

## 1 AGREEMENT

2 THIS AGREEMENT is dated October 18, 2016, and is between the County of  
3 Fresno, a political subdivision of the State of California ("COUNTY"), and RJW  
4 Enterprises, P.O. Box 162, Shaver Lake, CA 93664 ("CONTRACTOR").

## 5 RECITALS

6 WHEREAS, the COUNTY wishes to contract for snow removal services on roads  
7 in County Service Area No. 35, zones AS and AT, the driveway from Solitude Lane to  
8 the Shaver Lake Wastewater Treatment Plant, and Bretz Road from State Highway 168  
9 to Slick Rock Lane (collectively, "Service Area"); and

10 WHEREAS, the COUNTY has issued an informal request for quotation for snow  
11 removal service for four snow removal service areas, including the Service Area, and

12 WHEREAS, the CONTRACTOR is willing and able, and submitted the low bid to  
13 provide snow removal services for the Service Area.

14 The parties therefore agree as follows:

15 1. CONTRACTING OF CONTRACTOR

16 A. The COUNTY hereby contracts with the CONTRACTOR as an  
17 independent contractor to provide services under this agreement.

18 B. Subject to section 15 of this agreement, the CONTRACTOR may retain  
19 subcontractors as CONTRACTOR requires to assist in providing services under this  
20 agreement. Compensation to be paid by the COUNTY to CONTRACTOR under this  
21 agreement will not be increased if CONTRACTOR retains any subcontractors. The  
22 COUNTY has no obligation to compensate any subcontractors retained by  
23 CONTRACTOR to assist in providing services under this agreement.

24 C. The CONTRACTOR shall provide all services under this agreement as  
25 expeditiously as is consistent with the professional skill and the orderly progress of the  
26 work.

27 The contact person for the CONTRACTOR shall be:

28 Name: Robert Walker, Owner  
Phone: (559) 841-2411

1 FAX: (559) 855-4776  
2 E-mail:robert@shaverlakepowercenter.com

3 **2. CONTRACTOR'S OBLIGATIONS**

4 The CONTRACTOR shall have the following **SCOPE OF WORK /**  
5 **DUTIES AND RESPONSIBILITIES:** CONTRACTOR shall provide snow removal  
6 services in the Service Area. Snow removal at all times shall be done in a manner to  
7 preserve and protect the roads to the extent necessary to insure safe and efficient  
8 transportation. The work shall be performed in a professional, workmanlike manner,  
9 and CONTRACTOR shall use those methods and equipment consistent with the best  
10 practices of the snow removal trade. Snow removal services are divided into two  
11 periods: The "November through April Snow Removal Period" begins at 12:00 AM on  
12 November 1, and lasts through 12:00 PM on the following April 30. The "Out-of-  
13 Season Snow Removal Period" is begins at 12:00 PM on April 30 and last through  
14 12:00 AM on the following November 1. The CONTRACTOR's responsibilities and  
15 duties are detailed below.

16 A. The CONTRACTOR's responsibilities and duties for the November  
17 through April Snow Removal Period are as follows.

- 18 1. Before November 1, the CONTRACTOR shall:
  - 19 a. Provide COUNTY staff with current certificates of insurance  
20 for all categories of required coverage.
  - 21 b. Conduct an inspection of the roadways in the Service Area,  
22 while accompanied by the COUNTY Representative (as defined below), and one or  
23 more Citizens Advisory Council members for the relevant zone of County Service Area  
24 No. 35 within the Service Area, to accomplish all of the following:
    - 25 (i) Document in writing and in digital photographs the  
26 location and extent of any previous damage to roadway pavement, curbs, gutters,  
27 driveway approaches, drainage and sewer collection facilities. The documentation  
28 shall be transmitted to the COUNTY Representative promptly and will be retained by

1 the COUNTY as a benchmark for evaluating future damage.

