

SERVICE AGREEMENT

This Service Agreement ("Agreement") is dated October 21, 2025 and is between Newton Construction & Management, Inc., a California corporation ("Contractor"), and the County of Fresno, a political subdivision of the State of California ("County").

Recitals

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

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

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

The Contractor is qualified and willing to perform said services. The parties therefore agree as follows:

Article 1

Contractor's Services

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

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

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

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

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

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

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

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

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

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

County shall provide oversight to Contractor’s response to all incidents arising from a possible breach of security related to County’s confidential client information.

Contractor shall issue any notification to affected individuals as required by law, or as deemed necessary by County, in its sole discretion. Contractor will be responsible for all costs incurred as a result of providing the required notification.

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

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

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

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

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

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

13 1.11 **Codes and Regulations.** All work, materials, and equipment shall be in full
14 compliance with the 2022 edition of the California Building Code; California Plumbing Code;
15 California Electrical Code; Cal/Occupational Safety and Health Administration (OSHA) Safety
16 Regulations; and all Federal, State and Local laws, ordinances, regulations, and Fresno County
17 Charter Provisions applicable in the performance of the work.

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

21 1.13 **Workday.** All work shall be set forth as part of the Job Order. Saturday and Sunday
22 work will not be allowed except by written approval of County, and upon 48 hours advance
23 notice. Payment requirements for shift differential and overtime shall be as set forth in the
24 Collective Bargaining Agreement for the trade, on file with the State Department of Industrial
25 Relations, Division of Labor Statistics and Research. Contractors are urged to contact the
26 Prevailing Wage Unit at (415) 703-4774 or information on these requirements.
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1 1.14 **Schedule of Operation.** Time is of the essence in the performing of any Job Order
2 under this Agreement. Contractor shall schedule the work in a manner that will progress to
3 completion without interruption.

4 1.15 **Coordination Between Contractors.**

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

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

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

20 1.16 **Temporary Facilities.**

21 (A) Water and Electricity: Contractor may connect to existing water and electricity
22 available on the site, provided it is suitable to Contractor's requirements. Water and
23 electricity costs shall be paid by County. Contractor shall bear all expenses for
24 carrying the water or electricity to the appropriate locations, and for connecting or
25 tapping into existing lines. Contractor shall furnish fuel and other power for the
26 operation of the heavy equipment, pneumatic tools, and compressors.
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(B) Toilet Facilities may be available on the site to the workers engaged in the performance of this Agreement. The use of such facilities may be revoked in the event of excess janitorial requirements, or at the discretion of County.

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

Contractor shall provide not less than one OSHA / NFPA Class 10-ABC fire extinguisher for each 3,000 square feet of project area or fraction thereof.

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

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

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

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

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

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

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

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

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

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

- 25 • Exhibit D – Fresno County Probation Department Juvenile Justice Policy Manual
 - 26 ○ Policy 309 – Vendors, Volunteers and Student Interns
 - 27 ○ Policy 400 – Emergency Procedures – Facilities (Title 15, §1327)
- 28 • Exhibit E – The Prison Rape Elimination Act

- Exhibit F – Fresno Sheriff Sheriff's Office Jail Division Policies & Procedures – Hostage Situations

- Exhibit G – Background Investigations and Identification (ID) Badges

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

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

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

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

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

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

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

1 (i) Material that Contractor believes may be material that is hazardous waste, as
2 defined in section 25117 of the Health and Safety Code that is required to be
3 removed to a Class I, Class II, or Class III disposal site in accordance with
4 provisions of existing law.

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

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

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

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

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

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

Regardless of Freight on Board point, Contractor agrees to bear all risks of loss, injury or destruction to goods and materials ordered herein which occur prior to delivery; loss, injury, or destruction shall not release Contractor from any obligation hereunder.

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

1.29 **Inspection.** All material and workmanship (if not otherwise designated by the Agreement Documents) shall be subject to inspection, examination, and testing by the General Services Director, or their designee of the specific project (hereinafter "Project Manager"), at any and all times during manufacture and/or construction, and at any and all places where such manufacture and/or construction are carried on. The Project Manager shall have the right to reject defective material and workmanship or require its correction.

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

If considered necessary or advisable by the Project Manager at any time either before acceptance of the entire Work, or after acceptance and within the guaranty period, to make an examination of Work already completed, by removing or tearing out same, Contractor shall, on request, promptly furnish all necessary facilities, labor, and material. If such Work is found to be defective in any material respect, due to the fault of Contractor or their subcontractors, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such Work is found to meet the requirements of this Agreement, Contractor's costs necessarily incurred in the examination and replacement, as determined by use of the Construction Task Catalog® ("CTC®"), shall be reimbursed to Contractor and Contractor shall,

1 in addition, if completion of the Work has been delayed thereby, be granted a suitable extension
2 of time on account of the additional Work involved.

3 When the Work is completed, Contractor shall notify County in writing that the Work shall
4 be ready for final inspection and test on a definite date, which shall be stated in such notice.

5 1.30 **Assignment of Moneys.** The Contractor agrees to furnish all labor and materials,
6 including tools, implements, and appliances required, and to perform all the Work in a good and
7 workmanlike manner, free from any and all liens and claims of mechanics, material-men,
8 subcontractors, artisans, machinists, teamsters, day-men, and laborers required for completing
9 specific Job Orders, as directed by the County.

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

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

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

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

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

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

1 It shall be mandatory upon Contractor and upon any subcontractor to pay not less than
2 the prevailing wage rates, including overtime and holiday rates, to all workers, laborers, or
3 mechanics employed on this public work project, including those workers employed as
4 apprentices. Further, Contractor and each subcontractor shall comply with Labor Code sections
5 1777.5 and 1777.6 concerning the employment of apprentices. A copy of the above-mentioned
6 prevailing wage rates shall be posted by Contractor at the job site where it will be available to
7 any interested party.

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

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

27 **1.33 Supervision Procedures.**
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1 (A) Contractor shall give efficient supervision to the Work, using skill and diligence for
2 which Contractor is compensated in the Agreement Adjustment Factors. Contractor
3 shall carefully inspect the site, and study and compare all Agreement Documents
4 and other instructions, as ignorance of any phase of any of the features or conditions
5 affecting the Agreement shall not excuse Contractor from carrying out its provisions
6 to its full intent.

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

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

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

19 (E) Contractor shall not be relieved from Contractor's obligations to perform the Work in
20 accordance with the Agreement Documents, either by the activities or duties of the
21 Project Manager in their administration of the Agreement, or by inspections, tests or
22 approvals required or performed by persons other than Contractor.

23 **1.34 Construction Procedures.**

24 (A) Means and Methods - Contractor shall be solely responsible for, and control of
25 construction means, methods, techniques, sequences, and procedures for all the
26 Work of this Agreement. Additionally, Contractor shall be responsible for safety
27 precautions and programs in connection with the Work.
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1 (B) Progress Schedule - Contractor, immediately after being awarded a Job Order, shall
2 update the schedule submitted as part of the Proposal, and submit for County's
3 information an estimated progress schedule.

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

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

11 (E) When County furnishes equipment or materials to Contractor for use or inclusion in
12 the Work, Contractor's responsibility for all such equipment and materials shall be
13 the same as for materials furnished by the Contractor.

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

17 (G) Contractor's Right to Stop Work or Terminate Agreement – If, through no fault of
18 Contractor or of anyone employed by Contractor, (1) the Work is stopped by order of
19 any court or governmental authority, or (2) County fails to issue any certificate for
20 payment within forty-five (45) days after it is due, or (3) County fails to pay Contractor
21 within forty-five (45) days after its presentation, any sum certified by County, then
22 Contractor may, upon ten (10) days' written notice to County, stop Work or terminate
23 the Agreement.

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

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

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

1.36 Neither the acceptance of the name of a subcontractor, the suggestion of such name, any other act of the County, nor anything contained in the Agreement, shall be construed as creating any contractual relationship between County and any subcontractor.

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

1.38 This Agreement is subject to nondiscrimination requirements, including, but not limited to, compliance by Contractor and its subcontractors with the provisions of Government Code section 12940.

1.39 When an individual Job Order utilizes Federal Funds, and Contractor elects to require Disadvantaged Business Enterprise (DBE) participation, Contractor shall follow the Federal Good Faith Effort requirements for inclusion of DBE subcontractors and suppliers.

Article 2

County's Responsibilities

2.1 The Work to be performed pursuant to this Agreement includes a comprehensive listing of detailed repair, remodeling, and other repetitive tasks and specifications that have preestablished units of measure and unit prices listed in The Gordian Group, Inc.'s proprietary

CTC®. The Work performed under this Agreement shall be carried out pursuant to individual tasks or job orders, and shall involve repair, remodeling, or other repetitive work for public buildings, streets, utilities, and other public works ("Job Order(s)").

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

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

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

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

2.6 County may perform or employ others to undertake any portions of Work persistently neglected by Contractor, provided that, after three (3) days' written notice to Contractor, such Work is still not completed to County's satisfaction. In such case, the Work shall be completed under direction of the Project Manager, and the cost deducted from the amount of next payment falling due to Contractor. Such action shall, in no way, affect the status of either party under this Agreement, nor be held as a basis of any claim by Contractor for damages or extension of time.

2.7 Changes to the Job Order. Changes Requested by County - Without invalidating the Job Order, order changes, modifications, deletions, and extra work, County may request changes by issuing additional written Job Orders during the progress of the Work. Contractor shall not be entitled to compensation for any extra Work performed, unless the Project Manager has issued an additional written Job Order designating (i) the extra Work to be performed, (ii) the price of the extra Work, and (iii) the time for completion of the extra Work. If County orders Work added or deleted from the Job Order, the price for the additional Job Order shall be determined using the Procedure for Ordering Work set forth in Exhibit A. Credits for Pre-Priced

Tasks and Non Pre-Priced Tasks shall be calculated at the pre-set Unit Prices, and multiplied by the appropriate Adjustment Factors. Credits for Tasks that have been deleted from the Detailed Scope of Work (SOW) will be given at 100% of the value at which they were included in the original Job Order Price Proposal.

