

RETROACTIVE SERVICE AGREEMENT

This Service Agreement (“Agreement”) is dated _____ and is between Della Randall, dba Vanguard Security Services, a private security agency (“Contractor”), and the County of Fresno, a political subdivision of the State of California (“County”).

Recitals

- A. The County has a need for security services 24-hours a day, seven days a week (24/7) at the Fresno County University Medical Center (UMC) campus to prevent trespassing and vandalism following the flooding of the campus on December 13, 2023.
- B. On December 15, 2023, the County issued a Request for Quotation (RFQ) for 24/7 security patrol services at the UMC campus. Two vendors submitted a responsive bid to the RFQ (“Response”). The County evaluated each vendor’s response to the RFQ and the Contractor was selected due to being the lowest bidder and meeting the needs set forth in the RFQ.
- C. On January 9, 2024, the County’s Board of Supervisors adopted a resolution acknowledging the emergency nature of the flooding incident at the UMC campus, and approved a Suspension of Competition for 24/7 security patrol services at the site to prevent future trespassing issues.
- D. On January 18, 2024, the County entered into a Purchase Order with the Contractor for 24/7 security patrol services, effective January 22, 2024 through June 30, 2024.
- E. Services provided by the Contractor between July 1, 2024 and July 31, 2024, were paid by way of a Purchase Order signed by the County’s Purchasing Manager (“Purchasing Manager sign-off”).
- F. The County now desires to enter into a retroactive agreement with the Contractor to pay for security patrol services the Contractor provided between August 1, 2024 and December 13, 2024.

The parties therefore agree as follows:

1 **Article 1**

2 **Contractor's Services**

3 1.1 **Scope of Services.** The Contractor shall perform all of the services provided in Exhibit
4 A to this Agreement, titled "Scope of Services."

5 1.2 **Representation.** The Contractor represents that it is qualified, ready, willing, and able to
6 perform all of the services provided in this Agreement.

7 1.3 **Compliance with Laws.** The Contractor shall, at its own cost, comply with all applicable
8 federal, state, and local laws and regulations in the performance of its obligations under this
9 Agreement, including but not limited to workers compensation, labor, and confidentiality laws
10 and regulations.

11 **Article 2**

12 **County's Responsibilities**

13 2.1 The County shall compensate the Contractor as provided in Article 3 of this Agreement,
14 upon satisfactory completion of work, and receipt of invoice approved by the County.

15 2.2 The County shall provide a County Representative who will represent the County and
16 who will work with the Contractor in carrying out the provisions of this Agreement.

17 **Article 3**

18 **Compensation and Invoices**

19 3.1 The County agrees to pay, and the Contractor agrees to receive, compensation for the
20 performance of its services under this Agreement as described in Exhibit B to this Agreement,
21 titled "Compensation."

22 3.2 **Maximum Compensation.** The maximum compensation payable to the Contractor
23 under this Agreement is \$416,589.54 for the term of this Agreement.

24 The Contractor acknowledges that the County is a local government entity, and does so with
25 notice that the County's powers are limited by the California Constitution and by State law, and
26 with notice that the Contractor may receive compensation under this Agreement only for
27 services performed according to the terms of this Agreement and while this Agreement is in
28 effect, and subject to the maximum amount payable under this section. The Contractor further

1 acknowledges that County employees have no authority to pay the Contractor except as
2 expressly provided in this Agreement.

3 **3.3 Invoices.** The Contractor shall submit monthly invoices referencing the provided
4 agreement number to the County of Fresno, Internal Services Department, Facilities Division
5 Attention: Facilities Manager, 4590 E. Cesar Chavez Blvd, Fresno, CA 93702,
6 ISDfacilitiesAP@fresnocountyca.gov. Since the Agreement is retroactive, the Contractor shall
7 submit each monthly invoice within 60 days of the execution of the Agreement, and in any case,
8 within 60 days after the end of the term or termination of this Agreement.

