

1 **SERVICE AGREEMENT**

2 This Service Agreement ("Agreement") is dated January 24, 2023 and is between
3 CITY OF FRESNO, a municipal corporation, whose address is 2323 Mariposa St #2075, Fresno,
4 CA 93721 ("Contractor"), and the County of Fresno, a political subdivision of the State of
5 California ("County").

6 **Recitals**

7 A. Under Assembly Bill 109, the Public Safety Realignment Act (AB 109), signed into law
8 on April 5, 2011, the State of California has realigned responsibilities for probation, post release
9 community supervision (PRCS), and mandatory supervised release of offenders. The State of
10 California has provided funding to County for the purpose of implementing AB 109 services.

11 B. The County requires an additional layer of offender supervision to ensure offender
12 accountability, surveillance, and supervision through mobile, intensive, and evidence-based
13 practices leading to enhanced public safety and offender compliance. Subsequently, the AB 109
14 Implementation Plan of 2011, collectively referred to as the "AB 109 PLAN," includes formation
15 of the Adult Compliance Team (ACT), to create a cooperative unit capable of addressing public
16 safety concerns and issues facing local law enforcement in Fresno County. The ACT is
17 comprised of representatives of the Fresno County Sheriff's Department, the Fresno County
18 District Attorney's Office, the Fresno County Probation Department, and officers of the Clovis,
19 Fresno, Kerman, Kingsburg, Reedley, Sanger, and Selma Police Departments.

20 C. The AB 109 PLAN, including its updates, was developed by the Fresno County
21 Community Corrections Partnership (CCP), and approved by the Fresno County Board of
22 Supervisors. This implementation plan was approved by the CCP on August 19, 2011 and
23 approved by the Board on September 13, 2011.

24 D. The Contractor desires to continue to be a member of the ACT and the County desires
25 to maintain the Contractor as an ACT member, and to continue to implement AB 109 services.

26 E. The Contractor also desires to participate in the Pretrial After-Hours Response as set
27 forth in Exhibit A.

28 The parties therefore agree as follows:

1 **Article 1**

2 **Contractor's Services**

3 1.1 **Scope of Services.** The Contractor shall perform all of the services provided in
4 Exhibit A to this Agreement, titled "Scope of Services."

5 1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and
6 able to perform all of the services provided in this Agreement.

7 1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all
8 applicable federal, state, and local laws and regulations in the performance of its obligations
9 under this Agreement, including but not limited to workers compensation, labor, and
10 confidentiality laws and regulations.

11 **Article 2**

12 **County's Responsibilities**

13 2.1 The County shall compensate the Contractor for an amount equal to the cost of
14 five (5) City of Fresno Police Officers, one (1) City of Fresno Crime Analyst, and one (1) City of
15 Fresno Police Sergeant for assignment to the ACT, not to exceed the maximum amount
16 payable under this Agreement of \$1,660,661.

17 **Article 3**

18 **Compensation, Invoices, and Payments**

19 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for
20 the performance of its services under this Agreement as described in this section.

21 3.2 **Maximum Compensation.** The maximum compensation payable to the Contractor
22 under this Agreement is One Million, Six Hundred Fifty Thousand, One Hundred Fifteen Dollars
23 (\$1,650,115) to participate as an ACT member and implement AB 109 services, plus Ten
24 Thousand Five Hundred Forty-Six Dollars (\$10,546), for Pretrial After-Hours Response
25 activities, during the annual term of this Agreement. In no event shall compensation paid for all
26 services performed under this Agreement exceed One Million Six Hundred Sixty Thousand, Six
27 Hundred Sixty-One Dollars (\$1,660,661) during the term of this Agreement. The Contractor
28 acknowledges that the County is a local government entity, and does so with notice that the

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

7 **3.3 Invoices.** The Contractor shall submit quarterly invoices to County of Fresno
8 Probation Department at ProbationInvoices@FresnoCountyCA.gov. Invoices must be submitted
9 on or after the dates of October 1, 2022 and January 1, April 1, and July 1, 2023, respectively,
10 and include a breakdown of expenses identified in the final approved budget of the CCP for use
11 in executing the mission of ACT. An invoice for Pretrial After-Hours Response activities must be
12 submitted separately. The Contractor shall submit each invoice within 60 days after the quarter
13 in which the Contractor performs services and in any case within 60 days after the end of the
14 term or termination of this Agreement.

