

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 23rd day of October, 2018 ("Effective Date"), by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, ("COUNTY"), and Lexipol, LLC., a Delaware limited liability company, whose address is 2801 Network Blvd., Suite 500, Frisco, TX 75034, ("CONTRACTOR").

WITNESSETH:

WHEREAS, COUNTY desires to enter into an agreement to obtain probation and juvenile policy manuals and daily training bulletin services for Probation Department personnel; and

WHEREAS, CONTRACTOR is qualified and willing to provide policy manual and daily training bulletin services through access to the Lexipol Knowledge Management System, which is a web-based delivery platform and mobile application used to distribute policies to staff.

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

1. OBLIGATIONS OF THE CONTRACTOR

CONTRACTOR shall provide COUNTY access to customizable, state-specific probation and juvenile policy content and daily training bulletin services through access to the Lexipol Knowledge Management System, as well as assist COUNTY in the customization of CONTRACTOR's content to meet the needs of COUNTY, as more specifically stated in Exhibit "A", attached and incorporated by this reference.

A. CONTRACTOR agrees to provide implementation services (estimated at 800 hours) over the term of the Agreement. Exhibit A, which is attached and incorporated by this reference, contains a more detailed description of these implementation services in the section entitled, "Full Implementation."

B. CONTRACTOR shall provide COUNTY subscriptions to the Lexipol Probation and Juvenile Policy Manuals and Daily Training Bulletin Service, to include:

i. Policy manual content, document management, training content and testing through web-based proprietary system tools.

- ii. Regular and urgent updates to content via web-based tools.
- iii. Integrated Daily Training Bulletins (DTBs)
- iv. Archiving of all versions of the Probation Department's policy manuals.
- v. Reporting features – including exception reporting with export capability to Microsoft Excel.

2. OBLIGATIONS OF THE COUNTY

A. COUNTY shall maintain the confidentiality of COUNTY's password and account. COUNTY agrees to notify Lexipol immediately of any unauthorized use of COUNTY's account or breach of security.

B. COUNTY shall ensure that the COUNTY's user name and password are for COUNTY's sole use and COUNTY shall not share, distribute, sell or otherwise transfer its password or username to other individuals.

C. COUNTY shall ensure that administrator passwords permitting access to Lexipol Forum pages, Release Notes, and guide sheets is for use of COUNTY Administrator and may not be used by any other user.

3. TERM

The term of this Agreement shall be for a period of three (3) years, commencing on November 1, 2018 through and including October 31, 2021. This Agreement may be extended for two (2) additional consecutive twelve (12) month periods upon written approval of both parties no later than thirty (30) days prior to the first day of the next twelve (12) month extension period. The Chief Probation Officer or his or her designee is authorized to execute such written approval on behalf of COUNTY based on CONTRACTOR'S satisfactory performance.

4. TERMINATION

A. Non-Allocation of Funds - The terms of this Agreement, and the services to be provided hereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, at any time by giving CONTRACTOR thirty (30) days advance written notice.

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

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

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

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

17 5. COMPENSATION/INVOICING: COUNTY agrees to pay CONTRACTOR and
18 CONTRACTOR agrees to receive compensation based on the prices listed in Exhibit "B", which is attached
19 and incorporated by this reference. The subscription and Fixed Price implementation are to be invoiced
20 upon execution of this Agreement and CONTRACTOR shall submit invoices in triplicate to the County of
21 Fresno Probation Department, 3333 E. American Avenue, Suite B, Fresno, California 93725.

22 In no event shall compensation for services performed under this Agreement exceed three hundred
23 ninety seven thousand and fifty-one dollars (\$397,051), as further described in Exhibit B. It is understood
24 that all expenses incidental to CONTRACTOR'S performance of services under this Agreement shall be
25 borne by CONTRACTOR. Within forty-five (45) days after receipt of the invoice, COUNTY will remit
26 payment to CONTRACTOR. Such payment shall be sent to:

27 Lexipol

28 2801 Network Blvd., Suite 500

1 Frisco, TX 75034

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

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

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

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

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

24 9. HOLD HARMLESS: CONTRACTOR agrees to indemnify, save, hold harmless, and at
25 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and
26 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses occurring or
27 resulting to COUNTY as a result of CONTRACTOR'S negligence or willful misconduct under this
28 Agreement, and from any and all costs and expenses (including attorney's fees and costs), damages,

1 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured
2 or damaged by the performance, or failure to perform, of CONTRACTOR, its officers, agents, or
3 employees under this Agreement.