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

Where Contractor and County disagree on the scope, price, and/or time for changes in the Detailed SOW, County may require Contractor to perform such Work under a written protest, pursuant to the Resolution of Contract Claims in Article 9, section 9.1, herein. Contractor's failure to submit a written protest to the Project Manager within five (5) days of beginning such Work constitutes a waiver of any claim.

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

2.9 Resolving Conflicts

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

- (i) Permits from other agencies as may be required by law
- (ii) Permits issued by County

- (iii) Changes to Job Orders
- (iv) Job Orders
- (v) This Agreement
- (vi) Addenda
- (vii) SOW
- (viii) Technical Specifications
- (ix) CTC®
- (x) Reference Specifications

2.10 Division of Contract Documents - For convenience of reference and to facilitate the execution of independent contracts, the Agreement Documents may be separated into certain sections; such separation shall not operate to oblige the Project Manager to establish the limits of any contract between Contractor and subcontractor, each of whom shall depend upon their own contract stipulations. This Agreement shall apply with equal force to all Work, including extra Work.

2.11 Shop Drawings - Mill drawings, shop drawings, setting diagrams, schedules, maker's specifications, and illustrations requisite for the various parts of the Work shall be provided, and promptly submitted by Contractor. These shall be submitted in duplicate or as directed, shall be corrected if necessary, and resubmitted until review by the Project Manager is complete, after which corrected copies of each shall be filed with Project Manager and the necessary additional copies supplied for use in connection with the Work. Corrections or comments made on the shop drawings during this review do not relieve Contractor of his/her responsibility to comply with the requirements of the drawings and specifications. This review is only to check for general conformance with the design concept of the project and general compliance with the Agreement Documents. Contractor remains responsible for: confirming and correlating all dimensions and quantities; selecting fabrication processes and techniques of construction; coordinating the work of the trades; and performing the work in a safe and satisfactory manner.

(B) Trade Names and Alternatives - The intent of the specifications is to specify high-grade standard equipment, and it is not the intent of these specifications to exclude

or omit the products of any responsible manufacturer, if such products are equal in every respect to those mentioned herein. Wherever an article, or any class of materials, is specified by the trade name or by the name of any particular patentee, manufacturer, or dealer, it shall be taken as intending to mean and specify the article of material described or any other equal thereto in quality, finish, and durability, and equally as serviceable for the purpose for which it is, or they are intended.

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

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

For each calendar day that the Detailed SOW for a Job Order shall remain incomplete after the Job Order Completion Time, as amended pursuant to this Contract, the amount per calendar day specified in following table, Schedule of Liquidated Damages, may be deducted from any money due the Contractor, not as a penalty but Yeas liquidated damages.

Value of Job Order	Liquidated Damages
\$0 to \$10,000	\$100/Day
\$10,001 to \$50,000	\$250/Day
Over \$50,000	\$500/Day

County shall determine the application of liquidated damages, and the value of liquidated damages. Each Job Order shall state whether liquidated damages will be applied. County may withhold liquidated damages from payments to Contractor as such damages accrue, or, at County's discretion, withhold liquidated damages from any payments due or that become due pursuant to a Job Order, including Retention and final payment (pursuant to Government Code section 53069.85). County shall execute a credit Job Order to assess liquidated damages against Contractor.

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

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

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

1 Authority to stop the Work is vested in the Project Manager, and may be involved
2 whenever the
3 Project Manager deems such action necessary to ensure proper execution of the Agreement,
4 and Work may not thereafter be resumed until the Project Manager has given written consent.

5 **Article 3**

6 **Compensation, Invoices, and Payments**

7 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for
8 each Job Order in accordance with Contractor's Adjustment Factors stated on the Bid, as
9 described in this section.

10 3.2 The Contractor's Adjustment Factors are as follows:

11 Non-Federally Funded Normal Working	
12 Hours Adjustment Factor	1.1600
13 Non-Federally Funded Other than Normal	
14 Working Hours Adjustment Factor	1.1800
15 Federally Funded Normal Working Hours	
16 Adjustment Factor	1.1800
17 Federally Funded Other than Normal Working	
18 Hours Adjustment Factor	1.1800

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

26 In no event shall compensation paid for services performed under this Agreement
27 exceed the Maximum Agreement Value during the term of this Agreement. All expenses
28

1 incidental to Contractor's performance of services under this Agreement shall be borne by
2 Contractor.

3 **3.3 Maximum Compensation.** The maximum compensation payable to the Contractor
4 under this Agreement for all Job Orders ("Maximum Agreement Value") performed by
5 Contractor shall not exceed five million dollars (\$5,000,000). There is no Minimum Contract
6 Value.

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

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

23 (A) Before payment is made, Contractor shall prepare for the Project Manager's
24 approval a statement covering the actual Work completed under the terms of the Job
25 Order. A schedule of values listed by "CSI" or "Category" from Contractor's Job
26 Order Price Proposal may be utilized for this schedule of values.

27 (B) In making such payment, there shall be a retention of 5% of the payment requested.
28 If, after 50% of the Work of the Job Order has been completed, the Project Manager

1 finds that satisfactory progress is being made, the Project Manager may reduce the
2 retention to 2.5% of the amount requested. In addition, after 97.5% of the Work has
3 been completed, the Project Manager may reduce the amount withheld to such
4 lesser amount as the Project Manager determines to be adequate security for the
5 fulfillment of the balance of the Work, and other requirements of this Agreement. In
6 no event shall this amount be reduced to less than 1.25% percent of the estimated
7 value of the Work yet to be completed, as determined by the Project Manager. Such
8 reduction shall only be made upon the written request of Contractor, and shall be
9 approved in writing by the surety upon the Performance Bond and the surety upon
10 the Payment Bond. The signature of persons executing the approval for the surety
11 shall be properly acknowledged, and the power of attorney authorizing those persons
12 to give such consent must accompany the approval document.

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

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

26 (iii) Securities eligible for investment under this section shall include those listed
27 in section 16430 of the Government Code, bank or savings and loans
28 certificates of deposit, interest bearing demand deposit accounts, standby

1 letters of credit, or any other security mutually agreed to by Contractor and
2 County.

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

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

7 (vi) Contractor shall enter into an escrow agreement satisfactory to County, which
8 agreement shall substantially comply with Public Contract Code section
9 22300.

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

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

17 (D) Upon completion and acceptance of all Work whatsoever required, and the release
18 of all claims against County as specified, the Project Manager shall file a written
19 Notice of Completion, if required by County, with County Recorder as to the entire
20 amount of Work performed.

21 (E) Forty-five (45) days after the filing of such Notice of Completion, if required by
22 County, County shall pay to Contractor the amount therein stated, except as
23 provided in paragraph 2.11, less all prior payment and advances whatsoever to or for
24 the account of Contractor, and less material and labor claims duly filed with County
25 on account of this Agreement. All prior estimates and payments, including those
26 relating to extra work, shall be subject to correction by this final payment, which is
27 referred to throughout this Agreement as the Final Payment.
28

1 (F) The acceptance by Contractor of the Final Payment shall be, and shall operate as, a
2 release to County of all claims and of all liability to Contractor for all things done or
3 furnished in connection with this Work, and for every act and neglect of County and
4 others relating to or arising out of this Work, excepting Contractor's claims for
5 interest upon Final Payment, if this payment be improperly delayed. No payments,
6 however, final, or otherwise, shall operate to release Contractor or his/her sureties
7 from any obligations under this Agreement or the Performance and Payment Bonds.

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

13 (H) Contractor shall pay:

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

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

22 3.6 To each of Contractor's subcontractors, not later than the tenth day following each
23 payment to Contractor, the respective amounts allowed Contractor on account of the Work
24 performed by Contractor's Sub- Contractors, including that Work performed and paid for under a
25 Change to the Job Order as provided in Article 2, section 2.7 to the extent of each
26 subcontractor's interest therein.

27 3.7 Contractor shall submit invoices on the first day of the month in accordance with the
28 rates and charges agreed upon by that Contractor for the services provided to County during

the previous monthly billing period. Each invoice shall reference this Agreement number, the Facility and Asset Management System work order number, the date and name of the facility where the services were performed, and a clear itemization of services performed, and shall be emailed to FacilitiesAP@fresnocountyca.gov or mailed to County of Fresno, Facility Services, ATTN: Facility Services Manager, 4590 E Cesar Chavez Blvd, Fresno, CA 93702. County shall make payment to Contractor no later than forty-five (45) days after receipt and approval of each invoice, which shall be given upon verification of satisfactory performance.

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

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

Article 4

Term of Agreement

4.1 **Term.** This Agreement is effective on October 21, 2025, and terminates on October 20, 2026, or when all issued Job Orders totaling the Maximum Agreement Value, as defined in section 3.3, herein, have been completed, whichever occurs first. All Job Orders must be issued, but not necessarily completed, within one (1) calendar year of the Effective Date of this Agreement. All Job Orders for which a Notice to Proceed is issued by County during the term of this Agreement shall be valid and in effect, notwithstanding that the Detailed SOW may be performed, payments may be made, and the guarantee period may continue, after the Agreement term has expired. All terms and conditions of the Agreement apply to each Job Order, except as provided in Article 10, "Termination and Suspension," below.

Article 5

Notices

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

For the County:

Director of General Services
County of Fresno
333 W Pontiac Way
Clovis, CA 93612
Email: GSDContracts@fresnocountyca.gov

For the Contractor:
President
Newton Construction & Management Inc.
2436 Broad Street
San Luis Obispo, CA 93401
Email: bids@newtonconstruction.com
darin@newtonconstruction.com
Fax: (805) 544-5584

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

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

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

(B) A notice delivered by first-class United States mail is effective three (3) 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 (1) County business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient.

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

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

Article 6

Taxes, Permits, Fees, and Indemnification for Patent Infringement Claim

6.1 Contractor shall pay for and include all Federal, State, and local taxes, direct or indirect, upon all materials, and take out and pay all fees and charges for permits and licenses, unless otherwise specified in the Job Order or Technical Specifications.

