

**A G R E E M E N T**

THIS AGREEMENT ("Agreement") is made and entered into this 24th day of August, 2021, by and between the COUNTY OF FRESNO, a political subdivision of the State of California ("COUNTY"), and FRESNO COUNTY SUPERINTENDENT OF SCHOOLS ("FCSS"), whose address is 1111 Van Ness Avenue, Fresno, CA 93721, for the purpose of providing a high quality educational program for the students of the Juvenile Justice Realignment Group, as defined herein, including instructional services, instructional materials, and administrative services for the educational program.

W I T N E S S E T H:

WHEREAS, due to the Division of Juvenile Justice (DJJ) Realignment, pursuant to SB 823, the DJJ will stop accepting new youth after June 30, 2021, and the COUNTY will become responsible for the care, custody, and supervision of youth who are realigned from the state DJJ, or who would otherwise be eligible for commitment to DJJ ("Juvenile Justice Realignment Group");

WHEREAS, FCSS is positioned to provide and extend services to the Juvenile Justice Realignment Group;

WHEREAS, FCSS does not have funding allocated to support a teaching position for the Juvenile Justice Realignment Group;

WHEREAS, the COUNTY will receive funding through SB 823 Juvenile Justice Realignment Block Grant Plan in order to transfer jurisdiction for the care, custody and supervision of high-risk youth from the DJJ to the County, and such funds may also be utilized to meet the educational needs of these youth; and

WHEREAS, the COUNTY would like to enter into an agreement with FCSS so that FCSS may provide these services to the students of the Juvenile Justice Realignment Group.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. OBLIGATIONS OF FCSS

A. FCSS shall provide a high-quality educational program for the students of the Juvenile Justice Realignment Group, including instructional services, instructional materials, and administrative services for the educational program.

1 B. FCSS shall provide certificated teachers to teach the students of the Juvenile  
2 Justice Realignment Group.

3 C. FCSS shall provide special education and related services to any eligible student  
4 in the Juvenile Justice Realignment Group, as determined by the student's Individualized Education  
5 Program (IEP) team.

6 D. FCSS shall provide a representative to be part of the Fresno County Probation  
7 Department intake/orientation process as students from the Juvenile Justice Realignment Group enter  
8 the Juvenile Justice Campus ("JJC").

9 E. FCSS shall provide a representative to support the transition services team for  
10 students of the Juvenile Justice Realignment Group as they exit the JJC.

11 F. FCSS shall provide a representative to be part of the Fresno County Probation  
12 Department Juvenile Justice Realignment Coordinating Council, and sub-committees created from the  
13 Council.

14 G. FCSS shall not have exclusive use of any space at the JJC.

15 H. FCSS acknowledges that the JJC has been acquired, constructed, or improved  
16 using net proceeds of governmental tax-exempt bonds. FCSS shall not perform any services under this  
17 Agreement using a vendor, and FCSS agrees that any such agreement with a vendor is not effective,  
18 unless both of the following requirements are satisfied:

19 i. Any agreement between FCSS and its vendor that will perform services  
20 under this Agreement must include the following language: "The Vendor acknowledges that it will be  
21 providing services to persons housed at the County of Fresno's Juvenile Justice Campus ('JJC') and  
22 that the JJC has been acquired, constructed, or improved by using net proceeds of governmental tax-  
23 exempt bonds ('Bond-Financed Facility'). The Vendor agrees that, with respect to this Agreement and  
24 the Bond Financed Facility, the Vendor is not entitled to take, and shall not take, any position (also  
25 known as a 'tax position') with the Internal Revenue Service ('IRS') that is inconsistent with being a  
26 'service provider' to FCSS and the County of Fresno, as a 'qualified user' with respect to the Bond-  
27 Financed Facility, as 'managed property,' as all of those terms are used in Internal Revenue Service  
28 Revenue Procedure 2017-13, and to that end, for example, and not as a limitation, the Vendor agrees

1 that the Vendor shall not, in connection with any federal income tax return that it files with the IRS or any  
2 other statement or information that it provides to the IRS, (a) claim ownership, or that it is a lessee, of  
3 any portion of the Bond Financed Facilities, or (b) claim any depreciation or amortization deduction,  
4 investment tax credit, or deduction for any payment as rent with respect to the Bond-Financed Facility.”

