

1 **SERVICE AGREEMENT**

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

5 **Recitals**

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

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

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

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

15 **Article 1**

16 **Contractor's Services**

17 1.1 **Scope of Services.** The Contractor shall perform all of the services provided in
18 Exhibit A to this Agreement, titled "Scope of Services."

19 1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and
20 able to perform all of the services provided in this Agreement.

21 1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all
22 applicable federal, state, and local laws and regulations in the performance of its obligations
23 under this Agreement, including but not limited to workers compensation, labor, and
24 confidentiality laws and regulations.

25 1.4 **Patent Indemnity.** The Contractor shall hold County, its officers, agents, and
26 employees, harmless from liability of any nature or kind, including costs and expenses
27 (including attorney's fees and costs), for infringement or use of any copyrighted or
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1 uncopyrighted composition, secret process, patented or unpatented invention, article or
2 appliance furnished or used in connection with this Agreement.

3 1.5 **Immigration Reform and Control Act of 1986.** The Contractor warrants on behalf
4 of itself and all subcontractors engaged for the performance of this Agreement that only persons
5 authorized to work in the United States pursuant to the Immigration Reform and Control Act of
6 1986 and other applicable laws shall be employed in the performance of the Contractor's Work
7 under pursuant to the job order or orders under this Agreement ("Work").

8 1.6 **Data Security.** The Contractor shall employ adequate controls and data security
9 measures, both internally and externally, to ensure and protect the confidential information
10 and/or data provided to the Contractor by the County, preventing the potential loss,
11 misappropriation, or inadvertent access, viewing, use or disclosure of County data, including
12 sensitive or personal client information; abuse of County resources; and/or disruption to County
13 operations.

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

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

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

27 The County shall provide oversight to the Contractor's response to all incidents arising
28 from a possible breach of security related to the County's confidential client information.

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

4 **1.7 Confidentiality.** All services performed by the Contractor shall be in strict
5 conformance with all applicable Federal, State of California, and/or local laws and regulations
6 relating to confidentiality, including but not limited to, California Civil Code, California Welfare
7 and Institutions Code, California Health and Safety Code, California Code of Regulations, and
8 the Code of Federal Regulations.

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

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

23 **1.8 Confidentiality of Inmates/Wards/Patients/Clients Identity.** Some the Work to be
24 performed under this Agreement may occur in secured facilities or facilities that require
25 confidentiality. The Contractor shall alert and inform its employees and agents that State law
26 requires that the identities of inmates/wards/patients/clients be kept confidential. Revealing the
27 identities of inmates/wards/patients/clients is punishable by law.

1 1.9 **Intent of Agreement Documents.** Some of the Work may require the Contractor to
2 work in in-patient care facilities. The intent of Agreement Documents, as defined in Article 14 of
3 this Agreement, will be to construct or reconstruct the hospital facilities for an individual Job
4 Order in accordance with Title 24, California Code of Regulations. If any conditions develop that
5 are not covered by the Agreement Documents, wherein the completed Work shall not comply
6 with said Title 24, California Code of Regulations, the County shall develop a Job Order
7 detailing any required Work and shall submit it to The Office of Statewide Health Planning and
8 Development for approval prior to the Contractor proceeding with the Work.

9 1.10 **Building Permits.** The Contractor shall be responsible for all fees and costs incurred
10 in connection with obtaining permits; however, the County will reimburse the Contractor for the
11 actual cost of the permit or inspection fees, as part of the Job Order, with no additional
12 allowance for 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.** The Contractor shall coordinate all work with the County to
19 minimize any interruptions to the normal operation of County operations, particularly
20 interruptions to air conditioning, electrical services, alarm system, communications, and
21 computer systems.

22 1.13 **Workday.** All work shall be set forth as part of the Job Order. Saturday and Sunday
23 work will not be allowed except by written approval of the County, and upon 48 hours advance
24 notice. Payment requirements for shift differential and overtime shall be as set forth in the
25 Collective Bargaining Agreement for the trade, on file with the State Department of Industrial
26 Relations, Division of Labor Statistics and Research. The Contractor is urged to contact the
27 Prevailing Wage Unit at 415/557-0561 or 415/703-4281 for 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. The 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
6 may further be hereinafter detailed in the Agreement Documents, the Contractor shall conduct
7 the Work so as not to interfere with or hinder the progress of completion of the Work being
8 performed by other contractors.

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

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

20 1.16 **Temporary Facilities.**

21 (A) Water and Electricity: The Contractor may connect to existing water and
22 electricity available on the site, provided it is suitable to the Contractor's requirements. Water
23 and electricity costs shall be paid by the County. The Contractor shall bear all expenses for
24 carrying the water or electricity to the appropriate locations, and for connecting or tapping into
25 existing lines. The Contractor shall furnish fuel and other power for the operation of the heavy
26 equipment, pneumatic tools, and compressors.

1 (B) Toilet Facilities may be available on the site to the workers engaged in the
2 performance of this Agreement. The use of such facilities may be revoked in the event of
3 excess janitorial requirements, or at the discretion of County.

4 1.17 **Fire Protection and Fire Insurance.** The Contractor shall not perform any fire
5 hazardous operation adjacent to combustible materials. Any fire hazardous operation shall have
6 proper fire extinguishers close by, and the adjacent area shall be policed before stopping work
7 for the day.

8 The Contractor shall provide not less than one OSHA / NFPA Class 10-ABC fire
9 extinguisher for each 9,000 square feet of project area or fraction thereof.

10 1.18 **Dust Separation and Protective Barricades.** When directed as part of an individual
11 Job Order, the Contractor shall erect temporary dust separation partitions and floor mats as
12 necessary to confine dust and debris within the area of Work. The Contractor shall post signs,
13 and erect, and maintain barriers and warning devices for the protection of the general public and
14 Contractor and County personnel.

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

21 1.19 **Damage to Existing Work.** Damage to existing construction, equipment, and
22 planting by the Contractor in the performance of the Work shall be replaced or repaired and
23 restored to original condition by the Contractor at the Contractor's expense.

24 1.20 **Protection of Alarms, Security, Communications, and Computer Systems.** The
25 Contractor shall be responsible for all costs incurred by the County on these systems as a
26 result of Work by the Contractor or damage caused by the Contractor's operations, including
27 costs associated with false fire alarms caused by Contractor operations.

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

3 1.22 **Record Drawings.** The Contractor shall be provided with xerox bond prints at no
4 cost, upon which a record of all changes to the project plans shall be made. As the Work
5 progresses, the Contractor shall be responsible for and shall maintain a record of all deviations
6 in the 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, the Contractor shall respond within 24 hours' notice from the County that repairs or
12 changes are required in connection with guaranteed Work, or equipment within the guarantee
13 period.

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

27 The methods for removal and disposal of either non-friable ACM or friable ACM selected
28 by the Contractor shall be approved by the County before commencing removal operations. If,

1 during the course of removal operations, the County determines that removal methods used by
2 the Contractor result or may result in releasing airborne asbestos fibers to the atmosphere, the
3 Contractor shall immediately cease the Contractor's current ACM removal operations, and
4 propose a new method for removal of ACM for the approval of the County. If removal of ACM
5 results in release of airborne asbestos fibers to the atmosphere, then control measures required
6 by Federal and State regulations must be instituted at the Contractor's expense.

7 Work area air monitoring may be required for individual Job Orders, at the discretion of
8 the County. Work area air monitoring shall be paid for by the Contractor. The Engineer reserves
9 the right to require the Contractor, at the Contractor's expense, to utilize a contractor certified by
10 the Contractor's State License Board and registered with the Division of Occupational Safety
11 and Health to remove and dispose of ACM, if, in the opinion of the Engineer based on the
12 Contractor's performance of ACM removal, only a certified and registered contractor would
13 possess the technical skills and resources required to remove the ACM.

14 At the Contractor's option, removal and disposal of non-friable ACM or friable ACM
15 where removal and disposal may result in release of airborne asbestos fibers to the atmosphere
16 may be subcontracted to a contractor certified by the Contractor's State License Board and
17 registered with the Division of Occupational Safety and Health.

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

- Exhibit D – Probation Juvenile Detention Facilities – No Hostage Policy

- 1 • Exhibit E – Probation Juvenile Detention Facilities – Campus Manual
- 2 • Exhibit F – Fresno Sheriff – Coroner’s Office (FSCO) Jail Detention Facilities – No
- 3 Hostage Policy
- 4 • Exhibit G – The Prison Rape Elimination Act
- 5 • Exhibit H – Background Investigations & Identification (ID) Badges

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

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

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

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

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

25 1.26 **Trenching and Excavation.** In accordance with section 7104 of the California Public
26 Contract Code, the following provisions shall apply to any contract involving digging of trenches
27 or other excavations that extend deeper than four feet below the surface:
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1 (A) The Contractor shall promptly, and before the following conditions are disturbed,
2 notify the County, in writing, of any:

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

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

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

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

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

21 **1.27 Rights and Remedies of County for Default.** In case of default by the Contractor,
22 the County may procure the articles or service from another source and may recover the cost
23 difference and related expenses from any unpaid balance due to the Contractor or by
24 proceeding against performance bond of the Contractor, if any, or by suit against the Contractor.
25 The prices paid by the County shall be considered the prevailing market price at the time such
26 purchase is made.