2 (ii) Determine where snow poles are needed to be  
3 placed. The CONTRACTOR shall give particular attention to areas susceptible to  
4 damage during the performance of snow removal services, such as curves in the  
5 roadway or cul-de-sacs. The CONTRACTOR can obtain snow poles from the  
6 COUNTY's Special Districts staff by written request (which may include by email).  
7 Snow poles should be placed close to roadside curbing and close enough to each  
8 other to guide the snow removal equipment operator away from causing damage to  
9 curbs and other obstacles.

10 c. Contact the Permit Engineer in the Road Maintenance and  
11 Operations Division of the COUNTY Department of Public Works and Planning and  
12 obtain an encroachment permit for snow removal for all eligible roadways.  
13 CONTRACTOR is solely responsible to pay encroachment permit fees. If  
14 CONTRACTOR fails to obtain encroachment permits COUNTY may terminate this  
15 agreement.

16 2. During the November through April Snow Removal Period, the  
17 CONTRACTOR shall:

18 a. Have all necessary equipment in working and well-  
19 maintained condition, have all necessary materials (such as sand) on hand, and have  
20 all necessary labor available 24 hours a day, seven days a week, to perform snow  
21 removal services in the Service Area.

22 b. Perform snow removal operations in the Service Area such  
23 that **snow does not accumulate to more than three (3) inches in any one place**  
24 **including during storms.** The CONTRACTOR must commit the necessary  
25 equipment and manpower to reach the above referenced standard, no matter what  
26 other snow removal commitments it has, and no matter the length of roadways or the  
27 amount of snow. The COUNTY Representative may allow CONTRACTOR to deviate  
28 from the above referenced standard in extreme or abnormal situations.

1 c. The roadways in the Service Area shall be cleared of snow  
2 (i) so that **two (2) traffic lanes** are open at all times, or (ii) if a roadway is not wide  
3 enough for two traffic lanes, to within two (2) feet of curbs or edge of roadway  
4 pavement.

5 d. Make every reasonable effort to avoid piling or pushing  
6 snow up on driveway approaches or access ways.

7 e. To limit potholing and rutting of the roads, the Contractor  
8 will remove snow that accumulates and packs during a storm as soon as weather  
9 conditions permit, even if the accumulation is less than three inches.

10 f. Maintain and keep clear of snow all over-board drains  
11 provided on the subject roadways.

12 g. Remove snow from fire hydrants sufficient to keep them all  
13 accessible and maintainable.

14 h. Apply sand to road areas that are slippery or subject to  
15 icing, or at the request of the COUNTY Representative.

16 i. Be responsible, and indemnify the COUNTY, for all  
17 damages to public and private property resulting from snow removal and ancillary  
18 services. If the CONTRACTOR damages COUNTY-owned property or property that  
19 the COUNTY is responsible for maintaining, the COUNTY Representative shall  
20 determine, and notify the CONTRACTOR in writing, whether the CONTRACTOR is  
21 directly responsible to repair the damages or shall pay the COUNTY for the actual  
22 cost of repair within 15 days after written notice.

23 j. Without additional compensation, remove snow or ice that  
24 accumulated because CONTRACTOR failed to ensure that snow did not accumulate.  
25 The COUNTY is not responsible for any damage or injury to equipment or persons  
26 resulting from the removal of accumulated snow or ice.

27 k. Respond in writing to the COUNTY Representative about  
28 complaints made by residents in the Service Area.

1                   l.       If there are complaints of insufficient services by the  
2 CONTRACTOR, the COUNTY Representative will ask complainants to provide digital  
3 photo images with time stamps. If the COUNTY Representative receives a first  
4 complaint of insufficient service, the CONTRACTOR shall investigate and provide a  
5 written response to the COUNTY regarding the circumstances.

6                   m.       If the COUNTY Representative receives a second  
7 complaint about the same insufficient service, or about similar insufficient service after  
8 a later snow storm and is not satisfied with the written explanation provided by the  
9 CONTRACTOR, the COUNTY Representative may request a meeting with the  
10 CONTRACTOR to discuss any improvements in operation the CONTRACTOR can  
11 provide.

