



1           D.       Upon being informed of CITY's Sergeant/Lieutenant's intent to make use of one of  
2 the five (5) bed spaces to house a CITY arrestee, the Jail Watch Commander shall determine whether  
3 one of the bed spaces is available for such purpose. The Jail Watch Commander shall inform the  
4 informing officer from CITY's Police Department whether one of the five (5) bed spaces is available. If  
5 one of the five (5) bed spaces is available, the Jail Watch Commander shall inform Jail staff and the  
6 officer from CITY's Police Department that the CITY arrestee may be housed in one of the five (5) bed  
7 spaces. In the event that bed space is unavailable for any reason other than CITY's reservation or use  
8 of all five (5) bed spaces, as provided herein, the Jail Watch Commander shall make such bed space  
9 available for the CITY arrestee after being informed of CITY's intent to make use of such bed space, or  
10 in the alternative, CITY shall be refunded, or CITY's next monthly payment offset, as described in  
11 Section 4, herein, for those days such bed space is unavailable for use by a CITY arrestee.

12           E.       The Sheriff shall not decline acceptance of a CITY arrestee for housing in one of  
13 the five (5) bed spaces, or release a CITY arrestee from the Jail once he or she is accepted for housing  
14 in one of the five (5) bed spaces, for reasons related to the County's Stipulation re Permanent  
15 Injunction; Order in John B. Cruz v. County of Fresno, filed February 25, 1994 ("Federal Court Order"),  
16 attached as Exhibit B.

17           F.       CITY may only use the five (5) bed spaces under this Agreement to house CITY  
18 arrestees who are charged with and awaiting trial solely on violation of a local or state law.

19           G.       The Sheriff shall provide for the secure custody, safekeeping, housing,  
20 subsistence, and care of CITY's arrestees housed in each of the five (5) bed spaces in accordance with  
21 all state and local laws, standards, regulations, policies, and court orders applicable to the operation of  
22 the Jail.

23           H.       If a CITY arrestee housed in one of the five (5) bed spaces is released by the  
24 Sheriff, COUNTY shall inform CITY of the CITY arrestee's release, and the reason for his or her release,  
25 and CITY shall have the right to fill such vacated bed space with another CITY arrestee under the terms  
26 of this Agreement. Notice of the release shall be satisfied by the Sheriff posting such information on the  
27 Sheriff's webpage along with other jail releases.

28           I.       CITY's Police Department may inform the Jail Watch Commander at any time of

1 CITY's intent to no longer house a CITY arrestee in one of the five (5) bed spaces. Upon the Jail Watch  
2 Commander being so informed, the CITY arrestee will not be subject to the terms of this Agreement, but  
3 will be treated as a Jail inmate who is subject to the Federal Court Order.

4 J. If a CITY arrestee using one of the five (5) bed spaces is removed from the Jail  
5 and taken to an outside facility for medical treatment, the bed space used to house the CITY arrestee  
6 under this Agreement shall remain unavailable for use by another CITY arrestee at all times the first  
7 CITY arrestee remains outside the Jail for medical treatment, and CITY shall pay COUNTY the  
8 applicable rate under Section 4, herein, for such period that first CITY arrestee remains outside the Jail  
9 for medical treatment as if such bed space is used to house the first CITY arrestee under this  
10 Agreement .

11 K. CITY's Police Department may inquire with the Jail Watch Commander at any  
12 time to determinate the availability of bed space for CITY arrestees.

13 L. No CITY arrestee shall be housed under this Agreement at the West Annex Jail,  
14 located at 2208 Merced Street, Fresno CA 93721, or any Jail facility for which construction has  
15 commenced after the date this Agreement is entered into by both parties.

16 M. The terms of this Agreement shall in no way affect CITY's responsibilities as the  
17 arresting agency with respect to each CITY arrestee housed in the five (5) bed spaces.

18 2. TERM

19 The term of this Agreement shall commence on September 1, 2021 and continue  
20 through and including June 30, 2024. This Agreement may be extended for two (2) additional consecutive  
21 twelve (12) month periods upon written approval of both parties no later than thirty days (30) days prior to  
22 the first day of the next twelve (12) extension period. The Sheriff or his or her designee is authorized to  
23 execute such written approval on behalf of COUNTY based on CITY's satisfactory performance.

24 The years (or portion of a year) of the term are as follows:

- 25 Year 1 September 1, 2021 – June 30, 2022
- 26 Year 2 July 1, 2022 – June 30, 2023
- 27 Year 3 July 1, 2023 – June 30, 2024

1 The term may be extended for two (2) additional consecutive twelve (12) month periods  
2 as follows:

3 Year 4 July 1, 2024 – June 30, 2025 – 1<sup>st</sup> Extension

4 Year 5 July 1, 2025 – June 30, 2026 – 2<sup>nd</sup> Extension

5 3. TERMINATION

6 A. Without Cause – This Agreement may be terminated by either party without cause  
7 or penalty by giving written notice to the other party at least thirty (30) days in advance of the effective date  
8 of such termination. CITY’s Police Chief shall have authority to terminate this Agreement on behalf of CITY  
9 pursuant to this paragraph. The Sheriff shall have authority to terminate this Agreement on behalf of  
10 COUNTY pursuant to this paragraph.

