

SERVICE AGREEMENT

This Service Agreement ("Agreement") is dated July 9, 2024 and is between Kochergen Farms Composting Inc, a California corporation ("Contractor"), and the County of Fresno, a political subdivision of the State of California ("County").

Recitals

A. The Department of Public Works and Planning – Resources Division requires Green Waste removal services at American Avenue Disposal Site (AADS). AADS collects large volumes of Green Waste from residential and commercial customers. AADS is not equipped or permitted to process Green Waste for final disposal. AADS is located in rural central Fresno County, approximately 17 miles west of the City of Fresno on American Avenue, between Highway 145 and Placer Avenue. The site address is 18950 West American Avenue in Kerman, CA 93630.

B. The County released Request for Quotation (RFQ) No. 24-046 for Green Waste Removal Services on March 12, 2024 and closed on April 12, 2024. The Contractor's bid response satisfied the requirements of the Department.

C. The Contractor is required to provide all services related to the collection, transportation, and disposal of Green Waste.

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 **Article 2**

2 **County's Responsibilities**

3 2.1 The County shall:

4 (A) Compensate the Contractor as provided in this Agreement.

5 (B) Provide a "County Representative" who will represent the County and who will
6 coordinate with the Contractor as appropriate to facilitate Contractor's performance
7 under the provisions of this Agreement.

8 (C) Be responsible for the loading of all Green Waste using County-owned
9 equipment into a top-loading trailer.

10 **Article 3**

11 **Compensation, Invoices, and Payments**

12 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for
13 the performance of its services under this Agreement as described in Exhibit B to this
14 Agreement, titled "Compensation."

15 3.2 **Maximum Compensation.** The maximum compensation payable to the Contractor
16 under this Agreement is fifty-two thousand five hundred dollars (\$52,500) for Year 1, fifty-five
17 thousand one hundred twenty-five dollars (\$55,125) for Year 2, fifty-seven thousand eight
18 hundred eighty-two dollars (\$57,882) for Year 3, commencing as of the effective date, for a total
19 of one hundred sixty-five thousand five hundred seven dollars (\$165,507) for the initial term of
20 the Agreement; sixty thousand seven hundred seventy-six dollars (\$60,776) for the first
21 extension period, sixty-three thousand eight hundred fourteen dollars (\$63,814) for the second
22 extension period, and two hundred ninety thousand ninety-seven dollars (\$290,097) for the
23 entire term of the Agreement. The Contractor acknowledges that the County is a local
24 government entity, and does so with notice that the County's powers are limited by the
25 California Constitution and by State law, and with notice that the Contractor may receive
26 compensation under this Agreement only for services performed according to the terms of this
27 Agreement and while this Agreement is in effect, and subject to the maximum amount payable
28

under this section. The Contractor further acknowledges that County employees have no authority to pay the Contractor except as expressly provided in this Agreement.

3.3 **Invoices.** The Contractor shall submit monthly invoices to Public Works and Planning – Resources Division via email PWPBusinessOffice@fresnocountyca.gov or send invoices to the following address below:

Public Works and Planning – Resources Division
Attention: Landfill Operations Manager
2220 Tulare St. 6th Floor
Fresno, CA 93721-2106

All invoices and related tags must contain the following information below. The information must be legible, or payment may be delayed. Invoices and tags without this information will be returned to the vendor for completion. Complete provision of the requested information, along with verifiable receipt of materials, will facilitate more efficient processing of payments.

Required information on invoice and tags:

- 1) Valid Agreement number
- 2) The job location
- 3) Transaction/tag number
- 4) Dates
- 5) Weight of load
- 6) Name of Company
- 7) Rate per ton

The Contractor shall submit each invoice within 60 days after the month in which the Contractor performs services and in any case within 60 days after the end of the term or termination of this Agreement.

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

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

Article 4

Term of Agreement

4.1 **Term.** This Agreement is effective on July 9, 2024 and terminates on July 8, 2027, except as provided in section 4.2, "Extension," or Article 6, "Termination and Suspension," below.

4.2 **Extension.** The term of this Agreement may be extended for no more than two, one-year periods only upon written approval of both parties at least 30 days before the first day of the next one-year extension period. The Director of Public Works and Planning or his or her designee is authorized to sign the written approval on behalf of the County based on the Contractor's satisfactory performance. The extension of this Agreement by the County is not a waiver or compromise of any default or breach of this Agreement by the Contractor existing at the time of the extension whether or not known to the County.