15 **3.4 Payment.** The County shall pay each correctly completed and timely submitted
16 invoice within 45 days after receipt. The County shall remit any payment to the Contractor's
17 address specified in the invoice.

18 **3.5 Incidental Expenses.** The Contractor is solely responsible for all of its costs and
19 expenses that are not specified as payable by the County under this Agreement.

20 **Article 4**

21 **Term of Agreement**

22 **4.1 Term.** This Agreement is effective retroactively to July 1, 2022 and terminates on
23 June 30, 2023, except as provided Article 6, "Termination and Suspension," below.

24 **Article 5**

25 **Notices**

26 **5.1 Contact Information.** The persons and their addresses having authority to give and
27 receive notices provided for or permitted under this Agreement include the following:
28

1
2 **For the County:**
3 Chief Probation Officer
4 County of Fresno
5 3333 E. American Avenue, Building 701, Suite B
6 Fresno, CA 93725

7 **For the Contractor:**
8 Chief of Police
9 CITY OF FRESNO
10 2323 Mariposa St #2075
11 Fresno, CA 93721

12 5.2 **Change of Contact Information.** Either party may change the information in section
13 5.1 by giving notice as provided in section 5.3.

14 5.3 **Method of Delivery.** Each notice between the County and the Contractor provided
15 for or permitted under this Agreement must be in writing, state that it is a notice provided under
16 this Agreement, and be delivered either by personal service, by first-class United States mail, by
17 an overnight commercial courier service, by telephonic facsimile transmission, or by Portable
18 Document Format (PDF) document attached to an email.

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

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

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

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

1 **Article 6**

2 **Termination and Suspension**

3 6.1 **Termination for Non-Allocation of Funds.** The terms of this Agreement are
4 contingent on the approval of funds by the appropriating government agency. If sufficient funds
5 are not allocated, then the County, upon at least 30 days' advance written notice to the
6 Contractor, may:

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

9 6.2 **Termination for Breach.**

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

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

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

- 18 (1) Obtained or used funds illegally or improperly;
- 19 (2) Failed to comply with any part of this Agreement;
- 20 (3) Submitted a substantially incorrect or incomplete report to the County; or
- 21 (4) Improperly performed any of its obligations under this Agreement.

22 6.3 **Termination without Cause.** In circumstances other than those set forth above, the
23 County may terminate this Agreement by giving at least 30 days advance written notice to the
24 Contractor.

25 6.4 **No Penalty or Further Obligation.** Any termination of this Agreement by the County
26 under this Article 6 is without penalty to or further obligation of the County.

27 6.5 **County's Rights upon Termination.** Upon termination for breach under this Article
28 6, the County may demand repayment by the Contractor of any monies disbursed to the

1 Contractor under this Agreement that, in the County's sole judgment, were not expended in
2 compliance with this Agreement. The Contractor shall promptly refund all such monies upon
3 demand. This section survives the termination of this Agreement.

4 **Article 7**

5 **Independent Contractor**

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

10 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the
11 manner or method of the Contractor's performance under this Agreement, but the County may
12 verify that the Contractor is performing according to the terms of this Agreement.

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

19 7.4 **Services to Others.** The parties acknowledge that, during the term of this
20 Agreement, the Contractor may provide services to others unrelated to the County.

21 **Article 8**

22 **Indemnity and Defense**

23 8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the
24 County (including its officers, agents, employees, and volunteers) against all claims, demands,
25 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and
26 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to
27 the performance or failure to perform by the Contractor (or any of its officers, agents,
28 subcontractors, or employees) under this Agreement. The County may conduct or participate in

1 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or
2 defend the County.

3 The County shall indemnify and hold harmless and defend the Contractor (including its
4 officers, agents, employees, and volunteers) against all claims, demands, injuries, damages,
5 costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to
6 the County, the Contractor, or any third party that arise from or relate to the performance or
7 failure to perform by the County (or any of its officers, agents, subcontractors, or employees)
8 under this Agreement. The Contractor may conduct or participate in its own defense without
9 affecting the County's obligation to indemnify and hold harmless or defend the Contractor.

10 In the event of concurrent negligence on the part of County or any of its officers, agents, or
11 employees, and Contractor or any of its officers, agents, or employees, the liability for any and
12 all such claims, demands, and actions in law or equity for such losses, costs, expenses, and
13 damages shall be apportioned under the State of California's theory of comparative negligence,
14 as presently established, or as may be modified hereafter.