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

Article 7

Guarantee of Work

7.1 All Work shall be guaranteed by Contractor, except as may be otherwise specified, against defects resulting from the use of inferior materials, equipment, or workmanship for one (1) year from the date of completion of the Job Order.

If repairs or changes are required in connection with guaranteed Work within any guaranteed period, which, in the opinion of County are rendered necessary as the result of the use of materials, equipment, or workmanship, which are inferior, defective, or not in accordance with the terms of this Agreement, Contractor shall, promptly upon receipt of notice from County, and without expense to County (1) place in satisfactory condition in every particular all of such guaranteed Work, correct all defects therein, and (2) make good all damage to the building or site, or equipment or contents thereof, which, in the opinion of County, is the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with

1 the terms of the Agreement, and (3) make good any work or materials, or the equipment and
2 contents of said building or site disturbed in fulfilling any such guarantee.

3 If Contractor disturbs any Work guaranteed under another Agreement in fulfilling the
4 requirements of the Agreement or of any guarantee, embraced in or required thereby,
5 Contractor shall restore such disturbed Work to a condition satisfactory to the Project Manager,
6 and guarantee such restored Work to the same extent as it was guaranteed under such other
7 Agreement.

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

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

14 **Article 8**

15 **Responsibility for Damage**

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

25 Contractor shall be responsible for any liability imposed by law for any damage to any
26 person or property resulting from defects or obstructions or from any cause whatsoever during
27 the progress of the Work or at any time before the completion and final acceptance.
28

1 **Article 9**

2 **Resolution of Contract Claims**

3 9.1 Public works contract claims of three hundred seventy-five thousand (\$375,000) or
4 less which arise between a Contractor and a local public agency shall be resolved in
5 accordance with the provisions of Article 1.5 (sections 20104-20104.6, inclusive) of Chapter 1 of
6 Part 3 of Division 2 of the Public Contract Code. Article 1.5 requires that its provisions or a
7 summary thereof be set forth in the plans and specifications for any work which may give rise to
8 a claim thereunder. Accordingly, this Agreement incorporates all of the terms and conditions of
9 Article 1.5, as follows:

10 (A) Article 1.5 Resolutions of Contract Claims, section 20104.

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

14 (b) This article shall not apply to any claims resulting from a contract between
15 a Contractor and a public agency when the public agency has elected to
16 resolve any disputes pursuant to Article 7.1 (commencing with section
17 10240) of Chapter 1 of Part 2.

18 ii. (a) "Public work" has the same meaning as in sections 3100 and 3106 of the
19 Civil Code, except that "public work" does not include any work or
20 improvement contracted for by the state or the Regents of the University
21 of California.

22 (b) "Claim" means a separate demand by the Contractor for (A) a time
23 extension, (B) payment of money or damages arising from work done by,
24 or on behalf of, the Contractor pursuant to the contract for a public work
25 and payment of which is not otherwise expressly provided for or the
26 claimant is not otherwise entitled to, or (C) an amount the payment of
27 which is disputed by the local agency.
28

1 iii. The provisions of this article or a summary thereof shall be set forth in the
2 plans or specifications for any work which may give rise to a claim under this article.

3 iv. This article applies only to contracts entered into on or after January 1, 1991.

4 (B) Article 1.5 Resolutions of Contract Claims, section 20104.2

5 For any claim subject to this article, following requirements apply:

6 i. The claim shall be in writing and include the documents necessary to
7 substantiate the claim. Claims must be filed on or before the date of final payment.
8 Nothing in this subdivision is intended to extend the time limit or supersede notice
9 requirements otherwise provided by contract for the filing of claims.

10 ii. (a) For claims of less than fifty thousand dollars (\$50,000), the local agency
11 shall respond in writing to any written claim within forty-five (45) days of
12 receipt of the claim, or may request, in writing, within thirty (30) days of
13 receipt of the claim, any additional documentation supporting the claim or
14 relating to defenses or claims the local agency may have against the
15 claimant.

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

19 (c) The local agency's written response to the claim as further documented
20 shall be submitted to the claimant within fifteen (15) days after receipt of
21 the further documentation or within a period of time no greater than that
22 taken by the claimant in producing the additional information, whichever is
23 greater.

24 iii. (a) For claims of over fifty thousand dollars (\$50,000) and less than or equal
25 to three hundred seventy-five thousand dollars (\$375,000), the local
26 agency shall respond in writing to all written claims within sixty (60) days
27 of receipt of the claim, or may request, in writing, within thirty (30) days of
28 receipt of the claim, any additional documentation supporting the claim or

1 relating to defenses or claims the local agency may have against the
2 claimant.

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

6 (c) The local agency's written response to the claim, as further documented,
7 shall be submitted to the claimant within thirty (30) days after receipt of
8 the further documentation, or within a period of time no greater than that
9 taken by the claimant in producing the additional information or requested
10 documentation, whichever is greater.

11 iv. If the claimant disputes the local agency's written response, or the local
12 agency fails to respond within the time prescribed, the claimant may so notify the
13 local agency in writing, either within fifteen (15) days of receipt of the local agency's
14 response or within fifteen (15) days of the local agency's failure to respond within the
15 time prescribed, respectively, and demand an informal conference to meet and
16 confer for settlement of the issues in dispute. Upon a demand, the local agency shall
17 schedule a meet and confer conference within thirty (30) days for settlement of the
18 dispute.

19 v. If following the meet and confer conference the claim or any portion remains
20 in dispute, the claimant may file a claim pursuant to Chapter 1 (commencing with
21 section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6
22 of Title 1 of the Government Code. For purposes of those provisions, the running of
23 the period of time within which a claim must be filed shall be tolled from the time the
24 claimant submits his/her or her written claim pursuant to subdivision (a) until the time
25 the claim is denied, including any period of time utilized by the meet and confer
26 process.

27 (C) Article 1.5 Resolution of Contract Claims, section 20104.4
28

1 The following procedures are established for all civil actions filed to resolve claims subject to
2 this article:

3 i. Within sixty (60) days, but no earlier than thirty (30) days, following the filing
4 or responsive pleadings, the court shall submit the matter to nonbinding mediation
5 unless waived by the mutual stipulation of both parties. The mediation process shall
6 provide for the selection, within fifteen (15) days by both parties, of a disinterested
7 third person as mediator, shall be commenced within thirty (30) days of the submittal,
8 and shall be concluded within fifteen (15) days from the commencement of the
9 mediation unless a time requirement is extended upon a good cause showing to the
10 court or by stipulation of both parties. If the parties fail to select a mediator within the
11 (fifteen) 15-day period, any party may petition the court to appoint the mediator.

12 ii. (a) If the matter remains in dispute, the case shall be submitted to judicial
13 arbitration pursuant to Chapter 2.5 (commencing with section 1141.10) of
14 Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding section
15 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with
16 section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to
17 any proceeding brought under this subdivision consistent with the rule
18 pertaining to judicial arbitration.

19 (b) Notwithstanding any other provision of law, upon stipulation of the parties,
20 arbitrators appointed for purposes of this article shall be experienced in
21 construction law, and, upon stipulation of the parties, mediators and
22 arbitrators shall be paid necessary and reasonable hourly rates of pay not
23 to exceed their customary rate, and such fees and expenses shall be paid
24 equally by the parties, except in the case of arbitration where the
25 arbitrator, for good cause, determines a different division. In no event
26 shall these fees or expenses be paid by state or County funds.

27 (c) In addition to Chapter 2.5 (commencing with section 1141.10) of Title 3 of
28 Part 3 of the Code of Civil Procedure, any party who after receiving an

1 arbitration award requests a trial de novo but does not obtain a more
2 favorable judgment shall, in addition to payment of costs and fees under
3 that chapter, pay the attorney's fees of the other party arising out of the
4 trial de novo.

5 iii. The court may, upon request by any party, order any witnesses to participate
6 in the mediation or arbitration process. Arbitrators shall be experienced in
7 construction law. 20104.6 (a) No local agency shall fail to pay money as to any
8 portion of a claim which is undisputed except as otherwise provided in the contract.
9 (b) In any suit filed under section 20104.4, the local agency shall pay interest at the
10 legal rate on any arbitration award or judgment. The interest shall begin to accrue on
11 the date the suit is filed in a court of law.

12 **Article 10**

13 **Termination and Suspension**

14 10.1 **Termination for Non-Allocation of Funds.** The terms of this Agreement are
15 contingent on the approval of funds by the appropriating government agency. If sufficient funds
16 are not allocated, then the County, upon at least thirty (30) days' advance written notice to the
17 Contractor, may:

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

20 10.2 **Termination for Breach.**

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

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

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

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

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

10.4 **No Penalty or Further Obligation.** Any termination of this Agreement by the County under this Article 10 is without penalty to or further obligation of the County.

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

Article 11

Independent Contractor

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

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

11.3 **Benefits.** Because of its status as an independent Contractor, the Contractor has no right to employment rights or benefits available to County employees. The Contractor is solely responsible for providing to its own employees all employee benefits required by law. The Contractor shall save the County harmless from all matters relating to the payment of

Contractor's employees, including compliance with Social Security withholding and all related regulations.

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

Article 12

Indemnity and Defense

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

12.2 **Survival.** This Article 12 survives the termination of this Agreement.

Article 13

Insurance

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

Article 14

Inspections, Audits, and Public Records

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

1 14.2 **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 14.3 **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 10, Chapter 1, beginning
23 with section 7920.000) ("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

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

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

1 **Article 15**

2 **Disclosure of Self-Dealing Transactions**

3 15.1 **Applicability.** This Article 15 applies if the Contractor is operating as a corporation,
4 or changes its status to operate as a corporation.

5 15.2 **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 15.3 **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 16**

13 **General Terms**

14 16.1 **County.** The County of Fresno, State of California, as represented by the Fresno
15 County Board of Supervisors.