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

4 Regardless of F.O.B. point, the Contractor agrees to bear all risks of loss, injury or destruction
5 to goods and materials ordered herein which occur prior to delivery; loss, injury, or destruction
6 shall not release the Contractor from any obligation hereunder.

7 1.28 **Assignment of Moneys.** The Contractor agrees to furnish all labor and materials,
8 including tools, implements, and appliances required, and to perform all the Work in a good and
9 workmanlike manner, free from any and all liens and claims of mechanics, material-men,
10 subcontractors, artisans, machinists, teamsters, day-men, and laborers required for completing
11 specific Job Orders, as directed by the County.

12 1.29 **Inspection.** All material and workmanship (if not otherwise designated by the
13 Agreement Documents) shall be subject to inspection, examination, and test by the Director of
14 the specific project or designated County official (hereinafter "Director") at any and all times
15 during manufacture and/or construction, and at any and all places where such manufacture
16 and/or construction are carried on. The Director shall have the right to reject defective material
17 and workmanship or require its correction.

18 The Contractor shall furnish promptly without additional charge, all reasonable facilities,
19 labor, and materials necessary for the safe and convenient inspection and tests that may be
20 required by the Director.

21 If considered necessary or advisable by the Director at any time either before
22 acceptance of the entire Work, or after acceptance and within the guaranty period, to make an
23 examination of Work already completed, by removing or tearing out same, the Contractor shall,
24 on request, promptly furnish all necessary facilities, labor, and material. If such Work is found to
25 be defective in any material respect, due to the fault of the Contractor or his/her subcontractors,
26 he shall defray all the expenses of such examination and of satisfactory reconstruction. If,
27 however, such Work is found to meet the requirements of this Agreement, the Contractor's
28 costs necessarily incurred in the examination and replacement, as determined by use of the

1 Construction Task Catalog®, shall be reimbursed to the Contractor and the Contractor shall, in
2 addition, if completion of the Work has been delayed thereby, be granted a suitable extension of
3 time on account of the additional Work involved.

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

7 1.30 The Contractor shall not assign moneys due or to become due to the Contractor
8 under the Agreement without the written consent of the County's Auditor-Controller/Treasurer-
9 Tax Collector. Any assignment of moneys shall be subject to all proper set-offs in favor of the
10 County, and to all deductions provided for in the Agreement, and particularly all money withheld,
11 whether assigned or not, shall be subject to being used by the County for the completion of the
12 Work in the event that the Contractor defaults under this Agreement.

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

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

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

28 <http://www.dir.ca.gov/opri/PWD/index.htm>.

1 Information pertaining to applicable prevailing wage rates for apprentices may be found
2 on the website for the State of California – Department of Industrial Relations:
3 <http://www.dir.ca.gov/oprl/pwappwage/PWAppWageStart.asp>.

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

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

19 The Contractor and each of its subcontractors shall keep a log showing the name,
20 address, social security number, work classification, straight time and overtime hours worked
21 each day and week, and the actual per diem wages paid to each journeyman, apprentice,
22 worker, or other employee employed by him or her in connection with this public work project. In
23 accordance with Labor Code section 1776, each payroll record shall be certified and verified by
24 a written declaration under penalty of perjury stating that the information within the payroll
25 record is true and correct, and that the Contractor or subcontractor has complied with the
26 requirements of Labor Code sections 1771, 1811 and 1815 for any work performed by its
27 employees on this public work project. These records shall be open at all reasonable hours to
28 inspection by the County, its officers, and agents, and to the representatives of the State of

1 California – Department of Industrial Relations, including but not limited to the Division of Labor
2 Standards Enforcement.

3 **1.33 Supervision Procedures.**

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

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

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

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

21 (E) The Contractor shall not be relieved from the Contractor's obligations to perform
22 the Work in accordance with the Agreement Documents, either by the activities or duties of the
23 Director in his/her administration of the Agreement, or by inspections, tests or approvals
24 required or performed by persons other than the Contractor.

25 **1.34 Construction Procedures.**

26 (A) Means and Methods – The Contractor shall be solely responsible for, and control
27 of construction means, methods, techniques, sequences, and procedures for all the Work of this
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1 Agreement. Additionally, the Contractor shall be responsible for safety precautions and
2 programs in connection with the Work.

3 (B) Progress Schedule – The Contractor, immediately after being awarded a Job
4 Order, shall update the schedule submitted as part of the Proposal, and submit for the County’s
5 information an estimated progress schedule.

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

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

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

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

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

25 (H) Hazardous Substances - With the invoice, or within 25 days of delivery, the
26 Contractor must provide to the County a Material Safety Data Sheet for any product used by the
27 Contractor, which contains any substance on “The List of 800 Hazardous Substances”,
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1 published by the State Director of Industrial Relations. (See Hazardous Substances Information
2 and Training Act, California State Labor Code sections 6360 through 6399.7).

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

5 1.35 The Contractor shall bind every subcontractor to the terms of this Agreement to
6 carry out its provisions insofar as applicable to their work, and the Contractor further agrees to
7 pay to each subcontractor his/her or their due portion promptly upon issuance of certificate of
8 payment.

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

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

19 (C) This Agreement is subject to nondiscrimination requirements, including, but not
20 limited to, compliance by the Contractor and its subcontractors with the provisions of
21 Government Code section 12940.

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

25 **Article 2**

26 **County's Responsibilities**

27 2.1 The Work to be performed pursuant to this Agreement includes a comprehensive
28 listing of detailed repair, remodeling, and other repetitive tasks and specifications that have

1 preestablished units of measure and unit prices listed in The Gordian Group, Inc.'s proprietary
2 Construction Task Catalog®. The Work performed under this Agreement shall be carried out
3 pursuant to individual tasks or job orders, and shall involve repair, remodeling, or other
4 repetitive work for public buildings, streets, utilities, and other public works ("Job Order(s)").

5 2.2 The County shall identify projects, as well as the County's intended results for each
6 project, and may, at the County's discretion, work with the Contractor to develop a scope and
7 specifications.

8 2.3 The County shall issue a Notice to Proceed for each Job Order and shall issue any
9 required subsequent Job Order for each project.

10 2.4 The County shall provide inspection and written acceptance of the Work.

11 2.5 The County shall provide a County representative ("County Representative") to
12 represent the County, who will work with the Contractor to carry out the Contractor's obligations
13 under this Agreement. The County Representative will be the County's Facility Services
14 Manager, or his or her designees. The Contractor shall provide a contact person to the County
15 Representative upon execution of this Agreement and is responsible for informing the County as
16 changes in personnel occur.

17 2.6 The County may perform or employ others to undertake any portions of Work
18 persistently neglected by the Contractor, provided that, after three days' written notice to the
19 Contractor, such Work is still not completed to the County's satisfaction. In such case, the Work
20 shall be completed under direction of the Director or designated County Official or designee,
21 and the cost deducted from the amount of next payment falling due to the Contractor. Such
22 action shall, in no way, affect the status of either party under this Agreement, nor be held as a
23 basis of any claim by the Contractor for damages or extension of time.

24 2.7 **Changes to the Job Order.** Changes Requested by the County. The County may,
25 without invalidating the Job Order, order changes, modifications, deletions, and extra work by
26 issuing additional written Job Orders during the progress of the Work. The Contractor shall not
27 be entitled to compensation for any extra Work performed, unless the Director has issued an
28 additional written Job Order designating (i) the extra Work to be performed, (ii) the price of the

1 extra Work, and (iii) the time for completion of the extra Work. If the County orders Work added
2 or deleted from the Job Order, the price for the additional Job Order shall be determined using
3 the Procedure for Ordering Work set forth in Exhibit A. Credits for Pre-priced and Non Pre-
4 priced Tasks shall be calculated at the pre-set Unit Prices, and multiplied by the appropriate
5 Adjustment Factors. Credits for Tasks that have been deleted from the Detailed Scope of Work
6 will be given at 100% of the value at which they were included in the original Job Order Price
7 Proposal.

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

17 Where the Contractor and the County disagree on the scope, price, and/or time for
18 changes in the Detailed Scope of Work, the County may require the Contractor to perform such
19 Work under a written protest, pursuant to the Resolution of Contract Claims in Article 13, herein.
20 The Contractor’s failure to submit a written protest to the Director within five days of beginning
21 such Work constitutes a waiver of any claim.

22 2.8 Discrepancies. Should the Contractor, at any time, discover a mistake in any of the
23 Agreement Documents or any discrepancy therein, or any variation between dimensions on the
24 Agreement Documents and measurements at site, or any missing dimensions or other
25 information, the Contractor shall report at once to the Director for correction, and shall not
26 proceed with the affected Work until such correction has been made.

27 2.9 Resolving Conflicts
28

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

- 3 (i) Permits from other agencies as may be required by law
- 4 (ii) Permits issued by the County
- 5 (iii) Changes to Job Orders
- 6 (iv) Job Orders
- 7 (v) This Agreement
- 8 (vi) Addenda
- 9 (vii) Scope of Work
- 10 (viii) Technical Specifications
- 11 (ix) Construction Task Catalog®
- 12 (x) Reference Specifications

13 (B) Division of Contract Documents - For convenience of reference and to facilitate
14 the letting of independent contracts, the Agreement Documents may be separated into certain
15 sections; such separation shall not operate to oblige the Director only or designee to establish
16 the limits of any contract between the Contractor and subcontractor, each of whom shall depend
17 upon his/her own contract stipulations. This Agreement shall apply with equal force to all Work,
18 including extra Work.