5           ii.           Any agreement between FCSS and its vendor that will perform services  
6 under this Agreement must have the prior written approval of the COUNTY under section 8 of this  
7 agreement and as provided in this section 1.H.ii. That written approval will only be given after the  
8 COUNTY has reviewed the proposed agreement between FCSS and its vendor solely for the purpose of  
9 ensuring federal income tax compliance in connection with the governmental tax-exempt bonds whose  
10 net proceeds were used to acquire, construct, or improve the JJC. That written approval may be given  
11 by the COUNTY’s Chief Probation Officer or their designee.

12           2.           OBLIGATIONS OF THE COUNTY

13           A.           COUNTY’S Probation Department shall compensate and remit to FCSS an  
14 amount that will fund the cost of one certificated teacher to educate the Students of the Juvenile Justice  
15 Realignment Group, which shall not exceed ten students.

16           B.           COUNTY’S Probation Department will coordinate with FCSS and/or a selected  
17 vendor to provide evidence-based behavioral management curriculum that is designed to increase  
18 academic success, build character, and increase positive behaviors in students of the Juvenile  
19 Justice Realignment Group.

20           3.           TERM

21           The term of this Agreement shall be for a period of one (1) year, retroactively commencing on July  
22 1, 2021, through and including June 30, 2022. This Agreement may be extended for four (4) additional  
23 consecutive twelve (12) month periods, upon written approval of both parties no later than thirty (30) days  
24 prior to the first day of the next twelve (12) month extension. The Chief Probation Officer or his or her  
25 designee is authorized to execute such written approval on behalf of the COUNTY based on satisfactory  
26 performance.

27           4.           TERMINATION

28           A.           Non-Allocation of Funds - The terms of this Agreement, and the services to be

1 provided hereunder, are contingent on the approval of funds by the appropriating government agency.  
2 Should sufficient funds not be allocated, the services provided may be modified, or this Agreement  
3 terminated, at any time by giving FCSS thirty (30) days advance written notice.

4 B. Breach of Contract - The COUNTY may immediately suspend or terminate this  
5 Agreement in whole or in part, where in the determination of the COUNTY there is:

- 6 1) An illegal or improper use of funds;
- 7 2) A failure to comply with any term of this Agreement;
- 8 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 9 4) Improperly performed service.

10 In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach  
11 of this Agreement or any default which may then exist on the part of FCSS. Neither shall such payment  
12 impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The  
13 COUNTY shall have the right to demand of FCSS the repayment to the COUNTY of any funds disbursed to  
14 FCSS under this Agreement, which in the judgment of the COUNTY were not expended in accordance with  
15 the terms of this Agreement. FCSS shall promptly refund any such funds upon demand.

16 C. Without Cause - Under circumstances other than those set forth above, this  
17 Agreement may be terminated by COUNTY upon the giving of thirty (30) days advance written notice of an  
18 intention to terminate to FCSS.

19 5. COMPENSATION/INVOICING: COUNTY agrees to pay FCSS, and FCSS agrees to  
20 receive monthly compensation in the amount of twelve thousand, five hundred dollars (\$12,500) for the first  
21 year of the Agreement. Should the Agreement be extended beyond the first year, compensation shall  
22 increase by five percent (5%) for each subsequent year, for general operating cost increases.

23 FCSS shall submit monthly invoices in triplicate to the County of Fresno Probation Department,  
24 either by mail to the Business Office, 3333 E. American Avenue, Suite B, Fresno, CA 93725, or  
25 electronically to: [ProbationInvoices@co.fresno.ca.us](mailto:ProbationInvoices@co.fresno.ca.us).