11 B. Non-Payment – COUNTY may immediately terminate this Agreement if any  
12 payment is not fully made by CITY pursuant to Section 4 “COMPENSATION/INVOICING,” Subsections A  
13 through D.

14 4. COMPENSATION/INVOICING:

15 A. CITY shall be charged at a rate of one hundred and thirty dollars (\$130.00) per  
16 available bed space, per day, effective September 1, 2021 through June 30, 2024, and at a rate of one  
17 hundred and thirty-four dollars (\$134.00) per available bed space, per day, effective July 1, 2024 through  
18 June 30, 2026, as described in Exhibit A, attached and incorporated by this reference. The total daily rate  
19 for the five (5) bed spaces for the portion of the term September 1, 2021 through June 30, 2024 shall be six  
20 hundred and fifty dollars (\$650.00). The total daily rate for the five (5) bed spaces for the portion of the term  
21 July 1, 2024 through June 30, 2026 shall be six hundred and seventy dollars (\$670.00). CITY shall pay  
22 such rates to COUNTY regardless of whether any of the five (5) bed spaces are being used or otherwise  
23 occupied by a CITY arrestee, or are being held unoccupied for a CITY arrestee. However, in the event that  
24 one or more of the five (5) bed spaces is unavailable for use by a CITY arrestee for any reason other than  
25 CITY’s reservation or use, as provided herein, of all five (5) bed spaces, CITY’s next monthly payment due  
26 shall be offset for each day such bed space is unavailable for use by a CITY arrestee.

27 B. CITY shall pay COUNTY prior to the start of each month for the five (5) bed spaces,  
28 at the rates set forth in Section 4(A), herein, for each and every day of the upcoming month. Sheriff shall

1 invoice CITY for five (5) bed spaces in advance of the start of each month. Any offset owed to CITY as a  
2 result as a result of the unavailability of any of the five (5) bed spaces pursuant to Section 1(D) or 4(A) of  
3 this Agreement shall be applied to reduce the amount owed by CITY for the upcoming month. Monthly  
4 payment by CITY is due no later than 25<sup>th</sup> day of each month before the monthly payment is due. If, in the  
5 final month of the term of this Agreement, any of the five (5) bed spaces are unavailable to CITY for  
6 reasons other than CITY's reservation or use of such bed spaces, COUNTY shall refund the amount due to  
7 CITY pursuant to Section 4(A), herein, within thirty (30) days of the end of that month.

8 C. In the event a CITY arrestee using one of the five (5) bed spaces requires medical  
9 treatment at an outside facility, COUNTY shall inform CITY of such treatment and transportation within six  
10 (6) hours of transportation, or as soon as possible under the circumstances. CITY shall pay an hourly rate,  
11 at the applicable rate for such services, as described in Exhibit A, for each Correctional Officer III ("Guard")  
12 assigned to a CITY arrestee when the arrestee is taken to an outside facility for medical treatment. The  
13 hourly rates to be charged by COUNTY, and subsequently paid by CITY, are the rates set forth in the  
14 County's Master Schedule of Fees, Charges, and Recovered Costs, Section 2609, subdivision (c), for  
15 Overtime rates, in place at the time the services are provided. The parties agree that if and when the  
16 Master of Schedule of Fees, and Recovered Costs, Section 2609, subdivision (c), is amended, changed, or  
17 revised in any way that changes the rates being charge for the services identified in this Agreement, that  
18 the new rates will be charged by COUNTY, and paid by CITY, for any services provided pursuant to this  
19 Agreement, from the date of the amendment, change, or revision, going forward. The parties further agree  
20 that if and when the Master of Schedule of Fees, Charge and Recovered Costs is amended, changed, or  
21 revised in any way that changes the rates being charged for the services identified in this Agreement, such  
22 amended, change, or revised rate will automatically and without any notice to CITY be incorporated into this  
23 Agreement, replacing any contrary or conflicting rate, from the effective date of the amendment, change, or  
24 revisions in the rate(s), and will become the new rate to be paid by CITY for services provided, from the  
25 effective date of the rate change forward. The parties acknowledge that the County's Master of Fees,  
26 Charges, and Recovered Costs is subject to change. The number of Guards to be assigned shall be in  
27 accordance with the Fresno County Sheriff's Office Jail Division Policies and Procedures, No. D-238,  
28 attached as Exhibit C, and incorporated by this reference. COUNTY shall submit monthly invoices in

1 arrears to CITY for such Guard services. Invoices will be submitted within fifteen (15) days of the end of  
2 each month. CITY shall pay COUNTY with thirty (30) days of receipt of invoices for Guard services.  
3 Notwithstanding anything to the contrary in this Agreement, if CITY does not timely pay the full amount  
4 charge by COUNTY for such Guard services, COUNTY may, upon COUNTY's Jail Population  
5 Management giving notice thereof to CITY's Sergeant/Lieutenant, immediately cause the CITY arrestee not  
6 to be subject to the terms of this Agreement, and treat such CITY arrestee as a Jail inmate who is  
7 subject to the Federal Court Order, provided however, such COUNTY action shall not affect COUNTY's  
8 right to receive such payment.