12                  n.       If the COUNTY Representative receives a third complaint  
13 about the same insufficient service, or about similar insufficient service after a later  
14 snow storm and is not satisfied with the CONTRACTOR's written response, the  
15 COUNTY Representative may assess liquidated damages of up to ten percent (10%)  
16 of the monthly's compensation. Further complaints about the same insufficient  
17 service, or about similar insufficient service, are cause for the COUNTY to terminate  
18 this agreement.

19                  o.       Replace all snow poles damaged or removed during the  
20 season.

21                  3.       After the November through April Snow Removal Period, the  
22 CONTRACTOR shall:

23                  a.       Provide street sweepings on all roadways in the Service  
24 Area that received by snow removal services, preferably before the Memorial Day  
25 weekend, unless prohibited by unseasonable snows. The purpose of street sweeping  
26 is to remove excess sand and debris and whatever has been deposited in roadways  
27 due to snow removal.

28                  b.       Repair all surfaces, curbs, bent snow poles and signs, and

1 other facilities that were damaged by snow removal. The COUNTY Representative  
2 may withhold payment under this agreement until repairs are made.

3 B. For the Out-of-Season Snow Removal Period: If snowstorm episodes  
4 occur during the Out-of-Season Snow Removal Period, the COUNTY Representative  
5 may give verbal authorization to the CONTRACTOR to remove snow from an area  
6 within the Service Area. The COUNTY Representative may determine the level of  
7 service, type of equipment, and manpower levels that may or may not match the level  
8 of service provided in the November through April Snow Removal Period. Unless  
9 there are extraordinary conditions that imminently jeopardize the health and safety of  
10 residents, or will result in damage to vital equipment or property, the CONTRACTOR  
11 shall not provide snow removal services until the COUNTY Representative provides  
12 verbal authorization. If extraordinary conditions occur, the CONTRACTOR shall  
13 inform the COUNTY Representative in writing of the reason for initiating snow removal  
14 without verbal authorization.

15 3. COUNTY'S OBLIGATIONS

16 A. COUNTY shall compensate the CONTRACTOR as provided in this  
17 agreement.

18 B. The COUNTY Representative is the COUNTY Director of Public Works  
19 and Planning or his or her designee. The CONTRACTOR shall communicate and  
20 coordinate with the COUNTY Representative, who will provide the following services:

21 1. Examine documents and written notices submitted to the COUNTY  
22 by the CONTRACTOR and timely render decisions as needed; and

23 2. Provide communication between the CONTRACTOR and COUNTY  
24 officials and staff.

25 C. COUNTY Representative shall consider all matters submitted by the  
26 CONTRACTOR for approval in a manner reasonably calculated to avoid substantial  
27 delays in the CONTRACTOR's provision of services under this agreement.

28 4. COMPENSATION:

1           A.     November through April Snow Removal Period: The CONTRACTOR's  
2 compensation for the November through April Snow Removal Period is derived from  
3 the "Quotation for an average year" amount provided in the CONTRACTOR's informal  
4 bid response, which was \$49,000 for County Service Area 35, Zone AS, \$4,500 for the  
5 driveway from Solitude Lane to the Shaver Lake Wastewater Treatment Facilities,  
6 \$10,000 for County Service Area 35, Zone AT, and \$7,000 for Bretz Road from State  
7 Highway 168 to Slick Rock Lane. The CONTRACTOR is guaranteed a minimum of  
8 seventy percent (70%) of that amount, which will be paid in equal monthly installments  
9 for the first five months starting in November. The CONTRACTOR may receive  
10 additional compensation only as provided in this agreement.

11                 1.     For all purposes of this agreement, the amount of precipitation is  
12 established by taking the precipitation (rain and snowmelt) amounts at the Granite  
13 Ridge Pump Station for the period between November 1 and April 30, as stated in  
14 section 4.A.2., below. For purposes of this agreement, the ten-year average  
15 precipitation is defined as the total amount of precipitation over the 10 year period  
16 immediately preceding the year in which the average is determined, divided by 10.