15 8.2 **Survival.** This Article 8 survives the termination or expiration of this Agreement.

16 **Article 9**

17 **Insurance**

18 9.1 The Contractor shall comply with all the insurance requirements in Exhibit C to this
19 Agreement.

20 **Article 10**

21 **Inspections, Audits, and Public Records**

22 10.1 **Inspection of Documents.** The Contractor shall make available to the County, and
23 the County may examine at any time during business hours and as often as the County deems
24 necessary, all of the Contractor's records and data with respect to the matters covered by this
25 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon
26 request by the County, permit the County to audit and inspect all of such records and data to
27 ensure the Contractor's compliance with the terms of this Agreement.

1 **10.2 State Audit Requirements.** If the compensation to be paid by the County under this
2 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the
3 California State Auditor, as provided in Government Code section 8546.7, for a period of three
4 years after final payment under this Agreement. This section survives the termination of this
5 Agreement.

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

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

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

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

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

24 (E) This Agreement, and any record or data that the Contractor may provide to the
25 County, is subject to public disclosure as information concerning the conduct of the
26 people's business of the State of California under California Constitution, Article 1,
27 section 3, subdivision (b).
28

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

5 **10.4 Public Records Act Requests.** If the County receives a written or oral request
6 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,
7 and which the County has a right, under any provision of this Agreement or applicable law, to
8 possess or control, then the County may demand, in writing, that the Contractor deliver to the
9 County, for purposes of public disclosure, the requested records that may be in the possession
10 or control of the Contractor. Within five business days after the County's demand, the
11 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's
12 possession or control, together with a written statement that the Contractor, after conducting a
13 diligent search, has produced all requested records that are in the Contractor's possession or
14 control, or (b) provide to the County a written statement that the Contractor, after conducting a
15 diligent search, does not possess or control any of the requested records. The Contractor shall
16 cooperate with the County with respect to any County demand for such records. If the
17 Contractor wishes to assert that any specific record or data is exempt from disclosure under the
18 CPRA or other applicable law, it must deliver the record or data to the County and assert the
19 exemption by citation to specific legal authority within the written statement that it provides to
20 the County under this section. The Contractor's assertion of any exemption from disclosure is
21 not binding on the County, but the County will give at least 10 days' advance written notice to
22 the Contractor before disclosing any record subject to the Contractor's assertion of exemption
23 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs
24 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,
25 failure to produce any such records, or failure to cooperate with the County with respect to any
26 County demand for any such records.

1 **Article 11**

2 **Disclosure of Self-Dealing Transactions**

3 11.1 **Applicability.** This Article 11 applies if the Contractor is operating as a corporation,
4 or changes its status to operate as a corporation.

5 11.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a
6 self-dealing transaction, he or she shall disclose the transaction by completing and signing a
7 "Self-Dealing Transaction Disclosure Form" (Exhibit B to this Agreement) and submitting it to the
8 County before commencing the transaction or immediately after.

9 11.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is
10 a party and in which one or more of its directors, as an individual, has a material financial
11 interest.

12 **Article 12**

13 **General Terms**

14 12.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this
15 Agreement may not be modified, and no waiver is effective, except by written agreement signed
16 by both parties. The Contractor acknowledges that County employees have no authority to
17 modify this Agreement except as expressly provided in this Agreement.

18 12.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
19 under this Agreement without the prior written consent of the other party.

20 12.3 **Governing Law.** The laws of the State of California govern all matters arising from
21 or related to this Agreement.

22 12.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
23 County, California. Contractor consents to California jurisdiction for actions arising from or
24 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
25 brought and maintained in Fresno County.

26 12.5 **Construction.** The final form of this Agreement is the result of the parties' combined
27 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
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1 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
2 against either party.

3 12.6 **Days.** Unless otherwise specified, "days" means calendar days.

4 12.7 **Headings.** The headings and section titles in this Agreement are for convenience
5 only and are not part of this Agreement.

6 12.8 **Severability.** If anything in this Agreement is found by a court of competent
7 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
8 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
9 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
10 intent.

11 12.9 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall
12 not unlawfully discriminate against any employee or applicant for employment, or recipient of
13 services, because of race, religious creed, color, national origin, ancestry, physical disability,
14 mental disability, medical condition, genetic information, marital status, sex, gender, gender
15 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
16 all applicable State of California and federal statutes and regulation.

