities Division Manager, and/or his  
13 or her designees. Contractor shall provide a contact person to the County Representative upon  
14 execution of this Agreement and is responsible for informing County as changes in personnel  
15 occur.

16 2.6 County may perform or employ others to undertake any portions of Work persistently  
17 neglected by Contractor, provided that, after three days' written notice to Contractor, such Work  
18 is still not completed to County's satisfaction. In such case, the Work shall be completed under  
19 direction of the Director or designated County Official or designee, and the cost deducted from  
20 the amount of next payment falling due to Contractor. Such action shall, in no way, affect the  
21 status of either party under this Agreement, nor be held as a basis of any claim by Contractor  
22 for damages or extension of time.

23 2.7 **Changes to the Job Order.** Changes Requested by County -County may, without  
24 invalidating the Job Order, order changes, modifications, deletions, and extra work by issuing  
25 additional written Job Orders during the progress of the Work. Contractor shall not be entitled to  
26 compensation for any extra Work performed, unless the Director has issued an additional  
27 written Job Order designating (i) the extra Work to be performed, (ii) the price of the extra Work,  
28 and (iii) the time for completion of the extra Work. If County orders Work added or deleted from

1 the Job Order, the price for the additional Job Order shall be determined using the Procedure  
2 for Ordering Work set forth in Exhibit A. Credits for Pre-priced and Non Pre-priced Tasks shall  
3 be calculated at the pre-set Unit Prices, and multiplied by the appropriate Adjustment Factors.  
4 Credits for Tasks that have been deleted from the Detailed Scope of Work will be given at 100%  
5 of the value at which they were included in the original Job Order Price Proposal.

6 Changes in the Work Claimed by Contractor - Contractor may request a change in the  
7 Job Order Price, or an extension of time for completion of the Job Order due to changes in the  
8 Work that are not within the scope of the Job Order. The request must be in writing, and must  
9 be submitted to County prior to beginning the extra work. Furthermore, Contractor shall not be  
10 entitled to compensation for any extra work performed unless the Director has issued an  
11 additional written Job Order designating (i) the extra work to be performed, (ii) the price of the  
12 extra work, and (iii) the time for completion of the extra work. If County agrees that work is  
13 added to or deleted from the Job Order, the price for the additional Job Order shall be  
14 determined using the Procedure for Ordering Work set forth in Exhibit A.

15 Where Contractor and County disagree on the scope, price, and/or time for changes in  
16 the Detailed Scope of Work, County may require Contractor to perform such Work under a  
17 written protest, pursuant to the Resolution of Contract Claims in Article 9, section 9.1, herein.  
18 Contractor's failure to submit a written protest to the Director within 5 days of beginning such  
19 Work constitutes a waiver of any claim.

20 2.8 Discrepancies. Should Contractor, at any time, discover a mistake in any of the  
21 Agreement Documents or any discrepancy therein, or any variation between dimensions on the  
22 Agreement Documents and measurements at site, or any missing dimensions or other  
23 information, Contractor shall report at once to the Director for correction, and shall not proceed  
24 with the affected Work until such correction has been made.

25 2.9

26 (A) In resolving conflicts resulting from errors or discrepancies pursuant to this  
27 Agreement, the order of precedence shall be as follows:

- 28 (i) Permits from other agencies as may be required by law

- 1 (ii) Permits issued by County
- 2 (iii) Changes to Job Orders
- 3 (iv) Job Orders
- 4 (v) This Agreement
- 5 (vi) Addenda
- 6 (vii) Scope of Work
- 7 (viii) Technical Specifications
- 8 (ix) Construction Task Catalog®
- 9 (x) Reference Specifications

10 (B) Division of Contract Documents - For convenience of reference and to facilitate the  
11 letting of independent contracts, the Agreement Documents may be separated into  
12 certain sections; such separation shall not operate to oblige the Director only or  
13 designee to establish the limits of any contract between Contractor and Sub-  
14 Contractor, each of whom shall depend upon his/her own contract stipulations. This  
15 Agreement shall apply with equal force to all Work, including extra Work.

16 (C) Shop Drawings - Mill drawings, shop drawings, setting diagrams, schedules, maker's  
17 specifications, and illustrations requisite for the various parts of the Work shall be  
18 provided, and promptly submitted by Contractor. These shall be submitted in  
19 duplicate or as directed, shall be corrected if necessary, and resubmitted until review  
20 by the Director is complete, after which corrected copies of each shall be filed with  
21 him and the necessary additional copies supplied for use in connection with the  
22 Work. Corrections or comments made on the shop drawings during this review do  
23 not relieve Contractor of his/her responsibility to comply with the requirements of the  
24 drawings and specifications. This review is only to check for general conformance  
25 with the design concept of the project and general compliance with the Agreement  
26 Documents. Contractor remains responsible for: confirming and correlating all  
27 dimensions and quantities; selecting fabrication processes and techniques of  
28

1 construction; coordinating the work of the trades; and performing the work in a safe  
2 and satisfactory manner

3 (D) Trade Names and Alternatives - The intent of the specifications is to specify high-  
4 grade standard equipment, and it is not the intent of these specifications to exclude  
5 or omit the products of any responsible manufacturer, if such products are equal in  
6 every respect to those mentioned herein. Wherever an article, or any class of  
7 materials, is specified by the trade name or by the name of any particular patentee,  
8 manufacturer, or dealer, it shall be taken as intending to mean and specify the article  
9 of material described or any other equal thereto in quality, finish, and durability, and  
10 equally as serviceable for the purpose for which it is, or they are intended.

11 (E) Materials - All materials, unless otherwise specified, shall be new and of good  
12 quality, proof of which shall be furnished by Contractor; in case of doubt as to kind or  
13 quality required, samples shall be submitted to the Director who will specify the kind  
14 and use of the material appropriate to the location and the function of the item in  
15 question, and Contractor shall furnish such accordingly.

16 2.10 **Liquidated Damages.** It is understood and agreed by both parties to this Agreement  
17 that if all the work specified or indicated in the Job Order is not completed within the specified  
18 time frames set forth in the Job Order, or within such time limits as extended, damages will be  
19 sustained by County in the event of and by reason of such delay. It is, and will be, impractical  
20 and extremely difficult to determine the actual damage which County will sustain by reason of  
21 the delay. It is therefore agreed that Contractor will pay, at a minimum, to County the sum of  
22 money stipulated per day in the Job Order for each day's delay in completing the work beyond  
23 the time prescribed.

24 County shall determine the application of liquidated damages, and the value of liquidated  
25 damages. Each Job Order shall state whether liquidated damages will be applied. County  
26 may withhold liquidated damages from payments to Contractor as such damages accrue, or,  
27 at County's discretion, withhold liquidated damages from any payments due or that become  
28 due pursuant to a Job Order, including Retention and final payment (pursuant to

1 Government Code §53069.85). County shall execute a credit Job Order to assess liquidated  
2 damages against Contractor.

3 2.11 **Control of the Work.** The Parties agree that the Director shall be the arbiter  
4 between parties thereto, and the entire Work is under the Director's jurisdiction to such end. It is  
5 the Director's function to interpret the Agreement Documents; pass upon merits of materials and  
6 workmanship, compute amounts of and issue certificates for all payments to which Contractor  
7 may be entitled; decide upon all deductions from and additions to the Job Order Price resulting  
8 from alterations after letting of Job Order; determine amount of damages accruing to either  
9 Party from any cause; or conferences at any time during the progress of the Work, and such  
10 order shall require Contractor and any or all Sub-Contractors or other Contractors to attend; and  
11 perform any other required duties.

12 It shall be the responsibility of the Director or designee to make written decisions in  
13 regard to all claims of County or Contractor, and to interpret the Agreement Documents in  
14 regard to all questions arising in connection with the execution of the Work.

15 Orders from the Director shall be in writing only, and properly signed; no oral orders from  
16 Director, nor from anyone acting for him, shall be considered binding in case of dispute, and no  
17 one, other than County, or the Director acting for him, has authority to order changes involving  
18 extra expenditures or deductions. Superintendents or Inspectors may be assigned by County  
19 and/or Engineer to assist them in the conduct of the Work, and these persons shall be entitled  
20 to the same free access to all parts of Work, and the degree of authority of such employees to  
21 act for the Engineer is as prescribed for the Engineer, such employees acting within the scope  
22 of the particular duties entrusted to them.

23 Authority to stop the Work is vested in the Director, and may be involved whenever the  
24 Director deems such action necessary to insure proper execution of the Agreement, and Work  
25 may not thereafter be resumed until the Director has given written consent.

1 **Article 3**

2 **Compensation, Invoices, and Payments**

3 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for  
4 the performance of its services under this Agreement as described in this section. County  
5 agrees to pay Contractor, and Contractor agrees to receive compensation for each Job Order in  
6 accordance with Contractor’s Adjustment Factors stated on the Bid

7 3.2 Schedule set forth in Contractor’s Response to the RFQ, which are as follows:

8 General Facilities Normal Working Hours	1.3597
9 Adjustment Factor	
10 General Facilities Other than Normal Working	1.8350
11 Hours Adjustment Factor	
12 Secured Facilities Normal Working Hours	2.7195
13 Adjustment Factor	
14 Secured Facilities Other than Normal	3.6699
15 Working Hours Adjustment Factor	

16  
17 At no time shall the total sum of the outstanding Job Orders exceed the amount of  
18 Contractor’s Payment Bond and Performance Bond. A Job Order is outstanding until County  
19 has accepted the Work described in the Job Order by execution of a written notice of  
20 completion. Contractor shall not be issued Job Orders with compensation amounts that in total  
21 exceed the Maximum Agreement Value. County makes no guarantee that Contractor will  
22 receive Job Orders totaling the Maximum Agreement Value.

23 In no event shall compensation paid for services performed under this Agreement  
24 exceed the Maximum Agreement Value during the term of this Agreement. All expenses  
25 incidental to Contractor’s performance of services under this Agreement shall be borne by  
26 Contractor.

27 3.3 **Maximum Compensation.** The maximum compensation payable to the Contractor  
28 under this Agreement is for all Job Orders (“Maximum Agreement Value”) performed by

1 Contractor shall not exceed three million dollars (\$3,000,000). There is no Minimum  
2 Contract Value.

3 3.4 The Contractor acknowledges that the County is a local government entity and does  
4 so with notice that the County's powers are limited by the California Constitution and by State  
5 law, and with notice that the Contractor may receive compensation under this Agreement only  
6 for services performed according to the terms of this Agreement and while this Agreement is in  
7 effect, and subject to the maximum amount payable under this section. The Contractor further  
8 acknowledges that County employees have no authority to pay the Contractor except as  
9 expressly provided in this Agreement.

10 3.5 **Invoices.** Payments shall be made for inspected and approved Work only. If an  
11 individual Job Order requires 45 days or less for completion, County will normally make one  
12 payment to Contractor after the Notice of Completion, if required by County, and retention shall  
13 be paid after final acceptance of all Work contained under the Job Order and all Agreement  
14 requirements for final payment have been satisfied. For Job Orders requiring greater than 45  
15 days performance period, County shall consider a request for partial payments to Contractor,  
16 which shall not occur more often than monthly. County will make progress payments to  
17 Contractor upon completion of portions of the Work, as covered by the Agreement, in  
18 accordance with established County procedures:

19 (A) Before payment is made, Contractor shall prepare for the Director's approval a  
20 statement covering the actual Work completed under the terms of the Job Order. A  
21 schedule of values listed by "CSI" or "Category" from Contractor's Job Order Price  
22 Proposal may be utilized for this schedule of values.