17                 2.     The electronic measuring equipment at the Granite Ridge Pump  
18 Station is linked to the website [http://www.wunderground.com/personal-weather-](http://www.wunderground.com/personal-weather-station/dashboard?ID=KCASHAVE11#history)  
19 [station/dashboard?ID=KCASHAVE11#history](http://www.wunderground.com/personal-weather-station/dashboard?ID=KCASHAVE11#history). This electronic measuring equipment  
20 has a battery backup in the event of power failure, but if this equipment is damaged or  
21 fails to function correctly, measurement data taken manually on a daily basis by  
22 COUNTY staff at the same location will be substituted during the period of equipment  
23 failure. If the electronic measuring equipment fails, and manual measurements are  
24 not obtainable, then measurements from measuring equipment located at the Shaver  
25 Lake Regional Wastewater Facility will be substituted during that period. If there is an  
26 equipment failure, the Special Districts staff have sole discretion to determine when  
27 manual measurements, or measurements from the Shaver Lake Regional Facility, will  
28 be used. The California Department of Water Resources (DWR) announcement of

“Final Snow Survey Results” and data available from stations in the southern Sierra from other agencies will not be used as a backup if there is equipment failure at the Shaver Lake Regional Wastewater Facility or Granite Ridge Pump Station.

3. After April 30, the amount of precipitation for the immediately preceding snow season from November to April will be tabulated by the COUNTY. If the total amount of precipitation for that period is greater than 70 percent of the ten-year average of precipitation, the CONTRACTOR will receive additional compensation calculated as the number of inches by which the amount of precipitation exceeds 70 percent of the ten-year average of precipitation multiplied by the unit price per inch. In any case, the compensation paid to CONTRACTOR for each November through April Snow Removal Period shall not exceed 150 percent of the compensation amounts for an average year as stated below. If the total amount of precipitation for the immediately preceding snow season from November to April is less than or equal to 70 percent of the ten-year average of precipitation, the CONTRACTOR will not receive any compensation in addition to the guaranteed minimum.

4. Below are the compensation amounts for an average year, for 70 percent of an average year (the guaranteed minimum compensation), for the monthly payment for five months to reach the guaranteed minimum compensation, and the unit price per inch for precipitation exceeding 70 percent of the ten-year average of precipitation.

November through April Snow Removal Period Compensation Amounts				
SERVICE AREA	AVERAGE YEAR	70% OF AVERAGE YEAR	MONTHLY PAYMENT - FIVE INSTALLMENTS	UNIT PRICE PER INCH OF PRECIPITATION
County Service Area 35 Zone AS	\$49,000	\$34,300	\$6,860	\$1,672
Solitude Lane to Shaver Lake Wastewater Treatment Plant	\$4,500	\$3,150	\$630	\$154
County Service Area 35 Zone AT	\$10,000	\$7,000	\$1,400	\$341
Bretz Road between Highway 168 and Slick Rock Lane	\$7,000	\$4,900	\$980	\$239



5. For illustrative purposes only, the table below shows what the CONTRACTOR's additional compensation would be if the ten-year average of precipitation were 29.3 inches and the total amount of precipitation for the immediately preceding snow season from November to April were 40.5 inches.

November through April Removal Snow Period Additional Compensation for over 70% of Ten-Year Average Precipitation				
SERVICE AREA	Unit Price Per Inch	70% of the ten-year avg.	Precipitation exceeding 70% of the ten-year avg. (20.5 inches)	Additional Compensation
County Service Area 35 Zone AS	\$1,672	20.5 inches	20 inches	\$33,440
Solitude Lane to Shaver Lake Wastewater Treatment Plant	\$154	20.5 inches	20 inches	\$3,080
County Service Area 35 Zone AT	\$341	20.5 inches	20 inches	\$6,820
Bretz Road between Highway 168 and Slick Rock Lane	\$239	20.5 inches	20 inches	\$4,780

B. Out-of-Season Snow Removal Period: During the Out-of-Season Snow Removal Period, the CONTRACTOR will be compensated at the rates stated in the table below. The CONTRACTOR shall submit in writing the hours engaged in Out-of-Season snow removal when a minimum of three inches has accumulated on the subject roadway. No allowance will be made for travel time to and from the service area. The CONTRACTOR may be required to provide snow removal services for other areas that the CONTRACTOR is not responsible for during the November through April Snow Removal Period. The table below provides the hourly rate that may be utilized for Out-of-Season Snow Removal.