16 16.2 **Director.** The Director of the General Services Department, County of Fresno, acting
17 either directly or through properly authorized agents, such agents acting within the scope of the
18 particular duties entrusted to them, whichever department issues the Notice to Proceed to
19 Contractor.

20 16.3 **Architect or Engineer.** The Director of the General Services Department and their
21 authorized agents, which may include a duly licensed Architect or Engineer providing consultant
22 services in accordance with an agreement with the County.

23 16.4 **Contractor.** When used in the General Conditions refer to: person, persons, entity,
24 co-partnership, or corporation so named in Agreement; when used in the body of the Contract
25 Documents, refers to Contractor for that specific work, whether it be the General Contractor,
26 subcontractor, or other Contractor.

27 16.5 **Subcontractor.** Person, persons, entity, co-partnership or corporation having direct
28 contract with Contractor.

1 16.6 **Adjustment Factor.** Contractor's competitively bid price adjustment to the Unit
2 Prices published in the CTC®.

3 16.7 **Construction Task Catalog ® (CTC®).** A comprehensive listing of specific
4 construction related tasks identified by County, together with a specified unit of measurement
5 and Unit Price.

6 16.8 **Agreement Documents.** All Job Orders issued under the Agreement; all
7 amendments, modifications, or revisions to the Agreement; surety bonds; certificates of
8 insurance; County notification to Contractor that Work is needed; County Requests for Job
9 Order Proposals; and any design drawings provided by County with the Job Orders.

10 16.9 **Final Completion of the Job Order.** The last date on which all of the following
11 events have occurred: County has determined that all Punch List Work and any other remaining
12 Work have been completed in accordance with the Agreement Documents; final inspections
13 have been completed, and all operations systems and equipment testing have been completed;
14 the issuance of final occupancy certifications (if any); all deliverables have been provided to
15 County; all contractual requirements for final payment have been completed.

16 16.10 **Job Order Contract (JOC).** This Agreement, which is a competitively bid, firm fixed-
17 price, indefinite-quantity contract for accomplishing construction and construction-related
18 services. Work is accomplished through the issuance of individual Job Orders. Each Job Order
19 issued under the Agreement shall be a firm fixed priced for accomplishing a specific
20 construction task or Project.

21 16.11 **Non Pre-Priced (NPP) Tasks.** The units of Work that are not included in the CTC®,
22 but are required by the Detailed SOW.

23 16.12 **Normal Working Hours.** Between the hours of 7:00 AM to 5:00 PM, Monday
24 through Friday, inclusive. Saturdays, Sundays, and County holidays are excluded.

25 16.13 **Notice of Completion.** A form issued by County indicating that the Work is
26 complete, and fixing the date of completion. The form is signed by County, and filed with the
27 County Recorder. County, at its sole discretion, may elect not to issue a Notice of Completion
28 on any individual Job Order.

1 16.14 **Notice to Proceed.** Written authorization from County for Contractor to commence a
2 Job Order.

3 16.15 **Other than Normal Working Hours.** Work done between the hours of 5:00 PM to
4 7:00 AM, on weekdays, and any times during Saturday, Sunday, and County holidays.

5 16.16 **Plans.** The drawings, sketches, illustrations, specifications, or other pertinent
6 information included on or attached to the Job Order.

7 16.17 **Pre-Priced Task.** An item of work included in the CTC® for which a unit price is
8 given.

9 16.18 **Project.** Collectively, the improvements to be constructed by Contractor pursuant to
10 one or more Job Orders.

11 16.19 **Job Order Price Proposal.** A price proposal prepared by Contractor that includes
12 the Pre-priced Tasks, NPP Tasks, quantities, and appropriate Adjustment Factors required to
13 complete the Detailed SOW.

14 16.20 **Job Order Proposal.** Contractor's irrevocable offer to perform Work associated with
15 a Job Order, which refers to a Contractor-prepared document quoting a firm fixed Job
16 Order Price and schedule for the completion of a specific Detailed SOW. Contractor's Job Order
17 Proposal must be on forms provided by County, and in an electronic version compatible with
18 County's systems. The Job Order Proposal may also contain approved drawings, work
19 schedule, permits, or other such documentation as County might require for a specific Job
20 Order.

21 16.21 **Job Order Price.** The value of the approved Job Order Price Proposal and the lump
22 sum amount a Contractor will be paid for completing a Job Order.

23 16.22 **Job Order Completion Time.** The time within which Contractor must complete the
24 Detailed SOW.

25 16.23 **Joint Scope Meeting.** A site meeting to discuss the work before the Detailed SOW
26 is finalized.

27 16.24 **Punch List Work.** A compilation of minor items that have not been completed in
28 accordance with an individual Job Order and the Agreement Documents. Whether an item is

Punch List Work or necessary for completion shall be determined in the sole discretion of County.

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

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

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

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

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

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

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

1 16.32 **Modification.** Except as provided in Article 10, "Termination and Suspension," this
2 Agreement may not be modified, and no waiver is effective, except by written agreement signed
3 by both parties. The Contractor acknowledges that County employees have no authority to
4 modify this Agreement except as expressly provided in this Agreement.

5 16.33 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
6 under this Agreement without the prior written consent of the other party.

7 16.34 **Governing Law.** The laws of the State of California govern all matters arising from
8 or related to this Agreement.

9 16.35 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
10 County, California. Contractor consents to California jurisdiction for actions arising from or
11 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
12 brought and maintained in Fresno County.

13 16.36 **Construction.** The final form of this Agreement is the result of the parties' combined
14 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
15 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
16 against either party.

17 16.37 **Days.** Unless otherwise specified, "days" means calendar days.

18 16.38 **Headings.** The headings and section titles in this Agreement are for convenience
19 only and are not part of this Agreement.

20 16.39 **Severability.** If anything in this Agreement is found by a court of competent
21 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
22 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
23 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
24 intent.

25 16.40 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall
26 not unlawfully discriminate against any employee or applicant for employment, or recipient of
27 services, because of race, religious creed, color, national origin, ancestry, physical disability,
28 mental disability, medical condition, genetic information, marital status, sex, gender, gender

identity, gender expression, age, sexual orientation, military status or veteran status pursuant to all applicable State of California and federal statutes and regulation.

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

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

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

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

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

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

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

(A) An "electronic signature" means any symbol or process intended by an individual signing this Agreement to represent their signature, including but not limited to (1) a digital signature; (2) a faxed version of an original handwritten signature; or (3) an

1 electronically scanned and transmitted (for example by PDF document) version of an
2 original handwritten signature.

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

8 (C) The provisions of this section satisfy the requirements of Civil Code section
9 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
10 Part 2, Title 2.5, beginning with section 1633.1).

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

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

18 16.46 **Counterparts.** This Agreement may be signed in counterparts, each of which is an
19 original, and all of which together constitute this Agreement.

20 [SIGNATURE PAGE FOLLOWS]
21
22
23
24
25
26
27
28

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

2 NEWTON CONSTRUCTION &
3 MANAGEMENT, INC.

COUNTY OF FRESNO

4 *Eric Newton*

Eric Newton (Sep 30, 2025 15:59:51 PDT)

5 Eric Newton

Ernest Buddy Mendes

Ernest Buddy Mendes, Chairman of the
Board of Supervisors of the County of Fresno

6 2436 Broad Street
7 San Luis Obispo, CA 93401

Attest:

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

9
10 By: *Alfredo Vain*

Deputy

11 For accounting use only:

12 Org No.: 8935
13 Account No.: 7295
14 Fund No.: 1045
15 Subclass No.: 10000
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Exhibit A

Scope of Services

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

Exhibit A

laws listed herein, and manufacturers' instructions and recommendations, which are necessary and related to the Work to be performed.

- 6) Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor shall provide:
materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary for a complete job.
- 7) The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the Work required by the Agreement shall be accomplished or reviewed and approved by architects or engineers registered in the State of California to practice in the particular professional field involved.
- 8) In addition to the Work unit requirements in the General Requirements, Contract Technical Specifications, Volume 3, and the CTC), Volume 4, the County may, from time to time, require NPP Tasks. The parties shall proceed with these requirements in accordance with the Procedure for Ordering Work contained in Section (b), herein. These NPP Work unit requirements will be incorporated in individual Job Orders, and the Contractor shall accomplish those requirements with the same diligence as those Work units incorporated in this Agreement in the CTC® and Technical Specifications.

Procedure for Ordering Work

- 1) As the need for Work arises, the County will notify the Contractor in writing.
- 2) Upon receipt of this notification, the Contractor shall respond within one working day by:
 - a) Establishing verbal contact with the County to further define the scope of the project, and;
 - b) Visiting the proposed Work site in the company of the County, and participating in a Joint Scope Meeting, which will include discussion and establishment of the following:

Exhibit A

- i. Project number and title
 - ii. Existing site conditions
 - iii. Methods and alternatives for accomplishing Work
 - iv. Definition and refinement of requirements
 - v. Detailed Scope of Work
 - vi. Requirements for design drawings, sketches, shop drawings, submittals, etc.
 - vii. Tentative construction schedule
 - viii. Preliminary quantity estimates
 - ix. Access to the site and protocol for admission
 - x. Hours of operation
 - xi. Staging area
 - xii. Liquidated damages
 - xiii. Presence of hazardous materials
 - xiv. Proposal due date
- 3) Upon completion of the Joint Scope Meeting, the Contractor will prepare a draft Detailed SOW referencing any sketches, drawings, photographs, and specifications required to accurately the Work to be accomplished. The County shall review the Detailed Scope of Work, and request any required changes or modifications. When an acceptable Detailed SOW has been prepared, the County will issue a Request for Job Order Proposal (“RFJOP”) and Detailed SOW, which requires that the Contractor prepare a Proposal for the Work under consideration. The Detailed SOW, unless modified by both the Contractor and the County, will be the basis on which the Contractor will develop its Job Order Proposal, and the County will evaluate the same. The Contractor does not have the right to refuse to perform any task or any Work in connection with a particular RFJOP or Detailed SOW without the County’s written approval and consent.

