

**RETROACTIVE SERVICE AGREEMENT**

This Retroactive Service Agreement (“Agreement”) is dated \_\_\_\_\_ and is between A-C Electric Company, a California corporation (“Contractor”), and the County of Fresno, a political subdivision of the State of California (“County”).

**Recitals**

A. The County requires site servicing and repair of electrical controls and software for Programmable Logic Controllers (PLCs) in order to operate and maintain water and sewage treatment facilities in Fresno County Special Districts, the Juvenile Justice Campus (JJC), the American Avenue Disposal Site (AADS), and the Southeast Regional Disposal Site (SERDS); and

B. The County, in accordance with County Board-approved Purchasing and Contracts Procedures Manual, selected said Contractor to provide the County with said services; and

C. The Contractor represents that it is qualified and willing to provide the County the services needed pursuant to the terms and conditions herein.

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 Representative shall work with the Contractor in carrying out the  
4 provisions of this Agreement. The County Representative is the County Director of the  
5 Department of Public Works and Planning or his or her designee. The Contractor shall  
6 communicate and coordinate with the County Representative, who will provide the following  
7 services:

8 (A) Examine documents submitted to the County and work with the Contractor and  
9 timely render decisions pertaining to those documents; and

10 (B) Provide communication between the Contractor and County officials and  
11 commissions (including Fresno County Department of Public Works and Planning)

12 2.2 County shall give reasonably prompt consideration to all matters submitted by the  
13 Contractor for approval to the end that there will be no substantial delays in the Contractor's  
14 program of work. An approval, authorization, or request given by the County to the Contractor  
15 will only be binding upon the County under the terms of this Agreement if the approval,  
16 authorization, or request is in writing and signed on behalf of the County by the County  
17 Representative or a designee.

18 **Article 3**

19 **Compensation, Invoices, and Payments**

20 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for  
21 the performance of its services under this Agreement as described in Exhibit B to this  
22 Agreement, titled "Compensation."

23 3.2 **Maximum Compensation.** The maximum compensation payable to the Contractor  
24 under this Agreement is \$214,000 for the one-year term. The maximum cumulative amount of  
25 compensation for Services under this Agreement shall not exceed \$214,000 during the entirety  
26 of the one-year term of this Agreement.

27 The Contractor acknowledges that the County is a local government entity, and does  
28 so with notice that the County's powers are limited by the California Constitution and by State

1 law, and with notice that the Contractor may receive compensation under this Agreement only  
2 for services performed according to the terms of this Agreement and while this Agreement is in  
3 effect, and subject to the maximum amount payable under this section. The Contractor further  
4 acknowledges that County employees have no authority to pay the Contractor except as  
5 expressly provided in this Agreement.

6 3.3 **Invoices.** The Contractor shall submit monthly invoices to the address(es) listed  
7 below;

8 Fresno County Department of Public Works and Planning  
9 Resources Division  
10 2220 Tulare Street, Sixth Floor  
11 Fresno, CA 93721  
12 [PWPBusinessOffice@fresnocountyca.gov](mailto:PWPBusinessOffice@fresnocountyca.gov)

13  
14 The Contractor shall submit each invoice within 60 days after the month in which the  
15 Contractor performs services and in any case within 60 days after the end of the term or  
16 termination of this Agreement.

17 3.4 **Payment.** The County shall pay each correctly completed and timely submitted  
18 invoice within 45 days after receipt. The County shall remit any payment to the Contractor's  
19 address specified in the invoice.

20 3.5 **Incidental Expenses.** The Contractor is solely responsible for all of its costs and  
21 expenses that are not specified as payable by the County under this Agreement.

## 22 **Article 4**

### 23 **Term of Agreement**

24 4.1 **Term.** This Agreement is effective on May 26, 2026, and terminates on May 25,  
25 2027, except as provided in section 4.2, "Extension," or Article 6, "Termination and Suspension,"  
26 below.

1 **Article 5**

2 **Notices**

3 5.1 **Contact Information.** The persons and their addresses having authority to give and  
4 receive notices provided for or permitted under this Agreement include the following:

5 **For the County:**

6 Department of Public Works and Planning –  
7 Resources Division, Special Districts Administration  
8 County of Fresno  
9 2220 Tulare Street, Sixth Floor  
10 Fresno, CA 93721  
11 SpecialDistrictsAdm@fresnocountyca.gov  
12 (559) 600-4259

13 **For the Contractor:**

14 A-C Electric  
15 Special Project Manager  
16 Ty Barber  
17 PO Box 2425  
18 Fresno, CA 93745  
19 Tybarber@a-celectric.com  
20 (661) 619-5478

21 5.2 **Change of Contact Information.** Either party may change the information in section  
22 5.1 by giving notice as provided in section 5.3.