Out-of-Season Snow Removal Period Hourly Rates	
SERVICE AREA	Hourly Rate
County Service Area 35 Zone AS	\$200
Driveway from Solitude Lane to Shaver Lake Wastewater Treatment Plant	\$200
County Service Area 35 Zone AT	\$200
Bretz Road from Highway 168 to Slick Rock Lane	\$200

C. The maximum compensation that may be paid to the CONTRACTOR for each year of the two-year term of this agreement is \$105,750 for the November

1 through April Snow Removal Period and \$14,100 for the Out-of-Season Snow  
2 Removal Period, for a total of \$119,850.

3 D. CPI ADJUSTMENT: For each of the two additional one year extensions  
4 past the two year term, the price quote(s) will be adjusted based on the Consumer  
5 Price Index (CPI) All Urban Consumers for San Francisco-Oakland-San Jose, CA,  
6 Standard Metropolitan Statistical Area published by the United States Department of  
7 Labor, Bureau of Labor Statistics or any successor index. The CPI information will be  
8 taken from the U.S. Department of Labor's website: <http://www.bls.gov/cpi/>.

9 The price quote(s) for an average year for the November through April snow removal  
10 period and rate(s) per hour for Out-of-Season snow removal shall be adjusted as  
11 follows.

12 1. In the third year of the service agreement, if both the COUNTY  
13 Representative and CONTRACTOR agree to extend the agreement by one year, the  
14 CPI value for April 2016 will be subtracted from the CPI value for April 2018 and the  
15 difference divided into the April 2016 value to determine the percentage change in the  
16 CPI from April 2016 to April 2018. The percentage change will be calculated to a  
17 tenth of one percent. If the COUNTY Representative and the CONTRACTOR agree  
18 to extend the agreement in the third year, all compensation amounts will be adjusted  
19 up by the percentage change from April 2016 to April 2018 not to exceed six percent  
20 (6%).

21 2. In the fourth year of the service agreement, if both the COUNTY  
22 Representative and the CONTRACTOR agree to extend the agreement by one more  
23 year, the CPI value for April 2018 will be subtracted from the CPI value for April 2019  
24 and the difference divided into the CPI value for April 2018 to determine the  
25 percentage change during that period. If the COUNTY Representative and the  
26 CONTRACTOR agree to extend the agreement in the fourth year, all compensation  
27 amounts will be adjusted up by the percentage change not to exceed three percent  
28 (3%).

1                   3.     If the percentage change is zero or negative, the respective  
2 quotations and hourly rates shall remain the same in either or both of the third or the  
3 fourth year of the agreement.

4     5.     INVOICING:

5             CONTRACTOR shall prepare and send to the COUNTY Representative a  
6 separate invoice for each County Service Area zone within the Service Area. If the  
7 precipitation amount is above the ten-year average, the CONTRACTOR shall prepare  
8 and send to the COUNTY an invoice by the end of May showing the adjustment  
9 calculation.

10            The CONTRACTOR shall send invoices by United States First-Class Mail to:

11            Fresno County Department of Public Works and Planning  
12            Resources Division, Special Districts Section  
13            2220 Tulare Street, Sixth Floor  
14            Fresno, CA 93721-2106

14     6.     PAYMENT:

15            Upon receipt of a proper invoice, the COUNTY will take a maximum of forty-five  
16 (45) working days to review, approve, and issue payment through the COUNTY Auditor-  
17 Controller/Treasurer-Tax Collector. Unsatisfactory or inaccurate invoices may be  
18 returned to the CONTRACTOR for correction and resubmittal.