Exhibit A

- 4) The County may, at its option, include quantities in the Detailed SOW if it helps to define the Detailed Scope of Work, if the actual quantities required are not known or cannot be determined at the time the Detailed SOW is prepared, if the Contractor and the County cannot agree on the quantities required, or for any other reason as determined by the County. In all such cases, the County shall issue a Supplemental Job Order adjusting the quantities appearing in the Detailed SOW to the actual quantities.
- 5) The Contractor will prepare the Job Order Price Proposal in accordance with the following:
 - a) Pre-priced Work requirements. A Pre-priced Task is a task described and for which a Unit Price is set forth in the ®. Pre-priced Work requirements will identify the type and number of Work units required from the CTC). The price per unit set forth in the CTC® shall serve as the base price for the purpose of the operation of this provision. The total of the Job Order Price Proposal shall be the sum of the cost of each applicable CTC® task, which is calculated according to the following formula:
$$A = \text{Number of Units Required for CTC® Task}$$
$$B = \text{Applicable Adjustment Factor}$$
$$C = \text{CTC® Price per Unit Cost of CTC® Task}$$
$$A \times B \times C$$
 - b) The Contractor's Job Order Proposal shall include supporting documentation to indicate that adequate engineering and planning for the Project have been done, and that the Work units and quantities proposed are reasonable for the tasks to be performed.

Documentation to be submitted with the Job Order Proposal shall include, but not be limited to, the Job Order Price Proposal, design drawings, calculations, catalog cuts, specifications, and architectural

Exhibit A

renderings, subcontractor list, and construction schedule. Any Job Order Proposal lacking the required items will be considered incomplete, and shall be returned and treated as if never received. Job Order Proposals submitted to the County are valid for the duration of the Agreement.

- c) NPP Work Requirements: NPP Work shall be separately identified and submitted in the Job Order Price Proposal. Information submitted in support of NPP Work shall include, but not be limited to, the following:
 - i. Complete specifications and technical data, including Work unit content, support drawings, Work unit costs data, quality control and inspection requirements.
 - ii. Work schedule in written form.
 - iii. Pricing data submitted in support of NPP work units shall include a cost or price analysis report, establishing the basis for selecting the approach proposed to accomplish the project. Unless otherwise directed by the County, costing data will be submitted, demonstrating that the Contractor sought and received three quotes. The Contractor shall provide an installed unit price (or demolition price if appropriate), which shall include all costs required to accomplish the NPP Task.
 - iv. If the Contractor will perform the work with its own forces, it shall submit three independent quotes for all material to be installed and shall, to the extent possible, use Pre-Priced Tasks for labor and equipment from the CTC®. If the work is to be subcontracted, the Contractor shall submit three independent quotes from subcontractors.

Exhibit A

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

- v. The final price submitted for NPP Tasks shall be according to the following formula:

Contractor Performed Duties

A = The number of hours for each labor classification and hourly rates
B = Equipment costs (other than small tools)
C = Lowest of three independent quotes for all materials
Total Cost for self-performed work = (A+B+C) x 15% (Only if A & B cannot be priced out of the CTC) For Work performed by Sub-Contractors:

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

D = Sub-Contractor Costs (supported by three quotes)

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

- vi. The County will evaluate the entire Proposal and proposed Work units, and compare these with the County's estimate of the Detailed SOW to determine the reasonableness of approach, including the nature and number of Work units

Exhibit A

proposed. The County will determine whether the Contractor's Job Order Price Proposal is in line with its own estimate.

- vii.** After using a NPP item on three separate Job Orders, the unit price for the work item will be established, following approval by the County, and fixed as a permanent pre-priced item, which will no longer require price justification.
- viii.** The County's determination as to whether an item is a Pre-priced Task or a NPP Task shall be final, binding and conclusive as to the Contractor.
- ix.** Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor task in the Job Order Price Proposal is less than the cost of the actual labor and materials to perform such task, the County may permit the Contractor to be paid for such task as a NPP Task, or use Pre-priced labor tasks and material component pricing to cover the actual costs incurred. Provided, however, that there is no other Work for that trade on the project or other Work for that trade cannot be scheduled at the same time, and the final charge does not exceed \$1,000.00.

d) Processing Time Limits

- i.** Request for Proposal Submittal. Contractor shall submit the Job Order Proposal to the County on or before the due date stated in the RFJOP (14 days maximum unless otherwise specified).
- ii.** Request for Information Submittal. Contractor shall make a thorough analysis of each Job Order, and submit all Requests For Information (RFI's) within 7 days after issuance of any

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RFJOP. Submission of RFI's shall in no way extend the proposal due date unless deemed necessary by the County.

- iii. Job Order Price Proposal Review. Contractor's Project Manager or agent shall be available for Job Order Price Proposal review meetings within 24 hours of being notified by the County (via facsimile, electronic mail, or telephone). After review of the Job Order Price Proposal, Contractor shall remove all inappropriate line items and adjust quantities as directed by the County. Job Order Price Proposal Modification. Only on the Contractor's second Job Order Price Proposal shall he/she be granted the opportunity to add new valid line items that may have been omitted from the first Job Order Price Proposal. Contractor shall submit a revised Job Order Price Proposal within 24 hours of Job Order Price Proposal review meeting (unless otherwise specified). Upon review of revised Job Order Price Proposal, the Contractor shall remove all line items or adjust quantities deemed inappropriate by the County, and re-submit the Job Order Price Proposal within 24 hours. No new line items may be added to the Job Order Price Proposal. No quantity increases or added modifiers will be accepted unless agreed to in writing by the County during the second Job Order Price Proposal review meeting.
- iv. The County reserves the right to reject a Contractor's Job Order Proposal or cancel a project for any reason. The County reserves the right to issue a Notice to Proceed to the Contractor without having a mutual agreement on a final Job Order Price, and that the Contractor will be paid by multiplying the actual quantities used by the appropriate CTC® Unit Price

Exhibit A

and the applicable Adjustment Factors. NPP Tasks will be priced according to the formula set forth in Exhibit A, section 5(c)(v) of these General Conditions. The County also reserves the right to not award a Job Order if it is determined to be in the best interests of the County, or the proposed cost exceeds the County's estimate. The County may perform such work by other means. In these instances, the Contractor has no right of claim to recoup Job Order Proposal expenses, including but not limited to, the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Job Order Proposal with the County.

- v. Unilateral Job Order – The County reserves the right to issue Job Orders based on the County's Job Order Price Proposal for a specified Detailed SOW.
- vi. By submitting a signed Job Order Proposal to the County, the Contractor is agreeing to accomplish the Work outlined in the Detailed SOW in accordance with the RFJOP at the lump sum price submitted for that particular Job Order. The Contractor shall include the necessary tasks and quantities in the Job Order Price Proposal and apply the appropriate Adjustment Factor(s) prior to delivering it to the County. The value of the Job Order Price Proposal shall be calculated by summing the total of the calculations for each Pre-priced Task (Unit Price x Quantity x Adjustment Factor) plus the value of all NPP Tasks. The Job Order Price shall be the value of the approved Job Order Price Proposal.

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- vii. The County will evaluate the entire Job Order Priced Proposal and compare these with the County's estimate of the Detailed SOW to determine the reasonableness of approach, including the appropriateness of the tasks and quantities proposed.
- viii. The Contractor may choose the means and methods of construction, subject to the County's right to reject any means and methods proposed by the Contractor that:
 - Will constitute or create a hazard to the work, or to persons or property;
 - Will not produce finished Work in accordance with the terms of the Agreement; or
 - Unnecessarily increases the price of the Job Order when alternative means and methods are available.
- ix. Each Job Order provided to the Contractor shall reference the Detailed SOW, and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Agreement shall be applicable to any Job Orders issued under this clause. Job Orders will be written on an appropriate form. The Job Order, which must be signed by the County, constitutes the County's acceptance of the Contractor's Proposal. A signed copy will be provided to the Contractor.
- x. Except in an emergency response the Contractor is not to proceed with any Job Order without having required permits and a Notice to Proceed signed by the Project Manager.
- xi. In the event that immediate emergency response is necessary, the County may elect to use an alternative procedure for such type of Job Orders, as long as the alternative procedure is not

Exhibit A

substantially more burdensome to the Contractor than the procedure described in this section.

- xii. All Proposals submitted by the Contractor are valid for the duration of the Agreement.
- e) Measurements to be Verified. Before ordering any material or doing any Work, the Contractor shall verify all measurements at the site of a specific Job Order, and shall be responsible for the correctness of the measurements. No extra charge or compensation will be allowed based on the difference between actual dimensions and the measurements indicated in the Request for Proposal
- f) Contractor's Responsibility. It is the Contractors' responsibility to verify any and all such items prior to submission of the Job Order Proposal. Contractors are also cautioned that any Job Order awarded is for all services or Work, as necessary, to repair, and construct the facilities covered by the Agreement in accordance with all Agreement terms and conditions. It shall also be the duty and responsibility of the Contractor to manage and conduct the required Work in the most effective and efficient manner possible and meet or exceed minimum critical rates or standards.

In addition, the County will not consider any claims for additional compensation when such claim is based upon a contention the Agreement did not specifically mention an item or component of facility covered by the Job Order if the Work is required in the normal course of operations. For example, surfaced area repair statements may not mention culverts; however, culverts are a normal component of roads, streets, or erosion controls and are shown on plots or maps provided. As culverts are a normal component of the system, the

Exhibit A

Contractor shall be responsible for providing all necessary repair, or replacement Work or service.

- g) Pre-Construction Conference. Before the issuance of the first Job Order under this Agreement, a conference will be conducted by the County to acquaint the Contractor with County's procedures that are to be observed during the execution of the Work, and to develop mutual understanding relative to the administration of the Agreement.
- h) Computer and Communications Equipment Requirements. The Contractor shall maintain at its office for its use a computer with, at a minimum, a 2.5 GHz processor and an internet connection. The Contractor shall maintain individual email accounts for each of its project managers.
- i) Job Order Contracting Software and License Fee JOC Software and System License. The County selected the Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC Information Management System ("JOC IMS"), construction cost data, and CTC® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Agreement, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the County .

