

1 **SERVICE AGREEMENT**

2 This Service Agreement ("Agreement") is dated _____ and is between
3 VMS Family Counseling Services, Professional Corporation, a California corporation
4 ("Contractor"), and the County of Fresno, a political subdivision of the State of California
5 ("County").

6 **Recitals**

7 A. June 23, 2020, the County and the Contractor entered into an Agreement with VMS
8 Family Counseling Services, Professional Corporation, which is County agreement number 20-
9 232 ("Agreement"), for Psychological Services for Sheriff-Coroner-Public Administrator
10 personnel.

11 B. In 2021 and 2022, the County and the Contractor amended the Agreement to increase
12 the maximum compensation value for additional services to meet the increased service volume.

13 C. The County and the Contractor now desire to renew the Agreement with an updated
14 schedule of fees and term length.

15 D. Both the County and the Contractor wish to maintain this 10-year business partnership,
16 to keep the care with current patients consistent with the Contractor, as County believes the
17 Contractor understands the unique stressors associated with law enforcement.

18 The parties therefore agree as follows:

19 **Article 1**

20 **Contractor's Services**

21 1.1 **Scope of Services.** The Contractor shall perform all of the services provided in
22 Exhibit A to this Agreement, titled "Scope of Services."

23 1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and
24 able to perform all of the services provided in this Agreement.

25 1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all
26 applicable federal, state, and local laws and regulations in the performance of its obligations
27 under this Agreement, including but not limited to workers compensation, labor, and
28 confidentiality laws and regulations.

1 **Article 2**

2 **Compensation, Invoices, and Payments**

3 2.1 The County agrees to pay, and the Contractor agrees to receive, compensation for
4 the performance of its services under this Agreement as described in Exhibit B to this
5 Agreement, titled "Compensation."

6 **Maximum Compensation.** The maximum compensation payable to the Contractor for
7 services provided during the term of this Agreement is seven hundred and eighty-five thousand
8 dollars (\$785,000), as described further in Exhibit B. It is understood that all expenses incidental
9 to Contractor's performance of services under this Agreement shall be borne by Contractor. The
10 Contractor acknowledges that the County is a local government entity, and does so with notice
11 that the County's powers are limited by the California Constitution and by State law, and with
12 notice that the Contractor may receive compensation under this Agreement only for services
13 performed according to the terms of this Agreement and while this Agreement is in effect, and
14 subject to the maximum amount payable under this section. The Contractor further
15 acknowledges that County employees have no authority to pay the Contractor except as
16 expressly provided in this Agreement.

17 2.2 **Invoices.** The Contractor shall submit monthly invoices to the County of Fresno,
18 Sheriff's Business Office, at 2200 Fresno Street, Fresno, CA 93721 or email them to
19 Sheriff.Payables@fresnosheriff.org. Such invoices shall include dates of visits and specify which
20 therapist or intern provided the services. The Contractor shall submit each invoice within 60
21 days after the month in which the Contractor performs services and in any case within 60 days
22 after the end of the term or termination of this Agreement.

23 2.3 **Payment.** The County shall pay each correctly completed and timely submitted
24 invoice within 45 days after receipt. The County shall remit any payment to the Contractor's
25 address specified in the invoice.

26 2.4 **Incidental Expenses.** The Contractor is solely responsible for all of its costs and
27 expenses that are not specified as payable by the County under this Agreement.
28

1 **Article 3**

2 **Term of Agreement**

3 3.1 **Term.** This Agreement is effective on July 1, 2025 and terminates on June 30, 2028,
4 except as provided in section 3.2, "Extension," or Article 5, "Termination and Suspension,"
5 below.

6 3.2 **Extension.** The term of this Agreement may be extended for no more than two, one-
7 year periods only upon written approval of both parties at least 30 days before the first day of
8 the next one-year extension period. The Sheriff or his or her designee is authorized to sign the
9 written approval on behalf of the County based on the Contractor's satisfactory performance.
10 The extension of this Agreement by the County is not a waiver or compromise of any default or
11 breach of this Agreement by the Contractor existing at the time of the extension whether or not
12 known to the County.