23 (B) In making such payment, there shall be a retention of 5% of the payment requested.  
24 If, after 50% of the Work of the Job Order has been completed, the Director finds that  
25 satisfactory progress is being made, the Director may reduce the retention to 2½% of  
26 the amount requested. In addition, after 97.5% of the Work has been completed, the  
27 Director may reduce the amount withheld to such lesser amount as the Director  
28 determines to be adequate security for the fulfillment of the balance of the Work, and

1 other requirements of this Agreement. In no event shall this amount be reduced to  
2 less than 125% percent of the estimated value of the Work yet to be completed, as  
3 determined by the Director. Such reduction shall only be made upon the written  
4 request of Contractor, and shall be approved in writing by the surety upon the  
5 Performance Bond and the surety upon the Payment Bond. The signature of persons  
6 executing the approval for the surety shall be properly acknowledged, and the power  
7 of attorney authorizing those persons to give such consent must accompany the  
8 approval document.

9 (i) Substitution of securities for any moneys withheld by County to ensure  
10 performance under this Agreement shall be permitted, provided that  
11 substitution of securities provisions shall not apply to contracts in which there  
12 will be financing provided by the Farmers Home Administration of the United  
13 Stated Department of Agriculture pursuant to the Consolidated Farm and  
14 Rural Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal  
15 regulations or policies, or both, do not allow the substitution of securities.

16 (ii) At the request and expense of Contractor, and in compliance with Public  
17 Contract Code section 22300, securities equivalent to the amount withheld  
18 pursuant to these specifications shall be deposited by Contractor with  
19 County, or with a state or federally chartered bank as the escrow agent, who  
20 shall then pay such withheld amounts to Contractor upon written  
21 authorization of County.

22 (iii) Securities eligible for investment under this section shall include those listed  
23 in section 16430 of the Government Code, bank or savings and loans  
24 certificates of deposit, interest bearing demand deposit accounts, standby  
25 letters of credit, or any other security mutually agreed to by Contractor and  
26 County.

27 (iv) Securities to be placed in escrow shall be of a value at least equivalent to the  
28 amounts of retention to be paid to Contractor.



1 (v) Contractor shall be beneficial owner of any securities substituted for moneys  
2 withheld and shall receive any interest thereon.

3 (vi) Contractor shall enter into an escrow agreement satisfactory to County, which  
4 agreement shall substantially comply with Public Contract Code section  
5 22300.

6 (vii) Contractor shall obtain the written consent of the surety to such escrow  
7 agreement.

8 (C) All material and Work covered by progress payments made shall thereupon become  
9 the sole property of County, but this provision shall not be construed as relieving  
10 Contractor from the sole responsibility for all materials and work upon which  
11 payments have been made or the restoration of any damaged Work, or as a waiver  
12 of the right of County to require the fulfillment of all of the terms of the Agreement,

13 (D) Upon completion and acceptance of all Work whatsoever required, and the release  
14 of all claims against County as specified, the Director shall file a written Notice of  
15 Completion, if required by County, with County Recorder as to the entire amount of  
16 Work performed.

17 (E) Forty-five (45) days after the filing of such Notice of Completion, if required by  
18 County, County shall pay to Contractor the amount therein stated, except as  
19 provided in paragraph 2.11(g), less all prior payment and advances whatsoever to or  
20 for the account of Contractor, and less material and labor claims duly filed with  
21 County on account of this Agreement. All prior estimates and payments, including  
22 those relating to extra work, shall be subject to correction by this final payment,  
23 which is referred to throughout this Agreement as the Final Payment.

24 (F) The acceptance by Contractor of the Final Payment shall be, and shall operate as a  
25 release to County of all claims and of all liability to Contractor for all things done or  
26 furnished in connection with this Work, and for every act and neglect of County and  
27 others relating to or arising out of this Work, excepting Contractor's claims for  
28 interest upon final payment, if this payment be improperly delayed. No payments,

1           however, final, or otherwise, shall operate to release Contractor or his/her sureties  
2           from any obligations under this Agreement or the Performance and Payment Bonds.

3           (G) Payments may be withheld in the whole or in part, if deemed necessary to protect  
4           County from loss on account of the failure of Contractor to (1) meet Contractor's  
5           obligations, (2) expedite the Work, (3) correct rejected Work, (4) settle damages as  
6           herein provided, (5) produce substantial evidence that no claims will be or have been  
7           filed, or (6) that unpaid balances may be insufficient to complete the Work.

8           (H) Contractor shall pay:

9           (i) For all transportation and utility services not later than the 20th day of the  
10           calendar month following that in which such services are rendered.

11           (ii) For all materials, tools, and other expendable equipment to the extent of 90%  
12           of the cost thereof, not later than the 20th day of the calendar month following  
13           that in which such materials, tools, and equipment are delivered at the site of  
14           the project, and the balance of the cost thereof not later than the 30th day  
15           following the completion of that part of the Work in or on which such  
16           materials, tools, and equipment are incorporated or used.

17           (iii) To each of Contractor's Sub-Contractors, not later than the tenth day  
18           following each payment to Contractor, the respective amounts allowed  
19           Contractor on account of the Work performed by Contractor's Sub  
20           Contractors, including that Work performed and paid for under a Change to  
21           the Job Order as provided in Article 2, section 2.7 to the extent of each Sub-  
22           Contractor's interest therein.

23           3.6 Contractor shall submit invoices on the first day of the month in accordance with the  
24           rates and charges agreed upon by that Contractor for the services provided to County during  
25           the previous monthly billing period. Each invoice shall reference this Agreement number, the  
26           FAMIS work order number, the date and name of the facility where the services were  
27           performed, and a clear itemization of services performed, and shall be emailed to  
28           ISDBusinessOffice@fresnocountyca.gov or mailed to County of Fresno, ISD, ATTN: Business

1 Office, 333 W. Pontiac Way, Clovis, CA 93612. County shall make payment to Contractor no  
2 later than forty-five (45) days after receipt and approval of each invoice, which shall be given  
3 upon verification of satisfactory performance.

4 **3.7 Payment.** The County shall pay each correctly completed and timely submitted  
5 invoice within 45 days after receipt. The County shall remit any payment to the Contractor's  
6 address specified in the invoice.

7 **3.8 Incidental Expenses.** The Contractor is solely responsible for all of its costs and  
8 expenses that are not specified as payable by the County under this Agreement.

#### 9 **Article 4**

#### 10 **Term of Agreement**

11 **4.1 Term.** This Agreement is effective on January 24, 2023 and terminates on January  
12 23, 2024, or when all issued Job Orders totaling the Maximum Agreement Value, as defined in  
13 Section 3.3, herein, have been completed, whichever occurs first. All Job Orders must be  
14 issued, but not necessarily completed, within one (1) calendar year of the Effective Date of this  
15 Agreement. All Job Orders for which a Notice to Proceed is issued by County during the term of  
16 this Agreement shall be valid and in effect, notwithstanding that the Detailed Scope of Work  
17 may be performed, payments may be made, and the guarantee period may continue, after the  
18 Agreement term has expired. All terms and conditions of the Agreement apply to each Job  
19 Order, except as provided in Article 6, "Termination and Suspension," below.

#### 20 **Article 5**

#### 21 **Notices**

22 **5.1 Contact Information.** The persons and their addresses having authority to give and  
23 receive notices provided for or permitted under this Agreement include the following:

24 **For the County:**

25 Director of Internal Services/Chief Information Officer  
26 County of Fresno  
27 333 W Pontiac Way  
28 Clovis, CA 93612  
Email: [isdcontracts@fresnocountyca.gov](mailto:isdcontracts@fresnocountyca.gov)

**For the Contractor:**

1 Executive Vice President  
2 Strategic Mechanical, Inc.  
3 4661 E. Commerce Avenue  
4 Fresno, CA 93725  
5 Email: cpetty@strategicmech.com

6 5.2 **Change of Contact Information.** Either party may change the information in section  
7 5.1 by giving notice as provided in section 5.3.

8 5.3 **Method of Delivery.** Each notice between the County and the Contractor provided  
9 for or permitted under this Agreement must be in writing, state that it is a notice provided under  
10 this Agreement, and be delivered either by personal service, by first-class United States mail, by  
11 an overnight commercial courier service, by telephonic facsimile transmission, or by Portable  
12 Document Format (PDF) document attached to an email.

13 (A) A notice delivered by personal service is effective upon service to the recipient.

14 (B) A notice delivered by first-class United States mail is effective three County  
15 business days after deposit in the United States mail, postage prepaid, addressed to the  
16 recipient.

17 (C) A notice delivered by an overnight commercial courier service is effective one  
18 County business day after deposit with the overnight commercial courier service,  
19 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to  
20 the recipient.

21 (D) A notice delivered by telephonic facsimile transmission or by PDF document  
22 attached to an email is effective when transmission to the recipient is completed (but, if  
23 such transmission is completed outside of County business hours, then such delivery is  
24 deemed to be effective at the next beginning of a County business day), provided that  
25 the sender maintains a machine record of the completed transmission.

26 5.4 **Claims Presentation.** For all claims arising from or related to this Agreement,  
27 nothing in this Agreement establishes, waives, or modifies any claims presentation  
28 requirements or procedures provided by law, including the Government Claims Act (Division 3.6  
of Title 1 of the Government Code, beginning with section 810).

1 **Article 6**

2 6.1 Taxes, permits, fees, and indemnification for patent infringement claim. Contractor  
3 shall pay for and include all Federal, State, and local taxes, direct or indirect, upon all materials,  
4 and take out and pay all fees and charges for permits and licenses, unless otherwise specified  
5 in the Job Order or Technical Specifications.

6 Royalty and license fees incidental to the use of any patented material, device or  
7 process shall be paid by Contractor, and in the event of a claim of alleged infringement of patent  
8 copyright, or Trade Secret rights, Contractor shall indemnify, save County free and harmless,  
9 and defend, at Contractor's own expense, any and all suits that may be brought in connection  
10 with such royalty and license fees.

11 **Article 7**

12 7.1 **Guarantee of Work.** All Work shall be guaranteed by Contractor, except as may be  
13 otherwise specified, against defects resulting from the use of inferior materials, equipment, or  
14 workmanship for one year from the date of completion of the Job Order.

15 If repairs or changes are required in connection with guaranteed Work within any  
16 guaranteed period, which, in the opinion of County are rendered necessary as the result of the  
17 use of materials, equipment, or workmanship, which are inferior, defective, or not in accordance  
18 with the terms of this Agreement, Contractor shall, promptly upon receipt of notice from County,  
19 and without expense to County (1) place in satisfactory condition in every particular all of such  
20 guaranteed Work, correct all defects therein, and (2) make good all damage to the building or  
21 site, or equipment or contents thereof, which, in the opinion of County, is the result of the use of  
22 materials, equipment, or workmanship which are inferior, defective, or not in accordance with  
23 the terms of the Agreement; and (3) make good any work or materials, or the equipment and  
24 contents of said building or site disturbed in fulfilling any such guarantee.

25 If Contractor disturbs any Work guaranteed under another Agreement in fulfilling the  
26 requirements of the Agreement or of any guarantee, embraced in or required thereby,  
27 Contractor shall restore such disturbed Work to a condition satisfactory to the Director, and  
28

1 guarantee such restored Work to the same extent as it was guaranteed under such other  
2 Agreement.