19     7.     TERM AND RENEWAL:

20            This agreement is effective when signed through October 31, 2018, provided  
21 however that this agreement may be extended for no more than two one-year periods  
22 after October 31, 2018, by the COUNTY Representative. To exercise each one-year  
23 extension, the COUNTY Representative will notify the CONTRACTOR of the extension  
24 by written letter before June 30, 2018, for the first extension and before June 30, 2019,  
25 for the second extension.

26     8.     DEFAULT:

27            In case of default by CONTRACTOR, the COUNTY may procure snow removal  
28 services from another source and may recover the loss occasioned thereby from any

1 unpaid balance due the CONTRACTOR or by any other legal means available to the  
2 COUNTY.

3 9. TERMINATION:

4 A. Non-Allocation of Funds - The terms of this agreement, and the services  
5 to be provided thereunder, are contingent on the approval of funds by the COUNTY.  
6 Should sufficient funds not be allocated, the services provided may be modified, or this  
7 agreement terminated, at any time by giving the CONTRACTOR thirty (30) days  
8 advance written notice.

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

- 11 1) An illegal or improper use of funds;
- 12 2) A failure to comply with any term of this agreement;
- 13 3) A substantially incorrect or incomplete report submitted to the  
14 COUNTY;
- 15 4) Improperly performed service.

16 In no event shall any payment by the COUNTY constitute a waiver by the  
17 COUNTY of any breach of this agreement or any default, which may then exist on the  
18 part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy  
19 available to the COUNTY with respect to the breach or default. The COUNTY shall  
20 have the right to demand of the CONTRACTOR the repayment to the COUNTY of any  
21 funds disbursed to the CONTRACTOR under this agreement, which in the judgment of  
22 the COUNTY were not expended in accordance with the terms of this agreement. The  
23 CONTRACTOR shall promptly refund any such funds upon demand.

24 C. Without Cause - Under circumstances other than those set forth above,  
25 this agreement may be terminated by either party upon the giving of ninety (90) days  
26 advance written notice of an intention to terminate to other party. In the event of such  
27 termination, the CONTRACTOR shall be paid for satisfactory services or supplies  
28 provided to the date of termination.

10. LAWS AND REGULATIONS:

The CONTRACTOR shall comply with all laws, rules and regulations whether they are Federal, State or municipal, which may be applicable to CONTRACTOR's business, equipment and personnel engaged in service covered by this Agreement.

11. AUDITS AND INSPECTIONS:

A. The CONTRACTOR shall at any time during business hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its records and data with respect to the matters covered by this agreement. The CONTRACTOR shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure CONTRACTOR'S compliance with the terms of this agreement.

B. If this agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under contract (Government Code Section 8546.7).

12. HOLD HARMLESS:

CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to COUNTY in connection with the performance, or failure to perform, by CONTRACTOR, its officers, agents, or employees under this agreement, and from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of CONTRACTOR, its officers, agents, or employees under this agreement.

13. INSURANCE:

Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this

1 agreement:

2 Commercial General Liability: Commercial General Liability Insurance with limits  
3 of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence and an  
4 annual aggregate of Two Million and No/100 Dollars (\$2,000,000.00). This policy shall  
5 be issued on a per occurrence basis. COUNTY may require specific coverage including  
6 completed operations, product liability, contractual liability, Explosion-Collapse-  
7 Underground, fire legal liability or any other liability insurance deemed necessary  
8 because of the nature of the contract.

9 Automobile Liability: Comprehensive Automobile Liability Insurance with limits  
10 for bodily injury of not less than Two Hundred Fifty Thousand Dollars and No/100  
11 Dollars (\$250,000.00) per person, Five Hundred Thousand and No/100 Dollars  
12 (\$500,000.00) per accident and for property damages of not less than Fifty Thousand  
13 and No/100 Dollars (\$50,000.00), or such coverage with a combined single limit of Five  
14 Hundred Thousand and No/100 Dollars (\$500,000.00). Coverage should include owned  
15 and non-owned vehicles used in connection with this Agreement.