Article 5

Notices

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

For the County:

Landfill Operations Manager
County of Fresno
2220 Tulare St., 6th Floor
Fresno, CA 93721-2106
landfill@fresnocountyca.gov
(559) 600-4259

For the Contractor:

President
Mike J Kochergen
PO Box 11006
Fresno, CA 93771
mike@allvalleyenv.com
(559) 498-0900

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

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

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

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

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

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

5.4 **Claims Presentation.** For all claims arising from or related to this Agreement, nothing in this Agreement establishes, waives, or modifies any claims presentation 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).

Article 6

Termination and Suspension

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

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

2 (B) Terminate this Agreement.

3 **6.2 Termination for Breach.**

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

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

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

12 (1) Obtained or used funds illegally or improperly;

13 (2) Failed to comply with any part of this Agreement;

14 (3) Submitted a substantially incorrect or incomplete report to the County; or

15 (4) Improperly performed any of its obligations under this Agreement.

16 **6.3 Termination without Cause.** In circumstances other than those set forth above, the
17 County may terminate this Agreement by giving at least 30 days advance written notice to the
18 Contractor.

19 **6.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County
20 under this Article 6 is without penalty to or further obligation of the County.

21 **6.5 County's Rights upon Termination.** Upon termination for breach under this Article
22 6, the County may demand repayment by the Contractor of any monies disbursed to the
23 Contractor under this Agreement that, in the County's sole judgment, were not expended in
24 compliance with this Agreement. The Contractor shall promptly refund all such monies upon
25 demand. This section survives the termination of this Agreement.

1 **Article 7**

2 **Independent Contractor**

3 7.1 **Status.** In performing under this Agreement, the Contractor, including its officers,
4 agents, employees, and volunteers, is at all times acting and performing as an independent
5 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint
6 venturer, partner, or associate of the County.

7 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the
8 manner or method of the Contractor's performance under this Agreement, but the County may
9 verify that the Contractor is performing according to the terms of this Agreement.

10 7.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no
11 right to employment rights or benefits available to County employees. The Contractor is solely
12 responsible for providing to its own employees all employee benefits required by law. The
13 Contractor shall save the County harmless from all matters relating to the payment of
14 Contractor's employees, including compliance with Social Security withholding and all related
15 regulations.

16 7.4 **Services to Others.** The parties acknowledge that, during the term of this
17 Agreement, the Contractor may provide services to others unrelated to the County.

18 **Article 8**

19 **Indemnity and Defense**

20 8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the
21 County (including its officers, agents, employees, and volunteers) against all claims, demands,
22 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and
23 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to
24 the performance or failure to perform by the Contractor (or any of its officers, agents,
25 subcontractors, or employees) under this Agreement. The County may conduct or participate in
26 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or
27 defend the County.

28 8.2 **Survival.** This Article 8 survives the termination of this Agreement.

1 **Article 9**

2 **Insurance**

3 9.1 The Contractor shall comply with all the insurance requirements in Exhibit D to this
4 Agreement.

5 **Article 10**

6 **Inspections, Audits, and Public Records**

7 10.1 **Inspection of Documents.** The Contractor shall make available to the County, and
8 the County may examine at any time during business hours and as often as the County deems
9 necessary, all of the Contractor's records and data with respect to the matters covered by this
10 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon
11 request by the County, permit the County to audit and inspect all of such records and data to
12 ensure the Contractor's compliance with the terms of this Agreement.

13 10.2 **State Audit Requirements.** If the compensation to be paid by the County under this
14 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the
15 California State Auditor, as provided in Government Code section 8546.7, for a period of three
16 years after final payment under this Agreement. This section survives the termination of this
17 Agreement.

18 10.3 **Public Records.** The County is not limited in any manner with respect to its public
19 disclosure of this Agreement or any record or data that the Contractor may provide to the
20 County. The County's public disclosure of this Agreement or any record or data that the
21 Contractor may provide to the County may include but is not limited to the following:

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

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

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

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

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

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

16 **10.4 Public Records Act Requests.** If the County receives a written or oral request
17 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,
18 and which the County has a right, under any provision of this Agreement or applicable law, to
19 possess or control, then the County may demand, in writing, that the Contractor deliver to the
20 County, for purposes of public disclosure, the requested records that may be in the possession
21 or control of the Contractor. Within five business days after the County's demand, the
22 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's
23 possession or control, together with a written statement that the Contractor, after conducting a
24 diligent search, has produced all requested records that are in the Contractor's possession or
25 control, or (b) provide to the County a written statement that the Contractor, after conducting a
26 diligent search, does not possess or control any of the requested records. The Contractor shall
27 cooperate with the County with respect to any County demand for such records. If the
28 Contractor wishes to assert that any specific record or data is exempt from disclosure under the