23 5.3 **Method of Delivery.** Each notice between the County and the Contractor provided  
24 for or permitted under this Agreement must be in writing, state that it is a notice provided under  
25 this Agreement, and be delivered either by personal service, by first-class United States mail, by  
26 an overnight commercial courier service, by telephonic facsimile transmission, or by Portable  
27 Document Format (PDF) document attached to an email.

28 (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.

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

6 5.4 **Claims Presentation.** For all claims arising from or related to this Agreement,  
7 nothing in this Agreement establishes, waives, or modifies any claims presentation  
8 requirements or procedures provided by law, including the Government Claims Act (Division 3.6  
9 of Title 1 of the Government Code, beginning with section 810).

## 10 **Article 6**

### 11 **Termination and Suspension**

12 6.1 **Termination for Non-Allocation of Funds.** The terms of this Agreement are  
13 contingent on the approval of funds by the appropriating government agency. If sufficient funds  
14 are not allocated, then the County, upon at least 30 days' advance written notice to the  
15 Contractor, may:

- 16 (A) Modify the services provided by the Contractor under this Agreement; or
- 17 (B) Terminate this Agreement.

### 18 6.2 **Termination for Breach.**

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

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

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

- 27 (1) Obtained or used funds illegally or improperly;
- 28 (2) Failed to comply with any part of this Agreement;

- 1 (3) Submitted a substantially incorrect or incomplete report to the County; or  
2 (4) Improperly performed any of its obligations under this Agreement.

3 6.3 **Termination without Cause.** In circumstances other than those set forth above, the  
4 County may terminate this Agreement by giving at least 30 days advance written notice to the  
5 Contractor.

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

8 6.5 **County's Rights upon Termination.** Upon termination for breach under this Article  
9 6, the County may demand repayment by the Contractor of any monies disbursed to the  
10 Contractor under this Agreement that, in the County's sole judgment, were not expended in  
11 compliance with this Agreement. The Contractor shall promptly refund all such monies upon  
12 demand. This section survives the termination of this Agreement.

## 13 **Article 7**

### 14 **Independent Contractor**

15 7.1 **Status.** In performing under this Agreement, the Contractor, including its officers,  
16 agents, employees, and volunteers, is at all times acting and performing as an independent  
17 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint  
18 venturer, partner, or associate of the County.

19 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the  
20 manner or method of the Contractor's performance under this Agreement, but the County may  
21 verify that the Contractor is performing according to the terms of this Agreement.

22 7.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no  
23 right to employment rights or benefits available to County employees. The Contractor is solely  
24 responsible for providing to its own employees all employee benefits required by law. The  
25 Contractor shall save the County harmless from all matters relating to the payment of  
26 Contractor's employees, including compliance with Social Security withholding and all related  
27 regulations.  
28



1 years after final payment under this Agreement. This section survives the termination of this  
2 Agreement.

3       **10.3 Public Records.** The County is not limited in any manner with respect to its public  
4 disclosure of this Agreement or any record or data that the Contractor may provide to the  
5 County. The County’s public disclosure of this Agreement or any record or data that the  
6 Contractor may provide to the County may include but is not limited to the following:

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

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

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

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

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

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



1 “Self-Dealing Transaction Disclosure Form” (Exhibit C to this Agreement) and submitting it to  
2 the County before commencing the transaction or immediately after.

3 11.3 **Definition.** “Self-dealing transaction” means a transaction to which the Contractor is  
4 a party and in which one or more of its directors, as an individual, has a material financial  
5 interest.

## 6 **Article 12**

### 7 **General Terms**

8 12.1 **Modification.** Except as provided in Article 6, “Termination and Suspension,” this  
9 Agreement may not be modified, and no waiver is effective, except by written agreement signed  
10 by both parties. The Contractor acknowledges that County employees have no authority to  
11 modify this Agreement except as expressly provided in this Agreement.

12 12.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations  
13 under this Agreement without the prior written consent of the other party.

14 12.3 **Governing Law.** The laws of the State of California govern all matters arising from  
15 or related to this Agreement.

16 12.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno  
17 County, California. Contractor consents to California jurisdiction for actions arising from or  
18 related to this Agreement, and, subject to the Government Claims Act, all such actions must be  
19 brought and maintained in Fresno County.

20 12.5 **Construction.** The final form of this Agreement is the result of the parties’ combined  
21 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be  
22 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement  
23 against either party.

24 12.6 **Days.** Unless otherwise specified, “days” means calendar days.