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).

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(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) **Contractor's Pollution Liability.** If work involves hazardous materials, Contractor shall provide Contractor's Pollution Liability Insurance on an occurrence basis, with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, property damage, cleanup costs, and claim expenses, arising at or emanating from the Project Site arising from all operations performed on behalf of or for the County.
- (G) **Transport Pollution Liability.** If work involves the transportation of hazardous materials away from the jobsite, Contractor shall provide Transport Pollution Liability Insurance on

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an occurrence basis, with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate.

- (H) **Property Installation Floater.** Contractor shall procure and maintain, at Contractor's sole cost and expense, Property Installation Floater which provides for the improvement, remodel, modification, alteration, conversion, or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structures, machinery, or equipment damaged, impaired, broken, or destroyed during the performance of the work, including during transit, installation, and testing at County's site. The policy must name County as an additional loss payee and must include applicable endorsements.
- (I) **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.
- (J) **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.
- (K) **All-Risk Insurance.** Contractor shall procure and maintain at Contractor's sole cost and expense, Builders Risk Course of Construction insurance, including fire and vandalism coverage, covering the entire work (including any County furnished material and equipment) against loss or damage until completion and acceptance by County. Such insurance shall be for each Job Order in an amount up to the value of each Job, and endorsed for broad form property damage, breach of warranty, demolition costs, and debris removal. County will permit a deductible not exceeding 5%. The policy must cover Contractor, Contractor's subcontractors, County, its agents, the awarding entity, and any Trustee, under the indenture or trust agreement securing the bonds, certificates of participation, or other evidence of indebtedness issued to finance the work contemplated herein. The value of the policy shall be in U.S. currency.
- (L) **Bonds.** The Contractor shall furnish to the County a payment bond and performance bond, each in the amount of 100% of the Maximum Contract Amount, which shall meet the requirements of all applicable statutes, including but not limited to those specified in Public Contract Code section 20129 and Civil Code section 9554; all bonds shall be submitted in triplicate.

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

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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.
 - (v) The technology professional liability insurance certificate must also state that coverage encompasses all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks, as that term is defined in this Agreement.
 - (vi) The cyber liability insurance certificate must also state that it is endorsed, and include an endorsement, to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy

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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.

16.47 **Sub-Contractors.** 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.

Vendors, Volunteers and Student Interns

309.1 PURPOSE AND SCOPE

This policy establishes guidelines for using Fresno County Probation Department (Department) vendors, volunteers, and student interns, to supplement and assist Department personnel in their duties. Vendors and volunteers are staff members who can augment Department personnel and help complete various tasks.

309.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

309.2 POLICY

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

309.3 ELIGIBILITY

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

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

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

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Vendors, Volunteers and Student Interns

309.4 RECRUITMENT, SELECTION, AND APPOINTMENT

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

309.4.1 RECRUITMENT

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

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

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

309.4.2 SELECTION

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

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

309.4.3 APPOINTMENT

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

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

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

309.5 IDENTIFICATION

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

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Vendors, Volunteers and Student Interns

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

309.6 PERSONNEL WORKING AS STUDENT INTERNS

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

309.7 PROBATION HUMAN RESOURCES UNIT

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

The responsibilities of the Probation Human Resources Unit include but are not limited to:

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

309.8 DUTIES AND RESPONSIBILITIES

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

309.8.1 COMPLIANCE

Vendors, volunteers and student interns shall be required to adhere to all Department policies and procedures. Policies and procedures are available on the Department website and will be made available to each vendor, volunteer, and student intern upon appointment. The vendor, volunteer and student interns shall become thoroughly familiar with these policies and procedures as directed by the Chief Probation Officer or the authorized designee.

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

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

309.9 TASK-SPECIFIC TRAINING

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

Vendors, volunteers and student interns will be provided with an orientation program to acquaint them with the policies of the Department and procedures applicable to their assignments.

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

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

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

309.9.1 STATE REQUIREMENTS

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

309.10 SUPERVISION

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

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

- (a) Take the time to introduce vendors, volunteers and student interns to staff members on all levels.
- (b) Ensure vendors, volunteers and student interns have work space and necessary office supplies.

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

309.10.1 EVALUATIONS

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

309.10.2 FITNESS FOR DUTY

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

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

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

309.11 INFORMATION ACCESS

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

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

Vendors, volunteers and student interns shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to newspapers or other periodicals, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper Department personnel.

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309.11.1 RADIO AND DATABASE ACCESS USAGE

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

309.12 EQUIPMENT

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

309.13 TERMINATION OF SERVICES

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

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

309.14 ISSUED DATE

- 02/18/2022

309.15 REVISED DATE(S)

- 05/02/2025

Emergency Procedures - Facilities (Title 15, § 1327)

400.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a plan to appropriately respond to emergencies within the facility and to ensure all affected staff members receive timely training regarding emergency response. This policy is intended to protect the community, staff members, visitors, youth, and all others who enter the Juvenile Justice Campus (JJC), while allowing the facility to fulfill its primary purpose (15 CCR 1327).

Facility emergencies related to fire will be addressed in the Fire Safety Plan Policy.

400.2 POLICY

It is the policy of this Department to have emergency response plans in place to quickly and effectively respond to and minimize the severity of any emergency within the facility.

400.3 EMERGENCY PROCEDURES

The Chief Probation Officer or the authorized designee shall develop, publish, and periodically review and update facility-specific policies, procedures, and emergency response plans that shall include but not be limited to (15 CCR 1327):

- (a) Escapes, disturbances, and the taking of hostages.
- (b) Civil disturbances, active shooters, and terrorist attacks.
- (c) Fire and natural disasters.
- (d) Periodic testing of emergency equipment.
- (e) Mass arrests.
- (f) Emergency evacuation of the facility (see the Emergency Evacuation Plan Policy).
- (g) A program to provide all youth supervision staff members with an annual review of emergency procedures.
- (h) Other emergencies as needs are identified.

The facility emergency response plans are intended to provide all staff members with current methods, guidelines, and training for minimizing the number and severity of emergency events that may threaten the security of the facility or compromise the safety of staff members, youth, or the community.

The emergency response plans are intended to provide information on specific assignments and tasks for staff members. Where appropriate, the emergency response plans will include persons and emergency departments to be notified.

The emergency response plans shall include procedures for continuing to house youth in the facility, the identification of alternative facilities outside the boundaries of the disaster or threat

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and the potential capacity of those facilities, youth transportation options, and contact information for allied agencies.

The emergency response plans shall be made available to all staff members, contractors, and volunteers working in the facility as needed. Confidential policies and procedures that relate to the security of the facility may be kept in a separate manual (15 CCR 1327).

400.3.1 EMERGENCY SUSPENSION OF REQUIREMENTS

The Chief Probation Officer or the authorized designee shall authorize only those regulations directly affected by the emergency to be suspended. When a suspension occurs for longer than three days, the Chief Probation Officer or the authorized designee shall notify the Board of State and Community Corrections in writing. In no event shall a suspension continue for more than 15 days without the approval of the Chairperson of the Board of State and Community Corrections for a time specified by the Chairperson (see the Emergency Suspension of Standards or Requirements attachment).

400.4 LOCKDOWN

Upon detecting any significant incident that threatens the security of the facility, such as a riot, power outage or hostage situation, staff members shall immediately notify Institutional Core Central Control (ICCC) and the Watch Commander. The Watch Commander may determine whether to order a partial or full lockdown of the facility and shall notify the Deputy Chief or the authorized designee as soon as practicable.

If a lockdown is ordered, all youth will be directed back to their housing areas. All youth in transit within the facility will either be escorted back to their housing areas or to another secure location. The Watch Commander should instruct staff members not directly involved in the lockdown to escort any visitors and nonessential contractors out of the facility.

A head count shall be immediately conducted for all youth, visitors, contractors, volunteers, and staff members. The Watch Commander shall be immediately notified of the status of the head count. If any person is unaccounted for, the Watch Commander shall direct an immediate search of the facility and notify the Chief Probation Officer or the authorized designee as soon as practicable.

All visitors and volunteers will be required to enter through the lobby and sign the visitor logbook when they enter and leave the facility. If the lobby is closed, the visitor logbook will be placed in a designated area for them to sign accordingly. ICCC shall log in all vehicles and the number of people in the vehicle. In the event the camera or speaker box is not working, the ICCC officer shall work with security officers to determine the number of people in the vehicle. When leaving the facility, the maintenance/contractor worker(s) shall call ICCC if the camera or speaker box is not working properly to inform them they are leaving the facility. The ICCC officer shall log that the maintenance/contractor(s) left the facility.

Lockdown shall not be used as a form of punishment. It is only intended to facilitate order and maintain security of the JJC.

400.5 HUNGER STRIKE

Upon being made aware that one or more youth is engaging in a hunger strike, the staff member will notify the Watch Commander, who will notify the Chief Probation Officer or the authorized designee. The Chief Probation Officer or the authorized designee should evaluate the basis for the strike and seek an

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appropriate resolution.

The Chief Probation Officer or the authorized designee shall notify the youth's parent/guardian, the youth's probation officer, the local authority having supervisory jurisdiction, and the youth's social worker (if applicable) of the incident and periodically provide updates on the status of the youth.

400.5.1 NOTIFICATION OF QUALIFIED HEALTH CARE PROFESSIONALS

The Chief Probation Officer or the authorized designee shall notify the Medical Director to review, coordinate, and document any medical actions taken, based on protocols and/or at the direction of qualified health care professionals, in response to a hunger strike.

Qualified health care professionals shall monitor the health of any youth involved in a hunger strike and make recommendations to the Chief Probation Officer or the supervisory staff member responsible for oversight of the incident.

If a youth is engaging in a hunger strike due to a mental condition, the appropriate medical protocols for mental health will be followed.