17 12.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
18 of the Contractor under this Agreement on any one or more occasions is not a waiver of
19 performance of any continuing or other obligation of the Contractor and does not prohibit
20 enforcement by the County of any obligation on any other occasion.

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

1 12.12 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
2 create any rights or obligations for any person or entity except for the parties.

3 12.13 **Authorized Signature.** The Contractor represents and warrants to the County that:

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

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

9 12.14 **Electronic Signatures.** The parties agree that this Agreement may be executed by
10 electronic signature as provided in this section.

11 (A) An "electronic signature" means any symbol or process intended by an individual
12 signing this Agreement to represent their signature, including but not limited to (1) a
13 digital signature; (2) a faxed version of an original handwritten signature; or (3) an
14 electronically scanned and transmitted (for example by PDF document) version of an
15 original handwritten signature.

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

21 (C) The provisions of this section satisfy the requirements of Civil Code section
22 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
23 Part 2, Title 2.5, beginning with section 1633.1).

24 (D) Each party using a digital signature represents that it has undertaken and
25 satisfied the requirements of Government Code section 16.5, subdivision (a),
26 paragraphs (1) through (5), and agrees that each other party may rely upon that
27 representation.
28

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

4 12.15 **Counterparts.** This Agreement may be signed in counterparts, each of which is an
5 original, and all of which together constitute this Agreement.

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

2 CITY OF FRESNO

COUNTY OF FRESNO

3
4
5 Paco Balderrama, Chief of Police

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

6 2323 Mariposa St #2075
7 Fresno, CA 93721

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

8 Attest:
9 Todd Stermer, CMC
City Clerk

By: _____
Deputy

10
11 By: June M. Y 12-21-22
12 Deputy Records Supervisor

13 Approved as to form:
14 Andrew Janz
City Attorney

15
16 By: Pauline Brickey
17 Pauline Brickey
Deputy City Attorney

18
19 For accounting use only:

20 Org No.: 34309999
21 Account No.: 7295
22 Fund No.: 0001
23 Subclass No.: 10000
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Exhibit A

Scope of Services

AB 109

The Criminal Justice Realignment

Act Adult Compliance Team

(ACT)

November 2022

OPERATING AGREEMENT

- Fresno County Probation Department
- Fresno County Sheriff's Department
- Fresno County District Attorney's Office
- Fresno Police Department
- Clovis Police Department
- Selma Police Department
- Reedley Police Department
- Kerman Police Department
- Kingsburg Police Department
- Sanger Police Department

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Exhibit A

I. PURPOSE

This document establishes the purpose of the Adult Compliance Team (ACT) as a joint and cooperative effort. Additionally, it formalizes relationships between participating agencies for policy and planning in order to create a cooperative unit capable of addressing the public safety concerns and issues facing local law enforcement in Fresno County regarding probation supervision, Post Release Community Supervision (PRCS), and Mandatory Supervision (MS) that may occur due to the passage of the Criminal Justice Realignment Act (AB 109) effective October 1, 2011.

II. MISSION

The mission of ACT is to provide an additional layer of offender supervision to ensure offender accountability, surveillance, and supervision through mobile, intensive and evidence-based practices leading to enhanced public safety and offender compliance.

III. GOALS

- A. To reduce the occurrence of new criminal acts by targeting offenders on probation, PRCS, and MS, with intensive surveillance by peace officers dedicated to enforcement of conditions of release.
- B. To identify supervised offenders who are not meeting their conditions of release in order to ensure compliance.
- C. To mitigate the need for custodial sanctions through appropriate early interventions.
- D. To document trends in the realignment population and respond efficiently to emerging trends that adversely affect public safety.
- E. To gather, collect, and provide information and direction regarding the probation supervision, PRCS, MS and realignment populations for all law enforcement agencies in the County of Fresno and act as the point of contact for dissemination of offender information to law enforcement.
- F. To respond rapidly to emergency situations with knowledge and information about the offenders.
- G. To provide other public safety responses including searches as authorized by the terms of release and warrant services, as needed.

IV. GENERAL OPERATIONAL STRATEGIES

Exhibit A

1 Intensive supervision based on offender assessment, combined with evidence-based
2 practices, forms the cornerstone of the County of Fresno AB 109 supervision model.
3 This intensive approach is seen in the formation of ACT; an interagency public safety
4 alliance with local law enforcement agencies and county justice partners that provides
5 an additional level of offender accountability and public safety. The "strike team"
6 concept is used to describe peace officers under ACT, dedicated to particular
7 enforcement and public safety purposes, with an immediate capacity to take action in
8 regard to offenders under probation supervision, PRCS, and MS by the Fresno County
9 Probation Department.