13 **Article 4**

14 **Notices**

15 4.1 **Contact Information.** The persons and their addresses having authority to give and
16 receive notices provided for or permitted under this Agreement include the following:

17 **For the County:**

18 County of Fresno
19 Fresno County Sheriff Administrative Captain
20 2200 Fresno Street
Fresno, CA 93721

21 **For the Contractor:**

22 Chief Executive Officer
VMS Family Counseling Services
23 2350 W. Shaw Avenue, Suite 116
Fresno, CA 93711

24 4.2 **Change of Contact Information.** Either party may change the information in section
25 4.1 by giving notice as provided in section 4.3.

26 4.3 **Method of Delivery.** Each notice between the County and the Contractor provided
27 for or permitted under this Agreement must be in writing, state that it is a notice provided under
28 this Agreement, and be delivered either by personal service, by first-class United States mail, or
by an overnight commercial courier service.

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

2 (B) A notice delivered by first-class United States mail is effective three County
3 business days after deposit in the United States mail, postage prepaid, addressed to the
4 recipient.

5 (C) A notice delivered by an overnight commercial courier service is effective one
6 County business day after deposit with the overnight commercial courier service,
7 delivery fees prepaid, with delivery instructions given for next day delivery, addressed to
8 the recipient.

9 4.4 **Claims Presentation.** For all claims arising from or related to this Agreement,
10 nothing in this Agreement establishes, waives, or modifies any claims presentation
11 requirements or procedures provided by law, including the Government Claims Act (Division 3.6
12 of Title 1 of the Government Code, beginning with section 810).

13 **Article 5**

14 **Termination and Suspension**

15 5.1 **Termination for Non-Allocation of Funds.** The terms of this Agreement are
16 contingent on the approval of funds by the appropriating government agency. If sufficient funds
17 are not allocated, then the County, upon at least 30 days' advance written notice to the
18 Contractor, may:

19 (A) Modify the services provided by the Contractor under this Agreement; or

20 (B) Terminate this Agreement.

21 5.2 **Termination for Breach.**

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

26 (B) If the Contractor fails to cure the breach to the County's satisfaction within the
27 time stated in the written notice, the County may terminate this Agreement immediately.
28

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

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

7 **5.3 Termination without Cause.** In circumstances other than those set forth above, the
8 County may terminate this Agreement by giving at least 30 days advance written notice to the
9 Contractor.

10 **5.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County
11 under this Article 5 is without penalty to or further obligation of the County.

12 **5.5 County's Rights upon Termination.** Upon termination for breach under this Article
13 6, the County may demand repayment by the Contractor of any monies disbursed to the
14 Contractor under this Agreement that, in the County's sole judgment, were not expended in
15 compliance with this Agreement. The Contractor shall promptly refund all such monies upon
16 demand. This section survives the termination of this Agreement.

17 **Article 6**

18 **Independent Contractor**

19 **6.1 Status.** In performing under this Agreement, the Contractor, including its officers,
20 agents, employees, and volunteers, is at all times acting and performing as an independent
21 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint
22 venturer, partner, or associate of the County.

23 **6.2 Verifying Performance.** The County has no right to control, supervise, or direct the
24 manner or method of the Contractor's performance under this Agreement, but the County may
25 verify that the Contractor is performing according to the terms of this Agreement.

26 **6.3 Benefits.** Because of its status as an independent contractor, the Contractor has no
27 right to employment rights or benefits available to County employees. The Contractor is solely
28 responsible for providing to its own employees all employee benefits required by law. The

1 Contractor shall save the County harmless from all matters relating to the payment of
2 Contractor's employees, including compliance with Social Security withholding and all related
3 regulations.

4 6.4 **Services to Others.** The parties acknowledge that, during the term of this
5 Agreement, the Contractor may provide services to others unrelated to the County.