3 County may have the defects corrected if Contractor, after notice, fails to proceed  
4 promptly to comply with the terms of the guarantee, and Contractor and his/her surety shall be  
5 liable for all expense incurred.

6 All special guarantees applicable to definite parts of the Work that may be stipulated in  
7 the Agreement Documents shall be subject to the terms of this section during the first year of  
8 the life of such special guarantee.

### 9 **Article 8**

10 **8.1 Responsibility for Damage.** Neither County, the Director of Department of Internal  
11 Services, nor any officer or employee of County, or any incorporated city, or officer or employee  
12 thereof, within the limits of which the Work is being performed, shall be answerable or  
13 accountable in any manner, for any loss or damage to the Work or any part thereof; or for any of  
14 the materials or other things used or employed in performing the Work; or for injury to any  
15 person or persons, either workmen or the public, for damage to property from any cause which  
16 might have been prevented by Contractor, or his/her workers, or anyone employed by  
17 Contractor, against all of which injuries or damages to persons and property Contractor having  
18 control over such Work must properly guard.

19 Contractor shall be responsible for any liability imposed by law for any damage to any  
20 person or property resulting from defects or obstructions or from any cause whatsoever  
21 during the progress of the Work or at any time before the completion and final acceptance.

### 22 **Article 9**

23 **9.1 Resolution of contract claims.** Public works contract claims of three hundred  
24 seventy-five thousand (\$375,000) or less which arise between a Contractor and a local public  
25 agency shall be resolved in accordance with the provisions of Article 1.5 (sections 20104-  
26 20104.6, inclusive) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code. Article 1.5  
27 requires that its provisions or a summary thereof be set forth in the plans and specifications for  
28

1 any work which may give rise to a claim thereunder. Accordingly, this Agreement incorporates  
2 all of the terms and conditions of Article 1.5, as follows:

3 (A) Article 1.5 Resolutions of Contract Claims 20104.

4 (i) This article applies to all public works claims of three hundred seventy-five  
5 thousand dollars (\$375,000) or less which arise between a Contractor and a  
6 local agency.

7 (B) This article shall not apply to any claims resulting from a contract between a  
8 Contractor and a public agency when the public agency has elected to resolve any  
9 disputes pursuant to Article 7.1 (commencing with section 10240) of Chapter 1 of  
10 Part 2.

11 (i) "Public work" has the same meaning as in sections 3100 and 3106 of the  
12 Civil Code, except that "public work" does not include any work or  
13 improvement contracted for by the state or the Regents of the University of  
14 California.

15 (C) "Claim" means a separate demand by the Contractor for (A) a time extension, (B)  
16 payment of money or damages arising from work done by or on behalf of the  
17 Contractor pursuant to the contract for a public work and payment of which is not  
18 otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an  
19 amount the payment of which is disputed by the local agency.

20 (i) The provisions of this article or a summary thereof shall be set forth in the  
21 plans or specifications for any work which may give rise to a claim under this  
22 article.

23 (ii) This article applies only to contracts entered into on or after January 1, 1991.  
24 20104.2 For any claim subject to this article, following requirements apply:  
25 The claim shall be in writing and include the documents necessary to  
26 substantiate the claim. Claims must be filed on or before the date of final  
27 payment. Nothing in this subdivision is intended to extend the time limit or  
28

1                   supersede notice requirements otherwise provided by contract for the filing of  
2                   claims.

3                   (iii) For claims of less than fifty thousand dollars (\$50,000), the local agency shall  
4                   respond in writing to any written claim within 45 days of receipt of the claim,  
5                   or may request, in writing, within 30 days of receipt of the claim, any  
6                   additional documentation supporting the claim or relating to defenses or  
7                   claims the local agency may have against the claimant.

8                   (D) If additional information is thereafter required, it shall be requested and provided  
9                   pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

10                  (E) The local agency's written response to the claim as further documented shall be  
11                  submitted to the claimant within 15 days after receipt of the further documentation or within a  
12                  period of time no greater than that taken by the claimant in producing the additional information,  
13                  whichever is greater. For claims of over fifty thousand dollars (\$50,000) and less than or equal  
14                  to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in  
15                  writing to all written claims within 60 days of receipt of the claim, or may request, in writing,  
16                  within 30 days of receipt of the claim, any additional documentation supporting the claim or  
17                  relating to defenses or claims the local agency may have against the claimant.

18                  (F) If additional information is thereafter required, it shall be requested and provided  
19                  pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

20                  (G) The local agency's written response to the claim, as further documented, shall be  
21                  submitted to the claimant within 30 days after receipt of the further documentation, or within a  
22                  period of time no greater than that taken by the claimant in producing the additional information  
23                  or requested documentation, whichever is greater.

24                  (i) If the claimant disputes the local agency's written response, or the local  
25                  agency fails to respond within the time prescribed, the claimant may so notify  
26                  the local agency in writing, either within 15 days of receipt of the local  
27                  agency's response or within 15 days of the local agency's failure to respond  
28                  within the time prescribed, respectively, and demand an informal conference



1 to meet and confer for settlement of the issues in dispute, Upon a demand,  
2 the local agency shall schedule a meet and confer conference within 30 days  
3 for settlement of the dispute.

4 (ii) If following the meet and confer conference the claim or any portion remains  
5 in dispute, the claimant may file a claim pursuant to Chapter 1 (commencing  
6 with section 900) and Chapter 2 (commencing with section 910) of Part 3 of  
7 Division 3.6 of Title 1 of the Government Code. For purposes of those  
8 provisions, the running of the period of time within which a claim must be filed  
9 shall be tolled from the time the claimant submits his/her or her written claim  
10 pursuant to subdivision (a) until the time the claim is denied, including any  
11 period of time utilized by the meet and confer conference. 20104.4 The  
12 following procedures are established for all civil actions filed to resolve claims  
13 subject to this article: (a) Within 60 days, but no earlier than 30 days,  
14 following the filing or responsive pleadings, the court shall submit the matter  
15 to nonbinding mediation unless waived by the mutual stipulation of both  
16 parties. The mediation process shall provide for the selection within 15 days  
17 by both parties of disinterested third person as mediator, shall be  
18 commenced within 30 days of the submittal, and shall be concluded within 15  
19 days from the commencement of the mediation unless a time requirement is  
20 extended upon a good cause showing to the court or by stipulation of both  
21 parties. If the parties fail to select a mediator within the 15-day period, any  
22 party may petition the court to appoint the mediator. (b)(1) If the matter  
23 remains in dispute, the case shall be submitted to the judicial arbitration  
24 pursuant to Chapter 2.5 (commencing with section 1141.10) of Title 3 of Part  
25 3 of the Code of Civil Procedure, notwithstanding section 1141.11 of that  
26 code. The Civil Discovery Act of 1986 (Article 3 (commencing with section  
27 2016) of Chapter 3 of Title 3 of Part 4 of Civil Procedure) shall apply to any  
28

1 proceeding brought under this subdivision consistent with the rule pertaining  
2 to judicial arbitration. (2) Notwithstanding any other provision of law, upon  
3 stipulation of the parties, arbitrators appointed for purposes of this article shall  
4 be experienced in construction law, and, upon stipulation of the parties,  
5 mediators and arbitrators shall be paid necessary and reasonable hourly  
6 rates of pay not to exceed their customary rate, and such fees and expenses  
7 shall be paid equally by the parties, except in the case of arbitration where  
8 the arbitrator, for good cause, determines a different division. In no event  
9 shall these fees or expenses be paid by state or County funds. (3) In addition  
10 to Chapter 2.5 (commencing with section 1141.10) of Title 3 of Part 3 of the  
11 Code of Civil Procedure, any party who after receiving an arbitration award  
12 requests a trial de novo but does not obtain a more favorable judgment shall,  
13 in addition to payment of costs and fees under that chapter, pay the  
14 attorney's fees of the other party arising out of the trial de novo. (c) The court  
15 may, upon request by any party, order any witnesses to participate in the  
16 mediation or arbitration process. Arbitrators shall be experienced in  
17 construction law. 20104.6 (a) No local agency shall fail to pay money as to  
18 any portion of a claim which is undisputed except as otherwise provided in  
19 the contract. (b) In any suit filed under section 20104.4, the local agency shall  
20 pay interest at the legal rate on any arbitration award or judgment. The  
21 interest shall begin to accrue on the date the suit is filed in a court of law.

## 22 **Article 10**

### 23 **Termination and Suspension**

24 **10.1 Termination for Non-Allocation of Funds.** The terms of this Agreement are  
25 contingent on the approval of funds by the appropriating government agency. If sufficient funds  
26 are not allocated, then the County, upon at least 30 days' advance written notice to the  
27 Contractor, may:

28 (A) Modify the services provided by the Contractor under this Agreement; or

1 (B) Terminate this Agreement.

2 **10.2 Termination for Breach.**

3 (A) Upon determining that a breach (as defined in paragraph (C) below) has  
4 occurred, the County may give written notice of the breach to the Contractor. The written  
5 notice may suspend performance under this Agreement, and must provide at least 30  
6 days for the Contractor to cure the breach.

7 (B) If the Contractor fails to cure the breach to the County's satisfaction within the  
8 time stated in the written notice, the County may terminate this Agreement immediately.

9 (C) For purposes of this section, a breach occurs when, in the determination of the  
10 County, the Contractor has:

- 11 i. Obtained or used funds illegally or improperly;
- 12 ii. Failed to comply with any part of this Agreement;
- 13 iii. Submitted a substantially incorrect or incomplete report to the County; or
- 14 iv. Improperly performed any of its obligations under this Agreement.

15 **10.3 Termination without Cause.** In circumstances other than those set forth above, the  
16 County may terminate this Agreement by giving at least 30 days advance written notice to the  
17 Contractor.

18 **10.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County  
19 under this Article 6 is without penalty to or further obligation of the County.

20 **10.5 County's Rights upon Termination.** Upon termination for breach under this Article  
21 6, the County may demand repayment by the Contractor of any monies disbursed to the  
22 Contractor under this Agreement that, in the County's sole judgment, were not expended in  
23 compliance with this Agreement. The Contractor shall promptly refund all such monies upon  
24 demand. This section survives the termination of this Agreement.

25 **Article 11**

26 **Independent Contractor**

27 **11.1 Status.** In performing under this Agreement, the Contractor, including its officers,  
28 agents, employees, and volunteers, is at all times acting and performing as an independent

1 Contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint  
2 venturer, partner, or associate of the County.

3 11.2 **Verifying Performance.** The County has no right to control, supervise, or direct the  
4 manner or method of the Contractor's performance under this Agreement, but the County may  
5 verify that the Contractor is performing according to the terms of this Agreement.

6 11.3 **Benefits.** Because of its status as an independent Contractor, the Contractor has no  
7 right to employment rights or benefits available to County employees. The Contractor is solely  
8 responsible for providing to its own employees all employee benefits required by law. The  
9 Contractor shall save the County harmless from all matters relating to the payment of  
10 Contractor's employees, including compliance with Social Security withholding and all related  
11 regulations.

12 11.4 **Services to Others.** The parties acknowledge that, during the term of this  
13 Agreement, the Contractor may provide services to others unrelated to the County.

## 14 **Article 12**

### 15 **Indemnity and Defense**

16 12.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the  
17 County (including its officers, agents, employees, and volunteers) against all claims, demands,  
18 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and  
19 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to  
20 the performance or failure to perform by the Contractor (or any of its officers, agents, Sub-  
21 Contractors, or employees) under this Agreement. The County may conduct or participate in its  
22 own defense without affecting the Contractor's obligation to indemnify and hold harmless or  
23 defend the County.