16 Worker's Compensation: A policy of Worker's Compensation insurance as may  
17 be required by the California Labor Code.

18 CONTRACTOR shall obtain endorsements to the Commercial General Liability  
19 insurance naming the COUNTY, its officers, agents, and employees, individually and  
20 collectively, as additional insured, but only insofar as the operations under this  
21 agreement are concerned. Such coverage for additional insured shall apply as primary  
22 insurance and any other insurance, or self-insurance, maintained by COUNTY, its  
23 officers, agents and employees shall be excess only and not contributing with insurance  
24 provided under CONTRACTOR's policies herein. This insurance shall not be cancelled  
25 or changed without a minimum of thirty (30) days advance written notice given to  
26 COUNTY.

27 Within thirty (30) days from the date CONTRACTOR executes this agreement,  
28 CONTRACTOR shall provide certificates of insurance and endorsement as stated

1 above for all of the foregoing policies, as required herein, to the COUNTY Department  
2 of Public Works and Planning, Resources Division, Special Districts Section, stating that  
3 such insurance coverage have been obtained and are in full force; that the COUNTY, its  
4 officers, agents and employees will not be responsible for any premiums on the policies;  
5 that such Commercial General Liability insurance names the COUNTY, its officers,  
6 agents and employees, individually and collectively, as additional insured, but only  
7 insofar as the operations under this agreement are concerned; that such coverage for  
8 additional insured shall apply as primary insurance and any other insurance, or self-  
9 insurance, maintained by COUNTY, its officers, agents and employees, shall be excess  
10 only and not contributing with insurance provided under CONTRACTOR's policies  
11 herein; and that this insurance shall not be cancelled or changed without a minimum of  
12 thirty (30) days advance, written notice given to COUNTY.

13 In the event CONTRACTOR fails to keep in effect at all times insurance  
14 coverage as herein provided, the COUNTY may, in addition to other remedies it may  
15 have, suspend or terminate this agreement upon the occurrence of such event. All  
16 policies shall be with admitted insurers licensed to do business in the State of California.  
17 Insurance purchased shall be purchased from companies possessing a current A.M.  
18 Best, Inc. rating of A FSC VII or better.

19 14. INDEPENDENT CONTRACTOR:

20 A. In performance of the work, duties and obligations assumed by  
21 CONTRACTOR under this agreement, it is mutually understood and agreed that  
22 CONTRACTOR, including any and all of CONTRACTOR's officers, agents, and  
23 employees will at all times be acting and performing as an independent contractor, and  
24 shall act in an independent capacity and not as an officer, agent, servant, employee,  
25 joint venturer, partner, or associate of the COUNTY. Furthermore, COUNTY shall have  
26 no right to control or supervise or direct the manner or method by which CONTRACTOR  
27 shall perform its work and function. However, COUNTY shall retain the right to  
28 administer this agreement so as to verify that CONTRACTOR is performing its

obligations in accordance with the terms and conditions thereof. CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

B. Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security, withholding, and all other regulations governing such matters. It is acknowledged that during the term of this agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

15. NON-ASSIGNMENT:

Neither party shall assign, transfer or sub-contract this Agreement nor their rights or duties under this agreement without the written consent of the other party.

16. AMENDMENTS:

Except as provided in section 7, this agreement may be amended only by written agreement signed by both parties.

17. CONTRACTOR'S LEGAL AUTHORITY:

Each individual executing this agreement on behalf of CONTRACTOR hereby covenants, warrants, and represents: (i) that he or she is duly authorized to execute and deliver this agreement on behalf of the CONTRACTOR; and (ii) that this agreement is binding upon the CONTRACTOR.