19 (C) Shop Drawings - Mill drawings, shop drawings, setting diagrams, schedules,
20 maker's specifications, and illustrations requisite for the various parts of the Work shall be
21 provided, and promptly submitted by the Contractor. These shall be submitted in duplicate or as
22 directed, shall be corrected if necessary, and resubmitted until review by the Director is
23 complete, after which corrected copies of each shall be filed with him and the necessary
24 additional copies supplied for use in connection with the Work. Corrections or comments made
25 on the shop drawings during this review do not relieve the Contractor of his/her responsibility to
26 comply with the requirements of the drawings and specifications. This review is only to check for
27 general conformance with the design concept of the project and general compliance with the
28 Agreement Documents. The Contractor remains responsible for: confirming and correlating all

1 dimensions and quantities; selecting fabrication processes and techniques of construction;
2 coordinating the work of the trades; and performing the work in a safe and satisfactory manner.

3 (D) Trade Names and Alternatives - The intent of the specifications is to specify high-
4 grade standard equipment, and it is not the intent of these specifications to exclude or omit the
5 products of any responsible manufacturer, if such products are equal in every respect to those
6 mentioned herein. Wherever an article, or any class of materials, is specified by the trade name
7 or by the name of any particular patentee, manufacturer, or dealer, it shall be taken as intending
8 to mean and specify the article of material described or any other equal thereto in quality, finish,
9 and durability, and equally as serviceable for the purpose for which it is, or they are intended.

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

15 **2.10 Liquidated Damages.** It is understood and agreed by both parties to this Agreement
16 that if all the work specified or indicated in the Job Order is not completed within the specified
17 time frames set forth in the Job Order, or within such time limits as extended, damages will be
18 sustained by the County in the event of and by reason of such delay. It is, and will be,
19 impractical and extremely difficult to determine the actual damage which the County will sustain
20 by reason of the delay. It is therefore agreed that the Contractor will pay, at a minimum, to the
21 County the sum of money stipulated per day in the Job Order for each day's delay in completing
22 the work beyond the time prescribed.

23 The County shall determine the application of liquidated damages, and the value of
24 liquidated damages. Each Job Order shall state whether liquidated damages will be applied.
25 The County may withhold liquidated damages from payments to the Contractor as such
26 damages accrue, or, at the County's discretion, withhold liquidated damages from any
27 payments due or that become due pursuant to a Job Order, including Retention and final
28

1 payment (pursuant to Government Code §53069.85). The County shall execute a credit Job
2 Order to assess liquidated damages against the Contractor.

3 **2.11 Control of the Work.** The Parties agree that the Director shall be the arbiter
4 between parties thereto, and the entire Work is under the Director's jurisdiction to such end. It is
5 the Director's function to interpret the Agreement Documents; pass upon merits of materials and
6 workmanship, compute amounts of and issue certificates for all payments to which the
7 Contractor may be entitled; decide upon all deductions from and additions to the Job Order
8 Price resulting from alterations after letting of Job Order; determine amount of damages
9 accruing to either Party from any cause; or conferences at any time during the progress of the
10 Work, and such order shall require the Contractor and any or all subcontractors or other
11 contractors to attend; and perform any other required duties.

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

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

23 Authority to stop the Work is vested in the Director, and may be involved whenever the
24 Director deems such action necessary to ensure proper execution of the Agreement, and Work
25 may not thereafter be resumed until the Director has given written consent.

1 **Article 3**

2 **Compensation, Invoices, and Payments**

3 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for
4 each Job Order in accordance with the Contractor's Adjustment Factors, as described in this
5 Article 3.

6 3.2 The Contractor's Adjustment Factors are as follows:

7 Non-Federally Funded Normal Working Hours 8 Adjustment Factor	1.1000
9 Non-Federally Funded Other than Normal 10 Working Hours Adjustment Factor	1.1300
11 Federally Funded Normal Working Hours 12 Adjustment Factor	1.1300
13 Federally Funded Other than Normal Working 14 Hours Adjustment Factor	1.1300

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

21 In no event shall compensation paid for services performed under this Agreement
22 exceed the Maximum Agreement Value during the term of this Agreement. All expenses
23 incidental to the Contractor's performance of services under this Agreement shall be borne by
24 the Contractor.

25 3.3 **Maximum Compensation.** The maximum compensation payable to the Contractor
26 under this Agreement is for all Job Orders ("Maximum Agreement Value") performed by the
27 Contractor shall not exceed \$5,000,000. There is no Minimum Contract Value.

28 3.4 The Contractor acknowledges that the County is a local government entity, and does
so with notice that the County's powers are limited by the California Constitution and by State

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

6 **3.5 Invoices.** The Contractor shall submit monthly invoices referencing the provided
7 agreement number to the County of Fresno, Facility Services, Attention: Facility Services
8 Manager, 4590 E. Kings Canyon Road, Fresno, CA 93702,
9 ISDFacilitiesAP@fresnocountyca.gov. Each invoice shall reference this agreement number, the
10 FAMIS (the County's computerized maintenance management system) work order number, the
11 OMNIA Partners contract number, the date of service, arrival and departure time, address of
12 serviced building, specific area where work was performed, description of services provided,
13 number of service hours and hourly rates for services provided, materials used and cost of
14 materials, notice that warranty of any new material installed was provided, the printed name of
15 the County representative who authorized the work, and the name of the vendor and vendor
16 technician that provided the service. The Contractor shall submit each invoice within 60 days
17 after the month in which the Contractor performs services and in any case within 60 days after
18 the end of the term or termination of this Agreement.

19 **3.6 Payment.** The County shall pay each correctly completed and timely submitted
20 invoice within 45 days after receipt and approval of each invoice, which shall be given upon
21 verification of satisfactory performance. The County shall remit any payment to the Contractor's
22 address specified in the invoice. Payments shall be made for inspected and approved Work
23 only. If an individual Job Order requires 45 days or less for completion, the County will normally
24 make one payment to the Contractor after the Notice of Completion, if required by the County,
25 and retention shall be paid after final acceptance of all Work contained under the Job Order and
26 all Agreement requirements for final payment have been satisfied. For Job Orders requiring
27 greater than 45 days performance period, the County shall consider a request for partial
28 payments to the Contractor, which shall not occur more often than monthly. The County will

1 make progress payments to the Contractor upon completion of portions of the Work, as covered
2 by the Agreement, in accordance with established County procedures:

3 (A) Before payment is made, the Contractor shall prepare for the Director's approval
4 a statement covering the actual Work completed under the terms of the Job Order. A schedule
5 of values listed by "CSI" or "Category" from the Contractor's Job Order Price Proposal may be
6 utilized for this schedule of values.

7 (B) In making such payment, there shall be a retention of 5% of the payment
8 requested. If, after 50% of the Work of the Job Order has been completed, the Director finds
9 that satisfactory progress is being made, the Director may reduce the retention to 2½% of the
10 amount requested. In addition, after 97.5% of the Work has been completed, the Director may
11 reduce the amount withheld to such lesser amount as the Director determines to be adequate
12 security for the fulfillment of the balance of the Work, and other requirements of this
13 Agreement. In no event shall this amount be reduced to less than 125% percent of the
14 estimated value of the Work yet to be completed, as determined by the Director. Such
15 reduction shall only be made upon the written request of the Contractor, and shall be approved
16 in writing by the surety upon the Performance Bond and the surety upon the Payment Bond.
17 The signature of persons executing the approval for the surety shall be properly acknowledged,
18 and the power of attorney authorizing those persons to give such consent must accompany the
19 approval document.

- 20 i. Substitution of securities for any moneys withheld by the County to ensure
21 performance under this Agreement shall be permitted, provided that substitution
22 of securities provisions shall not apply to contracts in which there will be
23 financing provided by the Farmers Home Administration of the United States
24 Department of Agriculture pursuant to the Consolidated Farm and Rural
25 Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal regulations or
26 policies, or both, do not allow the substitution of securities.
- 27 ii. At the request and expense of the Contractor, and in compliance with Public
28 Contract Code section 22300, securities equivalent to the amount withheld

1 pursuant to these specifications shall be deposited by the Contractor with the
2 County, or with a state or federally chartered bank as the escrow agent, who
3 shall then pay such withheld amounts to the Contractor upon written
4 authorization of the County.

5 iii. Securities eligible for investment under this section shall include those listed in
6 section 16430 of the Government Code, bank or savings and loans certificates of
7 deposit, interest bearing demand deposit accounts, standby letters of credit, or
8 any other security mutually agreed to by the Contractor and the County.

9 iv. Securities to be placed in escrow shall be of a value at least equivalent to the
10 amounts of retention to be paid to the Contractor.

11 v. The Contractor shall be beneficial owner of any securities substituted for moneys
12 withheld and shall receive any interest thereon.

13 vi. The Contractor shall enter into an escrow agreement satisfactory to the County,
14 which agreement shall substantially comply with Public Contract Code section
15 22300.

16 vii. The Contractor shall obtain the written consent of the surety to such escrow
17 agreement.