4 The provisions of this Section 9 shall survive the termination of this Agreement.

5 10. COPYRIGHT

6 COUNTY expressly acknowledges and agrees that each and every policy provided by
7 CONTRACTOR including, but not limited to, all updated, revisions to CONTRACTOR content,
8 Supplemental Policy Publications and/or Procedures Manuals, and Daily Training Bulletins are expressly
9 created for COUNTY's exclusive use. COUNTY further agrees that CONTRACTOR owns the copyright to
10 all content created by CONTRACTOR that is incorporated into Policy Manual(s), content created by
11 CONTRACTOR that is incorporated into Supplemental Policy Publications and/or Procedure Manuals,
12 Policy and/or Procedure update content and Daily Training Bulletins ("Lexipol Content"). COUNTY further
13 agrees that any content within an Agency Policy Manual prepared by the COUNTY based in whole or in
14 part on content created by CONTRACTOR, or based on any Supplemental Policy Publications and/or
15 Procedure Manuals, and Daily Training Bulletins copyrighted by CONTRACTOR shall be derivative work
16 subject to the copyright of CONTRACTOR. Subject to the provisions of this Section 10, COUNTY shall
17 have a perpetual right and license to use all materials provided by CONTRACTOR for COUNTY's use
18 under this Agreement. The foregoing does not, however, prohibit or restrict COUNTY from providing
19 subscriptions material or derivative works prepared by or for COUNTY pursuant to an order from a court or
20 other governmental agency or other legal process or as required by the California Public Records Act, nor
21 does it prohibit or restrict COUNTY from displaying the adopted/approved final policy document on a
22 publicly accessible website for official COUNTY purposes.

23 11. INSURANCE

24 Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third
25 parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance
26 policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or
27 Joint Powers Agreement (JPA) throughout the term of the Agreement:
28

1 A. Commercial General Liability

2 Commercial General Liability Insurance with limits of not less than Two Million Dollars
3 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This
4 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including
5 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal
6 liability or any other liability insurance deemed necessary because of the nature of this contract.

7 B. Professional Liability

8 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in
9 providing services, Professional Liability Insurance with limits of not less than One Million Dollars
10 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

11 C. Technology Professional Liability (Errors and Omissions)

12 Technology Professional Liability (Errors and Omissions) Insurance appropriate to the
13 CONTRACTOR's profession, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000
14 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is
15 undertaken by CONTRACTOR in this agreement and shall include, but not be limited to, claims
16 involving infringement of intellectual property, including but not limited to infringement of copyright,
17 trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of
18 electronic information, release of private information, alteration of electronic information, extortion and
19 network security. The policy shall provide coverage for breach response costs as well as regulatory
20 fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these
21 obligations.

22 D. Worker's Compensation

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

25 Additional Requirements Relating to Insurance

26 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming
27 the County of Fresno, its officers, agents, and employees, individually and collectively, as additional
28 insured, but only insofar as the operations under this Agreement are concerned. Such coverage for

1 additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained
2 by COUNTY, its officers, agents and employees shall be excess only and not contributing with insurance
3 provided under CONTRACTOR's policies herein. This insurance shall not be cancelled or changed without
4 a minimum of thirty (30) days advance written notice given to COUNTY.

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

10 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,
11 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the
12 foregoing policies, as required herein, to the County of Fresno, Probation Business Office, 3333 E.
13 American Avenue, Suite B, Fresno, CA 93725, stating that such insurance coverage have been obtained
14 and are in full force; that the County of Fresno, its officers, agents and employees will not be responsible for
15 any premiums on the policies; that such Commercial General Liability insurance names the County of
16 Fresno, its officers, agents and employees, individually and collectively, as additional insured, but only
17 insofar as the operations under this Agreement are concerned; that such coverage for additional insured
18 shall apply as primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its
19 officers, agents and employees, shall be excess only and not contributing with insurance provided under
20 CONTRACTOR's policies herein; and that this insurance shall not be cancelled or changed without a
21 minimum of thirty (30) days advance, written notice given to COUNTY.

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

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

28 12. AUDITS AND INSPECTIONS: The CONTRACTOR shall at any time during business

1 hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination
2 all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR
3 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data
4 necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

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

8 13. NOTICES: The persons and their addresses having authority to give and receive notices
9 under this Agreement include the following:

10 COUNTY

11 COUNTY OF FRESNO
12 Chief Probation Officer
3333 E. American Ave, Suite B
Fresno, CA 93725

CONTRACTOR

Lexipol
Attn: Van Holland
16755 Von Karman Ave, Suite 250
Irvine, CA 92606

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

28 14. GOVERNING LAW: Venue for any action arising out of or related to this Agreement shall

1 only be in Fresno County, California.

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

4 15. DISCLOSURE OF SELF-DEALING TRANSACTIONS

5 This provision is only applicable if the CONTRACTOR is operating as a corporation (a for-profit
6 or non-profit corporation) or if during the term of the agreement, the CONTRACTOR changes its status
7 to operate as a corporation.

8 Members of the CONTRACTOR's Board of Directors shall disclose any self-dealing transactions
9 that they are a party to while CONTRACTOR is providing goods or performing services under this
10 agreement. A self-dealing transaction shall mean a transaction to which the CONTRACTOR is a party
11 and in which one or more of its directors has a material financial interest. Members of the Board of
12 Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a
13 Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit C and incorporated herein by
14 reference, and submitting it to the COUNTY prior to commencing with the self-dealing transaction or
15 immediately thereafter.