26 Under no circumstances shall compensation paid by the COUNTY to FCSS under this Agreement  
27 exceed One Hundred Fifty Thousand Dollars (\$150,000) during the first year of this Agreement. If  
28 extended, under no circumstances shall compensation paid by the COUNTY to FCSS under this

1 Agreement exceed One Hundred Fifty-Seven Thousand, Five Hundred Dollars (\$157,500) during the  
2 second year of this Agreement. If extended, under no circumstances shall compensation paid by the  
3 COUNTY to FCSS under this Agreement exceed One Hundred Sixty-Five Thousand, Three Hundred  
4 Seventy-Five Dollars (\$165,375) during the third year of this Agreement. If extended, under no  
5 circumstances shall compensation paid by the COUNTY to FCSS under this Agreement exceed One  
6 Hundred Seventy-Three Thousand, Six Hundred Forty-Four Dollars (\$173,644) in the fourth year of this  
7 Agreement. If extended, under no circumstances shall compensation paid by the COUNTY to FCSS under  
8 this Agreement exceed One Hundred Eighty-Two Thousand, Three Hundred Twenty-Six Dollars  
9 (\$182,326) for the fifth year of this Agreement. In no event shall compensation paid for services performed  
10 under this Agreement exceed Eight Hundred Twenty-Eight Thousand, Eight Hundred Forty-Five dollars  
11 (\$828,845) during the total potential five-year term of this Agreement.

12 Payments by COUNTY shall be in arrears, for services provided during the preceding month, within  
13 forty-five (45) days after receipt and verification of FCSS' invoices by COUNTY'S Probation Department.

14 6. INDEPENDENT CONTRACTOR: In performance of the work, duties and obligations  
15 assumed by FCSS under this Agreement, it is mutually understood and agreed that FCSS, including any  
16 and all of FCSS' officers, agents, and employees will at all times be acting and performing as an  
17 independent contractor, and shall act in an independent capacity and not as an officer, agent, servant,  
18 employee, joint venturer, partner, or associate of the COUNTY. Furthermore, COUNTY shall have no right  
19 to control or supervise or direct the manner or method by which FCSS shall perform its work and function.  
20 However, COUNTY shall retain the right to administer this Agreement so as to verify that FCSS is  
21 performing its obligations in accordance with the terms and conditions thereof.

22 FCSS and COUNTY shall comply with all applicable provisions of law and the rules and regulations,  
23 if any, of governmental authorities having jurisdiction over matters the subject thereof.

24 Because of its status as an independent contractor, FCSS shall have absolutely no right to  
25 employment rights and benefits available to COUNTY employees. FCSS shall be solely liable and  
26 responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In  
27 addition, FCSS shall be solely responsible and save COUNTY harmless from all matters relating to  
28 payment of FCSS' employees, including compliance with Social Security withholding and all other

1 regulations governing such matters. It is acknowledged that during the term of this Agreement, FCSS may  
2 be providing services to others unrelated to the COUNTY or to this Agreement.

3 7. MODIFICATION: Any matters of this Agreement may be modified from time to time by the  
4 written consent of all the parties without, in any way, affecting the remainder.

5 8. NON-ASSIGNMENT: Neither party shall assign, transfer or sub-contract this Agreement  
6 nor their rights or duties under this Agreement without the prior written consent of the other party.

7 9. HOLD HARMLESS: The COUNTY agrees to indemnify, save, hold harmless, and at FCSS'  
8 request, defend FCSS, its officers, agents, and employees from any and all costs and expenses (including  
9 attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to FCSS in  
10 connection with the performance, or failure to perform, by the COUNTY, its officers, agents, or employees  
11 under this Agreement, and from any and all costs and expenses (including attorney's fees and costs),  
12 damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may  
13 be injured or damaged by the performance, or failure to perform, of the COUNTY, its officers, agents, or  
14 employees under this Agreement.

15 FCSS agrees to indemnify, save, hold harmless, and at the COUNTY'S request, defend the  
16 COUNTY, its officers, agents, and employees from any and all costs and expenses (including attorney's  
17 fees and costs), damages, liabilities, claims, and losses occurring or resulting to the COUNTY in connection  
18 with the performance, or failure to perform, by FCSS, its officers, agents, or employees under this  
19 Agreement, and from any and all costs and expenses (including attorney's fees and costs), damages,  
20 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured  
21 or damaged by the performance, or failure to perform, of FCSS, its officers, agents, or employees under  
22 this Agreement.