6 **Article 7**

7 **Indemnity and Defense**

8 7.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the
9 County (including its officers, agents, employees, and volunteers) against all claims, demands,
10 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and
11 liabilities of any kind to the County, the Contractor, or any third party that arise from or relate to
12 the performance or failure to perform by the Contractor (or any of its officers, agents,
13 subcontractors, or employees) under this Agreement. The County may conduct or participate in
14 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or
15 defend the County.

16 7.2 **Survival.** This Article 7 survives the termination or expiration of this Agreement.

17 **Article 8**

18 **Insurance**

19 8.1 The Contractor shall comply with all the insurance requirements in Exhibit C to this
20 Agreement.

21 **Article 9**

22 **Inspections, Audits, and Public Records**

23 9.1 **Inspection of Documents.** The Contractor shall make available to the County, and
24 the County may examine at any time during business hours and as often as the County deems
25 necessary, all of the Contractor's records and data with respect to the matters covered by this
26 Agreement, excluding attorney-client privileged communications. The Contractor shall, upon
27 request by the County, permit the County to audit and inspect all of such records and data to
28 ensure the Contractor's compliance with the terms of this Agreement.

1 9.2 **State Audit Requirements.** If the compensation to be paid by the County under this
2 Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the
3 California State Auditor, as provided in Government Code section 8546.7, for a period of three
4 years after final payment under this Agreement. This section survives the termination of this
5 Agreement.

6 9.3 **Public Records.** The County is not limited in any manner with respect to its public
7 disclosure of this Agreement or any record or data that the Contractor may provide to the
8 County. The County's public disclosure of this Agreement or any record or data that the
9 Contractor may provide to the County may include but is not limited to the following:

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

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

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

20 (D) This Agreement, and any record or data that the Contractor may provide to the
21 County, is subject to public disclosure as a public record under the California Public
22 Records Act (California Government Code, Title 1, Division 10, beginning with section
23 7920.000) ("CPRA").

24 (E) This Agreement, and any record or data that the Contractor may provide to the
25 County, is subject to public disclosure as information concerning the conduct of the
26 people's business of the State of California under California Constitution, Article 1,
27 section 3, subdivision (b).
28

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

5 9.4 **Public Records Act Requests.** If the County receives a written or oral request
6 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,
7 and which the County has a right, under any provision of this Agreement or applicable law, to
8 possess or control, then the County may demand, in writing, that the Contractor deliver to the
9 County, for purposes of public disclosure, the requested records that may be in the possession
10 or control of the Contractor. Within five business days after the County's demand, the
11 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's
12 possession or control, together with a written statement that the Contractor, after conducting a
13 diligent search, has produced all requested records that are in the Contractor's possession or
14 control, or (b) provide to the County a written statement that the Contractor, after conducting a
15 diligent search, does not possess or control any of the requested records. The Contractor shall
16 cooperate with the County with respect to any County demand for such records. If the
17 Contractor wishes to assert that any specific record or data is exempt from disclosure under the
18 CPRA or other applicable law, it must deliver the record or data to the County and assert the
19 exemption by citation to specific legal authority within the written statement that it provides to
20 the County under this section. The Contractor's assertion of any exemption from disclosure is
21 not binding on the County, but the County will give at least 10 days' advance written notice to
22 the Contractor before disclosing any record subject to the Contractor's assertion of exemption
23 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs
24 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,
25 failure to produce any such records, or failure to cooperate with the County with respect to any
26 County demand for any such records.

1 **Article 10**

2 **Disclosure of Self-Dealing Transactions**

3 10.1 **Applicability.** This Article 10 applies if the Contractor is operating as a corporation,
4 or changes its status to operate as a corporation.

5 10.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to a
6 self-dealing transaction, he or she shall disclose the transaction by completing and signing a
7 "Self-Dealing Transaction Disclosure Form," attached as Exhibit D to this Agreement, and
8 submitting it to the County before commencing the transaction or immediately after.