9 **3.4 Incidental Expenses.** The Contractor is solely responsible for all of its costs and
10 expenses that are not specified as payable by the County under this Agreement.

11 **Article 4**

12 **Term of Agreement**

13 **4.1 Term.** This Agreement is effective on August 1, 2024, and terminates on December 13,
14 2024. ("Term"), except as provided in Article 6, "Termination and Suspension," below.

15 **Article 5**

16 **Notices**

17 **5.1 Contact Information.** The persons and their addresses having authority to give and
18 receive notices provided for or permitted under this Agreement include the following:

19 **For the County:**
20 Director of Internal Services/Chief Information Officer
21 County of Fresno
22 333 W. Pontiac Way
23 Clovis, CA 93612
24 isdcontracts@fresnocountyca.gov

25 **For the Contractor:**
26 Della Randall
27 Vanguard Security Services
28 5361 N Third Street #A
Fresno, CA 93710
d.randall@vanguardsecurityservices.net

29 **5.2 Change of Contact Information.** Either party may change the information in section 5.1
30 by giving notice as provided in section 5.3.

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

3 **6.2 Termination for Breach.**

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

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

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

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

16 **6.3 Termination without Cause.** In circumstances other than those set forth above, the
17 County may terminate this Agreement by giving at least 30 days advance written notice to the
18 Contractor.

19 **6.4 No Penalty or Further Obligation.** Any termination of this Agreement by the County
20 under this Article 6 is without penalty to or further obligation of the County.

21 **6.5 County's Rights upon Termination.** Upon termination for breach under this Article 6,
22 the County may demand repayment by the Contractor of any monies disbursed to the
23 Contractor under this Agreement that, in the County's sole judgment, were not expended in
24 compliance with this Agreement. The Contractor shall promptly refund all such monies upon
25 demand. This section survives the termination of this Agreement.

1 **Article 7**

2 **Independent Contractor**

3 7.1 **Status.** In performing under this Agreement, the Contractor, including its officers,
4 agents, employees, and volunteers, is at all times acting and performing as an independent
5 contractor, in an independent capacity, and not as an officer, agent, servant, employee, joint
6 venturer, partner, or associate of the County.

7 7.2 **Verifying Performance.** The County has no right to control, supervise, or direct the
8 manner or method of the Contractor's performance under this Agreement, but the County may
9 verify that the Contractor is performing according to the terms of this Agreement.

10 7.3 **Benefits.** Because of its status as an independent contractor, the Contractor has no
11 right to employment rights or benefits available to County employees. The Contractor is solely
12 responsible for providing to its own employees all employee benefits required by law. The
13 Contractor shall save the County harmless from all matters relating to the payment of the
14 Contractor's employees, including compliance with Social Security withholding and all related
15 regulations.

16 7.4 **Services to Others.** The parties acknowledge that, during the term of this Agreement,
17 the Contractor may provide services to others unrelated to the County.

18 **Article 8**

19 **Indemnity and Defense**

20 8.1 **Indemnity.** The Contractor shall indemnify and hold harmless and defend the County
21 (including its officers, agents, employees, and volunteers) against all claims, demands, injuries,
22 damages, costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of
23 any kind to the County, the Contractor, or any third party that arise from or relate to the
24 performance or failure to perform by the Contractor (or any of its officers, agents,
25 subcontractors, or employees) under this Agreement. The County may conduct or participate in
26 its own defense without affecting the Contractor's obligation to indemnify and hold harmless or
27 defend the County.

28 8.2 **Survival.** This Article 8 survives the termination of this Agreement.

1 **Article 9**

2 **Insurance**

3 9.1 The Contractor shall comply with all the insurance requirements in Exhibit D to this
4 Agreement.

5 **Article 10**

6 **Inspections, Audits, and Public Records**

7 10.1 **Inspection of Documents.** The Contractor shall make available to the County,
8 and the County may examine at any time during business hours and as often as the County
9 deems necessary, all of the Contractor's records and data with respect to the matters covered
10 by this Agreement, excluding attorney-client privileged communications. The Contractor shall,
11 upon request by the County, permit the County to audit and inspect all of such records and data
12 to ensure the Contractor's compliance with the terms of this Agreement.