23 In event of concurrent negligence on the part of the COUNTY or any of its officers, agents or  
24 employees, and FCSS or any of its officers, agents, or employees, the liability for any and all such claims,  
25 demands, and actions in law or equity for such losses, fines, penalties, forfeitures, costs and damages shall  
26 be apportioned under the State of California's theory of comparative negligence as presently established or  
27 as may be modified hereafter.

28 This Section 9 shall survive termination or expiration of this Agreement.

1           10.    INSURANCE

2           Without limiting the COUNTY's right to obtain indemnification from FCSS or any third parties, FCSS,  
3 at its sole expense, shall maintain in full force and effect, the following insurance policies or a program of  
4 self-insurance, including but not limited to, an insurance pooling arrangement or Joint Powers Agreement  
5 (JPA) throughout the term of the Agreement.

6                   A.    Commercial General Liability

7           Commercial General Liability Insurance with limits of not less than Two Million Dollars  
8 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This  
9 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including  
10 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal  
11 liability or any other liability insurance deemed necessary because of the nature of this contract.

12                   B.   Automobile Liability

13           Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars  
14 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto  
15 used in connection with this Agreement.

16                   C.   Professional Liability

17           If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in  
18 providing services, Professional Liability Insurance with limits of not less than One Million Dollars  
19 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate. CONTRACTOR  
20 agrees that it shall maintain, at its sole expense, in full force and effect for a period of three (3) years  
21 following the termination of this Agreement, one or more policies of professional liability insurance with  
22 limits of coverage as specified herein.

23                   D.   Worker's Compensation

24           A policy of Worker's Compensation insurance as may be required by the California Labor  
25 Code.

26                   E.   Molestation

27           Sexual abuse / molestation liability insurance with limits of not less than One Million Dollars  
28 (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) annual aggregate. This policy shall be

1 issued on a per occurrence basis.

2 Additional Requirements Relating to Insurance

3 FCSS shall obtain endorsements to the Commercial General Liability insurance naming the County  
4 of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only  
5 insofar as the operations under this Agreement are concerned. Such coverage for additional insured shall  
6 apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers,  
7 agents and employees shall be excess only and not contributing with insurance provided under FCSS's  
8 policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days  
9 advance written notice given to COUNTY.

10 FCSS hereby waives its right to recover from COUNTY, its officers, agents, and employees any  
11 amounts paid by the policy of worker's compensation insurance required by this Agreement. FCSS is solely  
12 responsible to obtain any endorsement to such policy that may be necessary to accomplish such waiver of  
13 subrogation, but FCSS's waiver of subrogation under this paragraph is effective whether or not FCSS  
14 obtains such an endorsement.

15 Within Thirty (30) days from the date FCSS signs and executes this Agreement, FCSS shall provide  
16 certificates of insurance and endorsement as stated above for all of the foregoing policies, as required  
17 herein, to the County of Fresno, (Chief Probation Officer, 3333 E. American Ave, Suite B, Fresno, California  
18 93725), stating that such insurance coverage have been obtained and are in full force; that the County of  
19 Fresno, its officers, agents and employees will not be responsible for any premiums on the policies; that for  
20 such worker's compensation insurance the CONTRACTOR has waived its right to recover from the  
21 COUNTY, its officers, agents, and employees any amounts paid under the insurance policy and that waiver  
22 does not invalidate the insurance policy; that such Commercial General Liability insurance names the  
23 County of Fresno, its officers, agents and employees, individually and collectively, as additional insured, but  
24 only insofar as the operations under this Agreement are concerned; that such coverage for additional  
25 insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by  
26 COUNTY, its officers, agents and employees, shall be excess only and not contributing with insurance  
27 provided under FCSS's policies herein; and that this insurance shall not be cancelled or changed without a  
28 minimum of thirty (30) days advance, written notice given to COUNTY.



1 In the event FCSS fails to keep in effect at all times insurance coverage as herein provided, the  
2 COUNTY may, in addition to other remedies it may have, suspend or terminate this Agreement upon the  
3 occurrence of such event.

4 All policies shall be issued by admitted insurers licensed to do business in the State of California,  
5 and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A  
6 FSC VII or better.

7 11. AUDITS AND INSPECTIONS: FCSS shall, at any time during business hours, and as  
8 often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its  
9 records and data with respect to the matters covered by this Agreement. FCSS shall, upon request by  
10 the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to  
11 ensure FCSS' compliance with the terms of this Agreement.