10 To this end, the participating agencies developed these operational guidelines and
11 procedures concerning the formation of the Adult Compliance Team. The participating
12 agencies agree jointly and separately to abide by these terms and provisions set forth
13 throughout the formation of the joint operation.

V. ORGANIZATIONAL STRUCTURE

14 The Adult Compliance Team will be co-located at the Fresno County Probation
15 Department. The Probation Department is the commanding agency of ACT and
16 will maintain responsibility for the administrative direction, objective, and mission
17 of the Adult Compliance Team.

18 The team will consist of sworn officers from the following agencies: two (2) deputy
19 probation officers from the Fresno County Probation Department; one (1) sergeant
20 from the Fresno County Sheriff's Department; two (2) deputies from the Fresno County
21 Sheriff's Department; two (2) senior district attorney investigators from the Fresno
22 County District Attorney's Office; one (1) sergeant from the Fresno Police Department;
23 ~~three~~ (3) police officers from the Fresno Police Department; one (1) police officer from
24 the Clovis Police Department; one (1) crime specialist from the Clovis Police Department;
25 one (1) police officer from the Selma Police Department; one (1) police officer from the
26 Reedley Police Department; one (1) police officer from the Kerman Police Department;
27 one (1) police officer from the Kingsburg Police Department; and one (1) police officer
28 from the Sanger Police Department. Dependent upon future funding, the size of ACT
may fluctuate according to the number of officers and agencies.

A. Policy and Direction

Under the policy and planning direction of the Community Corrections Partnership (CCP), ACT will utilize an Advisory Sub-Committee of CCP.

B. ACT Advisory Sub-Committee of the CCP

Each law enforcement agency that assigns personnel to ACT may designate a member to the ACT Advisory Sub-Committee of the CCP. All law enforcement agencies operating within Fresno County with an interest in ACT are welcome to

Exhibit A

1 attend the meetings of the ACT Advisory Sub-Committee.

2 Appointments to and removal from the ACT Advisory Sub-Committee and
3 appointment of a Sub-Committee Chairperson will be made by the CCP
4 Executive Committee.

5 C. Operations Commander

6 The Probation Assistant Deputy Chief is the Operations Commander and has
7 overall responsibility for the operation of ACT. The Operations Commander
8 implements direction to the team under the administrative direction of the
9 Fresno County Probation Department's Realignment Division Deputy Chief.
10 The Operations Commander will liaison with individual members of the ACT
11 Advisory Sub-Committee and will attend meetings of the CCP as required.

12 D. Field Supervisor

13 The assigned Field Supervisor(s) will be the day-to-day operations supervisor(s)
14 and responsible for overall coordination of tactical field operations. When ACT
15 works as separate elements and both supervisors are working, each supervisor will
16 be responsible for their assigned element. When only one supervisor is on duty,
17 that supervisor will be responsible for the supervision of both elements.

18 E. Probation Department

19 All probation conditions and release compliance remain the responsibility of
20 the AB 109 probation officer assigned to a specific offender. These conditions
21 are predetermined before release from custody to probation, post release
22 community supervision, or mandatory supervised release. The offenders will
23 be under the supervision of their assigned probation officer or ACT probation
24 officer.

25 VI. OPERATIONS

26 A. Supervision and Field Responsibility

27 The use of surveillance, supervision, and field contacts will be established in
28 conjunction with Fresno County Probation Department policies and as
29 established by the CCP Executive Committee, ACT Advisory Sub-Committee,
30 and policies and procedures of general law enforcement accepted practices
31 as established by statute and case law.

All ACT personnel will conform to their own agency's policies and procedures
as well as policies and procedures that may be required by participation in ACT.

Exhibit A

B. Records and Reports

All reports created by ACT related to contacts with those offenders under probation supervision, PRCS, and MS will be entered into the Probation Records Information Management System (PRIMS).

All agencies participating on the Adult Compliance Team will have full access to Sharenet and the information in PRIMIS. Information sharing with other law enforcement agencies regarding offenders under probation supervision, PRCS, and MS, allowing for appropriate law enforcement response is a priority for ACT.

Any additional crime, arrest, or incident report will be documented by the primary investigative officer through the use of their own departmental report writing system.