13 10.2 **State Audit Requirements.** If the compensation to be paid by the County under
14 this Agreement exceeds \$10,000, the Contractor is subject to the examination and audit of the
15 California State Auditor, as provided in Government Code section 8546.7, for a period of three
16 years after final payment under this Agreement. This section survives the termination of this
17 Agreement.

18 10.3 **Public Records.** The County is not limited in any manner with respect to its
19 public disclosure of this Agreement or any record or data that the Contractor may provide to the
20 County. The County's public disclosure of this Agreement or any record or data that the
21 Contractor may provide to the County may include but is not limited to the following:

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

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

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

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

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

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

16 10.4 **Public Records Act Requests.** If the County receives a written or oral request
17 under the CPRA to publicly disclose any record that is in the Contractor's possession or control,
18 and which the County has a right, under any provision of this Agreement or applicable law, to
19 possess or control, then the County may demand, in writing, that the Contractor deliver to the
20 County, for purposes of public disclosure, the requested records that may be in the possession
21 or control of the Contractor. Within five business days after the County's demand, the
22 Contractor shall (a) deliver to the County all of the requested records that are in the Contractor's
23 possession or control, together with a written statement that the Contractor, after conducting a
24 diligent search, has produced all requested records that are in the Contractor's possession or
25 control, or (b) provide to the County a written statement that the Contractor, after conducting a
26 diligent search, does not possess or control any of the requested records. The Contractor shall
27 cooperate with the County with respect to any County demand for such records. If the
28 Contractor wishes to assert that any specific record or data is exempt from disclosure under the

1 CPRA or other applicable law, it must deliver the record or data to the County and assert the
2 exemption by citation to specific legal authority within the written statement that it provides to
3 the County under this section. The Contractor's assertion of any exemption from disclosure is
4 not binding on the County, but the County will give at least 10 days' advance written notice to
5 the Contractor before disclosing any record subject to the Contractor's assertion of exemption
6 from disclosure. The Contractor shall indemnify the County for any court-ordered award of costs
7 or attorney's fees under the CPRA that results from the Contractor's delay, claim of exemption,
8 failure to produce any such records, or failure to cooperate with the County with respect to any
9 County demand for any such records.

10 **Article 11**

11 **Disclosure of Self-Dealing Transactions**

12 11.1 **Applicability.** This Article 11 applies if the Contractor is operating as a
13 corporation, or changes its status to operate as a corporation.

14 11.2 **Duty to Disclose.** If any member of the Contractor's board of directors is party to
15 a self-dealing transaction, he or she shall disclose the transaction by completing and signing a
16 "Self-Dealing Transaction Disclosure Form" (Exhibit C to this Agreement) and submitting it to
17 the County before commencing the transaction or immediately after.

18 11.3 **Definition.** "Self-dealing transaction" means a transaction to which the
19 Contractor is a party and in which one or more of its directors, as an individual, has a material
20 financial interest.

21 **Article 12**

22 **General Terms**

23 12.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this
24 Agreement may not be modified, and no waiver is effective, except by written agreement signed
25 by both parties. The Contractor acknowledges that County employees have no authority to
26 modify this Agreement except as expressly provided in this Agreement.

27 12.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations
28 under this Agreement without the prior written consent of the other party.

1 12.3 **Governing Law.** The laws of the State of California govern all matters arising
2 from or related to this Agreement.

3 12.4 **Jurisdiction and Venue.** This Agreement is signed and performed in Fresno
4 County, California. The Contractor consents to California jurisdiction for actions arising from or
5 related to this Agreement, and, subject to the Government Claims Act, all such actions must be
6 brought and maintained in Fresno County.

7 12.5 **Construction.** The final form of this Agreement is the result of the parties'
8 combined efforts. If anything in this Agreement is found by a court of competent jurisdiction to
9 be ambiguous, that ambiguity shall not be resolved by construing the terms of this Agreement
10 against either party.