24 12.2 **Survival.** This Article 12.2 survives the termination of this Agreement.

## 25 **Article 13**

### 26 **Insurance**

27 13.1 The Contractor shall comply with all the insurance requirements in Exhibit D to this  
28 Agreement.

1 **Article 14**

2 **Inspections, Audits, and Public Records**

3 14.1 **Inspection of Documents.** The Contractor shall make available to the County, and  
4 the County may examine at any time during business hours and as often as the County deems  
5 necessary, all of the Contractor's records and data with respect to the matters covered by this  
6 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon  
7 request by the County, permit the County to audit and inspect all of such records and data to  
8 ensure the Contractor's compliance with the terms of this Agreement.

9 14.2 **State Audit Requirements.** If the compensation to be paid by the County under this  
10 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the  
11 California State Auditor, as provided in Government Code section 8546.7, for a period of three  
12 years after final payment under this Agreement. This section survives the termination of this  
13 Agreement.

14 14.3 **Public Records.** The County is not limited in any manner with respect to its public  
15 disclosure of this Agreement or any record or data that the Contractor may provide to the  
16 County. The County's public disclosure of this Agreement or any record or data that the  
17 Contractor may provide to the County may include but is not limited to the following:

18 (A) The County may voluntarily, or upon request by any member of the public or  
19 governmental agency, disclose this Agreement to the public or such governmental  
20 agency.

21 (B) The County may voluntarily, or upon request by any member of the public or  
22 governmental agency, disclose to the public or such governmental agency any record or  
23 data that the Contractor may provide to the County, unless such disclosure is prohibited  
24 by court order.

25 (C) This Agreement, and any record or data that the Contractor may provide to the  
26 County, is subject to public disclosure under the Ralph M. Brown Act (California  
27 Government Code, Title 5, Division 2, Part 1, Chapter 9, beginning with section 54950).  
28

1 (D) This Agreement, and any record or data that the Contractor may provide to the  
2 County, is subject to public disclosure as a public record under the California Public  
3 Records Act (California Government Code, Title 1, Division 7, Chapter 3.5, beginning  
4 with section 6250) ("CPRA").

5 (E) This Agreement, and any record or data that the Contractor may provide to the  
6 County, is subject to public disclosure as information concerning the conduct of the  
7 people's business of the State of California under California Constitution, Article 1,  
8 section 3, subdivision (b).

9 (F) Any marking of confidentiality or restricted access upon or otherwise made with  
10 respect to any record or data that the Contractor may provide to the County shall be  
11 disregarded and have no effect on the County's right or duty to disclose to the public or  
12 governmental agency any such record or data.

13 **14.4 Public Records Act Requests.** If the County receives a written or oral request  
14 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,  
15 and which the County has a right, under any provision of this Agreement or applicable law, to  
16 possess or control, then the County may demand, in writing, that the Contractor deliver to the  
17 County, for purposes of public disclosure, the requested records that may be in the possession  
18 or control of the Contractor. Within five business days after the County's demand, the  
19 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's  
20 possession or control, together with a written statement that the Contractor, after conducting a  
21 diligent search, has produced all requested records that are in the Contractor's possession or  
22 control, or (b) provide to the County a written statement that the Contractor, after conducting a  
23 diligent search, does not possess or control any of the requested records. The Contractor shall  
24 cooperate with the County with respect to any County demand for such records. If the  
25 Contractor wishes to assert that any specific record or data is exempt from disclosure under the  
26 CPRA or other applicable law, it must deliver the record or data to the County and assert the  
27 exemption by citation to specific legal authority within the written statement that it provides to  
28 the County under this section. The Contractor's assertion of any exemption from disclosure is

1 not binding on the County, but the County will give at least 10 days' advance written notice to  
2 the Contractor before disclosing any record subject to the Contractor's assertion of exemption  
3 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs  
4 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,  
5 failure to produce any such records, or failure to cooperate with the County with respect to any  
6 County demand for any such records.

## 7 **Article 15**

### 8 **Disclosure of Self-Dealing Transactions**

9 15.1 **Applicability.** This Article 11 applies if the Contractor is operating as a corporation,  
10 or changes its status to operate as a corporation.

11 15.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a  
12 self-dealing transaction, he or she shall disclose the transaction by completing and signing a  
13 "Self-Dealing Transaction Disclosure Form" (Exhibit C to this Agreement) and submitting it to  
14 the County before commencing the transaction or immediately after.

15 15.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is  
16 a party and in which one or more of its directors, as an individual, has a material financial  
17 interest.

## 18 **Article 16**

### 19 **General Terms**

20 16.1 **County.** The County of Fresno, State of California, as represented by the Fresno  
21 County Board of Supervisors.

22 16.2 **Director.** The Director of Department of Internal Services, County of Fresno, acting  
23 either directly or through properly authorized agents, such agents acting within the scope of the  
24 particular duties entrusted to them, which ever department issues the Notice to Proceed to  
25 Contractor.

26 16.3 **Architect or Engineer.** The Director of Department of Internal Services and his/her  
27 authorized agents, which may include a duly licensed Architect or Engineer providing consultant  
28 services in accordance with an agreement with the County.

1        16.4    **Contractor.** When used in the General Conditions refer to: person, persons, entity,  
2 copartner ship: or corporation so named in Agreement; when used in the body of the Contract  
3 Documents, refers to Contractor for that specific work, whether it be the General Contractor,  
4 Sub-Contractor, or other Contractor.

5        16.5    **Sub-Contractor.** Person, persons, entity, co-partnership or corporation having direct  
6 contract with Contractor.

7        16.6    **Adjustment Factor.** Contractor's competitively bid price adjustment to the Unit  
8 Prices published in the Construction Task Catalog®.

9        16.7    **Construction Task Catalog (CTC).** A comprehensive listing of specific construction  
10 related tasks identified by County, together with a specified unit of measurement and Unit Price.

11       16.8    **Agreement Documents.** All Job Orders issued under the Agreement; all  
12 amendments, modifications, or revisions to the Agreement; surety bonds; certificates of  
13 insurance; County notification to Contractor that Work is needed; County Requests for Job  
14 Order Proposals; and any design drawings provided by County with the Job Orders.

15       16.9    **Final Completion of the Job Order.** The last date on which all of the following  
16 events have occurred: County has determined that all Punch List Work and any other remaining  
17 Work have been completed in accordance with the Agreement Documents; final inspections  
18 have been completed, and all operations systems and equipment testing have been completed;  
19 the issuance of final occupancy certifications (if any); all deliverables have been provided to  
20 County, and all contractual requirements for final payment have been completed.

21       16.10 **Job Order Contract (JOC).** This Agreement, which is a competitively bid, firm fixed-  
22 price, indefinite-quantity contract for accomplishing construction and construction-related  
23 services. Work is accomplished through the issuance of individual Job Orders. Each Job Order  
24 issued under the Agreement shall be a firm fixed priced for accomplishing a specific  
25 construction task or Project.

26       16.11 **Non Pre-Priced (NPP) Tasks.** The units of Work that are not included in the  
27 Construction Task Catalog®, but are required by the Detailed Scope of Work.



1        16.12 **Normal Working Hours.** Between the hours of 7:00 AM to 5:00 PM, Monday  
2 through Friday, inclusive. Saturdays, Sundays, and County holidays are excluded.

3        16.13 **Notice of Completion.** A form issued by County indicating that the Work is  
4 complete, and fixing the date of completion. The form is signed by County, and filed with the  
5 County Recorder. County, at its sole discretion, may elect not to issue a Notice of Completion  
6 on any individual Job Order.

7        16.14 **Notice to Proceed.** Written authorization from County for Contractor to commence a  
8 Job Order.

9        16.15 **Other than Normal Working Hours.** Work done between the hours of 5:00 PM to  
10 7:00 AM, on weekdays, and any times during Saturday, Sunday, and County holidays.

11       16.16 **Plans.** The drawings, sketches, illustrations, specifications, or other pertinent  
12 information included on or attached to the Job Order.

13       16.17 **Pre-Priced Task.** An item of work included in the Construction Task Catalog® for  
14 which a unit price is given.

15       16.18 **Project.** Collectively, the improvements to be constructed by Contractor pursuant to  
16 one or more Job Orders.

17       16.19 **Job Order Price Proposal.** A price proposal prepared by Contractor that includes  
18 the Pre-priced Tasks, Non Pre-priced Tasks, quantities, and appropriate Adjustment Factors  
19 required to complete the Detailed Scope of Work.

20       16.20 **Job Order Proposal.** Contractor's irrevocable offer to perform Work associated with  
21 a Job Order, which refers to a Contractor-prepared document quoting a firm fixed Job  
22 Order Price and schedule for the completion of a specific Detailed Scope of Work. Contractor's  
23 Job Order Proposal must be on forms provided by County, and in an electronic version  
24 compatible with County's systems. The Job Order Proposal may also contain approved  
25 drawings, work schedule, permits, or other such documentation as County might require for a  
26 specific Job Order.

27       16.21 **Job Order Price.** The value of the approved Job Order Price Proposal and the lump  
28 sum amount a Contractor will be paid for completing a Job Order.

1        16.22 **Job Order Completion Time.** The time within which Contractor must complete the  
2 Detailed Scope of Work.

3        16.23 **Joint Scope Meeting.** A site meeting to discuss the work before the Detailed Scope  
4 of Work is finalized.

5        16.24 **Punch List Work.** A compilation of minor items that have not been completed in  
6 accordance with an individual Job Order and the Agreement Documents. Whether an item is  
7 Punch List Work or necessary for completion shall be determined in the sole discretion of  
8 County.

9        16.25 **Request for Job Order Proposal (RFJOP).** County's written request to Contractor  
10 for a Job Order Proposal for the Detailed Scope of Work referenced in a specific Job Order.

11        16.26 **Detailed Scope of Work.** The complete description of services to be provided by  
12 Contractor under an individual Job Order.

13        16.27 **Job Order.** The documents that indicate the Work to be accomplished under this  
14 Agreement. County will be responsible for the development of the Job Order, as well as the  
15 inspection and acceptance of the Work contained within the Job Order. County will review  
16 Contractor's Proposal, and if acceptable, shall issue a Job Order for the Work described therein.  
17 Each Job Order shall include a Detailed Scope of Work, a lump sum, firm fixed Job Order Price  
18 Proposal from Contractor based upon the Construction Task Catalog® or NPP Task formula,  
19 whichever is applicable, time for completion of the Work, and any special conditions that might  
20 apply to that specific Job Order, such as Liquidated Damages. County also reserves the right to  
21 issue a Job Order to the Contractor for a Job Order Price Proposal that is generated by County,  
22 which in the opinion of County, best represents the Detailed Scope of Work (DSOW) for such  
23 project.

24        16.28 **Unit Price.** The price published in the Construction Task Catalog® for a specific  
25 construction or construction-related task. The Unit Prices are fixed for the duration of the  
26 Agreement. Each Unit Price is comprised of the labor, equipment, and materials costs to  
27 accomplish that specific task.

1        16.29 **Agreement Documents.** All Job Orders issued under the Agreement; all  
2 amendments, modifications, or revisions to the Agreement; surety bonds; certificates of  
3 insurance; County notification to CONTRACTOR that Work is needed; County Requests for Job  
4 Order Proposals; and any design drawings provided by COUNTY with the Job Orders.

