

1 **AGREEMENT**

2  
3 THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2014,  
4 by and between the COUNTY OF FRESNO, a political subdivision of the State of California,  
5 hereinafter referred to as "COUNTY," and the CITY OF FRESNO, a Municipal Corporation,  
6 hereinafter referred to as "CONTRACTOR."

7 WITNESSETH:

8 WHEREAS, the State of California, under Assembly Bill 109, the Public Safety  
9 Realignment Act (AB 109), has realigned responsibilities for probation, post release community  
10 supervision (PRCS) and mandatory supervised release of offenders; and

11 WHEREAS, the Public Safety Realignment Act AB 109 Implementation Plan of 2011,  
12 hereinafter referred to as "AB 109 PLAN," was developed by the Fresno County Community  
13 Corrections Partnership (CCP) and approved by the Fresno County Board of Supervisors; and

14 WHEREAS, the AB 109 PLAN included formation of the Adult Compliance Team  
15 (ACT) to create a cooperative unit capable of addressing public safety concerns and issues facing  
16 local law enforcement in Fresno County; and

17 WHEREAS, the ACT is comprised of representatives of the Fresno County Sheriff's  
18 Department, the Fresno County District Attorney's Office, the Fresno County Probation  
19 Department, and officers of the Fresno and Clovis Police Departments; and

20 WHEREAS, the State of California has provided funding to COUNTY for the purpose  
21 of implementing AB 109 services.

22 NOW, THEREFORE, in respect of the mutual promises contained herein, the Parties  
23 hereto agree as follows:

24 1. OBLIGATIONS OF THE COUNTY

25 COUNTY shall compensate and remit to CONTRACTOR, as provided herein  
26 an amount equal to the cost of one (1) City of Fresno Police Officer ("Police Officer") for  
27 assignment to the ACT, not to exceed, in aggregate, the maximum amount payable under this  
28 Agreement of One Hundred Seventy-Six Thousand Nine Hundred Ninety-Six dollars (\$176,996.)

1                   2.     OBLIGATIONS OF THE CONTRACTOR

2                   CONTRACTOR shall assign one (1) Police Officer to be responsible for  
3 fulfilling the responsibilities of an ACT member, as set forth in pages 15 and 16 of the AB 109  
4 PLAN and in accordance with the ACT Operating Agreement, both attached hereto as Exhibits  
5 “A” and “B”, respectively, and incorporated herein by reference. In the event that the AB 109 PLAN  
6 is revised by the CCP, and approved by the Fresno County Board of Supervisors, the  
7 responsibilities of the Police Officer under this Agreement may be modified. Should such  
8 modification result in additional costs to CONTRACTOR, the maximum reimbursement for  
9 services rendered under this Agreement by CONTRACTOR shall be increased in accordance with  
10 Section 7 of this Agreement.

11                   3.     TERM

12                   This Agreement shall become effective July 1, 2014 and shall terminate on  
13 June 30, 2015.

14                   4.     TERMINATION

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

20                   B.   With or Without Cause – COUNTY or CONTRACTOR may immediately  
21 terminate this Agreement by delivering 60 days advance written notice to the other party.

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

1                   5.       COMPENSATION/INVOICING

2                   COUNTY agrees to pay CONTRACTOR and CONTRACTOR agrees to  
3 receive compensation as follows:

4                   CONTRACTOR shall submit quarterly invoices for actual expenditures to the  
5 County of Fresno Probation Department at: [ProbationInvoices@co.fresno.ca.us](mailto:ProbationInvoices@co.fresno.ca.us). Invoices must  
6 be submitted on or after the dates of October 1, 2014 and January 1, April 1, and July 1, 2015,  
7 respectively, and include a breakdown of expenses identified in the final approved budget of the  
8 CCP in the County of Fresno for use in executing the mission of ACT. COUNTY shall make  
9 payment within 45 days of receipt of invoice.

10                  Upon any termination of this Agreement, CONTRACTOR shall be  
11 compensated for costs incurred under this Agreement, up to and including the date of  
12 termination. The terms of this Section 5 shall survive the expiration or earlier termination of this  
13 Agreement.

14                  In no event shall services performed under this Agreement be in excess of  
15 One Hundred Seventy-Six Thousand Nine Hundred Ninety-Six dollars (\$176,996).

16                   6.       INDEPENDENT CONTRACTOR

17                  The parties are acting in an independent capacity with respect to the  
18 performance of their respective obligations under this Agreement. Each of the parties agrees that  
19 it, including any and all of its officers, agents, and/or employees, shall have absolutely no right to  
20 employment rights and benefits available to the other party's employees. Each party shall be  
21 solely liable and responsible for providing to, or on behalf of, its own officers, agents, and/or  
22 employees all legally and contractually required employee benefits. In addition, each party shall  
23 be solely responsible and save the other party harmless from all matters relating to payment of  
24 each party's employees, including, but not limited to, compliance with applicable social security  
25 withholding and all other regulations governing such matters. Further and without limitation, each  
26 party to this Agreement will be responsible for its own actions in performance of their respective  
27 obligations under this Agreement.

28                  CONTRACTOR and COUNTY shall comply with all applicable provisions of

1 law and the rules and regulations, if any, of governmental authorities having jurisdiction over  
2 matters the subject thereof.

3 7. MODIFICATION

4 Any matters of this Agreement may be modified from time to time by the written  
5 consent of all the parties without, in any way, affecting the remainder.

6 8. NON-ASSIGNMENT

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

9 9. HOLD HARMLESS

10 CONTRACTOR agrees to indemnify, save, hold harmless, and at COUNTY'S  
11 request, defend the COUNTY, its officers, agents, and employees from any and all costs and  
12 expenses, damages, liabilities, claims, and losses, including attorney's fees and costs, occurring,  
13 resulting, or arising from the negligent or wrongful performance by CONTRACTOR, or its officers,  
14 agents, or employees of obligations agreed to be performed under this Agreement.