18 (A) All material and Work covered by progress payments made shall thereupon become the
19 sole property of the County, but this provision shall not be construed as relieving the
20 Contractor from the sole responsibility for all materials and work upon which payments
21 have been made or the restoration of any damaged Work, or as a waiver of the right of
22 the County to require the fulfillment of all of the terms of the Agreement.

23 (B) Upon completion and acceptance of all Work whatsoever required, and the release of all
24 claims against the County as specified, the Director shall file a written Notice of
25 Completion, if required by the County, with the County Recorder as to the entire amount
26 of Work performed.

27 (C) Forty-five days after the filing of such Notice of Completion, if required by the County,
28 the County shall pay to the Contractor the amount therein stated, except as provided in,

1 Article 3.6, G, less all prior payment and advances whatsoever to or for the account of
2 the Contractor, and less material and labor claims duly filed with the County on account
3 of this Agreement. All prior estimates and payments, including those relating to extra
4 work, shall be subject to correction by this final payment, which is referred to throughout
5 this Agreement as the Final Payment.

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

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

18 (F) The Contractor shall pay:

- 19 i. For all transportation and utility services not later than the 20th day of the
20 calendar month following that in which such services are rendered.
- 21 ii. For all materials, tools, and other expendable equipment to the extent of 90% of
22 the cost thereof, not later than the 20th day of the calendar month following that
23 in which such materials, tools, and equipment are delivered at the site of the
24 project, and the balance of the cost thereof not later than the 30th day following
25 the completion of that part of the Work in or on which such materials, tools, and
26 equipment are incorporated or used.
- 27 iii. To each of the Contractor's subcontractors, not later than the tenth day following
28 each payment to the Contractor, the respective amounts allowed the Contractor

1 on account of the Work performed by the Contractor's subcontractors, including
2 that Work performed and paid for under a Change to the Job Order as provided
3 in Article 2, section 2.7 to the extent of each subcontractor's interest therein.

4 **3.7 Incidental Expenses.** The Contractor is solely responsible for all of its costs and
5 expenses that are not specified as payable by the County under this Agreement.

6 **Article 4**

7 **Term of Agreement**

8 **4.1 Term.** This Agreement is effective August 22, 2024 ("Effective Date") and terminates
9 one year from the Effective Date, or when all issued Job Orders totaling the Maximum
10 Agreement Value, as defined in section 3.3, herein, have been completed, whichever occurs
11 first. All Job Orders must be issued, but not necessarily completed, within one calendar year of
12 the Effective Date of this Agreement. All Job Orders for which a Notice to Proceed is issued by
13 the County during the term of this Agreement shall be valid and in effect, notwithstanding that
14 the Detailed Scope of Work may be performed, payments may be made, and the guarantee
15 period may continue, after the Agreement term has expired. All terms and conditions of the
16 Agreement apply to each Job Order, except as provided in Article 6, "Termination and
17 Suspension," below.

18 **Article 5**

19 **Notices**

20 **5.1 Contact Information.** The persons and their addresses having authority to give and
21 receive notices provided for or permitted under this Agreement include the following:

22 **For the County:**

23 Director of Internal Services/Chief Information Officer
24 County of Fresno
25 333 W. Pontiac Way
26 Clovis, CA 93612
27 isdcontracts@fresnocountyca.gov

28 **For the Contractor:**

President
Newton Construction & Management, Inc.
2436 Broad Street
San Luis Obispo, CA 93401
bids@newtonconsturction.com

1 are not allocated, then the County, upon at least 30 days' advance written notice to the
2 Contractor, may:

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

5 **6.2 Termination for Breach.**

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

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

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

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

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

21 **6.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County
22 under this Article 6 is without penalty to or further obligation of the County.

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

1 **Article 7**

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

3 7.1 Taxes, permits, fees and indemnification for patent infringement claim. The
4 Contractor shall pay for and include all Federal, State, and local taxes, direct or indirect, upon all
5 materials, and take out and pay all fees and charges for permits and licenses, unless otherwise
6 specified in the Job Order or Technical Specifications.

7 7.2 Royalty and license fees incidental to the use of any patented material, device or
8 process shall be paid by the Contractor, and in the event of a claim or alleged infringement of
9 patent copyright, or Trade Secrete rights, the Contractor shall indemnify, save the County free
10 and harmless, and defend, at the Contractor's own expense, any and all suits that may be
11 brought in connection with such royalty and license fees.

12 **Article 8**

13 **Independent Contractor**

14 8.1 **Status.** In performing under this Agreement, the Contractor, including its officers,
15 agents, employees, and volunteers, is at all times acting and performing as an independent
16 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint
17 venturer, partner, or associate of the County.

18 8.2 **Verifying Performance.** The County has no right to control, supervise, or direct the
19 manner or method of the Contractor's performance under this Agreement, but the County may
20 verify that the Contractor is performing according to the terms of this Agreement.

21 8.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no
22 right to employment rights or benefits available to County employees. The Contractor is solely
23 responsible for providing to its own employees all employee benefits required by law. The
24 Contractor shall save the County harmless from all matters relating to the payment of the
25 Contractor's employees, including compliance with Social Security withholding and all related
26 regulations.

27 8.4 **Services to Others.** The parties acknowledge that, during the term of this
28 Agreement, the Contractor may provide services to others unrelated to the County.

1 **Article 9**

2 **Indemnity and Defense**

3 9.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the
4 County (including its officers, agents, employees, and volunteers) against all claims, demands,
5 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and
6 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to
7 the performance or failure to perform by the Contractor (or any of its officers, agents,
8 subcontractors, or employees) under this Agreement. The County may conduct or participate in
9 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or
10 defend the County.

11 9.2 **Survival.** This Article 9 survives the termination of this Agreement.

12 **Article 10**

13 **Insurance**

14 10.1 The Contractor shall comply with all the insurance requirements in Exhibit C to this
15 Agreement.

16 **Article 11**

17 **Inspections, Audits, and Public Records**

18 11.1 **Inspection of Documents.** The Contractor shall make available to the County, and
19 the County may examine at any time during business hours and as often as the County deems
20 necessary, all of the Contractor's records and data with respect to the matters covered by this
21 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon
22 request by the County, permit the County to audit and inspect all of such records and data to
23 ensure the Contractor's compliance with the terms of this Agreement.

24 11.2 **State Audit Requirements.** If the compensation to be paid by the County under this
25 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the
26 California State Auditor, as provided in Government Code section 8546.7, for a period of three
27 years after final payment under this Agreement. This section survives the termination of this
28 Agreement.

1 11.3 **Public Records.** The County is not limited in any manner with respect to its public
2 disclosure of this Agreement or any record or data that the Contractor may provide to the
3 County. The County's public disclosure of this Agreement or any record or data that the
4 Contractor may provide to the County may include but is not limited to the following:

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

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

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

15 (D) This Agreement, and any record or data that the Contractor may provide to the
16 County, is subject to public disclosure as a public record under the California Public
17 Records Act (California Government Code, Title 1, Division 10, Chapter 3, beginning
18 with section 7920.200) ("CPRA").

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

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

27 11.4 **Public Records Act Requests.** If the County receives a written or oral request
28 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,

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

21 **Article 12**

22 **Disclosure of Self-Dealing Transactions**

23 12.1 **Applicability.** This Article 12 applies if the Contractor is operating as a corporation,
24 or changes its status to operate as a corporation.

25 12.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a
26 self-dealing transaction, he or she shall disclose the transaction by completing and signing a
27 "Self-Dealing Transaction Disclosure Form" (Exhibit B to this Agreement) and submitting it to the
28 County before commencing the transaction or immediately after.

1 (d) This article applies only to contracts entered into on or after January 1, 1991. 20104.2

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

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

7 (b)(1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall
8 respond in writing to any written claim within 45 days of receipt of the claim, or may request, in
9 writing, within 30 days of receipt of the claim, any additional documentation supporting the claim
10 or relating to defenses or claims the local agency may have against the claimant.

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

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

17 (c)(1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three
18 hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to
19 all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days
20 of receipt of the claim, any additional documentation supporting the claim or relating to defenses
21 or claims the local agency may have against the claimant.

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

24 (3) The local agency's written response to the claim, as further documented, shall be
25 submitted to the claimant within 30 days after receipt of the further documentation, or within a
26 period of time no greater than that taken by the claimant in producing the additional information
27 or requested documentation, whichever is greater.

28

1 (d)If the claimant disputes the local agency's written response, or the local agency fails to
2 respond within the time prescribed, the claimant may so notify the local agency in writing, either
3 within 15 days of receipt of the local agency's response or within 15 days of the local agency's
4 failure to respond within the time prescribed, respectively, and demand an informal conference
5 to meet and confer for settlement of the issues in dispute, Upon a demand, the local agency
6 shall schedule a meet and confer conference within 30 days for settlement of the dispute.

7 (e)If following the meet and confer conference the claim or any portion remains in dispute,
8 the claimant may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter
9 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.
10 For purposes of those provisions, the running of the period of time within which a claim must be
11 filed shall be tolled from the time the claimant submits his/her or her written claim pursuant to
12 subdivision (a) until the time the claim is denied, including any period of time utilized by the
13 meet and confer conference.