9 10.3 **Definition.** "Self-dealing transaction" means a transaction to which the Contractor is
10 a party and in which one or more of its directors, as an individual, has a material financial
11 interest.

12 **Article 11**

13 **General Terms**

14 11.1 **Modification.** Except as provided in Article 5, "Termination and Suspension," this
15 Agreement may not be modified, and no waiver is effective, except by written agreement signed
16 by both parties. The Contractor acknowledges that County employees have no authority to
17 modify this Agreement except as expressly provided in this Agreement.

18 11.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
19 under this Agreement without the prior written consent of the other party.

20 11.3 **Governing Law.** The laws of the State of California govern all matters arising from
21 or related to this Agreement.

22 11.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
23 County, California. Contractor consents to California jurisdiction for actions arising from or
24 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
25 brought and maintained in Fresno County.

26 11.5 **Construction.** The final form of this Agreement is the result of the parties' combined
27 efforts. If anything in this Agreement is found by a court of competent jurisdiction to be
28

1 ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
2 against either party.

3 11.6 **Days.** Unless otherwise specified, “days” means calendar days.

4 11.7 **Headings.** The headings and section titles in this Agreement are for convenience
5 only and are not part of this Agreement.

6 11.8 **Severability.** If anything in this Agreement is found by a court of competent
7 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
8 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
9 this Agreement with lawful and enforceable terms intended to accomplish the parties’ original
10 intent.

11 11.9 **Nondiscrimination.** During the performance of this Agreement, the Contractor shall
12 not unlawfully discriminate against any employee or applicant for employment, or recipient of
13 services, because of race, religious creed, color, national origin, ancestry, physical disability,
14 mental disability, medical condition, genetic information, marital status, sex, gender, gender
15 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
16 all applicable State of California and federal statutes and regulation.

17 11.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
18 of the Contractor under this Agreement on any one or more occasions is not a waiver of
19 performance of any continuing or other obligation of the Contractor and does not prohibit
20 enforcement by the County of any obligation on any other occasion.

21 11.11 **Entire Agreement.** This Agreement, including its exhibits, is the entire agreement
22 between the Contractor and the County with respect to the subject matter of this Agreement,
23 and it supersedes all previous negotiations, proposals, commitments, writings, advertisements,
24 publications, and understandings of any nature unless those things are expressly included in
25 this Agreement. If there is any inconsistency between the terms of this Agreement without its
26 exhibits and the terms of the exhibits, then the inconsistency will be resolved by giving
27 precedence first to the terms of this Agreement without its exhibits, and then to the terms of the
28 exhibits.

1 11.12 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
2 create any rights or obligations for any person or entity except for the parties.

3 11.13 **Authorized Signature.** The Contractor represents and warrants to the County that:

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

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

9 11.14 **Electronic Signatures.** The parties agree that this Agreement may be executed by
10 electronic signature as provided in this section.

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

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

21 (C) The provisions of this section satisfy the requirements of Civil Code section
22 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3,
23 Part 2, Title 2.5, beginning with section 1633.1).

24 (D) Each party using a digital signature represents that it has undertaken and
25 satisfied the requirements of Government Code section 16.5, subdivision (a),
26 paragraphs (1) through (5), and agrees that each other party may rely upon that
27 representation.
28

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

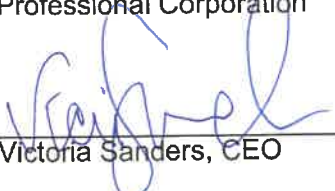
4 11.15 **Counterparts.** This Agreement may be signed in counterparts, each of which is an
5 original, and all of which together constitute this Agreement.