C. Pretrial After-Hours Response

As part of the Fresno County Probation Department's Pretrial expansion, officers will respond to after-hours GPS violations, questions, and technical problems. Two armed Deputy Probation Officers, along with one ACT Officer, must be available to respond to such matters in the field.

- ACT Team members will be scheduled/assigned on a rotational basis to respond to such matters.
- ACT Team members on rotation shall be designated on standby when not working regularly scheduled hours to assist the Pretrial Officers.
- ACT Officers assigned will be compensated with standby pay in accordance with their respective agency MOU's and overtime.
- ACT Officers assigned and responding to field matters will be compensated at time and half, (1½) their base hourly rate, with a minimum of two (2) hours.
- ACT personnel are expected to be assigned approximately 3 non-consecutive weeks per year.
- All in-force memorandum of understanding provisions not modified by this agreement shall remain in effect.
- Each participating agency's management reserves the right and authority to discontinue the participation of any of their particular employees in this agreement at any time. A two (2) week notice, if practicable, shall be given to the impacted employee. Such discontinuance shall not be appealable or grievable.

Exhibit A

VII. ADMINISTRATION

A. Financial Administration

Financial administration of ACT funds allocated by the CCP Executive Committee will be the responsibility of the Fresno County Probation Department Business Office through the duration of the program. In addition, the allocation and management of funds are guided by County of Fresno Fiscal Policy and under the review quarterly of the CCP Finance and Audit Sub-Committee for presentation to the CCP.

B. Vehicles

As provided for in the approved CCP budget, vehicles will be provided for probation staff and for participating law enforcement officers for use in executing the mission of ACT, as specified in the final approved budget of the CCP and Fresno County. Each agency shall provide vehicles, as well as insurance and maintenance costs for those vehicles, for their respective employees.

C. Communications

Each participating law enforcement agency will provide communications equipment for its own personnel through the duration of the OA. Each agency is responsible for its interagency communication operability. The policies and procedures of each agency will govern communication by its own personnel. The Fresno County Sheriff's Dispatch will be the primary contact for operations of ACT.

D. Firearms

Each participating agency will provide all necessary firearms for its own personnel through the duration of the OA. The policies and procedures of each agency will govern the use of firearms by its own personnel.

E. Equipment and Property

Any property, equipment or other items acquired with funds allocated by the CCP Executive Committee shall be the property of ACT through the duration of the OA. Upon termination of this OA or any revision, the property of ACT shall be distributed as determined by the CCP Executive Committee.

F. Training

ACT Officers will complete training as assigned and approved by the ACT Advisory Sub-Committee chairperson or their designee. Training for the team will be outlined

Exhibit A

1 during the fiscal year to reflect the needs of the team. The Probation Department's
2 Realignment Division Deputy Chief may also assign training to the ACT members
3 as it pertains to the Evidence-Based Practices outlined by the AB 109 program.

4 G. Personnel Management

5 The selection of ACT members will be made by each participating agency. If any
6 of the ACT policies and procedures conflict with any of the participating agencies'
7 policies and procedures, notice of the conflict shall be immediately given to a
8 supervisor. The supervisor will take whatever action necessary to reconcile the
9 conflict.

10 Each participating agency retains full responsibility for the professional and
11 personal conduct of its own personnel assigned to ACT. Each participating agency
12 will follow its agency directives/MOU for working modified schedules.

11 VIII. MULTI-AGENCY ADMINISTRATIVE CONCERNS

12 All ACT personnel will conform to their own agencies' policies and procedures as well
13 as policies and procedures that may be required by participation in ACT.

14
15 There are a number of categories of administrative issues or situations pertaining to
16 individual team members which will or may arise. Those include but are not limited to:

- 17 A. Citizen Complaints
- 18 B. Employee Evaluations
- 19 C. On-Duty Motor Vehicle Accidents
- 20 D. Injuries Sustained on Duty
- 21 E. Officer-Involved Shooting
- 22 F. Discharge of Firearm
- 23 G. Vehicle Pursuits
- 24 H. Use of Force

25 Each participating team member's agency has in place an administrative process
26 for addressing the situations listed above. Should these situations occur, ACT will
27 immediately notify the involved officer's agency. It will remain the responsibility of
28 the involved officer's agency to address those situations pursuant to their own
administrative process. All agencies involved in a critical incident will have the
opportunity to observe other agency interviews with their own employees.