5        16.30 **Work.** Contractor’s furnishing of all labor, materials, equipment, and other incidentals  
6 necessary or convenient to the completion of an individual Job Order.

7        16.31 **Technical Specifications.** The written requirements for materials, equipment,  
8 systems, standards, and workmanship for the work, and performance of related services.

9        16.32 **Modification.** Except as provided in Article 6, “Termination and Suspension,” this  
10 Agreement may not be modified, and no waiver is effective, except by written agreement signed  
11 by both parties. The Contractor acknowledges that County employees have no authority to  
12 modify this Agreement except as expressly provided in this Agreement.

13        16.33 **Non-Assignment.** Neither party may assign its rights or delegate its obligations  
14 under this Agreement without the prior written consent of the other party.

15        16.34 **Governing Law.** The laws of the State of California govern all matters arising from  
16 or related to this Agreement.

17        16.35 **Jurisdiction.** This Agreement is signed and performed in Fresno County, California.  
18 Contractor consents to California jurisdiction for actions arising from or related to this  
19 Agreement, and, subject to the Government Claims Act, all such actions must be brought and  
20 maintained in Fresno County.

21        16.36 **Construction.** The final form of this Agreement is the result of the parties’ combined  
22 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be  
23 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement  
24 against either party.

25        16.37 **Severability.** If anything in this Agreement is found by a court of competent  
26 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in  
27 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of  
28

1 this Agreement with lawful and enforceable terms intended to accomplish the parties' original  
2 intent.

3 16.38 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall  
4 not unlawfully discriminate against any employee or applicant for employment, or recipient of  
5 services, because of race, religious creed, color, national origin, ancestry, physical disability,  
6 mental disability, medical condition, genetic information, marital status, sex, gender, gender  
7 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to  
8 all applicable State of California and federal statutes and regulation.

9 16.39 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation  
10 of the Contractor under this Agreement on any one or more occasions is not a waiver of  
11 performance of any continuing or other obligation of the Contractor and does not prohibit  
12 enforcement by the County of any obligation on any other occasion.

13 16.40 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement  
14 between the Contractor and the County with respect to the subject matter of this Agreement,  
15 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,  
16 publications, and understandings of any nature unless those things are expressly included in  
17 this Agreement. If there is any inconsistency between the terms of this Agreement without its  
18 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving  
19 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the  
20 exhibits.

21 16.41 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to  
22 create any rights or obligations for any person or entity except for the parties.

23 16.42 **Authorized Signature.** The Contractor represents and warrants to the County that:

24 (A) The Contractor is duly authorized and empowered to sign and perform its  
25 obligations under this Agreement.

26 (B) The individual signing this Agreement on behalf of the Contractor is duly  
27 authorized to do so and his or her signature on this Agreement legally binds the  
28 Contractor to the terms of this Agreement.



1 The parties are signing this Agreement on the date stated in the introductory clause.

2 Strategic Mechanical, Inc. County of Fresno  
3

4 Chad Petty  
Chad Petty (Dec 14, 2022 08:56 PST)  
5 Chad Petty, Executive Vice President  
6 4661 E. Commerce Avenue  
7 Fresno, CA 93725

Sal Quintero  
8 Sal Quintero, Chairman of the Board of  
9 Supervisors of the County of Fresno

10 **Attest:**  
Bernice Seidel  
11 Clerk of the Board of Supervisors  
12 County of Fresno, State of California

13 By: Haname  
14 Deputy

15 For accounting use only:

16 Org No.: 8935  
17 Account No.: 7295  
18 Fund No.: 1045  
19 Subclass No.: 10000  
20  
21  
22  
23  
24  
25  
26  
27  
28

## Exhibit A

### Scope of Work and Ordering Procedure for Ordering Work

- 1) The Construction Task Catalog® contains construction tasks with preset Unit Prices. All Unit Prices are based on local labor, material, and equipment prices and are for the direct cost of construction.
- 2) The Contractor will be required to work at any of the County's facilities. The County makes no commitment as to the award of individual Job Orders. All costs associated with preparing Job Order Proposals shall be the responsibility of the Contractor.
- 3) Work or performance shall be made only as authorized by Job Orders issued in accordance with this Scope of Work. The Contractor shall furnish to the County, the supplies or services specified in the Job Orders up to and including the Maximum Contract Value. The County shall give the Contractor the opportunity to perform at least the Minimum Contract Value of construction services designated in the Agreement Documents.
- 4) The Scope of Work of this Agreement shall be determined by individual Job Orders. The Job Order will reference the Detailed Scope of Work, and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price is determined by multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work. A separate Job Order will be issued for each project. Extra work, credits, and deletions will be contained in additional Job Orders. The Contractor shall provide all pricing, management, design drawings, shop drawings, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete the Job Order. The Contractor shall provide quality assurance as specified in strict accordance with the Agreement. The Contractor shall also be responsible for site safety as well as site preparation and cleanup.

## Exhibit A

- 1 5) The Contractor shall conduct the Work in strict accordance with the Agreement,  
2 and all applicable federal, state, and local laws, regulations, or codes.
- 3 6) Contractor shall maintain accurate and complete records, files, and libraries of  
4 documents, to include federal, state, and local regulations, codes, applicable  
5 laws listed herein, and manufacturers' instructions and recommendations, which  
6 are necessary and related to the Work to be performed.
- 7 7) Contractor shall prepare and submit required reports, maintain current record  
8 drawings, and submit required information. The Contractor shall provide:  
9 materials lists to include trade names and brand names, and model materials  
10 lists to include trade names, brand names, model number, and ratings (if  
11 appropriate) for all materials necessary for a complete job.
- 12 8) All Work will be ordered and funded when needed in accordance with the  
13 procedures contained in the Contract Documents.
- 14 9) All Work will be controlled and monitored by the County or designated  
15 representative.
- 16 10) The design of architectural, structural, mechanical, electrical, civil, or other  
17 engineering features of the Work required by the Agreement shall be  
18 accomplished or reviewed and approved by architects or engineers registered in  
19 the State of California to practice in the particular professional field involved.
- 20 11) In addition to the Work unit requirements in the General Requirements, Contract  
21 Technical Specifications, Volume 3, and the Construction Task Catalog® (CTC),  
22 Volume 4, the County may, from time to time, require Non Pre-priced (NPP)  
23 Tasks. The parties shall proceed with these requirements in accordance with the  
24 Procedure for Ordering Work contained in Section (b), herein. These NPP Work  
25 unit requirements will be incorporated in individual Job Orders, and the  
26 Contractor shall accomplish those requirements with the same diligence as those  
27 Work units incorporated in this Agreement in the Construction Task Catalog®  
28 and Technical Specifications.



# Exhibit A

## Procedure for Ordering Work

- 1) As the need for Work arises, the County will notify in writing the Contractor of the Work.
- 2) Upon receipt of this notification, the Contractor shall respond within one working day by:
  - a) Establishing verbal contact with the County to further define the scope of the requirement, and;
  - b) Visiting the proposed Work site in the company of the County, and participating in the conduct of a Joint Scope Meeting, which will include discussion and establishment of the following:
    - i. Project number and title
    - ii. Existing site conditions
    - iii. Methods and alternatives for accomplishing Work
    - iv. Definition and refinement of requirements
    - v. Detailed Scope of Work
    - vi. Requirements for design drawings, sketches, shop drawings, submittals, etc.
    - vii. Tentative construction schedule
    - viii. Preliminary quantity estimates
    - ix. Access to the site and protocol for admission
    - x. Hours of operation
    - xi. Staging area
    - xii. Liquidated damages
    - xiii. Presence of hazardous materials
    - xiv.** Proposal due date
- 3) Upon completion of the Joint Scope Meeting, the Owner will prepare a draft Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the Work to be

## Exhibit A

1 accomplished. The Contractor shall review the Detailed Scope of Work, and  
2 request any required changes or modifications. When an acceptable Detailed  
3 Scope of Work has been prepared, the County will issue a Request for Job  
4 Order Proposal (RFJOP) and Detailed Scope of Work, which requires that the  
5 Contractor prepare a Proposal for the Work under consideration. The  
6 Detailed Scope of Work, unless modified by both the Contractor and the  
7 County, will be the basis on which the Contractor will develop its Job Order  
8 Proposal, and the County will evaluate the same. The Contractor does not  
9 have the right to refuse to perform any task or any Work in connection with a  
10 particular Project.

11 4) The County may, at its option, include quantities in the Detailed Scope of  
12 Work if it helps to define the Detailed Scope of Work, if the actual quantities  
13 required are not known or cannot be determined at the time the Detailed  
14 Scope of Work is prepared, if the Contractor and the County cannot agree on  
15 the quantities required, or for any other reason as determined by the County.  
16 In all such cases, the County shall issue a Supplemental Job Order adjusting  
17 the quantities appearing in the Detailed Scope of work to the actual  
18 quantities.

19 5) The Contractor will prepare the Job Order Price Proposal in accordance with  
20 the following:

21 a) Pre-priced Work requirements. A Pre-priced Task is a task described  
22 and for which a Unit Price is set forth in the Construction Task  
23 Catalog®. Pre-priced Work requirements will identify the type and  
24 number of Work units required from the Construction Task Catalog®  
25 (CTC). The price per unit set forth in the CTC shall serve as the base  
26 price for the purpose of the operation of this provision. The total of the  
27 Job Order Price Proposal shall be the sum of the cost of each  
28

## Exhibit A

1 applicable CTC task, which is calculated according to the following  
2 formula:

3 A= Number of Units Required for CTC Task B= Applicable Adjustment  
4 Factor

5 C= CTC Price per Unit Cost of CTC Task

6  $A \times B \times C$

7 b) The Contractor's Job Order Proposal shall include support  
8 documentation to indicate that adequate engineering and planning for  
9 the requirement have been done, and that the Work units and  
10 quantities proposed are reasonable for the tasks to be performed.  
11 Documentation to be submitted with the Job Order Proposal shall  
12 include, but not be limited to, the Job Order Price Proposal, design  
13 drawings, calculations, catalog cuts, specifications, and architectural  
14 renderings, Subcontractor list, and construction schedule. Any Job  
15 Order Proposal lacking the required items will be considered  
16 incomplete, and shall be returned and treated as if never received.  
17 Job Order Proposals submitted to the County are valid for the duration  
18 of the Agreement.

19 c) Non Pre-priced Work Requirements: Non Pre-priced Work shall be  
20 separately identified and submitted in the Job Order Price Proposal.  
21 Information submitted in support of Non Pre-priced Work shall include,  
22 but not be limited to, the following:

23 i. Complete specifications and technical data, including Work  
24 unit content, support drawings, Work unit costs data, quality  
25 control and inspection requirements.

26 ii. Work schedule in written form.

27 iii. Pricing data submitted in support of Non Pre-priced work units  
28 shall include a cost or price analysis report, establishing the

## Exhibit A

1 basis for selecting the approach proposed to accomplish the  
2 requirements. Unless otherwise directed by the County,  
3 costing data will be submitted, demonstrating that the  
4 Contractor sought and received three quotes. The Contractor  
5 shall provide an installed unit price (or demolition price if  
6 appropriate), which shall include all costs required to  
7 accomplish the Non Pre-priced Task.