6 [SIGNATURE PAGE FOLLOWS]
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

2 VMS Family Counseling Services,
3 Professional Corporation

COUNTY OF FRESNO

4 
5 _____
6 Victoria Sanders, CEO

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

7 2350 W. Shaw Ave, Suite 116
8 Fresno, CA 93711

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

9 By: _____

10 Deputy

11 For accounting use only:

12 Org No.: 31112415
13 Account No.: 7295
14 Fund No.: 0001
15 Subclass No.: 10000
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

Scope of Services

A. The Contractor shall provide counseling services and psychotherapy using appropriately licensed professionals to Fresno County Sheriff's Office employees and their families pursuant to this Agreement:

B. The Contractor shall provide counseling that may be individual, couples, or group sessions, which will take place at the Contractor's place of business and is convenient to employees and their families.

C. The Contractor shall respond to non-emergencies within one (1) business day.

D. The Contractor shall provide training seminars and consultation services to the Sheriff's Office management as needed.

E. The Contractor agrees that all visits are confidential in nature and no reports or files will be provided to the Sheriff's Office or County.

F. The Contractor shall inform the Sheriff's Office employees and their families of any appointment cancellations as described in Exhibit B, which is attached hereto and incorporated herein by this reference.

G. The Contractor's staff shall be Licensed Clinical Social Workers (LCSW) or Licensed Marriage Family Therapists (LMFT), licensed in the State of California, in good standing, and be familiar with the issues facing law enforcement and their families. Interns approved by Victoria Sanders, LMFT, can be utilized to provide services (i.e. Individual sessions, couples sessions, and couple/family sessions) at the price listed in Exhibit "B", only after the employee/client is advised when scheduling their appointment that they will be seeing an intern. If the employee/client does not wish to see an intern, they will be offered an appointment with a LCSW or a LMFT staff member.

Exhibit B

Compensation

The Contractor will be compensated for performance of its services under this Agreement as provided in this Exhibit B. The Contractor is not entitled to any compensation except as expressly provided in this Exhibit B.

Psychological Services for Fresno County Sheriff's Office personnel and families to include the following, and shall be billed to Fresno County Sheriff's Office at the following rates:

Prices and Cancellation Fees

Licensed:

Office Session Type	Length	Year 1	Year 2	Year 3	Year 4	Year 5
1 Individual Session	50 Mins	\$100.00	\$100.00	\$110.00	\$110.00	\$120.00
2 Family/Couple Session	50 Mins	\$110.00	\$110.00	\$120.00	\$120.00	\$130.00
3 Training Seminar	Per Hour	\$125.00	\$125.00	\$125.00	\$125.00	\$125.00
4 No-Show Fee - Limit 2 per client per year		\$65.00	\$65.00	\$65.00	\$65.00	\$65.00

Interns:

Office Session Type	Length	Year 1	Year 2	Year 3	Year 4	Year 5
1 Individual Session	50 Mins	\$90.00	\$90.00	\$100.00	\$100.00	\$110.00
2 Family/Couple Session	50 Mins	\$100.00	\$100.00	\$110.00	\$110.00	\$120.00
3 Training Seminar	Per Hour	\$100.00	\$100.00	\$100.00	\$100.00	\$100.00
4 No-Show Fee - Limit 2 per client per year		\$55.00	\$55.00	\$55.00	\$55.00	\$55.00

Yearly Max:	\$144,000.00	\$144,000.00	\$157,000.00	\$157,000.00	\$183,000.00
--------------------	--------------	--------------	--------------	--------------	--------------

Visits or sessions will take place through Zoom or at the following address:

VMS Family Counseling Services, Professional Corporation

2350 W. Shaw Ave, Suite 116

Fresno, CA 93711

Cancellation and No-Show fees are as follows:

- A. There will be no No-Show Fee applied if client contacts the office before 5:00 PM the day prior to their scheduled appointment.
- B. No-Show includes any session that is canceled by client later than 5:00 PM the business day prior to the appointment.
- C. The Department will be charged for the first two No-Show appointments by a client. For any additional No-Shows by the same client, the client will be required to pay the no-show fee, and the Department will not be charged for additional No-Show Fees for that client in the same calendar year.