14 20104.4 The following procedures are established for all civil actions filed to resolve claims
15 subject to this article:

16 (a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings,
17 the court shall submit the matter to nonbinding mediation unless waived by the mutual
18 stipulation of both parties. The mediation process shall provide for the selection within 15 days
19 by both parties of disinterested third person as mediator, shall be commenced within 30 days of
20 the submittal, and shall be concluded within 15 days from the commencement of the mediation
21 unless a time requirement is extended upon a good cause showing to the court or by stipulation
22 of both parties. If the parties fail to select a mediator within the 15-day period, any party may
23 petition the court to appoint the mediator.

24 (b)(1) If the matter remains in dispute, the case shall be submitted to the judicial arbitration
25 pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of
26 Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986
27 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of Civil Procedure)

1 shall apply to any proceeding brought under this subdivision consistent with the rule pertaining
2 to judicial arbitration.

3 (2)Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators
4 appointed for purposes of this article shall be experienced in construction law, and, upon
5 stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable
6 hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be
7 paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause,
8 determines a different division. In no event shall these fees or expenses be paid by state or
9 county funds.

10 (3)In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the
11 Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de
12 novo but does not obtain a more favorable judgment shall, in addition to payment of costs and
13 fees under that chapter, pay the attorney's fees of the other party arising out of the trial de
14 novo.

15 (c) The court may, upon request by any party, order any witnesses to participate in the
16 mediation or arbitration process. Arbitrators shall be experienced in construction law.

17 20104.6 (a) No local agency shall fail to pay money as to any portion of a claim which is
18 undisputed except as otherwise provided in the contract.

19 (b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal
20 rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit
21 is filed in a court of law.

22 **Article 14**

23 **General Terms**

24 14.1 **County.** The County of Fresno, State of California, as represented by the Fresno
25 County Board of Supervisors.

26 14.2 **Director.** The County's Director of Internal Services/Chief Information Officer, acting
27 either directly or through properly authorized agents, such agents acting within the scope of the
28

1 particular duties entrusted to them, which ever department issues the Notice to Proceed to the
2 Contractor.

3 14.3 **Architect or Engineer.** The Director of Department of Internal Services and his/her
4 authorized agents, which may include a duly licensed Architect or Engineer providing consultant
5 services in accordance with an agreement with the County.

6 14.4 **Contractor.** When used in the General Conditions refer to: person, persons, entity,
7 co-partnership: or corporation so named in the Agreement; when used in the body of the
8 Agreement Documents, refers to the Contractor for that specific work, whether it be the General
9 Contractor, subcontractor, or other contractor.

10 14.5 **Subcontractor.** Person, persons, entity, co-partnership or corporation having direct
11 contract with the Contractor.

12 14.6 **Adjustment Factor.** The Contractor's competitively bid price adjustment to the Unit
13 Prices published in the Construction Task Catalog®.

14 14.7 **Construction Task Catalog (CTC).** A comprehensive listing of specific
15 construction related tasks identified by the County, together with a specified unit of
16 measurement and Unit Price.

17 14.8 **Agreement Documents.** All Job Orders issued under the Agreement; all
18 amendments, modifications, or revisions to the Agreement; surety bonds; certificates of
19 insurance; County notification to the Contractor that Work is needed; County Requests for Job
20 Order Proposals; and any design drawings provided by the County with the Job Orders.

21 14.9 **Final Completion of the Job Order.** The last date on which all of the following
22 events have occurred: The County has determined that all Punch List Work and any other
23 remaining Work have been completed in accordance with the Agreement Documents; final
24 inspections have been completed, and all operations systems and equipment testing have been
25 completed; the issuance of final occupancy certifications (if any); all deliverables have been
26 provided to the County, and all contractual requirements for final payment have been
27 completed.

1 14.10 **Job Order Contract (JOC).** This Agreement, which is a competitively bid, firm fixed-
2 price, indefinite-quantity contract for accomplishing construction and construction-related
3 services. Work is accomplished through the issuance of individual Job Orders. Each Job Order
4 issued under the Agreement shall be a firm fixed priced for accomplishing a specific
5 construction task or Project.

6 14.11 **Non Pre-Priced (NPP) Tasks.** The units of Work that are not included in the
7 Construction Task Catalog®, but are required by the Detailed Scope of Work.

8 14.12 **Normal Working Hours.** Between the hours of 7:00 AM to 5:00 PM, Monday
9 through Friday, inclusive. Saturdays, Sundays, and County holidays are excluded.

10 14.13 **Notice of Completion.** A form issued by the County indicating that the Work is
11 complete, and fixing the date of completion. The form is signed by the County, and filed with the
12 County Recorder. The County, at its sole discretion, may elect not to issue a Notice of
13 Completion on any individual Job Order.

14 14.14 **Notice to Proceed.** Written authorization from the County for the Contractor to
15 commence a Job Order.

16 14.15 **Other than Normal Working Hours.** Work done between the hours of 5:00 PM to
17 7:00 AM, on weekdays, and any times during Saturday, Sunday, and County holidays.

18 14.16 **Plans.** The drawings, sketches, illustrations, specifications, or other pertinent
19 information included on or attached to the Job Order.

20 14.17 **Pre-Priced Task.** An item of work included in the Construction Task Catalog® for
21 which a unit price is given.

22 14.18 **Project.** Collectively, the improvements to be constructed by the Contractor pursuant
23 to one or more Job Orders.

24 14.19 **Job Order Price Proposal.** A price proposal prepared by the Contractor that
25 includes the Pre-priced Tasks, Non Pre-priced Tasks, quantities, and appropriate Adjustment
26 Factors required to complete the Detailed Scope of Work.

27 14.20 **Job Order Proposal.** The Contractor's irrevocable offer to perform Work associated
28 with a Job Order, which refers to a Contractor-prepared document quoting a firm fixed

1 Job Order Price and schedule for the completion of a specific Detailed Scope of Work. The
2 Contractor's Job Order Proposal must be on forms provided by the County, and in an electronic
3 version compatible with the County's systems. The Job Order Proposal may also contain
4 approved drawings, work schedule, permits, or other such documentation as the County might
5 require for a specific Job Order.

6 14.21 **Job Order Price.** The value of the approved Job Order Price Proposal and the lump
7 sum amount a Contractor will be paid for completing a Job Order.

8 14.22 **Job Order Completion Time.** The time within which the Contractor must complete
9 the Detailed Scope of Work.

10 14.23 **Joint Scope Meeting.** A site meeting to discuss the work before the Detailed Scope
11 of Work is finalized.

12 14.24 **Punch List Work.** A compilation of minor items that have not been completed in
13 accordance with an individual Job Order and the Agreement Documents. Whether an item is
14 Punch List Work or necessary for completion shall be determined in the sole discretion of the
15 County.

16 14.25 **Request for Job Order Proposal (RFJOP).** The County's written request to the
17 Contractor for a Job Order Proposal for the Detailed Scope of Work referenced in a specific Job
18 Order.

19 14.26 **Detailed Scope of Work.** The complete description of services to be provided by the
20 Contractor under an individual Job Order.

21 14.27 **Job Order.** The documents that indicate the Work to be accomplished under this
22 Agreement. The County will be responsible for the development of the Job Order, as well as the
23 inspection and acceptance of the Work contained within the Job Order. The County will review
24 the Contractor's Proposal, and if acceptable, shall issue a Job Order for the Work described
25 therein. Each Job Order shall include a Detailed Scope of Work, a lump sum, firm fixed Job
26 Order Price Proposal from the Contractor based upon the Construction Task Catalog® or NPP
27 Task formula, whichever is applicable, time for completion of the Work, and any special
28 conditions that might apply to that specific Job Order, such as Liquidated Damages. The County

1 also reserves the right to issue a Job Order to the Contractor for a Job Order Price Proposal
2 that is generated by the County, which in the opinion of the County, best represents the Detailed
3 Scope of Work (DSOW) for such project.

4 14.28 **Unit Price.** The price published in the Construction Task Catalog® for a specific
5 construction or construction-related task. The Unit Prices are fixed for the duration of the
6 Agreement. Each Unit Price is comprised of the labor, equipment, and materials costs to
7 accomplish that specific task.

8 14.29 **Work.** The Contractor's furnishing of all labor, materials, equipment, and other
9 incidentals necessary or convenient to the completion of an individual Job Order.

10 14.30 **Technical Specifications.** The written requirements for materials, equipment,
11 systems, standards, and workmanship for the work, and performance of related services.

12 14.31 **Modification.** Except as provided in Article 6, "Termination and Suspension," this
13 Agreement may not be modified, and no waiver is effective, except by written agreement signed
14 by both parties. The Contractor acknowledges that County employees have no authority to
15 modify this Agreement except as expressly provided in this Agreement.

16 14.32 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
17 under this Agreement without the prior written consent of the other party.

18 14.33 **Governing Law.** The laws of the State of California govern all matters arising from
19 or related to this Agreement.

20 14.34 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
21 County, California. The Contractor consents to California jurisdiction for actions arising from or
22 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
23 brought and maintained in Fresno County.

24 14.35 **Construction.** The final form of this Agreement is the result of the parties' combined
25 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
26 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
27 against either party.

28 14.36 **Days.** Unless otherwise specified, "days" means calendar days.

1 14.37 **Headings.** The headings and section titles in this Agreement are for convenience
2 only and are not part of this Agreement.