11 12.6 **Days.** Unless otherwise specified, "days" means calendar days.

12 12.7 **Headings.** The headings and section titles in this Agreement are for convenience
13 only and are not part of this Agreement.

14 12.8 **Severability.** If anything in this Agreement is found by a court of competent
15 jurisdiction to be unlawful or otherwise unenforceable, the balance of this Agreement remains in
16 effect, and the parties shall make best efforts to replace the unlawful or unenforceable part of
17 this Agreement with lawful and enforceable terms intended to accomplish the parties' original
18 intent.

19 12.9 **Nondiscrimination.** During the performance of this Agreement, the Contractor
20 shall not unlawfully discriminate against any employee or applicant for employment, or recipient
21 of services, because of race, religious creed, color, national origin, ancestry, physical disability,
22 mental disability, medical condition, genetic information, marital status, sex, gender, gender
23 identity, gender expression, age, sexual orientation, military status or veteran status pursuant to
24 all applicable State of California and federal statutes and regulation.

25 12.10 **No Waiver.** Payment, waiver, or discharge by the County of any liability or
26 obligation of the Contractor under this Agreement on any one or more occasions is not a waiver
27 of performance of any continuing or other obligation of the Contractor and does not prohibit
28 enforcement by the County of any obligation on any other occasion.

1 12.11 **Entire Agreement.** This Agreement, including its exhibits, is the entire
2 agreement between the Contractor and the County with respect to the subject matter of this
3 Agreement, and it supersedes all previous negotiations, proposals, commitments, writings,
4 advertisements, publications, and understandings of any nature unless those things are
5 expressly included in this Agreement. If there is any inconsistency between the terms of this
6 Agreement without its exhibits and the terms of the exhibits, then the inconsistency will be
7 resolved by giving precedence first to the terms of this Agreement without its exhibits, and then
8 to the terms of the exhibits.

9 12.12 **No Third-Party Beneficiaries.** This Agreement does not and is not intended to
10 create any rights or obligations for any person or entity except for the parties.

11 12.13 **Authorized Signature.** The Contractor represents and warrants to the County
12 that:

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

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

18 12.14 **Electronic Signatures.** The parties agree that this Agreement may be executed
19 by electronic signature as provided in this section.

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

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

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

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

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

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

[SIGNATURE PAGE FOLLOWS]

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

2 VANGUARD SECURITY SERVICES

COUNTY OF FRESNO

3
4 
5 _____
Della Randall, Owner/Sole Proprietor

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

6 5361 N Third St #A
7 Fresno, CA 93710

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

9
10 By: _____
Deputy

11 For accounting use only:

12 Org No.: 8935
13 Account No.: 7220
14 Fund No.: 1045
15 Subclass No.: 10000

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Exhibit A

Scope of Services

Contractor's Expectations

The Contractor shall perform preventative measures and deterrence of unlawful trespassing, theft, and vandalism, as listed in this Exhibit A, at the County's UMC Campus, located in the northeast corner of East Kings Canyon Road and South Cedar Avenue in Fresno, California ("building 300").

- The Contractor shall provide a physical security presence and report any issues to the County's Security Services Division.
- The Contractor shall have four Security Officers ("Officers") on-site at all times (24/7 security patrol).
 - Three Officers shall be positioned inside the fence line and one Officer shall perform vehicle patrol around the exterior fence line.
 - Position of the Officers: one Officer shall be on foot on the west side of the building ("West Officer"), one Officer shall be on foot on the north side of the building ("North Officer"), one Officer shall be on foot on the south/east corner of the building ("South/East Officer"), and one Officer shall patrol in a security patrol vehicle around the building ("Vehicle Patrol Officer"). Positions are illustrated on the map in this Exhibit A.
- Officers shall use the Contractor's Patrol Vehicle with amber lights.
- The Contractor shall perform interior checks of the building every other hour. Interior checks may be done in pairs with the Vehicle Patrol Officer and the North Officer. The Vehicle Patrol Officer may stage their marked vehicle inside the fence line on the north side with running amber lights. While interior checks are being conducted, the West Officer and South/East Officer shall maintain their post and duties.
- The Contractor will be given a set of keys (3 keys): Keys 1101 (hospital door), UM 1 (hospital pad lock on door), and Master 2 key (exterior fence master lock).
 - All keys must be returned to the County once services are completed and/or this Agreement is terminated.