25 12.7 **Headings.** The headings and section titles in this Agreement are for convenience  
26 only and are not part of this Agreement.

27 12.8 **Severability.** If anything in this Agreement is found by a court of competent  
28 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in

1 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of  
2 this Agreement with lawful and enforceable terms intended to accomplish the parties' original  
3 intent.

4       **12.9 Nondiscrimination.** During the performance of this Agreement, the Contractor shall  
5 not unlawfully discriminate against any employee or applicant for employment, or recipient of  
6 services, because of race, religious creed, color, national origin, ancestry, physical disability,  
7 mental disability, medical condition, genetic information, marital status, sex, gender, gender  
8 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to  
9 all applicable State of California and federal statutes and regulation.

10       **12.10 No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation  
11 of the Contractor under this Agreement on any one or more occasions is not a waiver of  
12 performance of any continuing or other obligation of the Contractor and does not prohibit  
13 enforcement by the County of any obligation on any other occasion.

14       **12.11 Entire Agreement.** This Agreement, including its exhibits, is the entire agreement  
15 between the Contractor and the County with respect to the subject matter of this Agreement,  
16 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,  
17 publications, and understandings of any nature unless those things are expressly included in  
18 this Agreement. If there is any inconsistency between the terms of this Agreement without its  
19 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving  
20 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the  
21 exhibits.

22       **12.12 No Third-Party Beneficiaries.** This Agreement does not and is not intended to  
23 create any rights or obligations for any person or entity except for the parties.

24       **12.13 Authorized Signature.** The Contractor represents and warrants to the County that:

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

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

4 12.14 **Electronic Signatures.** The parties agree that this Agreement may be executed by  
5 electronic signature as provided in this section.

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

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

16 (C) The provisions of this section satisfy the requirements of Civil Code section  
17 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,  
18 Part 2, Title 2.5, beginning with section 1633.1).

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

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

26 12.15 **Counterparts.** This Agreement may be signed in counterparts, each of which is an  
27 original, and all of which together constitute this Agreement.

28 [SIGNATURE PAGE FOLLOWS]

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

2 A-C Electric Company

COUNTY OF FRESNO

3  
4 

5 \_\_\_\_\_  
Julie Irvin, Chief Operations Officer

\_\_\_\_\_ Garry Bredefeld, Chairman of the Board of Supervisors of the County of Fresno

6 P.O. Box 2425,  
7 Fresno, CA 93745

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

9  
10 By: \_\_\_\_\_  
Deputy

11 For accounting use only:

12 Org No.: 9026, 9020, 9140, 9141, 9145, 9154, 9163, 9166, 9170, 9172, 9174, 9181, 9244,  
13 9246, 9247, 9249, 9250, 9254, 9255, 9301, 9310, 9323, 9324, 9325, 9351, 9357, 9358, 9360,  
9361, 9362  
Account No.: 7295, 0700, 7220  
14 Fund No.: 0700, 0720, 0230, 0235, 0740, 0750, 0770, 0780, 0790, 0800, 0801, 0810, 0820,  
0830, 0870, 0880, 0890, 0900, 0910, 0920, 0930, 4030  
15 Subclass No.: 15000, 12150, 12800, 16000, 16120, 16200, 16204, 16205, 16206, 16210,  
16 16211, 16400, 16420, 16800, 16900, 40680

# Exhibit A

## Scope of Services

Contractor shall provide all services (“Services”) (including but not limited to, labor, material, equipment, transportation, and taxes) related to (i) site servicing and (ii) repair of electrical controls and software for PLCs at water and sewage treatment plants located in the following County service areas, County waterworks districts, and the Juvenile Justice Campus, and County owned/operated disposal sites:

1. County Service Area No. 1 (Tamarack)
2. County Service Area No. 5 (Wildwood Island)
3. County Service Area No. 10 (Cumorah Knolls)
4. County Service Area No. 10A (Mansionette Estates)
5. County Service Area No. 14 (Belmont Manor)
6. County Service Area No. 23 (Exchequer Heights)
7. County Service Area No. 30 (El Porvenir)
8. County Service Area No. 31B (Shaver Lake Village)
9. County Service Area No. 32 (Cantua Creek)
10. County Service Area No. 34 (Millerton New Town)
11. County Service Area No. 34A (Brighton Crest)
12. County Service Area No. 34B (Ventana Hills)
13. County Service Area No. 34C (Bella Vista)
14. County Service Area No. 34D (Renaissance at Bella Vista)
15. County Service Area No. 34F (The Vistas)
16. County Service Area No. 34G (Granville)
17. County Service Area No. 43W (Raisin City)
18. County Service Area No. 44A (Friant Mobile Home Park)
19. County Service Area No. 44C (Riverview Ranch)
20. County Service Area No. 44D (Monte Verdi)
21. County Service Area No. 47 (Quail Lake)
22. County Service Area No. 49 (O’Neill Farms)