3 14.38 **Severability.** If anything in this Agreement is found by a court of competent
4 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
5 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
6 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
7 intent.

8 14.39 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall
9 not unlawfully discriminate against any employee or applicant for employment, or recipient of
10 services, because of race, religious creed, color, national origin, ancestry, physical disability,
11 mental disability, medical condition, genetic information, marital status, sex, gender, gender
12 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
13 all applicable State of California and federal statutes and regulation.

14 14.40 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
15 of the Contractor under this Agreement on any one or more occasions is not a waiver of
16 performance of any continuing or other obligation of the Contractor and does not prohibit
17 enforcement by the County of any obligation on any other occasion.

18 14.41 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
19 between the Contractor and the County with respect to the subject matter of this Agreement,
20 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,
21 publications, and understandings of any nature unless those things are expressly included in
22 this Agreement. If there is any inconsistency between the terms of this Agreement without its
23 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
24 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
25 exhibits.

26 14.42 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
27 create any rights or obligations for any person or entity except for the parties.

28 14.43 **Authorized Signature.** The Contractor represents and warrants to the County that:

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

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

6 14.44 **Electronic Signatures.** The parties agree that this Agreement may be executed by
7 electronic signature as provided in this section.

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

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

18 (C) The provisions of this section satisfy the requirements of Civil Code section
19 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
20 Part 2, Title 2.5, beginning with section 1633.1).

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

25 (E) This Agreement is not conditioned upon the parties conducting the transactions
26 under it by electronic means and either party may sign this Agreement with an original
27 handwritten signature.
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 (Jun 25, 2024 14:07 PDT)

5 Eric Newton, President

Nathan Magsig, 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: _____
Deputy

11 For accounting use only:

12 Org No.: 8935
13 Account No.: 7295
14 Fund No.: 1045
15 Subclass No.: 10000
16
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28

Exhibit A

Scope of Services and Ordering Procedure for Ordering Work

1. The Construction Task Catalog® 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 Work. The Contractor shall furnish to the County, the supplies or services specified in the Job Orders up to and including the Maximum Contract Value. The County shall give the Contractor the opportunity to perform at least the Minimum Contract Value of construction services designated in the Agreement Documents.
4. The Scope of Work 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. The Contractor shall conduct the Work in strict accordance with the Agreement, and all applicable federal, state, and local laws, regulations, or codes.

Exhibit A

- 1 6. The Contractor shall maintain accurate and complete records, files, and libraries of
2 documents, to include federal, state, and local regulations, codes, applicable laws
3 listed herein, and manufacturers' instructions and recommendations, which are
4 necessary and related to the Work to be performed.
- 5 7. The Contractor shall prepare and submit required reports, maintain current record
6 drawings, and submit required information. The Contractor shall provide: materials
7 lists to include trade names and brand names, and model materials lists to include
8 trade names, brand names, model number, and ratings (if appropriate) for all
9 materials necessary for a complete job.
- 10 8. All Work will be ordered and funded when needed in accordance with the procedures
11 contained in the Contract Documents.
- 12 9. All Work will be controlled and monitored by the County or designated
13 representative.
- 14 10. The design of architectural, structural, mechanical, electrical, civil, or other
15 engineering features of the Work required by the Agreement shall be accomplished
16 or reviewed and approved by architects or engineers registered in the State of
17 California to practice in the particular professional field involved.
- 18 11. In addition to the Work unit requirements in the General Requirements, Contract
19 Technical Specifications, Volume 3, and the Construction Task Catalog® (CTC),
20 Volume 4, the County may, from time to time, require Non Pre-priced (NPP) Tasks.
21 The parties shall proceed with these requirements in accordance with the Procedure
22 for Ordering Work contained in Section (b), herein. These NPP Work unit
23 requirements will be incorporated in individual Job Orders, and the Contractor shall
24 accomplish those requirements with the same diligence as those Work units
25 incorporated in this Agreement in the Construction Task Catalog® and Technical
26 Specifications.

Procedure for Ordering Work

Exhibit A

- 1 1. As the need for Work arises, the County will notify the Contractor in writing of the
2 Work.
- 3 2. Upon receipt of this notification, the Contractor shall respond within one working day
4 by:
 - 5 (A) Establishing verbal contact with the County to further define the scope of the
6 requirement, and;
 - 7 (B) Visiting the proposed Work site in the company of the County, and participating
8 in the conduct of a Joint Scope Meeting, which will include discussion and
9 establishment of the following:
 - 10 i. Project number and title
 - 11 ii. Existing site conditions
 - 12 iii. Methods and alternatives for accomplishing Work
 - 13 iv. Definition and refinement of requirements
 - 14 v. Detailed Scope of Work
 - 15 vi. Requirements for design drawings, sketches, shop drawings, submittals,
16 etc.
 - 17 vii. Tentative construction schedule
 - 18 viii. Preliminary quantity estimates
 - 19 ix. Access to the site and protocol for admission
 - 20 x. Hours of operation
 - 21 xi. Staging area
 - 22 xii. Liquidated damages
 - 23 xiii. Presence of hazardous materials
 - 24 xiv. Proposal due date
- 25 3. Upon completion of the Joint Scope Meeting, the County will prepare a draft Detailed
26 Scope of Work referencing any sketches, drawings, photographs, and specifications
27 required to document accurately the Work to be accomplished. The Contractor shall
28 review the Detailed Scope of Work, and request any required changes or

Exhibit A

1 modifications. When an acceptable Detailed Scope of Work has been prepared, the
2 County will issue a Request for Job Order Proposal (RFJOP) and Detailed Scope of
3 Work, which requires that the Contractor prepare a Proposal for the Work under
4 consideration. The Detailed Scope of Work, unless modified by both the Contractor
5 and the County, will be the basis on which the Contractor will develop its Job Order
6 Proposal, and the County will evaluate the same. The Contractor does not have the
7 right to refuse to perform any task or any Work in connection with a particular
8 Project.

9 4. The County may, at its option, include quantities in the Detailed Scope of Work if it
10 helps to define the Detailed Scope of Work, if the actual quantities required are not
11 known or cannot be determined at the time the Detailed Scope of Work is prepared,
12 if the Contractor and the County cannot agree on the quantities required, or for any
13 other reason as determined by the County. In all such cases, the County shall issue
14 a Supplemental Job Order adjusting the quantities appearing in the Detailed Scope
15 of work to the actual quantities.

16 5. The Contractor will prepare the Job Order Price Proposal in accordance with the
17 following:

18 (A) Pre-priced Work requirements. A Pre-priced Task is a task described and for
19 which a Unit Price is set forth in the Construction Task Catalog®. Pre-priced
20 Work requirements will identify the type and number of Work units required from
21 the Construction Task Catalog® (CTC). The price per unit set forth in the CTC
22 shall serve as the base price for the purpose of the operation of this provision.
23 The total of the Job Order Price Proposal shall be the sum of the cost of each
24 applicable CTC task, which is calculated according to the following formula:

25 A x B x C, where:

26 A= Number of Units Required for CTC Task

27 B= Applicable Adjustment Factor

28 C= CTC Price per Unit Cost of CTC Task

Exhibit A

1 (B) The Contractor's Job Order Proposal shall include support documentation to
2 indicate that adequate engineering and planning for the requirement have been
3 done, and that the Work units and quantities proposed are reasonable for the
4 tasks to be performed. Documentation to be submitted with the Job Order
5 Proposal shall include, but not be limited to, the Job Order Price Proposal, design
6 drawings, calculations, catalog cuts, specifications, and architectural renderings,
7 subcontractor list, and construction schedule. Any Job Order Proposal lacking
8 the required items will be considered incomplete, and shall be returned and
9 treated as if never received. Job Order Proposals submitted to the County are
10 valid for the duration of the Agreement.

11 (C) Non Pre-priced Work Requirements: Non Pre-priced Work shall be separately
12 identified and submitted in the Job Order Price Proposal. Information submitted
13 in support of Non Pre-priced Work shall include, but not be limited to, the
14 following:

- 15 i. Complete specifications and technical data, including Work unit content,
16 support drawings, Work unit costs data, quality control and inspection
17 requirements.
- 18 ii. Work schedule in written form.
- 19 iii. Pricing data submitted in support of Non Pre-priced work units shall
20 include a cost or price analysis report, establishing the basis for selecting
21 the approach proposed to accomplish the requirements. Unless otherwise
22 directed by the County, costing data will be submitted, demonstrating that
23 the Contractor sought and received three quotes. The Contractor shall
24 provide an installed unit price (or demolition price if appropriate), which
25 shall include all costs required to accomplish the Non Pre-priced Task.
- 26 iv. If the Contractor will perform the work with its own forces, it shall submit
27 three independent quotes for all material to be installed and shall, to the
28 extent possible, use Pre-Priced Tasks for labor and equipment from the

Exhibit A

1 Construction Task Catalog®. If the work is to be subcontracted, the
2 Contractor shall submit three independent quotes from subcontractors.
3 The Contractor shall not submit a quote from any subcontractor or
4 materialman that the Contractor is not prepared to use. The County may
5 require additional quotes if the subcontractors or materialmen are not
6 acceptable, or if the prices are not reasonable. If three quotes cannot be
7 obtained, the Contractor shall provide the County with a written
8 explanation. If the explanation is accepted by the County, the Contractor
9 may provide less than three quotes.