Exhibit A

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- The Contractor shall report all suspicious activities and breaches to the UMC campus, and request assistance from Fresno County Security 24-hour Dispatch at 600-1722, and/or the Fresno County Sheriff's Department at 600-3111.

Exhibit A

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-  Entry Gates
-  Hospital Entry Door
-  Breach Areas
-  Security Post
-  Patrolling Security

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. Payment in full of the Maximum Compensation listed in Article 3, Section 3.2 of this Agreement will not be due until at least ten (10) business days after the Board of Supervisors have approved and authorized the payment to Contractor.

Service Period	Cost
August 1, 2024 – August 31, 2024 <i>(includes a \$7,983.12 30-day late fee and a \$8,781.43 60-day late fee)</i>	\$96,595.72
September 1, 2024 – September 30, 2024 <i>(includes a \$8,787.23 30-day late fee)</i>	\$96,659.54
October 1, 2024 – October 31, 2024	\$95,166.36
November 1, 2024 – November 30, 2024	\$87,740.28
December 1, 2024 – December 13, 2024	\$40,427.64

Exhibit C

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 C

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

Exhibit D

Insurance Requirements

1. Required Policies

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

- (A) **Commercial General Liability.** Commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. Coverage must include products, completed operations, property damage, bodily injury, personal injury, and advertising injury. The Contractor shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, as additional insureds, but only insofar as the operations under this Agreement are concerned. Such coverage for additional insureds will apply as primary insurance and any other insurance, or self-insurance, maintained by the County is excess only and not contributing with insurance provided under the Contractor's policy.
- (B) **Automobile Liability.** Automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for property damages. Coverage must include any auto used in connection with this Agreement.
- (C) **Workers Compensation.** Workers compensation insurance as required by the laws of the State of California with statutory limits.
- (D) **Employer's Liability.** Employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and for disease.
- (E) **Professional Liability.** Professional liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Three Million Dollars (\$3,000,000). If this is a claims-made policy, then (1) the retroactive date must be prior to the date on which services began under this Agreement; (2) the Contractor shall maintain the policy and provide to the County annual evidence of insurance for not less than five years after completion of services under this Agreement; and (3) if the policy is canceled or not renewed, and not replaced with another claims-made policy with a retroactive date prior to the date on which services begin under this Agreement, then the Contractor shall purchase extended reporting coverage on its claims-made policy for a minimum of five years after completion of services under this Agreement.

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,

Exhibit D

certificates of insurance and endorsements for all of the coverages required under this Agreement.

- (i) Each insurance certificate must state that: (1) the insurance coverage has been obtained and is in full force; (2) the County, its officers, agents, employees, and volunteers are not responsible for any premiums on the policy; and (3) the Contractor has waived its right to recover from the County, its officers, agents, employees, and volunteers any amounts paid under any insurance policy required by this Agreement and that waiver does not invalidate the insurance policy.
 - (ii) The commercial general liability insurance certificate must also state, and include an endorsement, that the County of Fresno, its officers, agents, employees, and volunteers, individually and collectively, are additional insureds insofar as the operations under this Agreement are concerned. The commercial general liability insurance certificate must also state that the coverage shall apply as primary insurance and any other insurance, or self-insurance, maintained by the County shall be excess only and not contributing with insurance provided under the Contractor's policy.
 - (iii) The automobile liability insurance certificate must state that the policy covers any auto used in connection with this Agreement.
- (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

Exhibit D

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.
- (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.