1 CPRA or other applicable law, it must deliver the record or data to the County and assert the
2 exemption by citation to specific legal authority within the written statement that it provides to
3 the County under this section. The Contractor's assertion of any exemption from disclosure is
4 not binding on the County, but the County will give at least 10 days' advance written notice to
5 the Contractor before disclosing any record subject to the Contractor's assertion of exemption
6 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs
7 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,
8 failure to produce any such records, or failure to cooperate with the County with respect to any
9 County demand for any such records.

10 **Article 11**

11 **Disclosure of Self-Dealing Transactions**

12 11.1 **Applicability.** This Article 11 applies if the Contractor is operating as a corporation,
13 or changes its status to operate as a corporation.

14 11.2 **Duty to Disclose.** If any member of the board of directors is party to a self-dealing
15 transaction, he or she shall disclose the transaction by completing and signing a "Self-Dealing
16 Transaction Disclosure Form" (Exhibit C to this Agreement) and submitting it to the County
17 before commencing the transaction or immediately after.

18 11.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is
19 a party and in which one or more of its directors, as an individual, has a material financial
20 interest.

21 **Article 12**

22 **General Terms**

23 12.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this
24 Agreement may not be modified, and no waiver is effective, except by written agreement signed
25 by both parties. The Contractor acknowledges that County employees have no authority to
26 modify this Agreement except as expressly provided in this Agreement.

27 12.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
28 under this Agreement without the prior written consent of the other party.

1 12.3 **Governing Law.** The laws of the State of California govern all matters arising from
2 or related to this Agreement.

3 12.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
4 County, California. Contractor consents to California jurisdiction for actions arising from or
5 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
6 brought and maintained in Fresno County.

7 12.5 **Construction.** The final form of this Agreement is the result of the parties' combined
8 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
9 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
10 against either party.

11 12.6 **Days.** Unless otherwise specified, "days" means calendar days.

12 12.7 **Headings.** The headings and section titles in this Agreement are for convenience
13 only and are not part of this Agreement.

14 12.8 **Severability.** If anything in this Agreement is found by a court of competent
15 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
16 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
17 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
18 intent.

19 12.9 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall
20 not unlawfully discriminate against any employee or applicant for employment, or recipient of
21 services, because of race, religious creed, color, national origin, ancestry, physical disability,
22 mental disability, medical condition, genetic information, marital status, sex, gender, gender
23 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
24 all applicable State of California and federal statutes and regulation.

25 12.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
26 of the Contractor under this Agreement on any one or more occasions is not a waiver of
27 performance of any continuing or other obligation of the Contractor and does not prohibit
28 enforcement by the County of any obligation on any other occasion.

1 **12.11 Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
2 between the Contractor and the County with respect to the subject matter of this Agreement,
3 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,
4 publications, and understandings of any nature unless those things are expressly included in
5 this Agreement. If there is any inconsistency between the terms of this Agreement without its
6 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
7 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
8 exhibits.

9 **12.12 No Third-Party Beneficiaries.** This Agreement does not and is not intended to
10 create any rights or obligations for any person or entity except for the parties.

11 **12.13 Authorized Signature.** The Contractor represents and warrants to the County that:

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

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

17 **12.14 Electronic Signatures.** The parties agree that this Agreement may be executed by
18 electronic signature as provided in this section.

19 (A) An “electronic signature” means any symbol or process intended by an individual
20 signing this Agreement to represent their signature, including but not limited to (1) a
21 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
22 electronically scanned and transmitted (for example by PDF document) version of an
23 original handwritten signature.

24 (B) Each electronic signature affixed or attached to this Agreement (1) is deemed
25 equivalent to a valid original handwritten signature of the person signing this Agreement
26 for all purposes, including but not limited to evidentiary proof in any administrative or
27 judicial proceeding, and (2) has the same force and effect as the valid original
28 handwritten signature of that person.

1 (C) The provisions of this section satisfy the requirements of Civil Code section
2 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
3 Part 2, Title 2.5, beginning with section 1633.1).

4 (D) Each party using a digital signature represents that it has undertaken and
5 satisfied the requirements of Government Code section 16.5, subdivision (a),
6 paragraphs (1) through (5), and agrees that each other party may rely upon that
7 representation.