- 10 v. The final price submitted for Non Pre-priced (NPP) Tasks shall be
11 according to the following formula:

12 Contractor Performed Duties

13 A= The number of hours for each labor classification and hourly rates

14 B=Equipment costs (other than small tools)

15 C= Lowest of three independent quotes for all materials

16 **Total Cost for self-performed work = (A+B+C) x 15% (Only if A & B cannot be**
17 **priced out of the CTC) For Work performed by Subcontractors:**

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

22 D = Subcontractor Costs (supported by three quotes)

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

- 24 vi. The County will evaluate the entire Proposal and proposed Work units, and compare
25 these with the County's estimate of the Detailed Scope of Work to determine the
26 reasonableness of approach, including the nature and number of Work units
27 proposed. The County will determine whether the Contractor's Job Order Price
28 Proposal is in line with its own estimate.

Exhibit A

1 vii. After using a Non Pre-priced item on three separate Job Orders, the unit price for the
2 work item will be established, following approval by the County, and fixed as a
3 permanent pre-priced item, which will no longer require price justification.

4 viii. The County's determination as to whether an item is a Pre-priced Task or a Non Pre-
5 priced Task shall be final, binding and conclusive as to the Contractor.

6 ix. Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor
7 task in the Job Order Price Proposal is less than the cost of the actual labor and
8 materials to perform such task, the County may permit the Contractor to be paid for
9 such task as a Non Pre-priced Task, or use Pre-priced labor tasks and material
10 component pricing to cover the actual costs incurred. Provided, however, that there
11 is no other Work for that trade on the project or other Work for that trade cannot be
12 scheduled at the same time, and the final charge does not exceed \$1,000.00.

13 d. Processing Time Limits

14 i. Request for Proposal Submittal. The Contractor shall submit the Job Order Proposal to
15 the County on or before the due date stated in the RFJOP (14 days maximum unless
16 otherwise specified).

17 ii. Request for Information Submittal. The Contractor shall make a thorough analysis of
18 each Job Order, and submit all Requests For Information (RFI's) within seven days
19 after issuance of any RFJOP. Submission of RFI's shall in no way extend the
20 proposal due date unless deemed necessary by the County.

21 iii. Job Order Price Proposal Review. The Contractor's Project Manager or agent shall be
22 available for Job Order Price Proposal review meetings within 24 hours of being
23 notified by the County (via fax, e-mail, or telephone). After review of the Job Order
24 Price Proposal, the Contractor shall remove all inappropriate line items and adjust
25 quantities as directed by the County. Job Order Price Proposal Modification. Only on
26 the Contractor's second Job Order Price Proposal shall he/she be granted the
27 opportunity to add new valid line items that may have been omitted from the first Job
28 Order Price Proposal. The Contractor shall submit a revised Job Order Price

Exhibit A

1 Proposal within 24 hours of Job Order Price Proposal review meeting (unless
2 otherwise specified). Upon review of revised Job Order Price Proposal, the
3 Contractor shall remove all line items or adjust quantities deemed inappropriate by
4 the County, and re-submit the Job Order Price Proposal within 24 hours. No new line
5 items may be added to the Job Order Price Proposal. No quantity increases or
6 added modifiers will be accepted unless agreed to in writing by the County during the
7 second Job Order Price Proposal review meeting.

8 iv. The County reserves the right to reject the Contractor's Job Order Proposal or cancel a
9 project for any reason. The County reserves the right to issue a Notice to Proceed to
10 the Contractor without having a mutual agreement on a final Job Order Price, and
11 that the Contractor will be paid by multiplying the actual quantities used by the
12 appropriate Construction Task Catalog® Unit Price and the applicable Adjustment
13 Factors. Non Pre-priced (NPP) Tasks will be priced according to the formula set forth
14 in Section 1.22 b 4 (c) of these General Conditions. The County also reserves the
15 right to not award a Job Order if it is determined to be in the best interests of the
16 County, or the proposed cost exceeds the County's estimate. The County may
17 perform such work by other means. In these instances, the Contractor has no right of
18 claim to recoup Job Order Proposal expenses, including but not limited to, the costs
19 to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job
20 Order Proposal (including incidental architectural and engineering services),
21 subcontractor costs, and the costs to review the Job Order Proposal with the
22 County.

23 v. Unilateral Job Order – The County reserves the right to issue Job Orders based on the
24 County's Job Order Price Proposal for a specified Detailed Scope of Work (DSOW).

25 vi. By submitting a signed Job Order Proposal to the County, the Contractor is agreeing to
26 accomplish the Work outlined in the Detailed Scope of Work in accordance with the
27 RFJOP at the lump sum price submitted for that particular Job Order. The Contractor
28 shall include the necessary tasks and quantities in the Job Order Price Proposal and

Exhibit A

1 apply the appropriate Adjustment Factor(s) prior to delivering it to the County. The
2 value of the Job Order Price Proposal shall be calculated by summing the total of the
3 calculations for each Pre-priced Task (Unit Price x quantity x Adjustment Factor) plus
4 the value of all Non Pre-priced Tasks. The Job Order Price shall be the value of the
5 approved Job Order Price Proposal.

6 vii. The County will evaluate the entire Job Order Priced Proposal and compare these with
7 the County's estimate of the Detailed Scope of Work to determine the
8 reasonableness of approach, including the appropriateness of the tasks and
9 quantities proposed.

10 viii. The Contractor may choose the means and methods of construction; subject however,
11 to the County's right to reject any means and methods proposed by the Contractor
12 that:

- 13 • Will constitute or create a hazard to the work, or to persons or property;
- 14 • Will not produce finished Work in accordance with the terms of the Agreement; or
- 15 • Unnecessarily increases the price of the Job Order when alternative means and
16 methods are available.

17 ix. Each Job Order provided to the Contractor shall reference the Detailed Scope of Work,
18 and set forth the Job Order Price and the Job Order Completion Time. All clauses of
19 this Agreement shall be applicable to any Job Orders issued under this clause. Job
20 Orders will be written on an appropriate form. The Job Order, which must be signed
21 by the County, constitutes the County's acceptance of the Contractor's Proposal. A
22 signed copy will be provided to the Contractor.

23 x. Except in an "emergency response" the Contractor is not to proceed with any Job Order
24 without having required permits and a Notice to Proceed (NTP) signed by the
25 County.

26 xi. In the event that "immediate emergency response" is necessary, the County may elect
27 to use an alternative procedure for such type of Job Orders, as long as the
28

Exhibit A

1 alternative procedure is not substantially more burdensome to the Contractor than
2 the procedure described in this section.

3 xii. All Proposals submitted by the Contractor are valid for the duration of the Agreement.

4 e. Measurements to be Verified. Before ordering any material or doing any Work, the
5 Contractor shall verify all measurements at the site of a specific Job Order, and shall
6 be responsible for the correctness of the measurements. No extra charge or
7 compensation will be allowed based on the difference between actual dimensions
8 and the measurements indicated in the Request for Proposal

9 f. Contractor's Responsibility. It is the Contractors' responsibility to verify any and all
10 such items prior to submission of the Job Order Proposal. Any Job Order awarded is
11 for all services or Work, as necessary, to repair, and construct the facilities covered
12 by the Agreement in accordance with all Agreement terms and conditions. It shall
13 also be the duty and responsibility of the Contractor to manage and conduct the
14 required Work in the most effective and efficient manner possible and meet or
15 exceed minimum critical rates or standards.

16 In addition, the County will not entertain claims for additional money, when such claim is
17 based upon a contention the Agreement fails to mention a specific item or
18 component of facility covered by the Job Order and the Work is required in the
19 normal course of operations. For example, surfaced area repair statements may not
20 mention culverts. However, culverts are a normal component of roads, streets, or
21 erosion controls and are shown on plots or maps provided. As culverts are a normal
22 component of the system, the Contractor shall be responsible for providing all
23 necessary repair, or replacement Work or service.

24 g. Pre-Construction Conference. Before the issuance of the first Job Order under this
25 Agreement, a conference will be conducted by the County to acquaint the Contractor
26 with the County's procedures that are to be observed during the execution of the
27 Work, and to develop mutual understanding relative to the administration of the
28 Agreement.

Exhibit A

- 1 h. Computer and Communications Equipment Requirements. The Contractor shall
2 maintain at its office for its use a computer with, at a minimum, a 1 GHz processor
3 and an internet connection. The Contractor shall maintain individual email accounts
4 for each of its project managers.
- 5 i. Job Order Contracting Software and License Fee JOC Software and System License
6 The County selected The Gordian Group's (Gordian) Job Order Contracting (JOC)
7 system for their JOC program. The Gordian JOC Solution™ includes Gordian's
8 proprietary eGordian®, JOC Software, JOC applications, construction cost data, and
9 Construction Task Catalog® which shall be used by the Contractor solely for the
10 purpose of fulfilling its obligations under this Agreement, including the preparation
11 and submission of Job Order Proposals, subcontractor lists, and other requirements
12 specified in the general conditions and as may be requested by the County. The
13 Contractor shall be required to execute Gordian's JOC System License and Fee
14 Agreement, and shall pay a 1% JOC System License Fee on all Work awarded to
15 Contractor by the County for access to the Gordian JOC Solution™.
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Exhibit B

Self-Dealing Transaction Disclosure Form

In order to conduct business with the County of Fresno ("County"), members of a contractor's board of directors ("County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest."