400.5.2 RESPONSE TO HUNGER STRIKES

Beginning at the line staff member level, a resolution to grievances shall be sought at the lowest level. The Youth Grievances Policy shall guide staff members on resolving youth grievances.

If the hunger strike remains unresolved, the Chief Probation Officer or the authorized designee may direct the appropriate staff member to observe the room area, including trash containers, of the youth involved for evidence of food items and of food hoarding.

400.5.3 LEGAL GUIDANCE

If attempts to resolve the grievance are unsuccessful or not reasonably possible, the Chief Probation Officer shall consider consulting with legal resources as appropriate to develop other steps to resolve the issues.

400.6 RESPONSE TO DISTURBANCES

Staff members shall attempt to minimize the disruption to normal facility operations caused by a disturbance by attempting to isolate and contain the disturbance to the extent possible. Staff members when applicable shall immediately notify the Chief Probation Officer through the chain of command of the incident (15 CCR 1327).

400.6.1 NOTIFICATIONS

The Watch Commander shall notify the Chief Probation Officer or the authorized designee of the disturbance as soon as practicable through the chain of command.

The Chief Probation Officer or the authorized designee shall notify the involved youth's parent/ guardian, the youth's probation officer, the local authority having supervisory jurisdiction, and the youth's social worker (if applicable) as soon as practicable (15 CCR 1327).

400.6.2 NOTIFICATION OF QUALIFIED HEALTH CARE PROFESSIONALS

If medical action reasonably appears necessary, the Chief Probation Officer or the authorized designee shall notify the appropriate qualified health care professionals to review, coordinate, and document medical actions based on protocols and/or at the direction of the Medical Director (15 CCR 1327).

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400.6.3 REPORTING

The Chief Probation Officer or the authorized designee shall order that an incident report be completed with the details of the disturbance no later than the end of the shift (see the Report Preparation Policy). If appropriate, a crime report shall be initiated, and prosecution sought (15 CCR 1327).

400.7 RIOTS

Riots occur when youth forcibly and/or violently take control, or disrupt in large numbers with violence or attempt to take control of any area within the Juvenile Justice Campus.

Staff members shall make reasonable attempts to prevent youth-on-youth violence but shall also take measures to avoid aggravating the problem and making the situation worse (15 CCR 1327).

400.7.1 RESPONSE TO RIOTS

Once the area of the disturbance is secured and isolated from other areas of the facility, time is generally on the side of officers. If possible, the process of quelling the disturbance should slow down so officers can develop response plans, ensure there are adequate facility personnel to effectively take the required actions, and ensure that responding officers are appropriately equipped with protective gear.

Officers shall evaluate their response given the totality of circumstances in any situation, but generally shall not enter the space where a riot is occurring until sufficient officers are present to safely suppress the riot. Nothing in this policy shall prohibit any staff member from assisting other staff members who are being assaulted.

Other housing units must be secured, with sufficient officers remaining at their posts to continue to supervise the unaffected units.

If officers are unable to contain, control, and resolve the riot, a request for assistance shall be made to the appropriate law enforcement agency (see the Mutual Aid section in this policy). The request shall be made by the Chief Probation Officer or the authorized designee. When the riot has been suppressed, all involved officers must immediately return to their assigned posts and normal operations should resume.

All youth who have participated in a riot shall be separated and secured as soon as practicable. If necessary, injured youth shall receive a medical evaluation and treatment. If an injured youth is medically cleared to remain in the Juvenile Justice Campus, the youth will be reclassified and moved to appropriate housing. If a crime has occurred with injury or death due to the riot, the Fresno Sheriffs Office shall be notified to investigate the matter (15 CCR 1327).

400.7.2 QUALIFIED HEALTH CARE PROFESSIONAL RESPONSE

If necessary, a Watch Commander or the authorized designee should notify the qualified health care professionals and identify a staging area for medical emergency responders and for medical triage.

The Medical Director or the authorized designee shall be included in developing the response plan as it relates to the potential for a medical response, medical triage and treatment activities, and the safety and security of medical staff members during the incident (15 CCR 1327).

400.7.3 NOTIFICATIONS

As soon as practicable, the Watch Commander or a responsible officer shall notify the Chief Probation Officer or the authorized designee.

The Chief Probation Officer or the authorized designee shall notify any involved youth's parent/ guardian,

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the youth's probation officer, the local authority having supervisory jurisdiction, and the youth's social worker (if applicable) (15 CCR 1327).

400.7.4 REPORTING

The Chief Probation Officer or the authorized designee shall order that a report be written detailing the incident by the end of the shift (see the Report Preparation Policy) unless approved by a supervisor to be completed at a later time (15 CCR 1327).

400.8 HOSTAGES

The Department does not recognize the taking of hostages as a reason to relinquish control of the Juvenile Justice Campus. Signage will be posted in the lobbies, and visiting area that JJC is a no hostage facility. It is the policy of the Fresno County Probation Department to use all available resources reasonably necessary to bring about a successful end to a hostage situation (15 CCR 1327).

400.8.1 RESPONSE TO HOSTAGE INCIDENT

Institutional Core Central Control (ICCC) should immediately be notified at the earliest sign of a hostage incident. Institutional Core Central Control (ICCC) shall notify the Chief Probation Officer through the chain of command as soon as practicable.

The Chief Probation Officer or the authorized designee shall make every effort to ensure that the hostage incident remains confined to the smallest area possible. All door controls accessible to youth shall be disabled. Emergency exits that lead outside the secure perimeter shall be guarded (15 CCR 1327).

400.8.2 NOTIFICATION OF QUALIFIED HEALTH CARE PROFESSIONALS

At the direction of the Watch Commander or the authorized designee, the qualified health care professionals shall be notified in order to identify a location and form a logistical plan for medical triage. The location also shall serve as a medical staging area for other medical emergency responders (15 CCR 1327).

400.8.3 HOSTAGE RESCUE

Communications with the hostage-taker should be established as soon as practicable. The Watch Commander or the authorized designee shall document, if known, the number of hostages, any demands, and any injuries. No promises or denials will be made until a hostage negotiator arrives on scene. Hostage-taker demands for officers to open doors will not be met. A hostage rescue team should be immediately summoned, and the established protocols for resolving the situation shall be implemented. The Chief Probation Officer or the authorized designee shall be consulted regarding decisions faced by the hostage rescue team (15 CCR 1327).

400.8.4 REPORTING

Following the conclusion of a hostage incident, the Chief Probation Officer or the authorized designee shall order that an incident report be completed by the end of the shift (see the Report Preparation Policy) unless approved by as supervisor at a later time (15 CCR 1327).

400.9 ESCAPES

Upon being made aware that an escape may have occurred or did occur, the staff member shall notify the on-duty Watch Commander. The Watch Commander shall notify the Chief Probation Officer through the

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chain of command as soon as practicable.

Once the escape is verified and immediate actions have been taken inside the facility (e.g., lockdown), the Watch Commander should ensure that all local law enforcement agencies are notified (15 CCR 1327).

400.9.1 YOUTH COUNTS

As soon as the facility is fully locked down, a full youth head count should be taken.

All youth who are outside of the secure perimeter of the facility (e.g., court, work details) shall be located and identified. The identity of any missing youth shall be disclosed, and the youth's facility record shall be accessed by the Chief Probation Officer or the authorized designee (15 CCR 1327).

400.9.2 SEARCH

Concurrent with the lockdown, the area surrounding the facility shall be searched for the escapee. Areas where a youth may be hiding or may have discarded clothing shall be searched first. Any witnesses shall be interviewed.

Booking staff members will develop a flyer with the youth's name, description, latest picture, classification status, and charges, and supply it to other staff members and local law enforcement.

Local law enforcement shall also be given the youth's last known address and a list of associates (15 CCR 1327).

400.9.3 REPORTING

Following the conclusion of an attempted escape or an escape, the Chief Probation Officer or the authorized designee shall order that an incident report be completed by the end of the shift. The incident report shall focus on events and physical plant weaknesses that contributed to the escape (see the Report Preparation Policy). The Deputy Chief shall review the reports, interview involved parties, and develop action plans to minimize the risk of future occurrences (15 CCR 1327).

400.10 CIVIL DISTURBANCES OUTSIDE OF THE DETENTION FACILITY

Upon being notified that Juvenile Justice Campus space will be needed in response to a civil disturbance, potentially involving mass arrests, the Watch Commander shall notify the Chief Probation Officer or the authorized designee (15 CCR 1327).

400.11 DEBRIEFING

All responding staff members, including medical responders, shall be debriefed, as determined by the Chief Probation Officer or the authorized designee, on serious facility emergencies as soon as practicable after the conclusion of the incident. The staff members shall examine the incident from the perspective of what worked, what actions were less than optimal, and how the response to a future incident might be improved. Depending on the degree of the situation, it may be necessary to bring in Mental Health professionals to help facilitate the debriefing to include any youth involved.

If appropriate, the details of the incident will be used to develop a training course for responding to facility disturbances. The goal of any debriefing process is continuous improvement. The debriefing shall be focused on the incident, an improved response, and systemic changes that may be required. A moderator shall ensure that no individual or group involved in the response is publicly ridiculed.

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400.12 EMERGENCY HOUSING OF YOUTH

The Chief Probation Officer or the authorized designee shall develop a plan on the emergency housing of youth in the event of a full or partial evacuation of the facility. The plan shall address when youth should be housed in place, identification of alternate facilities and the potential capacity of those facilities, youth transportation options, and contact information for allied agencies. This plan shall be reviewed at least annually and revised if necessary.

400.13 MUTUAL AID

The magnitude and anticipated duration of a facility emergency may necessitate interagency cooperation and coordination. The Deputy Chief shall ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated for the safe keeping and transportation of youth during the facility emergency and evacuation process (see the Emergency Evacuation Policy). For a large-scale emergency response, see the Emergency Evacuation Policy and Emergency Staffing Policy.

When another agency requests assistance from this Department, the Deputy Chief or authorized designee may authorize, if available, an appropriate number of personnel to assist. Staff members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this Department.