8 (E) This Agreement is not conditioned upon the parties conducting the transactions
9 under it by electronic means and either party may sign this Agreement with an original
10 handwritten signature.

11 12.15 **Counterparts.** This Agreement may be signed in counterparts, each of which is an
12 original, and all of which together constitute this Agreement.

13 [SIGNATURE PAGE FOLLOWS]
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The parties are signing this Agreement on the date stated in the introductory clause.

Kochergen Farms Composting Inc.

COUNTY OF FRESNO

Mike J Kochergen

Digitally signed by Mike J
Kochergen
Date: 2024.05.22 15:13:00 -07'00'



Mike J Kochergen, President

Nathan Magsig, Chairman of the Board of
Supervisors of the County of Fresno

PO Box 11006
Fresno, CA 93771

Attest:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: 
Deputy

For accounting use only:

Org No.: 9026
Account No.: 7295
Fund No.: 0700
Subclass No.: 15000

Exhibit A

Scope of Services

The Contractor will be required to collect all Green Waste from the landfill and transport it to a composting facility that is properly permitted, adhering to all applicable federal, state, and local regulations. The Contractor bears the responsibility of ensuring compliance with all laws and regulations at the federal, state, and local levels regarding the transportation, delivery, and transfer of Green Waste materials during the execution of this contract.

Green Waste removal services will be required on an as-needed basis, with the frequency varying and potentially requiring multiple load collections per week based on demand. Total tons of Green Waste received at AADS may vary annually.

1. DEFINITIONS

A. "Green Waste" includes any plant material, except food material. Plant material includes tree and Yard Trimmings, untreated Wood Wastes, and natural fiber products. Green material does not include food material, biosolids, and wood containing paint or wood preservative.

(1) "Wood Waste" includes solid waste consisting of wood pieces or particles which are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or untreated and separated construction and demolition activities.

(2) "Yard Trimmings" include any wastes generated from the maintenance or alteration of public, commercial, or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds.

2. EQUIPMENT AND TRANSPORTATION

The Green Waste collection service will utilize only a top-loading trailer. The Contractor is responsible with supplying a top-loading trailer for transporting Green Waste material. County staff at AADS will load all Green Waste using a County-owned wheel loader.

A. The trailers used for transport shall be clean and free of residue that may contaminate the Green Waste material or impede the loading process. It is

Exhibit A

the Contractor's responsibility to verify the cleanliness of the transporting equipment before loading. The County of Fresno may reject a load if the equipment is not properly cleaned and reserves the right to refuse any and all deliveries made with equipment that is poorly maintained.

Exhibit B

Compensation

The Contractor will be compensated for performance of its services under this Agreement as provided in this Exhibit B. The Contractor is not entitled to any compensation except as expressly provided in this Exhibit B.

Price rates shall remain fixed for the entire three-year base term of the agreement. The County will not accept any price increases during this initial period. The County may review and consider price increase requests submitted by Contractor once per each optional one-year extension period, to determine pricing for the extension term of the Agreement. Proposed changes to rates must be submitted to the County Representative at least sixty (60) days prior to the renewal date of this Agreement. Upon review and written approval of the County Representative, the County may authorize the change in rates. However, the total amount of the Maximum Annual Fee may not be increased except upon formal written Amendment to this Agreement, approval by the County's Board of Supervisors in accordance with Article 12.1.

1. BASE RATE

A. The cost specified below includes all necessary expenses related to the collection, transportation, and disposal of Green Waste.

Green Waste removal: \$30 Per ton

2. STAND-BY TIME

A. If circumstances created by the County result in delays to the Contractor's service performance, an hourly rate for stand-by time will be provided to compensate the Contractor. The following conditions will apply to the stand-by rate:

(1) Stand-by hourly rate to commence only after Contractor has been on site for a period of two (2) hours.

(2) Service was not completed within a three (3) hour period due to circumstances created by County.

(3) Charges will be applied on a one-quarter (1/4) hour basis.

Exhibit B

B. Stand-by charges will exclude periods such as lunch breaks or other instances when the Contractor is unavailable to perform the service.

Stand-by rate: \$120 Per hour

3. CONTAMINATED LOAD

A. In instances where a load contains materials not classified as Green Waste, according to Exhibit A (such as concrete, metal, trash, painted wood, C&D), the Contractor reserves the right to impose a fee for contaminated loads.

Contaminated load fee: \$300 Per load

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

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

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.

2. 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, 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

Exhibit D

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.
- (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, 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.

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(G) **Subcontractors.** The Contractor shall require and verify that all subcontractors 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 subcontractors.