IX. DURATION

This OA shall become effective upon execution and shall continue without change

Exhibit A

1 until amended in accordance with Section X or terminated as discussed below.

2 Participation in ACT by any participating agency may continue as funding provides or
3 until said agency terminates participation in ACT. An agency shall terminate
4 participation in the following manner: delivery of written notice to the Chairperson of
5 the CCP Executive Committee and to all other participation agencies, with termination
6 to be effective 60 days after delivery.

7 As to each participating agency, this OA will be in force from the date that agency
8 signs the agreement. Termination of the OA has been provided for above.

9 X. AMENDMENT

10 Any member of the ACT Advisory Sub-Committee may propose an amendment to this
11 OA by submitting it at any regular meeting of the ACT Advisory Sub-Committee. The
12 proposed amendment would be submitted to the Executive Committee of the
13 Community Corrections Partnership for their consideration and approval.

14 XI. LIABILITY

15 Each participating agency will be solely responsible for any and all damages, including
16 attorney's fees, results from acts or omissions of its own employees or agents,
17 including each ACT assigned employee. Each participating agency shall indemnify and
18 hold harmless all other participating agencies for these acts or omissions. The
19 provisions contained herein include any violation of applicable law, ordinance,
20 regulation or rule, including where the claim, loss, damage, charge or expense was
21 caused by deliberate, willful or criminal acts of any agency, or any of its agents, officers
22 or employees in its or their performance thereunder.

23 It is the intent of the parties hereto that, where negligence is determined to have been
24 contributory, principles of comparative negligence will be followed, and each party
25 shall bear the proportionate cost of any loss, damage, expense, and liability
26 attributable to that party's negligence.

27 The participating agencies will establish procedures to notify the other agencies,
28 where appropriate, of any claims, administrative actions or legal actions with respect
to any of the matter described in this indemnification provision. The agencies shall
cooperate in the defense of such actions brought by others with respect to the matters
covered in this agreement. Nothing set forth in this OA shall establish a standard of
care for, or create any legal rights in, any person not a party to this OA.

Exhibit A

XII. NON-WAIVER

1
2 Waiver of any breach or default hereunder will not constitute a continuing waiver or a
3 waiver of any subsequent breach, of either the same or another provision of this OA.

XIII. SEVERABILITY

4
5 If any term, covenant, or condition of this OA is held by a court of competent
6 jurisdiction to be invalid, the remainder of this OA will remain in full force and effect.

XIV. AMBIGUITY

7
8 The participating agencies have each carefully reviewed this OA and have agreed to
9 each term of this OA. No ambiguity shall be presumed to be construed against any
10 other party.

XV. GOVERNING LAW

11
12 The interpretation and enforcement of this OA will be governed by the laws of the
13 State of California, and where applicable, by federal law. The participating agencies
14 agree to submit any disputes arising under this OA to a court of competent jurisdiction
located in Fresno, California.

XVI. INTEGRATION

15
16 The OA embodies the entire agreement of the participating agencies in relation to the
17 formation and operation of ACT, except for "Program Costs." Except for that, there is no
18 other agreement or understanding, verbal or otherwise, existing among the
19 participating agencies. This OA expressly replaces and supersedes the prior OA, dated
20 May 2021, and that OA shall have no further force and effect.
21
22
23
24
25
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28

Exhibit A

XVII. SUPPORTING AGENCIES

The following Agencies support the mission and strategies of ACT:

Kirk Haynes, Chief Probation Officer
County of Fresno

Dated

Lisa A. Smittcamp, District Attorney
County of Fresno

Dated

Margaret Mims, Sheriff
County of Fresno

Dated

Paco Balderrama, Chief of Police
City of Fresno

Dated

Curt Fleming, Chief of Police
City of Clovis

Dated

Rudy Alcaraz, Chief of Police
City of Selma

Dated

Jose L Garza, Chief of Police
City of Reedley

Dated

John Golden, Chief of Police
City of Kerman

Dated

Neil Dadian, Chief of Police
City of Kingsburg

Dated

Exhibit A

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Greg Garner, Chief of Police
City of Sanger

Dated

Exhibit B

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 B

(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 C

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) **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.

If the Contractor is a governmental entity, it may satisfy the policy requirements above through a program of self-insurance, including an insurance pooling arrangement or joint exercise of powers agreement.

Exhibit C

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 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 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.

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.

- (B) **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.

Exhibit C

- (C) **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.
- (D) **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.
- (E) **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.
- (F) **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.