The definition above will be used for purposes of completing this disclosure form.

Instructions

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.

The form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit B

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

Exhibit C

Insurance Requirements

1. Required Policies

Without limiting the County's right to obtain indemnification from the Contractor or any third parties, the 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 of Fresno.
- (G) **Transport Pollution Liability.** If work involves the transportation of hazardous materials away from the jobsite Contractor shall provide Transport Pollution Liability Insurance on an occurrence basis, with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate.

Exhibit C

- (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, broke, 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) **All-Risk Insurance.** The 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.
- (K) **Bonds.** The Contractor shall furnish to 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.

2. Additional Requirements

- (A) **Verification of Coverage.** Within 30 days after the Contractor signs this Agreement, and at any time during the term of this Agreement as requested by the County's Risk Manager or the County Administrative Office, the Contractor shall deliver, or cause its broker or producer to deliver, to the County Risk Manager, at 2220 Tulare Street, 16th Floor, Fresno, California 93721, or HRRiskManagement@fresnocountyca.gov, and by mail or email to the person identified to receive notices under this Agreement, certificates of insurance and endorsements for all of the coverages required under this Agreement.
- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Contractor has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy

Exhibit C

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.

(B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.

(C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.

(D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.

(E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.

Exhibit C

- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such charges against any amounts owed by the County to the Contractor under this Agreement.
- (G) **Subcontractors.** The Contractor shall require and verify that all subcontractors used by the Contractor to provide services under this Agreement maintain insurance meeting all insurance requirements provided in this Agreement. This paragraph does not authorize the Contractor to provide services under this Agreement using subcontractors. Sub-Contractors.



Subject: Hostage Situations
Policy Number: 326.0
Page: 1 of 2
Date Originated: April 1, 2004
Date Revised: February 1, 2008
Authority: Title 15; Section 1327;
California Code of Regulations

It is imperative for the safety and security of all persons within Juvenile Justice Campus (JJC) facilities, as well as for those in the community, that minors are not allowed to leave the secure confines of the facilities by the taking of a hostage(s). If successful in securing a release through these means minors would be much more likely in the future to use this practice again in an attempt to escape the confines of the facilities. This would put those visiting and working at the JJC at higher level of risk and would jeopardize the safety of the community if the minor was in fact successful in securing his/her release.

The JJC is a "no-hostage" facility. This means that minors will not be released from custody under any circumstances due to the taking of a hostage(s). Any staff person taken hostage, no matter what their rank or status, immediately loses their authority and any orders issued by that person will not be followed.

I. HOSTAGE SITUATION PROCEDURES

- A. If any minor(s) and/or other person(s) in the facility attempt to hold any person hostage, and they do not respond to verbal commands to stop staff will immediately notify the Watch Commander. He/she will respond to the location and assess the situation. If a hostage situation is in progress the Watch Commander will:
1. Summon assistance from other officers as required.
 2. Establish a secure perimeter around the hostage takers and allow no one to pass into it for any reason without authorization. Risks should not be taken that might allow the taking of additional hostages.
 3. Evacuate all non-essential persons at the scene to a safe location or any housing pod that is not directly involved in the incident.
 4. Direct officers to place minors in uninvolved housing pods in their rooms and have them remain there until directed otherwise. Minors outside of housing pods will remain in place under officer supervision until it is safe to return to their respective housing pods or any housing pod that is not directly involved in the incident.
 5. Immediately notify the Director or the Probation Services Manager/Assistant Director in his/her absence and confer with higher authority as to action to be taken. Administration in turn will notify the Chief.

Exhibit D

Subject: Hostage Situation Policy #: 326.0

- B. The Fresno Sheriff's Dispatch Center (488-3111) will be notified immediately and a request for a trained hostage negotiator and other emergency personnel will be made as needed. Prior to the arrival of the Sheriff Department's hostage negotiator the Watch Commander will attempt to ascertain:
 - 1. The number and identity of both the hostages and hostage takers;
 - 2. Any known weapons possessed by the hostage takers;
 - 3. The demands of the hostage takers.
- C. The Watch Commander will retain and direct departing custody officers, as well as, available Probation peace officer staff to assist with security and safety needs, as necessary. Additional Juvenile Correctional Officers should be called in as may be needed to insure the safe and secure operation of the facility.
- D. The Watch Commander will coordinate with the Sheriff's Department all activities taken to resolve the hostage situation, including the use of appropriate force, and will maintain control of the facility until relieved of that duty by the presence of a Probation Services Manager/Assistant Director, Director, or the Chief Probation Officer.
- E. Once the hostage situation has been resolved the minors involved should be housed in the most secure setting available and all appropriate charges should be filed.
- F. Each officer and/or non-sworn staff member who was involved or observed the incident will complete an incident report and if required, the appropriate critical incident evaluation report(s) regarding the details of the incident prior to the end of his/her shift. (See Incident Report, located in JAS Probation View, under "Word Templates".)
- G. The Watch Commander will prepare a Critical Incident Investigation Report, using the Critical Incident Evaluation Report - Page 2 report form and the critical incident evaluation report(s) completed by the reporting persons at the time of the incident.

II. PARENTAL AND MEDIA INFORMATION

- A. Attempts will be made at the direction of Administration to reach the families of the hostages to advise them of the situation. Notification will also be made to the parents of the hostage takers as deemed appropriate.
- B. All media inquiries will be referred to the Chief's office per departmental policy.

Exhibit D

Subject: Hostage
Situation Policy #: 326.0

III. SECURITY AND OPERATIONAL REVIEW

Once the incident has been resolved a team will be established to conduct a security and operational review of the incident. The review will be conducted within 2 days of the resolution of the incident. The review team will be comprised of the facility administrator and/or facility Director, Probation Services Manager/Assistant Director and Supervising Juvenile Correctional Officers who are relevant to the incident. The team will review the circumstances leading up to the incident and any necessary corrective action necessary to ensure that such an incident does not repeat itself.

Vendors, Volunteers and Student Interns

308.1 PURPOSE AND SCOPE

This policy establishes guidelines for using Juvenile Justice Campus vendors, volunteers, and student interns, to supplement and assist Department personnel in their duties. Vendors and volunteers are members who can augment Department personnel and help complete various tasks.

308.1.1 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 for the Department 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.

308.2 POLICY

The Fresno County Probation 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.

308.3 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.

Fresno County Probation Department

Vendors, Volunteers and Student Interns

308.4 RECRUITMENT, SELECTION, AND APPOINTMENT

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

308.4.1 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 members to the Personnel 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 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.

308.4.2 SELECTION

Vendor, volunteer and student intern candidates shall successfully complete this 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.

308.4.3 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.

308.5 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.

Fresno County Probation Department

Vendors, Volunteers and Student Interns

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

308.6 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 in such a way that it would violate employment laws or collective bargaining agreements or memorandums of understanding (e.g., a Juvenile Correctional Officer participating as a student intern for reduced or no pay). Therefore, members shall consult with the Personnel Unit prior to allowing regular department personnel to serve in a student intern capacity (29 CFR 553.30).

308.7 PERSONNEL UNIT

The function of the Personnel 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 Personnel Unit include but are not limited to:

- (a) Recruiting and selecting qualified volunteers and student interns.
- (b) Maintaining records for each vendor, volunteer and student intern.
- (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.

308.8 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.

308.8.1 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

Fresno County Probation Department

Vendors, Volunteers and Student Interns

and student intern shall become thoroughly familiar with these policies as directed by the Chief Probation Officer or the authorized designee.

Whenever a rule, regulation, or guideline in this Custody Manual refers to regular Department personnel, it shall also apply to vendors, 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.

308.9 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.

Vendors, volunteers and student interns shall be provided with the policies of the Department and procedures applicable to their assignments.

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

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, Juvenile Correctional Officers or other full-time 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, either oral or written, issued by the Department.

308.9.1 STATE REQUIREMENTS

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

308.10 SUPERVISION

Each vendor, volunteer and 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 members on all levels.

Fresno County Probation Department

Vendors, Volunteers and Student Interns

- (b) Ensure vendors, volunteers and student interns have work space and necessary office supplies.
- (c) 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.
- (d) Ensure the work for student interns meets the needs of their educational program, while also meeting the needs of the Department.

308.10.1 EVALUATIONS

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

308.10.2 FITNESS FOR DUTY

No vendor, volunteer or student intern shall report for work or be at work when the individual's 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.

308.11 INFORMATION ACCESS

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 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 and have the fingerprints submitted 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

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maintain that they represent the Department in such matters without permission from the proper Department personnel.

308.11.1 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.

308.12 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.

308.13 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.

308.14 ISSUED DATE

- 02/18/2022

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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 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.

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- 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, 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

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- 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.

THE PRISON RAPE ELIMINATION (PREA) ACT

All bidders **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/>**

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 successful Bidder. One check covering the cost of background checks for all employees shall be made payable to: Sheriff, County of Fresno. The successful bidder 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 ever 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 represents 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.

Identification (ID) Badges

The successful bidder'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 successful Bidder 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 Bidder will assume all responsibility for their employee's use of and the return of the County ID badges.

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.