When mutual aid assistance is rendered, a report shall be prepared and submitted by the handling staff member unless otherwise directed by a supervisor (15 CCR 1327).

400.14 REVIEW OF EMERGENCY PROCEDURES

The Deputy Chief shall ensure that there is a review of emergency procedures at least annually (15 CCR 1327). This review shall be documented and placed in the staff member's JJC and Departmental training file. This review should also include the signatures or initials of the staff members responsible for the review. At a minimum, the review shall include:

- (a) Assignment of staff members to specific tasks in emergency situations.
- (b) Instructions for using the alarm systems and signals.
- (c) Systems for the notification of appropriate persons outside the facility.
- (d) Information on the location and use of emergency equipment in the facility.
- (e) Description of evacuation routes and procedures.

400.15 FIRE

This Department shall identify and conform to applicable federal, state, and/or local fire safety codes, and establish a process for creating, disseminating, and training all individuals in the facility on the emergency plans for fire safety and evacuation (see the Fire and Life-Safety Policy, Juvenile Detention Manual Policy, and Fire Safety Plan Policy).

400.16 NATURAL DISASTER

The Chief Probation Officer or the authorized designee shall be prepared to operate a safe and secure facility in the event of a natural disaster emergency.

400.17 OTHER TYPES OF EMERGENCIES

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Facility emergencies that could negatively affect the good order of the facility and the safety of staff members, youth, contractors, volunteers, and visitors include but are not limited to an outbreak of infectious disease, a work stoppage or strike by staff members, and other disruptions. The Chief Probation Officer or the authorized designee shall be responsible for ensuring that an appropriate facility emergency plan exists for these types of emergencies.

400.18 PERIODIC TESTING OF EMERGENCY EQUIPMENT

The Chief Probation Officer or the authorized designee is responsible for scheduled and periodic testing of emergency power systems which are completed by the Internal Services Department.

All testing and inspections shall be documented, and the results included in a report to the Deputy Chief or the authorized designee.

400.19 TRAINING

Officers shall review emergency procedures (See Emergency Procedures form located in the Department Case Management system) annually (15 CCR 1327). This facility will provide emergency preparedness training as part of orientation training for all staff members assigned to the facility.

On an annual basis emergency training shall occur for each shift. The assigned Watch Commander/Supervising Juvenile Correctional Officer shall document in the Watch Commander log as well as provide JJC Administration a memorandum/e-mail of what training occurred and retained in accordance with established records retention schedules.

400.20 REFERENCES

See Facilities Emergencies Procedure for additional guidance.

400.21 ISSUED DATE

- 04/17/2023

THE PRISON RAPE ELIMINATION (PREA) ACT

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

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

The Contractor shall comply with all Probation Department Policies and Procedures. In the event of a dispute involving the County staff and the contract employee, the on-duty Facility Administrator will have the final decision." **INFORMATION ON THE PRISON RAPE ELIMINATION ACT CAN BE FOUND HERE:** <http://www.prearesourcecenter.org/>

Exhibit F

FRESNO COUNTY SHERIFF'S OFFICE
JAIL DIVISION POLICIES AND PROCEDURES

TITLE: HOSTAGE SITUATIONS
FILE: HOSTAGE

NO: B-130

EFFECTIVE DATE: 12-18-89 REVISED: 08-06-90, 12-25-94, 05-06-96, 09-01-99,
12-01-10
AUTHORITY: Sheriff M. Mims APPROVED BY: Assistant Sheriff T. Gattie
REFERENCE: California Code of Regulations, Title 15, Section 1029(a)(7)(B) and
Penal Code Section 236.

PURPOSE:

The purpose of this policy is to establish procedures which provide for the resolution of a hostage-taking incident while preserving the safety of staff, public, inmates, and hostages, and maintaining facility security.

POLICY:

The Fresno County Sheriff's Office Jail Division maintains a **NO HOSTAGE FACILITY** and will not consider bargaining with hostage takers for ANY reason.

It is the policy of the Fresno County Sheriffs Office Jail Division that once any staff member is taken hostage, they immediately lose their authority and any orders issued by that person will not be followed regardless of their rank or status.

It is the policy of the Fresno County Sheriffs Office Jail Division that the primary responsibility of all staff members in a hostage situation is to protect every person involved, if possible, from serious injury or death.

PROCEDURES:

I. DEFINITION

HOSTAGE SITUATION: any staff member, citizen or inmate held against their will by another person for the purpose of escape, monetary gain or any reason which may place an individual in danger of losing life or suffering serious injury.

II. NOTIFICATIONS. CONTAINMENT AND CONTROL OF THE SITUATION

- A. Emergency procedures and notifications shall be implemented as per Emergency Planning procedures (B-101/FILE: EMERGENCY).
- B. The Watch Commander will notify the Patrol Watch Commander and apprise them of the incident. The Patrol Watch Commander may be requested to activate the Crisis Negotiations Team (CNT), outside support agencies, equipment, personnel, and

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dispatch a detective to the scene for the crime report.

III. DURING NEGOTIATIONS

- A. While at the scene, the CNT members will conduct all verbal or written communications between the hostage taker(s) and the Incident Commander. CNT will immediately notify the Incident Commander of any changes in the following situations:
 - 1. Hostage status
 - 2. Incident changes and developments
 - 3. Hostage taker demands
 - 4. Any and all pertinent information concerning the incident
- B. Staff members at the scene not actively involved with negotiations will not act or speak out to the hostage taker(s) or hostages.
- C. The Tactical Commander will formulate a plan to take the necessary actions, using the appropriate force, to terminate the hostage situation in the event negotiations fail. Hostage safety will be of paramount concern.

IV. HOSTAGE SURVIVAL STRATEGIES

- A. If taken hostage, it is important to make the transition from being a victim to being a survivor. The following are not strict rules that must be rigidly followed, but rather general guidelines. There will always be exceptions.
 - 1. Regain/maintain composure. Try to be calm, focused and clear-headed at all times. Do not stand out from other hostages. Drawing unnecessary attention increases the chance of being singled out and victimized.
 - 2. Maintain a low-key, unprovocative posture. Overt resistance is usually counterproductive in a hostage situation.
 - a. Remain calm and follow instructions. Comply with the hostage takers when at all possible.
 - b. Be stoic. Maintain an outward face of acceptance of adversity with dignity. Avoid open displays of cowardice and fear. Inmates will view frailty and feebleness as weakness, which may lead to victimization.
 - c. Do not antagonize, threaten or aggravate the hostage takers. Avoid saying "no", or arguing with the hostage takers. Do not act authoritative. The hostage takers

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- must make it known that they are in charge.
- d. Eye contact may be regarded as a challenge; make eye contact with the hostage takers sparingly.
 - e. Fight off basic instincts, such as anger and hostility. Be polite and remain alert. Speak normally and don't complain.
3. Hostages should try to establish a level of rapport or communication with their captors in attempt to get the captors to recognize them as human beings.
- 4.
- a. Find a mutual ground, an association with the hostage takers. Foster communication on non-threatening topics (e.g., family, hobbies, sports, interests).
 - b. Use the captors' first names, if known. However, if hostage takers are attempting to conceal their identity, do not give any indication that they are recognized.
 - c. Listen actively to the captors' feelings and concerns, but never praise, participate in, or debate their "cause". If they want to talk about their cause, act interested in their viewpoints. Avoid being overly solicitous, which may be viewed as patronizing or insincere.
 - d. Do not befriend the inmates; such an attempt will likely result in exploitation.
 - e. Try asking for items that will increase personal comfort. Make requests in a reasonable, low-key manner.
5. Be prepared to be isolated and disoriented.
- a. Do not talk to other hostages. The hostage takers may think a plot is being formed.
 - b. Develop mind games to stimulate thinking and maintain mental alertness.
6. Be tolerant of fellow hostages. Just as each person has different reactions to stress, each individual will have different methods of coping as a hostage. Some methods are not effective and may endanger the group, or be annoying to other hostages (e.g., constant talking). Try to help these people cope in other ways.
7. Gather intelligence. Hostages should take in and store as much detail, about their captors as possible without drawing attention to their efforts. Make mental notes and attempt to gather the following information: identification of the ring leader, the number of hostage takers, the type of weapons they are using, their tactics,

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location within the area, etc.

8. Maintain hope. Depending on the circumstances, resolution of hostage situations can be a lengthy process.
- B. Stay away from doors and windows through which rescue teams may enter or shoot. If a rescue is attempted, drop to the floor and keep hands in view.
- C. If there is a chance to escape, the hostage should be certain of their success.
 1. Balance the likely payoff of any behavior with the possible consequences. Hostage takers may use violence or death to teach a lesson.
 2. Realize that Central Control will not open any doors for anyone.
- D. Hostages should be aware of the "Stockholm Syndrome", whereby hostages begin to show sympathy toward their captors. Hostages who develop Stockholm Syndrome often view the captor as giving life by simply not taking it. Such hostages often misinterpret a lack of abuse as kindness and may develop feelings of appreciation for the perceived benevolence.

BACKGROUND INVESTIGATIONS AND IDENTIFICATION (ID) BADGES

Background Investigations

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

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

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

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

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

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

Exhibit G

Identification (ID) Badges

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

1. ID badges will be given only after successfully completing the background investigation. ID badges will be issued when the photo is taken. If electronic access to any County facility is required, activation of the badge may take an additional 48 hours to complete.
2. The wearer will not escort or bring any other individuals into any County facilities. County issued ID badges are for the exclusive use of the individual named and pictured on the badge.
3. All ID badges will remain the property of the County and are returnable upon demand or upon the expiration of the contract. The Contractor will be responsible for collecting all ID badges issued and turning them in to the County Security Office when a contract ends or when an employee leaves employment. The Contractor will assume all responsibility for their employee's use of and the return of the County ID badges.
4. The ID badges will only be issued to individuals passing the Background check. Each individual will need to present themselves in person with a valid, clean, and legible copy of a Driver's license or State issued Identification Card to receive an ID badge.