- 8 iv. If the Contractor will perform the work with its own forces, it  
9 shall submit three independent quotes for all material to be  
10 installed and shall, to the extent possible, use Pre-Priced  
11 Tasks for labor and equipment from the Construction Task  
12 Catalog®. If the work is to be subcontracted, the Contractor  
13 shall submit three independent quotes from subcontractors.

14 The Contractor shall not submit a quote from any  
15 subcontractor or materialman that the Contractor is not  
16 prepared to use. County may require additional quotes if the  
17 subcontractors or materialmen are not acceptable, or if the  
18 prices are not reasonable. If three quotes cannot be obtained,  
19 the Contractor shall provide County with a written explanation.  
20 If the explanation is accepted by County, the Contractor may  
21 provide less than three quotes.

- 22 v. The final price submitted for Non Pre-priced (NPP) Tasks shall  
23 be according to the following formula:

### 24 **Contractor Performed Duties**

25 A= The number of hours for each labor classification and  
26 hourly rates B=Equipment costs (other than small tools) C=  
27 Lowest of three independent quotes for all materials **Total**

28 **Cost for self-performed work = (A+B+C) x 15% (Only if A &**

## Exhibit A

### **B cannot be priced out of the CTC) For Work performed by Subcontractors:**

If the Work is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. If three quotes or bids cannot be obtained, the Contractor will provide the reason in writing for the County's approval as to why three quotes cannot be submitted.

D = Subcontractor Costs (supported by three quotes)

**Total Costs of Non-Pre-Priced Task = D x 15%**

- vi. The County will evaluate the entire Proposal and proposed Work units, and compare these with the County's estimate of the Detailed Scope of Work to determine the reasonableness of approach, including the nature and number of Work units proposed. The County will determine whether the Contractor's Job Order Price Proposal is in line with its own estimate.
- vii. After using a Non Pre-priced item on three separate Job Orders, the unit price for the work item will be established, following approval by the County, and fixed as a permanent pre-priced item, which will no longer require price justification.
- viii. The County's determination as to whether an item is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to the Contractor.
- ix. Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor task in the Job Order Price Proposal is less than the cost of the actual labor and materials to perform such task, the County may permit the Contractor to be paid for such task as a Non Pre-priced Task, or use Pre-priced labor tasks and material component pricing to cover the

## Exhibit A

1 actual costs incurred. Provided, however, that there is no other  
2 Work for that trade on the project or other Work for that trade  
3 cannot be scheduled at the same time, and the final charge  
4 does not exceed \$1,000.00.

### 5 d) Processing Time Limits

- 6 i. Request for Proposal Submittal. Contractor shall submit the  
7 Job Order Proposal to the County on or before the due date  
8 stated in the RFJOP (14 days maximum unless otherwise  
9 specified).
- 10 ii. Request for Information Submittal. Contractor shall make a  
11 thorough analysis of each Job Order, and submit all Requests  
12 For Information (RFI's) within 7 days after issuance of any  
13 RFJOP. Submission of RFI's shall in no way extend the  
14 proposal due date unless deemed necessary by the County.
- 15 iii. Job Order Price Proposal Review. Contractor's Project  
16 Manager or agent shall be available for Job Order Price  
17 Proposal review meetings within 24 hours of being notified by  
18 the County (via fax, e-mail, or telephone). After review of the  
19 Job Order Price Proposal, Contractor shall remove all  
20 inappropriate line items and adjust quantities as directed by  
21 the County. Job Order Price Proposal Modification. Only on  
22 the Contractor's second Job Order Price Proposal shall he/she  
23 be granted the opportunity to add new valid line items that may  
24 have been omitted from the first Job Order Price Proposal.  
25 Contractor shall submit a revised Job Order Price Proposal  
26 within 24 hours of Job Order Price Proposal review meeting  
27 (unless otherwise specified). Upon review of revised Job Order  
28 Price Proposal, the Contractor shall remove all line items or

## Exhibit A

1 adjust quantities deemed inappropriate by the County, and re-  
2 submit the Job Order Price Proposal within 24 hours. No new  
3 line items may be added to the Job Order Price Proposal. No  
4 quantity increases or added modifiers will be accepted unless  
5 agreed to in writing by the County during the second Job  
6 Order Price Proposal review meeting.

- 7 iv. The County reserves the right to reject a Contractor's Job  
8 Order Proposal or cancel a project for any reason. The County  
9 reserves the right to issue a Notice to Proceed to the  
10 Contractor without having a mutual agreement on a final Job  
11 Order Price, and that the Contractor will be paid by multiplying  
12 the actual quantities used by the appropriate Construction  
13 Task Catalog® Unit Price and the applicable Adjustment  
14 Factors. Non Pre-priced (NPP) Tasks will be priced according  
15 to the formula set forth in Section 1.22 b 4 (c) of these General  
16 Conditions. The County also reserves the right to not award a  
17 Job Order if it is determined to be in the best interests of the  
18 County, or the proposed cost exceeds the County's estimate.  
19 The County may perform such work by other means. In these  
20 instances, the Contractor has no right of claim to recoup Job  
21 Order Proposal expenses, including but not limited to, the  
22 costs to attend the Joint Scope Meeting, review the Detailed  
23 Scope of Work, prepare a Job Order Proposal (including  
24 incidental architectural and engineering services),  
25 subcontractor costs, and the costs to review the Job Order  
26 Proposal with the County.  
27  
28

## Exhibit A

- 1 v. Unilateral Job Order – The County reserves the right to issue  
2 Job Orders based on the County’s Job Order Price Proposal  
3 for a specified Detailed Scope of Work (DSOW).
- 4 vi. By submitting a signed Job Order Proposal to the County, the  
5 Contractor is agreeing to accomplish the Work outlined in the  
6 Detailed Scope of Work in accordance with the RFJOP at the  
7 lump sum price submitted for that particular Job Order. The  
8 Contractor shall include the necessary tasks and quantities in  
9 the Job Order Price Proposal and apply the appropriate  
10 Adjustment Factor(s) prior to delivering it to the County. The  
11 value of the Job Order Price Proposal shall be calculated by  
12 summing the total of the calculations for each Pre-priced Task  
13 (Unit Price x quantity x Adjustment Factor) plus the value of all  
14 Non Pre-priced Tasks. The Job Order Price shall be the value  
15 of the approved Job Order Price Proposal.
- 16 vii. The County will evaluate the entire Job Order Priced Proposal  
17 and compare these with the County’s estimate of the Detailed  
18 Scope of Work to determine the reasonableness of approach,  
19 including the appropriateness of the tasks and quantities  
20 proposed.
- 21 viii. The Contractor may choose the means and methods of  
22 construction; subject however, to the County’s right to reject  
23 any means and methods proposed by the Contractor that:
- 24 • Will constitute or create a hazard to the work, or to  
25 persons or property;
  - 26 • Will not produce finished Work in accordance with the  
27 terms of the Agreement; or  
28



## Exhibit A

- Unnecessarily increases the price of the Job Order when alternative means and methods are available.
- ix. Each Job Order provided to the Contractor shall reference the Detailed Scope of Work, and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Agreement shall be applicable to any Job Orders issued under this clause. Job Orders will be written on an appropriate form. The Job Order, which must be signed by the County, constitutes the County's acceptance of the Contractor's Proposal. A signed copy will be provided to the Contractor.
- x. Except in an "emergency response" the Contractor is not to proceed with any Job Order without having required permits and a Notice to Proceed (NTP) signed by the Contract Manager.
- xi. In the event that "immediate emergency response" is necessary, the County may elect to use an alternative procedure for such type of Job Orders, as long as the alternative procedure is not substantially more burdensome to the Contractor than the procedure described in this section.
- xii. All Proposals submitted by the Contractor are valid for the duration of the Agreement.
- e) Measurements to be Verified. Before ordering any material or doing any Work, the Contractor shall verify all measurements at the site of a specific Job Order, and shall be responsible for the correctness of the measurements. No extra charge or compensation will be allowed based on the difference between actual dimensions and the measurements indicated in the Request for Proposal

## Exhibit A

- f) Contractor's Responsibility. It is the Contractors' responsibility to verify any and all such items prior to submission of the Job Order Proposal. Contractors are also cautioned that any Job Order awarded is for all services or Work, as necessary, to repair, and construct the facilities covered by the Agreement in accordance with all Agreement terms and conditions. It shall also be the duty and responsibility of the Contractor to manage and conduct the required Work in the most effective and efficient manner possible and meet or exceed minimum critical rates or standards.

In addition, the County will not entertain claims for additional money, when such claim is based upon a contention the Agreement fails to mention a specific item or component of facility covered by the Job Order and the Work is required in the normal course of operations. For example, surfaced area repair statements may not mention culverts. However, culverts are a normal component of roads, streets, or erosion controls and are shown on plots or maps provided. As culverts are a normal component of the system, the Contractor shall be responsible for providing all necessary repair, or replacement Work or service.

- g) Pre-Construction Conference. Before the issuance of the first Job Order under this Agreement, a conference will be conducted by the County to acquaint the Contractor with County's procedures that are to be observed during the execution of the Work, and to develop mutual understanding relative to the administration of the Agreement.
- h) Computer and Communications Equipment Requirements. The Contractor shall maintain at its office for its use a computer with, at a minimum, a 1 GHz processor and an internet connection. The

## Exhibit A

Contractor shall maintain individual email accounts for each of its project managers.

- i) Job Order Contracting Software and License Fee JOC Software and System License The County of Fresno selected The Gordian Group's (Gordian) Job Order Contracting (JOC) system for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary eGordian®, JOC Software, JOC applications, construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Agreement, including the preparation and submission of Job Order Proposals, subcontractor lists, and other requirements specified in the general conditions and as may be requested by the County of Fresno. The Contractor shall be required to execute Gordian's JOC System License and Fee Agreement, and shall pay a 1% JOC System License Fee on all Work awarded to Contractor by the County for access to the Gordian JOC Solution™.

## Vendors, Volunteers and Student Interns

### 308.1 PURPOSE AND SCOPE

This policy establishes guidelines for using Juvenile Justice Campus vendors, volunteers, and student interns, to supplement and assist Department personnel in their duties. Vendors and volunteers are members who can augment Department personnel and help complete various tasks.

#### 308.1.1 DEFINITIONS

Definitions related to this policy include:

**Student intern** - A college, university, or graduate student gaining practical experience in a chosen field while performing services for the Department under supervision.

**Vendor** - An individual representing a company, outside agency, or non-profit organization, who is assigned to one of our facilities, performs a service for the Department, and may receive compensation for services rendered.

**Volunteer** - An individual who performs a service for the Department without promise, expectation, or receipt of compensation for services rendered. This may include unpaid chaplains and student interns.

### 308.2 POLICY

The Fresno County Probation Department shall ensure that vendors, volunteers and student interns are properly appointed, trained, and supervised to carry out specified tasks and duties in order to create an efficient Department and improve services to the community.

### 308.3 ELIGIBILITY

Requirements for participation as a vendor, volunteer or student intern for the Department may include but are not limited to:

- (a) Being at least 18 years of age.
- (b) Possession of liability insurance for any personally owned equipment, vehicles, or animals utilized during volunteer or student intern work.
- (c) No conviction of a felony, any crime of a sexual nature or against children, any crime related to assault or violence, any crime related to dishonesty, or any crime related to impersonating a law enforcement officer.
- (d) Ability to meet physical requirements reasonably appropriate to the assignment.
- (e) A background history and character suitable for a person representing the Department, as validated by a background investigation.