15 COUNTY agrees to indemnify, save, hold harmless, and at CONTRACTOR'S  
16 request, defend the CONTRACTOR, its officers, agents, and employees from any and all costs  
17 and expenses, damages, liabilities, claims, and losses, including attorney's fees and costs,  
18 occurring, resulting, or arising from the negligent or wrongful performance by COUNTY, or its  
19 officers, agents, or employees of obligations agreed to be performed under this Agreement.

20 10. INSURANCE

21 It is understood and agreed that, without limiting the right of either party to  
22 obtain indemnification from the other party or any third parties, CONTRACTOR and COUNTY  
23 shall maintain insurance policies or self-insurance programs to fund their respective liabilities.  
24 Evidence of Insurance, e.g., Certificates of Insurance or other similar documentation, shall not be  
25 required of either party under this Agreement.

26 11. AUDITS AND INSPECTIONS

27 The CONTRACTOR shall at any time during business hours, and as often as  
28 the COUNTY may deem necessary, make available to the COUNTY for examination all of its

1 records and data with respect to the matters covered by this Agreement. The CONTRACTOR  
2 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records  
3 and data necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

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

7 12. NOTICES

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

10	COUNTY	CONTRACTOR
11	COUNTY OF FRESNO	CITY OF FRESNO
12	Rick Chavez, Chief Probation Officer	Jerry Dyer, Chief of Police
13	3333 E. American Avenue, Suite B	2323 Mariposa Mall
	Fresno, CA 93725	Fresno, CA 93721

14 Any and all notices between the COUNTY and the CONTRACTOR provided  
15 for or permitted under this Agreement or by law shall be in writing and shall be deemed duly  
16 served when personally delivered to one of the parties, or in lieu of such personal services, when  
17 deposited in the United States Mail, postage prepaid, addressed to such party.

18 13. GOVERNING LAW

19 The rights and obligations of the parties and all interpretation and performance  
20 of this Agreement shall be governed in all respects by the laws of the State of California. Venue  
21 for any action arising out of or related to this Agreement shall only be in Fresno County, California.

22 14. CUMULATIVE REMEDIES

23 No remedy or election hereunder shall be deemed exclusive but shall,  
24 wherever possible, be cumulative with all other remedies at law or in equity.

25 15. SEVERABILITY

26 In the event any provisions of this Agreement are held by a court of  
27 competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this  
28 Agreement will nevertheless continue in force and effect without being impaired or invalidated

1 in any way.

2 16. WAIVER

3 The waiver by either party of a breach by the other of any provision of this  
4 Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of  
5 either the same or a different provision of this Agreement. No waiver of a party's breach of any  
6 provision of this Agreement shall be effective unless the waiver is in writing and signed by the  
7 party against whom the waiver is sought to be enforced. Waiver of any one provision herein  
8 shall not be deemed to be a waiver of any other provision herein.

9 17. INTERPRETATION

10 The parties acknowledge that this Agreement in its final form is the result of  
11 the combined efforts of the parties and that, should any provision of this Agreement be found to  
12 be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in  
13 favor of or against either party, but rather by construing the terms in accordance with their  
14 generally accepted meaning.

15 18. NO THIRD PARTY BENEFICIARIES

16 Nothing set forth in this Agreement shall create any legal rights in any  
17 person not a party to this Agreement.

18 19. EXHIBITS

19 Each exhibit and attachment referenced in this Agreement is, by reference,  
20 incorporated into and made a part of this Agreement.

21 20. ENTIRE AGREEMENT

22 This Agreement constitutes the entire agreement between the CONTRACTOR and  
23 COUNTY with respect to the subject matter hereof and supersedes all previous Agreement  
24 negotiations, proposals, commitments, writings, advertisements, publications, and understandings  
25 of any nature whatsoever unless expressly included in this Agreement.

26 //

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

3 **CONTRACTOR**

**COUNTY OF FRESNO**

4  
5 Jerry Dyer  
6 Chief of Police, City of Fresno Police Department

Andreas Borgeas  
Chairman, Board of Supervisors

7 DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

8 ATTEST:  
9 Yvonne Spence, CMC  
10 City Clerk, City of Fresno

ATTEST:  
Bernice E. Seidel, Clerk  
Board of Supervisors

11 BY: \_\_\_\_\_  
12 Deputy Date

BY: \_\_\_\_\_  
Deputy

13 APPROVED AS TO FORM:  
14 Douglas T. Sloan  
15 City Attorney, City of Fresno

16 BY: Amanda B. Freeman 10/1/14  
17 ~~Mary Anne B. Tooke~~ Amanda B. Freeman Date  
18 Deputy City Attorney

1 Agreement between the City of Fresno and the  
2 County of Fresno to participate on the Public Safety  
3 Realignment Act (AB109) Adult Compliance Team  
4 2014-2015

4 REVIEWED & RECOMMENDED  
5 FOR APPROVAL:

6 \_\_\_\_\_  
7 John Navarrette, County Administrative Officer

8 \_\_\_\_\_  
9 Rick Chavez, Chief Probation Officer

10 APPROVED AS TO LEGAL FORM  
11 Daniel Cederborg, County Counsel

12 \_\_\_\_\_  
13 Deputy

14 APPROVED AS TO ACCOUNTING FORM  
15 Vicki Crow, CPA  
16 Auditor-Controller, Tax Collector

17 \_\_\_\_\_  
18 FOR ACCOUNTING USE ONLY:

19 FUND: 0001  
20 ORG: 34309999  
21 SUBCLASS: 10000  
22 ACCOUNT: 7295