16 16. CONSISTENT FEDERAL INCOME TAX POSITION: CONTRACTOR acknowledges that
17 the Juvenile Justice Campus has been acquired, constructed, or improved (and that the JJC is situated
18 on land that has been acquired) using net proceeds of governmental tax-exempt bonds (collectively,
19 "Bond-Financed Facilities"). CONTRACTOR agrees that, with respect to this Agreement and the Bond
20 Financed Facilities, CONTRACTOR is not entitled to take, and shall not take, any position (also known
21 as a "tax position") with the Internal Revenue Service ("IRS") that is inconsistent with being a "service
22 provider" to the COUNTY, as a "qualified user" with respect to the Bond-Financed Facilities, as
23 "managed property," as all of those terms are used in Internal Revenue Service Revenue Procedure
24 2017-13, and to that end, for example, and not as a limitation, CONTRACTOR agrees that
25 CONTRACTOR shall not, in connection with any federal income tax return that it files with the IRS or
26 any other statement or information that it provides to the IRS, (a) claim ownership, or that it is a lessee,
27 of any portion of the Bond Financed Facilities, or (b) claim any depreciation or amortization deduction,
28 investment tax credit, or deduction for any payment as rent with respect to the Bond-Financed Facilities.

1 17. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the
2 CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous
3 Agreement negotiations, proposals, commitments, writings, advertisements, publications, and
4 understanding of any nature whatsoever unless expressly included in this Agreement. In the event of any
5 inconsistency between the Agreement including Exhibits A through C, the provisions of this Agreement
6 (excluding Exhibits A through C) shall govern.

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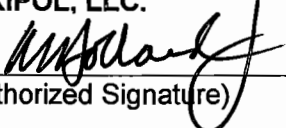
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1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year
2 first hereinabove written.

3
4 LEXIPOL, LLC.

5 
6 (Authorized Signature)

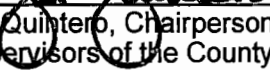
7 VAN HOLLANA, CFO
8 Print Name & Title

9 16755 VAN KARMAN SUITE 200

10 IRVINE CA 92606

11 Mailing Address

COUNTY OF FRESNO

12 
13 Sal Quintero, Chairperson of the Board of
14 Supervisors of the County of Fresno

15 ATTEST:

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

19 By: 

20 Deputy

21 FOR ACCOUNTING USE ONLY:

22 ORG No.: 34309999

23 Account No.: 7295

24 Requisition No.: 3431900055
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SCOPE OF SERVICES

Probation and Juvenile Detention Policy Manual & Daily Training Bulletins

- Compliant with state and federal laws and regulations
- Manual customized to reflect your agency's terminology and structure
- Scenario-based daily training ties policy to real-world applications
- Each DTB includes a test question that reinforces policy comprehension
- Officers can complete DTBs via computers or iOS and Android mobile devices
- DTB completion and policy acknowledgement reports available by officer, topic or policy

Policy Updates

- Delivered in response to new legislation, case law and evolving best practices
- Changes are presented in mark-up form and side-by-side comparison against existing policy
- Your agency can accept, reject or customize each update

Web-Based Delivery Platform & Mobile App (Knowledge Management System)

- Ability to edit and customize content to reflect your agency's mission and philosophy
- Efficient distribution of policies to staff
- Automated tracking and reporting of policy acknowledgement and completion of training by all staff
- Archival and easy retrieval of all versions of policy manual, should litigation require you to produce an earlier version
- Mobile app that provides in-the-field access to policy and training material

Customer Assistance & Support

- Training on the Lexipol web-based delivery platform
- Dedicated Account Management and Customer Service representatives assigned to agency and available via phone and email
- Lexipol Forum, an online user community of Lexipol subscribers, provides additional resources and opportunities to get questions answered and share best practices

Procedural Shell-Supplemental Manual

Lexipol's Supplemental Publication Service streamlines the storage of your agency's content, giving you one place to access procedures, guidelines, checklists and more.

- Electronically links department-specific procedural content to your policy manual
- Provides electronic issuance and tracking for your agency's procedural content
- Allows you to create Daily Training Bulletins against your procedural content

Full Implementation

Lexipol's Full Implementation Service is specifically tailored for agencies who want to start-to-finish policy implementation assistance. Using a proven structure of policy review and customization to help

you meet your project timeline and avoid common implementation pitfalls, Lexipol Professional Services staff will:

- Determine the vision, scope and expectations of your agency's policy manual
- Develop an implementation plan that breaks the process down into critical stages
- Incorporate your agency's philosophy, culture, legal requirements
- Conduct an in-depth cross-referenced review of your agency's existing policy content
- Coordinate policy review and editing and manage the approval process
- Provide periodic updates and progress reports
- Finalize the content within Lexipol's Knowledge Management System (KMS)
- Prepare content for release; perform quality check
- Train and familiarize agency staff on the new system

COMPENSATION**IMPLEMENTATION AND SUBSCRIPTION SERVICES**

Platinum Probation and Juvenile Policy Manual Implementation Services. Based upon an estimated 800 hours at an hourly rate of \$120	Fixed Price	\$ 96,000
Development tools and first year subscriptions	One Time	\$ 55,295
Subscriptions for second through fifth year	Annual	\$ 61,439
	Year 2-5 Maximum	\$ 245,756
Total Five Year Maximum		\$ 397,051

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "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 utilized 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.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

(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:	