The Chief Probation Officer or the authorized designee may allow exceptions to these eligibility requirements based on organizational needs and the qualifications of the individual.

*Vendors, Volunteers and Student Interns*

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**308.4 RECRUITMENT, SELECTION, AND APPOINTMENT**

The Fresno County Probation Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral, and professional standards set forth by this Department.

**308.4.1 RECRUITMENT**

Volunteers and student interns are recruited on a continuous basis consistent with Department policy on equal opportunity, nondiscriminatory employment terms. A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public.

Requests for volunteers and student interns should be submitted in writing by interested Department members to the Personnel Unit through the requester's immediate supervisor. A complete description of the volunteer's or intern's duties and a requested time frame should be included in the request. All Department members should understand that the recruitment of volunteers and student interns is enhanced by creative and interesting assignments.

Vendors are recruited/selected in accordance with the Fresno County Purchasing Office contract/agreement process.

**308.4.2 SELECTION**

Vendor, volunteer and student intern candidates shall successfully complete this process before appointment:

- (a) Submit the appropriate written application.
- (b) Current TB skin test (completed within the last 6 months).
- (c) Successfully complete an appropriate-level background investigation, which may include fingerprinting, and/or obtaining information from local, state, federal and Department of Motor Vehicle databases.

**308.4.3 APPOINTMENT**

Volunteers and student interns shall be placed only in assignments or programs consistent with their knowledge, skills, and abilities and the needs of the Department. Volunteers' and student interns' interests will be considered when placed in assignments.

Volunteers and student interns serve at the discretion of the Chief Probation Officer.

Vendors are appointed and placed in accordance with the Fresno County Purchasing Office contract/agreement.

**308.5 IDENTIFICATION**

As representatives of the Department, vendors, volunteers and student interns are responsible for presenting a professional image to the community. Vendors, volunteers and student interns shall dress appropriately for the conditions and performance of their duties, in compliance with Personal Appearance Standards and Uniform and Non-Uniform attire policies unless excluded by the Department.

## *Vendors, Volunteers and Student Interns*

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Vendors, volunteers and student interns will be issued Fresno County Probation Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Fresno County Probation Department identification cards, except that "Volunteer" or "Student Intern" will be indicated on the cards.

### **308.6 PERSONNEL WORKING AS STUDENT INTERNS**

Qualified regular Department personnel, when authorized, may also serve as student interns. However, this Department shall not utilize the services of student interns in such a way that it would violate employment laws or collective bargaining agreements or memorandums of understanding (e.g., a Juvenile Correctional Officer participating as a student intern for reduced or no pay). Therefore, members shall consult with the Personnel Unit prior to allowing regular department personnel to serve in a student intern capacity (29 CFR 553.30).

### **308.7 PERSONNEL UNIT**

The function of the Personnel Unit is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist efforts to jointly provide more productive volunteer services.

The responsibilities of the Personnel Unit include but are not limited to:

- (a) Recruiting and selecting qualified volunteers and student interns.
- (b) Maintaining records for each vendor, volunteer and student intern.
- (c) Completing and disseminating, as appropriate, all necessary paperwork and information.
- (d) Maintaining a liaison with colleges and universities that provide student interns to promote the intern program with both students and the educational system.
- (e) Maintaining volunteer and student intern orientation and training materials and outlining expectations, policies, and responsibilities for all volunteers and student interns.

### **308.8 DUTIES AND RESPONSIBILITIES**

Volunteers assist department personnel as needed. Assignments of volunteers may be to any division within the Department, as needed. Volunteers should be placed only in assignments or programs consistent with their knowledge, skills, interests, abilities and the needs of the Department. Student interns should be assigned to areas that meet the needs of both their educational program and the Department. Vendors will be assigned per the contract/agreement.

#### **308.8.1 COMPLIANCE**

Vendors, volunteers and student interns shall be required to adhere to all Department policies and procedures. Policies and procedures are available on the Department website and will be made available to each vendor, volunteer, and student intern upon appointment. The vendor, volunteer

## *Vendors, Volunteers and Student Interns*

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and student intern shall become thoroughly familiar with these policies as directed by the Chief Probation Officer or the authorized designee.

Whenever a rule, regulation, or guideline in this Custody Manual refers to regular Department personnel, it shall also apply to vendors, volunteers and student interns, unless by its nature it is inapplicable.

Vendors, volunteers and student interns are required by this Department to meet Department-approved training requirements as applicable to their assignments.

### **308.9 TASK SPECIFIC TRAINING**

Task-specific training is intended to provide the required instruction and practice for vendors, volunteers and student interns to properly and safely perform their assigned duties. Training should correspond to the assignment.

Vendors, volunteers and student interns shall be provided with the policies of the Department and procedures applicable to their assignments.

Vendors, volunteers and student interns shall receive position-specific training to ensure they have adequate knowledge and skills to complete the required tasks and should receive ongoing training as deemed appropriate by their supervisors or the authorized designee.

Training should reinforce to vendors, volunteers and student interns that they shall not intentionally represent themselves as, or by omission give the impression that they are, Juvenile Correctional Officers or other full-time members of the Department. They shall always represent themselves as vendors, volunteers or student interns.

All vendors, volunteers and student interns shall comply with the standards of conduct and with all applicable orders and directives, either oral or written, issued by the Department.

#### **308.9.1 STATE REQUIREMENTS**

The vendor, volunteer and student intern initial orientation shall include the following: safety and security issues and anti-discrimination policies.

### **308.10 SUPERVISION**

Each vendor, volunteer and student intern must have a clearly identified supervisor who is responsible for direct management of that individual. This supervisor will be responsible for day-to-day management and guidance of the work of the vendor, volunteer or student intern and should be available for consultation and assistance.

Functional supervision of vendors, volunteers and student interns is the responsibility of the supervisor or the authorized designee in charge of their assigned duties. The following are some considerations that supervisors or the authorized designee should keep in mind while supervising vendors, volunteers and student interns:

- (a) Take the time to introduce vendors, volunteers and student interns to members on all levels.

## *Vendors, Volunteers and Student Interns*

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- (b) Ensure vendors, volunteers and student interns have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give vendors, volunteers and student interns assignments or tasks that will utilize these valuable resources.
- (d) Ensure the work for student interns meets the needs of their educational program, while also meeting the needs of the Department.

### 308.10.1 EVALUATIONS

Student interns may need evaluations as a requirement of their educational program.

### 308.10.2 FITNESS FOR DUTY

No vendor, volunteer or student intern shall report for work or be at work when the individual's judgment or physical condition has been impaired due to illness or injury, or by the use of alcohol or drugs, whether legal or illegal.

Vendors, volunteers and student interns shall report to their supervisors any change in status that may affect their ability to fulfill their duties. This includes but is not limited to:

- (a) Driver's license.
- (b) Arrests.
- (c) Criminal investigations.
- (d) All law enforcement contacts.

### 308.11 INFORMATION ACCESS

Volunteers and student interns should not have access to or be in the vicinity of criminal histories, investigative files, or information portals. Unless otherwise directed by a supervisor, the duties of the position, or Department policy, all such information shall be considered confidential. Only that information specifically identified and approved by authorized members shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by Department policy and supervisory personnel.

A vendor, volunteer or student intern whose assignment requires the use of, or access to, confidential information will be required to be fingerprinted and have the fingerprints submitted to the California Department of Justice to obtain clearance. Vendors, volunteers and student interns working this type of assignment shall receive training in data practices and shall be required to sign a CLETS Employee/Volunteer Statement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information verbally, in writing, or by any other means by the vendor, volunteer, or student intern is grounds for immediate dismissal and possible criminal prosecution.

Vendors, volunteers and student interns shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to newspapers or other periodicals, release or divulge any information concerning the activities of the Department, or



## *Vendors, Volunteers and Student Interns*

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maintain that they represent the Department in such matters without permission from the proper Department personnel.

### **308.11.1 RADIO AND DATABASE ACCESS USAGE**

The supervisor or the authorized designee shall ensure that radio and database access training is provided for vendors, volunteers, and student interns whenever necessary.

### **308.12 EQUIPMENT**

Any property or equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a vendor, volunteer or student intern shall remain the property of the Department and shall be returned at the termination of service.

### **308.13 TERMINATION OF SERVICES**

If a vendor or volunteer is the subject of a personnel complaint or becomes involved in an internal investigation, the matter shall be investigated in compliance with the Personnel Complaints Policy. If a student intern is the subject of or is involved in an internal investigation, the coordinator of the educational program that sponsors the intern should be notified.

Vendors and volunteers are considered at-will and may be removed from service at the discretion of the Chief Probation Officer or the authorized designee, with or without cause. Vendors and volunteers shall have no property interest in their continued appointments. Vendors and volunteers may resign from service with the Department at any time. It is requested that vendors and volunteers who intend to resign provide advance notice and a reason for their decision.

### **308.14 ISSUED DATE**

- 02/18/2022

## Exhibit C

### Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("County"), members of a Contractor's board of directors ("County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be used for purposes of completing this disclosure form.

#### Instructions

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
  - a. The name of the agency/company with which the corporation has the transaction; and
  - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.

The form must be signed by the board member that is involved in the self-dealing transaction described in sections (3) and (4).

## Exhibit C

<b>(1) Company Board Member Information:</b>			
<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			
<b>(2) Company/Agency Name and Address:</b>			
<b>(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to)</b>			
<b>(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code § 5233 (a)</b>			
<b>(5) Authorized Signature</b>			
<b>Signature:</b>		<b>Date:</b>	

## Exhibit D

### Insurance Requirements

#### 1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, Contractor, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement.

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Professional Liability.** Professional liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Three Million Dollars (\$3,000,000). If this is a claims-made policy, then (1) the retroactive date must be prior to the date on which services began under this Agreement; (2) the Contractor shall maintain the policy and provide to the County annual evidence of insurance for not less than five years after completion of services under this Agreement; and (3) if the policy is canceled or not renewed, and not replaced with another claims-made policy with a retroactive date prior to the date on which services begin under this Agreement, then the Contractor shall purchase extended reporting coverage on its claims-made policy for a minimum of five years after completion of services under this Agreement.
- (F) **Professional Liability.** If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R. N., L.C.S.W., M.F.C.C.) in providing services, Professional Liability Insurance with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate. This coverage shall be issued on a per claim basis. Contractor agrees that it shall maintain, at its sole expense, in full force and effect for a period of three years following the termination of this Agreement, one or more policies of professional liability insurance with limits of coverage as specified herein.