Exhibit C

Insurance Requirements

1. Required Policies

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

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (C) **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.
- (D) **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.
- (E) **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.
- (F) **Cyber Liability.** Cyber liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence. Coverage must include claims involving Cyber Risks. The cyber liability policy must be endorsed to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.

Definition of Cyber Risks. "Cyber Risks" include but are not limited to (i) Security Breach, which may include Disclosure of Personal Information to an Unauthorized Third

Exhibit C

Party; (ii) data breach; (iii) breach of any of the Contractor's obligations under this Agreement; (iv) system failure; (v) data recovery; (vi) failure to timely disclose data breach or Security Breach; (vii) failure to comply with privacy policy; (viii) payment card liabilities and costs; (ix) infringement of intellectual property, including but not limited to infringement of copyright, trademark, and trade dress; (x) invasion of privacy, including release of private information; (xi) information theft; (xii) damage to or destruction or alteration of electronic information; (xiii) cyber extortion; (xiv) extortion related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; (xv) fraudulent instruction; (xvi) funds transfer fraud; (xvii) telephone fraud; (xviii) network security; (xix) data breach response costs, including Security Breach response costs; (xx) regulatory fines and penalties related to the Contractor's obligations under this Agreement regarding electronic information, including Personal Information; and (xxi) credit monitoring expenses.

If the Contractor is a governmental entity, it may satisfy the policy requirements above through a program of self-insurance, including an insurance pooling arrangement or joint exercise of powers agreement.

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 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 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.

Exhibit C

- (iv) The technology professional liability insurance certificate must also state that coverage encompasses all of the Contractor's obligations under this Agreement, including but not limited to claims involving Cyber Risks, as that term is defined in this Agreement.
 - (v) The cyber liability insurance certificate must also state that it is endorsed, and include an endorsement, to cover the full replacement value of damage to, alteration of, loss of, or destruction of intangible property (including but not limited to information or data) that is in the care, custody, or control of the Contractor.
- (B) **Acceptability of Insurers.** All insurance policies required under this Agreement must be issued by admitted insurers licensed to do business in the State of California and possessing at all times during the term of this Agreement an A.M. Best, Inc. rating of no less than A: VII.
- (C) **Notice of Cancellation or Change.** For each insurance policy required under this Agreement, the Contractor shall provide to the County, or ensure that the policy requires the insurer to provide to the County, written notice of any cancellation or change in the policy as required in this paragraph. For cancellation of the policy for nonpayment of premium, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 10 days in advance of cancellation. For cancellation of the policy for any other reason, and for any other change to the policy, the Contractor shall, or shall cause the insurer to, provide written notice to the County not less than 30 days in advance of cancellation or change. The County in its sole discretion may determine that the failure of the Contractor or its insurer to timely provide a written notice required by this paragraph is a breach of this Agreement.
- (D) **County's Entitlement to Greater Coverage.** If the Contractor has or obtains insurance with broader coverage, higher limits, or both, than what is required under this Agreement, then the County requires and is entitled to the broader coverage, higher limits, or both. To that end, the Contractor shall deliver, or cause its broker or producer to deliver, to the County's Risk Manager certificates of insurance and endorsements for all of the coverages that have such broader coverage, higher limits, or both, as required under this Agreement.
- (E) **Waiver of Subrogation.** The Contractor waives any right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under the policy of worker's compensation insurance required by this Agreement. The Contractor is solely responsible to obtain any policy endorsement that may be necessary to accomplish that waiver, but the Contractor's waiver of subrogation under this paragraph is effective whether or not the Contractor obtains such an endorsement.
- (F) **County's Remedy for Contractor's Failure to Maintain.** If the Contractor fails to keep in effect at all times any insurance coverage required under this Agreement, the County may, in addition to any other remedies it may have, suspend or terminate this Agreement upon the occurrence of that failure, or purchase such insurance coverage, and charge the cost of that coverage to the Contractor. The County may offset such charges against any amounts owed by the County to the Contractor under this Agreement.

Exhibit C

(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.

Exhibit D

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 D

(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:	