## Exhibit A

- 1 23. Waterworks District No. 37 (Mile High)
- 2 24. Waterworks District No. 38 (Sky Harbor)
- 3 25. Waterworks District No. 40 (Shaver Springs)
- 4 26. Waterworks District No. 41W (Shaver Lake)
- 5 27. Waterworks District No. 41S (Shaver Lake)
- 6 28. Waterworks District No. 42 (Alluvial/Fancher)
- 7 29. Juvenile Justice Campus
- 8 30. American Avenue Disposal Site (AADS)
- 9 31. Southeast Regional Disposal Site (SERDS)

10 The Contractor shall perform the Services in accordance with all standard electrical  
11 codes and mechanical codes as described in the California Building Standards under Title 24 of  
12 the California Code of Regulations. The Contractor shall also provide the County with a digital  
13 copy of all proprietary PLC programming when servicing PLCs. The Contractor shall charge for  
14 their Services at the rates set forth in Exhibit B attached hereto and incorporated herein by this  
15 reference.

16 The Services shall be performed on an as-needed basis upon notification by the County  
17 representative, as defined in section 2.B. below. The notification may be given by telephone  
18 call, email, or other writing. Upon notification by the County Representative, the Contractor shall  
19 provide to the County Representative an estimated date and time of the Contractor's arrival at  
20 service site. The contact person for the Contractor is: Ty Barber; Telephone: (661) 619-5478; E-  
21 mail: TyBarber@a-celectric.com

## **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.

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## **Equipment Rates**

The following is a partial list of equipment subject to additional charges. Specialized test equipment, tools and vehicles may be subject to an additional charge. Equipment rates may be subject to change based on economic conditions.

<b><u>Description</u></b>	<b><u>Rate</u></b>	<b><u>Characteristics</u></b>
Trip Charge	\$100.00 /Per Vehicle Per Day	Trips less than 50 miles round trip
Trip Charge	\$.75 /Per Mile	Trips greater than 50 miles round trip
Electrical Service Truck	Included	Trucks are equipped w/ handheld power tools
Automobile/Pick-Up Truck	Included	Includes hand tools
Line Truck	\$80.00/hr	Includes hot line tools
Bucket Truck	\$65.00/hr	Includes hot line tools
Crane	\$85.00/hr	Up to 15 ton hydro crane
Delivery Truck w/ Lift Gate	\$25.00/hr	
Pole Dolly	\$50.00/day	
Trencher	\$275.00/day	
Man Lift	\$250.00/day	
Trailer	\$50.00/day	
Electric/Hydraulic Bender	\$10.00/day	½" – 2"
Electric/Hydraulic Bender	\$50.00/day	2½" – 4"
Conduit Threading Machine	\$50.00/day	½" – 2"
Conduit Threading Machine	\$75.00/day	2½" – 4"
Job Trailer with Bender & Threader	\$125.00/day	½" – 4"
Cable Puller	\$30.00/day	
Inverter (2000W or below)	Included	w/ Service Truck
Laptop Computer/Software	\$25.00/hr	Includes PLC & HMI software, RSLogix 5, 500, 5000, RSLinx, Panelbuilder32, RSView, Wonderware, Modicon, GE, Siemens)
RTD Calibrator	\$15.00/day	
Pressure Calibrator	\$15.00/day	
Dry-Well Calibrator/Hot Box	\$25.00/day	
Hydraulic Pump & Gauges (to 6000psi)	\$15.00/day	
Nitrogen Bottle and Regulator Set	\$15.00/day	
Underground Cable Locator	\$150.00/day	
Hot Work Safety Kit	\$100.00/day	Includes ARC flash PPE
Rosemount Hart 275 Communicator	50.00/day	
Temperature Bath 0-100oC	\$50.00/day	
Laser/Virtual Scanner	\$250.00/day	
Cable Test Set (Cat 5, 6)	\$50.00/day	
DeviceNet Diagnostic Meter	\$100.00/day	
Basic Fiber Test Set (Single/Multi-Mode)	\$100.00/day	
Fiber/Cable Network Analyzer	\$250.00/day	
Power Analyzer/Recorder	\$250.00/day	

**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) **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.
- (F) **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 Article 10 of this Agreement; (iv) 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

## Exhibit D

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.

### 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](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.
  - (iv) 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.
  - (v) 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.

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- (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.
- (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.