18. NOTICES:

The persons and their addresses having authority to give and receive notices under this Agreement include the following:

COUNTY  
COUNTY OF FRESNO

CONTRACTOR  
Robert Walker, Owner



1 Special Districts Administrator  
2 Department of Public Works and Planning  
2220 Tulare Street, 6<sup>th</sup> Floor  
3 Fresno, CA 93721

RJW Enterprises  
P.O. Box 162  
Shaver Lake, CA 93664

4 All notices between the COUNTY and the CONTRACTOR provided for or permitted  
5 under this agreement must be in writing and delivered either by personal service, by first-  
6 class United States mail, by an overnight commercial courier service, or by telephonic  
7 facsimile transmission. A notice delivered by personal service is effective upon service to  
8 the recipient. A notice delivered by first-class United States mail is effective three  
9 COUNTY business days after deposit in the United States mail, postage prepaid,  
10 addressed to the recipient. A notice delivered by an overnight commercial courier service  
11 is effective one COUNTY business day after deposit with the overnight commercial courier  
12 service, delivery fees prepaid, with delivery instructions given for next day delivery,  
13 addressed to the recipient. A notice delivered by telephonic facsimile is effective when  
14 transmission to the recipient is completed (but, if such transmission is completed outside  
15 of COUNTY business hours, then such delivery shall be deemed to be effective at the next  
16 beginning of a COUNTY business day), provided that the sender maintains a machine  
17 record of the completed transmission. For all claims arising out of or related to this  
18 agreement, nothing in this section establishes, waives, or modifies any claims presentation  
19 requirements or procedures provided by law, including but not limited to the Government  
20 Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

21 19. GOVERNING LAWS AND VENUE:

22 This agreement shall be construed, interpreted and enforced under the laws of  
23 the State of California. Venue for any action shall only be in County of Fresno.

24 20. SEVERABILITY:

25 If a court of competent jurisdiction finds that any provision of this agreement is  
26 invalid, this agreement shall be construed as not containing such provision, and all other  
27 provisions which are otherwise lawful shall remain in full force and effect.

28 21. ENTIRE AGREEMENT:

This agreement constitutes the entire agreement between the CONTRACTOR and

1 COUNTY with respect to the subject matter hereof and supersedes all previous  
2 agreement negotiations, proposals, commitments, writings, advertisements, publications,  
3 and understanding of any nature whatsoever unless expressly included in this agreement.

4 *[SIGNATURE PAGE FOLLOWS]*

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1 IN WITNESS WHEREOF, the parties have executed this Agreement on the date  
2 set forth above.

3 RJW ENTERPRISES

COUNTY OF FRESNO

4  
5 BY: R. Walker  
6 Robert Walker, Owner

Ernest Buddy Mendes  
Ernest Buddy Mendes, Chairman  
Board of Supervisors

7  
8 REVIEWED AND RECOMMENDED  
9 FOR APPROVAL

ATTEST:  
Bernice E. Seidel, Clerk  
Board of Supervisors

10  
11 By: Steven E. White  
12 Steven E. White, Director  
13 Department of Public Works and  
Planning

By: Bernice E. Seidel  
Deputy

14  
15 APPROVED AS TO LEGAL FORM  
16 Daniel C. Cederborg  
County Counsel

17 By: Daniel C. Cederborg  
18 Deputy

19  
20 APPROVED AS TO ACCOUNTING  
21 FORM  
22 Vicki Crow, C.P.A.  
Auditor-Controller/ Treasurer-Tax  
23 Collector

24 By: Vicki Crow  
25 Deputy

FOR ACCOUNTING USE ONLY  
CSA 35 Zone O Fund: 0220  
Subclass: 12330  
Org. No: 9180  
Account: 7220  
CSA 35 Zone AS Fund: 0220  
Subclass: 12778  
Org. No: 9275  
Account: 7220  
CSA 35 Zone AT Fund: 0220  
Subclass: 12575  
Org. No: 9231  
Account: 7220  
CSA 35 Zone CD Fund: 0220  
Subclass: 12758  
Org. No: 9259  
Account: 7220  
CSA 35 Zone CI Fund: 0220  
Subclass: 12765  
Org. No: 9265  
Account: 7220  
CSA 31 Zone B Fund: 0810  
Subclass: 12000  
Org. No: 9166  
Account: 7220  
WWD 41 Zone S Fund: 0920  
Subclass: 16000  
Org. No: 9351  
Account: 7220