12 If this Agreement exceeds ten thousand dollars (\$10,000.00), FCSS shall be subject to the  
13 examination and audit of the California State Auditor for a period of three (3) years after final payment  
14 under contract (Government Code Section 8546.7).

15 12. NOTICES: The persons and their addresses having authority to give and receive notices  
16 under this Agreement include the following:

<u>COUNTY</u>	<u>CONTRACTOR</u>
COUNTY OF FRESNO	FCSS
Chief Probation Officer	Fresno County Superintendent of Schools
3333 E. American Ave., Suite B	1111 Van Ness Avenue
Fresno, CA 93725	Fresno, CA 93721

20 All notices between the COUNTY and FCSS provided for or permitted under this Agreement must  
21 be in writing and delivered either by personal service, by first-class United States mail, by an overnight  
22 commercial courier service, or by telephonic facsimile transmission. A notice delivered by personal service  
23 is effective upon service to the recipient. A notice delivered by first-class United States mail is effective  
24 three COUNTY business days after deposit in the United States mail, postage prepaid, addressed to the  
25 recipient. A notice delivered by an overnight commercial courier service is effective one COUNTY business  
26 day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery  
27 instructions given for next day delivery, addressed to the recipient. A notice delivered by telephonic  
28 facsimile is effective when transmission to the recipient is completed (but, if such transmission is completed

1 outside of COUNTY business hours, then such delivery shall be deemed to be effective at the next  
2 beginning of a COUNTY business day), provided that the sender maintains a machine record of the  
3 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section  
4 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,  
5 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,  
6 beginning with section 810).

7 13. GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall  
8 only be in Fresno County, California.

9 The rights and obligations of the parties and all interpretation and performance of this Agreement  
10 shall be governed in all respects by the laws of the State of California.

11 14. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between FCSS  
12 and COUNTY with respect to the subject matter hereof, and supersedes all previous Agreement  
13 negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any  
14 nature whatsoever, unless expressly included in this Agreement.

15 15. ELECTRONIC SIGNATURES. The parties agree that this Agreement may be executed by  
16 electronic signature as provided in this section. An "electronic signature" means any symbol or process  
17 intended by an individual signing this Agreement to represent their signature, including but not limited to (1)  
18 a digital signature; (2) a faxed version of an original handwritten signature; or (3) an electronically scanned  
19 and transmitted (for example by PDF document) of a handwritten signature. Each electronic signature  
20 affixed or attached to this Agreement (1) is deemed equivalent to a valid original handwritten signature of  
21 the person signing this Agreement for all purposes, including but not limited to evidentiary proof in any  
22 administrative or judicial proceeding, and (2) has the same force and effect as the valid original handwritten  
23 signature of that person. The provisions of this section satisfy the requirements of Civil Code section  
24 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title 2.5,  
25 beginning with section 1633.1). Each party using a digital signature represents that it has undertaken and  
26 satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through (5),  
27 and agrees that each other party may rely upon that representation. This Agreement is not conditioned  
28 upon the parties conducting the transactions under it by electronic means and either party may sign this

1 Agreement with an original handwritten signature.

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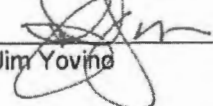
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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first  
2 hereinabove written.

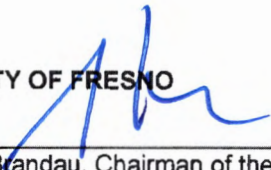
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**SUPERINTENDENT**

  
\_\_\_\_\_  
Jim Yovino

Jim Yovino, Superintendent  
\_\_\_\_\_  
Fresno County Superintendent of  
Schools  
1111 Van Ness Avenue  
Fresno, CA 93721

**COUNTY OF FRESNO**

  
\_\_\_\_\_  
Steve Brandau, Chairman of the Board  
of Supervisors of the County of Fresno

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

By:   
\_\_\_\_\_  
Deputy

**FOR ACCOUNTING USE ONLY:**  
Fund: 0001  
Subclass: 10000  
ORG: 3440  
Account: 7295