## Exhibit D

- (G) **Property Installation Floater.** CONTRACTOR shall procure and maintain at CONTRACTOR's sole cost and expense, Property Installation Floater which provides for the improvement, remodel, modification, alteration, conversion, or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structures, machinery, or equipment damaged, impaired, broke, or destroyed during the performance of the work, including during transit, installation, and testing at COUNTY's site. The policy must name COUNTY as an additional loss payee and must include applicable endorsements.
- (H) **Molestation Liability.** Sexual abuse / molestation liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence, with an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis.
- 16.45
- (I) **Technology Professional Liability (Errors and Omissions).** Technology professional liability (errors and omissions) insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and in the aggregate. Coverage must encompass all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks.
- (J) **All-Risk Insurance.** Contractor shall procure and maintain at Contractor's sole cost and expense, Builders Risk Course of Construction insurance, including fire and vandalism coverage, covering the entire work (including any County furnished material and equipment) against loss or damage until completion and acceptance by County. Such insurance shall be for each Job Order in an amount up to the value of each Job, and endorsed for broad form property damage, breach of warranty, demolition costs, and debris removal. County will permit a deductible not exceeding 5%. The policy must cover Contractor, Contractor's subcontractors, County, its agents, the awarding entity, and any Trustee, under the indenture or trust agreement securing the bonds, certificates of participation, or other evidence of indebtedness issued to finance the work contemplated herein. The value of the policy shall be in U.S. currency.
- (K) **Bonds.** CONTRACTOR shall furnish to COUNTY a payment bond and performance bond, each in the amount of 100% of the Maximum Contract Amount, which shall meet the requirements of all applicable statutes, including but not limited to those specified in Public Contract Code section 20129 and Civil Code section 9554; all bonds shall be submitted in triplicate.
- (L) **Cyber Liability.** Cyber liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence. Coverage must include claims involving Cyber Risks. The cyber liability policy must be endorsed to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.
- Definition of Cyber Risks.** "Cyber Risks" include but are not limited to (i) Security Breach, which may include Disclosure of Personal Information to an Unauthorized Third Party; (ii) data breach; (iii) breach of any of the Contractor's obligations under [identify the Article, section, or exhibit containing data security obligations] of this Agreement; (iv)

## Exhibit D

system failure; (v) data recovery; (vi) failure to timely disclose data breach or Security Breach; (vii) failure to comply with privacy policy; (viii) payment card liabilities and costs; (ix) infringement of intellectual property, including but not limited to infringement of copyright, trademark, and trade dress; (x) invasion of privacy, including release of private information; (xi) information theft; (xii) damage to or destruction or alteration of electronic information; (xiii) cyber extortion; (xiv) extortion related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; (xv) fraudulent instruction; (xvi) funds transfer fraud; (xvii) telephone fraud; (xviii) network security; (xix) data breach response costs, including Security Breach response costs; (xx) regulatory fines and penalties related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; and (xxi) credit monitoring expenses.

### Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Contractor shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or [HRRiskManagement@fresnoCountyca.gov](mailto:HRRiskManagement@fresnoCountyca.gov), and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.
- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Contractor has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
  - (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Contractor's policy.
  - (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.

## Exhibit D

- (iv) The professional liability insurance certificate, if it is a claims-made policy, must also state the retroactive date of the policy, which must be prior to the date on which services began under this Agreement.
  - (v) The technology professional liability insurance certificate must also state that coverage encompasses all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks, as that term is defined in this Agreement.
  - (vi) The cyber liability insurance certificate must also state that it is endorsed, and include an endorsement, to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage,

## Exhibit D

and charge the cost of that coverage to the Contractor. The County may offset such charges against any amounts owed by the County to the Contractor under this Agreement.

- (G) **Sub-Contractors.** The Contractor shall require and verify that all Sub-Contractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using Sub-Contractors.





**Subject: Hostage Situations**

**Policy Number: 326.0**

**Page: 1 of 2**

**Date Originated: April 1, 2004**

**Date Revised: February 1, 2008**

**Authority: Title 15; Section 1327;  
California Code of Regulations**

It is imperative for the safety and security of all persons within Juvenile Justice Campus (JJC) facilities, as well as for those in the community, that minors are not allowed to leave the secure confines of the facilities by the taking of a hostage(s). If successful in securing a release through these means minors would be much more likely in the future to use this practice again in an attempt to escape the confines of the facilities. This would put those visiting and working at the JJC at higher level of risk and would jeopardize the safety of the community if the minor was in fact successful in securing his/her release.

The JJC is a "no-hostage" facility. This means that minors will not be released from custody under any circumstances due to the taking of a hostage(s). Any staff person taken hostage, no matter what their rank or status, immediately loses their authority and any orders issued by that person will not be followed.

## **I. HOSTAGE SITUATION PROCEDURES**

- A. If any minor(s) and/or other person(s) in the facility attempt to hold any person hostage, and they do not respond to verbal commands to stop staff will immediately notify the Watch Commander. He/she will respond to the location and assess the situation. If a hostage situation is in progress the Watch Commander will:
1. Summon assistance from other officers as required.
  2. Establish a secure perimeter around the hostage takers and allow no one to pass into it for any reason without authorization. Risks should not be taken that might allow the taking of additional hostages.
  3. Evacuate all non-essential persons at the scene to a safe location or any housing pod that is not directly involved in the incident.
  4. Direct officers to place minors in uninvolved housing pods in their rooms and have them remain there until directed otherwise. Minors outside of housing pods will remain in place under officer supervision until it is safe to return to their respective housing pods or any housing pod that is not directly involved in the incident.
  5. Immediately notify the Director or the Probation Services Manager/Assistant Director in his/her absence and confer with higher authority as to action to be taken. Administration in turn will notify the Chief.
- B. The Fresno Sheriff's Dispatch Center (488-3111) will be notified immediately and a request for a trained hostage negotiator and other emergency personnel will be made as needed. Prior to the arrival of the Sheriff Department's hostage negotiator the Watch Commander will attempt to ascertain:

**Subject: Hostage Situation**  
**Policy #: 326.0**

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1. The number and identity of both the hostages and hostage takers;
  2. Any known weapons possessed by the hostage takers;
  3. The demands of the hostage takers.
- C. The Watch Commander will retain and direct departing custody officers, as well as, available Probation peace officer staff to assist with security and safety needs, as necessary. Additional Juvenile Correctional Officers should be called in as may be needed to insure the safe and secure operation of the facility.
- D. The Watch Commander will coordinate with the Sheriff's Department all activities taken to resolve the hostage situation, including the use of appropriate force, and will maintain control of the facility until relieved of that duty by the presence of a Probation Services Manager/Assistant Director, Director, or the Chief Probation Officer.
- E. Once the hostage situation has been resolved the minors involved should be housed in the most secure setting available and all appropriate charges should be filed.
- F. Each officer and/or non-sworn staff member who was involved or observed the incident will complete an incident report and if required, the appropriate critical incident evaluation report(s) regarding the details of the incident prior to the end of his/her shift. (See Incident Report, located in JAS Probation View, under "Word Templates".)
- G. The Watch Commander will prepare a Critical Incident Investigation Report, using the Critical Incident Evaluation Report - Page 2 report form and the critical incident evaluation report(s) completed by the reporting persons at the time of the incident.

**II. PARENTAL AND MEDIA INFORMATION**

- A. Attempts will be made at the direction of Administration to reach the families of the hostages to advise them of the situation. Notification will also be made to the parents of the hostage takers as deemed appropriate.
- B. All media inquiries will be referred to the Chief's office per departmental policy.

**III. SECURITY AND OPERATIONAL REVIEW**

- A. Once the incident has been resolved a team will be established to conduct a security and operational review of the incident. The review will be conducted within 2 days of the resolution of the incident. The review team will be comprised of the facility administrator and/or facility Director, Probation Services Manager/Assistant Director and Supervising Juvenile Correctional Officers who are relevant to the incident. The team will review the circumstances leading up to the incident and any necessary corrective action necessary to insure that such an incident does not repeat itself.

## **THE PRISON RAPE ELIMINATION (PREA) ACT**

All bidders must comply with the Prison Rape Elimination (PREA) Act as stated below:

“CONTRACTOR shall comply with all Prison Rape Elimination (PREA) Act standards for juvenile correctional facilities. Training will be provided by Probation at no charge to CONTRACTOR.” “CONTRACTOR will ensure that all staff assigned to work at the Juvenile Justice Campus (JJC) undergo a pre-employment Live Scan and criminal background security clearance by the Probation Department at no charge to CONTRACTOR. No alcoholic beverages/drugs will be brought into any facility. Nor will anyone under the influence of alcoholic beverages or drugs be allowed inside. In the event of any disturbance inside the facilities, the CONTRACTOR’S employees will immediately follow the orders of the Facility Administrator or his/her designees.

CONTRACTOR shall comply with all Probation Department Policies and Procedures. In the event of a dispute involving COUNTY staff and the contract employee, the on-duty Facility Administrator will have the final decision.” **INFORMATION ON THE PRISON RAPE ELIMINATION ACT CAN BE FOUND HERE:**

<http://www.prearesourcecenter.org/>

## **BACKGROUND INVESTIGATIONS AND IDENTIFICATION (ID) BADGES**

### Background Investigations

Prior to the beginning of any services, one (1) background check may be required for every member of the Contractor's personnel providing services to a building location for the life of the agreement. The background check may be required before access is given to any County facility/property. Clearance will only be granted after a successful background check, completed by the County of Fresno Sheriff's Department. Background checks provided by any agency other than the County of Fresno Sheriff's Department will not be accepted.

The current cost of a background check is \$52 per person. This cost will be incurred by the successful Bidder. One check covering the cost of background checks for all employees shall be made payable to: Sheriff, County of Fresno. The successful bidder will be notified regarding the result of background checks. Those that are accepted will report to County of Fresno Security to have their photo taken and ID badge issued.

Background checks are done on a first-come, first serve basis between the hours of 7:00 a.m and 12:00 noon. Monday through Friday. The process takes approximately 20 minutes time. The amount of time it takes to receive the result of background checks varies from one day to a month (or longer), dependent upon the individual's history.

Individuals who are cleared through this process are entered into the Department of Justice database. Their records are flagged and the County of Fresno Sheriff's Department is notified if the person is ever arrested in the future.

When required by County, applicants' background checks must be approved prior to entering any County facility. Approval will not be granted to any individual possessing any of the following circumstances:

1. They have been convicted of a felony, or any crime involving moral turpitude, or carrying or possessing a dangerous weapon.
2. They have ever been charged with a felony or are currently under investigation for a felony.
3. They are charged with or convicted of any crime committed in or at a correctional institution.
4. They are currently on parole or probation or are a sentenced inmate at any correctional facility.
5. They have been refused a license as a private investigator or had such license revoked.
6. They have fraudulently represented themselves, their credentials, their employment or their criminal or arrest record on their application.
7. Make omissions or false statements on their application.
8. They have no valid reason for entering a facility.
9. Their admission into a facility could represent a threat to security, staff or inmate safety.
10. Further information regarding the criteria for background check clearance, including an appeal for process for someone who may be denied clearance is available upon request.

# Exhibit G

## Identification (ID) Badges

The successful bidder's employees will be issued a badge that must be worn and be visible at all times during performance of work in any County building to identify the wearer as an individual who is authorized to enter County facilities.

1. ID badges will be given only after successfully completing the background investigation. ID badges will be issued when the photo is taken. If electronic access to any County facility is required, activation of the badge may take an additional 48 hours to complete.
2. The successful Bidder shall pay \$11.99 per individual badge by submitting one check covering the cost for all the Bidder's employees made payable to: County of Fresno, Security.
3. Costs for ID badges are established by County Auditor and fluctuate annually, therefore the cost of obtaining a new ID badge for a Bidder's new employee may not remain the same throughout the contract term.
4. The wearer will not escort or bring any other individuals into any County facilities. County issued ID badges are for the exclusive use of the individual named and pictured on the badge.
5. All ID badges will remain the property of the County and are returnable upon demand or upon the expiration of the contract. The successful Bidder will be responsible for collecting all ID badges issued and turning them in to the County Security Office when a contract ends or when an employee leaves employment. The Bidder will assume all responsibility for their employee's use of and the return of the County ID badges.
6. The ID badges will only be issued to individuals passing the Background check. Each individual will need to present themselves in person with a valid, clean, and legible copy of a Driver's license or State issued Identification Card to receive an ID badge.