9 D. Invoices submitted by COUNTY to CITY under this section shall be addressed as follows:

10 City of Fresno Police Department  
11 2323 Mariposa  
12 Fresno, CA 93717  
13 Attention: Business Office

14 Payments by CITY to COUNTY under this section shall be addressed as follows:

15 Fresno County Sheriff's Office  
16 Attention: Business Office  
17 P.O. Box 1788  
18 Fresno, CA 93717

19 5. INDEPENDENT CONTRACTORS: Nothing contained in this Agreement shall create, or  
20 be deemed to create, any relationship of principal-agent, master-servant, employer-employee,  
21 partnership, joint venture, or association between CITY and COUNTY. The relationship between CITY  
22 and COUNTY under this Agreement is that of independent contractors, with each Party at all times  
23 acting in an independent capacity from the other.

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

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

28 8. HOLD HARMLESS:

COUNTY agrees to indemnify, save, hold harmless, and at CITY'S request, defend CITY, its  
officers, agents, and employees from any and all costs and expenses (including attorney's fees and costs),

1 damages, liabilities, claims, and losses occurring or resulting to CITY in connection with the performance,  
2 or failure to perform, by COUNTY, its officers, agents, or employees under this Agreement, and from any  
3 and all costs and expenses (including attorney's fees and costs), damages, liabilities, claims, and losses  
4 occurring or resulting to any person, firm, or corporation who may be injured or damaged by the  
5 performance, or failure to perform, of COUNTY, its officers, agents, or employees under this Agreement.

6 CITY agrees to indemnify, save, hold harmless, and at COUNTY's request, defend  
7 COUNTY, its officers, agents, and employees from any and all costs and expenses (including attorney's  
8 fees and costs), damages, liabilities, claims, and losses occurring or resulting to COUNTY in connection  
9 with the performance, or failure to perform, by CITY, its officers, agents, or employees under this  
10 Agreement, and from any and all costs and expenses (including attorney's fees and costs), damages,  
11 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may injured or  
12 damages by the performance, or failure to perform, of CITY, its officers, agents, or employees under this  
13 Agreement.

14 In the event of concurrent negligence on the part of COUNTY or any of its officers, agents,  
15 or employees, and CITY or any of its officers, agents, or employees, the liability for any and all such claims,  
16 demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs, and damages shall  
17 be apportioned under the State of California's theory of comparative negligence, as presently established or  
18 as may be modified hereafter.

19 The provisions of this Section 8 shall survive termination of this Agreement.

20 9. INSURANCE

21 Without limiting the right of either party to obtain indemnification from the other party or any third  
22 parties, it is understood and agreed that CITY and COUNTY shall each maintain, at their sole expense,  
23 shall maintain in full force and effect, the following insurance policies or a program of self-insurance,  
24 including but not limited to, an insurance pooling arrangement or Joint Powers Agreement (JPA) throughout  
25 the term of the Agreement:

26 A. Commercial General Liability

27 Commercial General Liability Insurance with limits of not less than Two Million Dollars  
28 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This

1 policy shall be issued on a per occurrence basis. CITY and COUNTY may require specific coverages  
2 including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire  
3 legal liability or any other liability insurance deemed necessary because of the nature of this contract.

4 B. Automobile Liability

5 Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars  
6 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto  
7 used in connection with this Agreement.

8 C. Professional Liability

9 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in  
10 providing services, Professional Liability Insurance with limits of not less than One Million Dollars  
11 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

12 D. Worker's Compensation

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

15 E. Molestation

16 Sexual abuse / molestation liability insurance with limits of not less than One Million Dollars  
17 (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) annual aggregate. This policy shall be  
18 issued on a per occurrence basis.

19 Additional Requirements

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

27 COUNTY shall obtain endorsements to the Commercial General Liability insurance naming the City  
28 of Fresno, its officers, agents, and employees, individually and collectively, as additional insured, but only

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

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

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

16 Within Thirty (30) days from the date CITY signs and executes this Agreement, CITY and COUNTY  
17 shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as  
18 required herein.

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

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

25 10. AUDITS AND INSPECTIONS: The CITY shall at any time during business hours, and as  
26 often as the COUNTY may deem necessary, make available to the COUNTY for examination all of its  
27 records and data with respect to the matters covered by this Agreement. The CITY shall, upon request by  
28 the COUNTY, permit the COUNTY to audit and inspect all of such records and data necessary to ensure

1 CITY'S compliance with the terms of this Agreement.

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

5 11. NOTICES: The persons and their addresses having authority to give and receive notices  
6 under this Agreement include the following:

<u>COUNTY</u>	<u>CONTRACTOR</u>
COUNTY OF FRESNO	CITY OF FRESNO
Fresno County Assistant Sheriff	Chief of Police
Fresno County Sheriff's Office	Fresno Police Department
2200 Fresno Street	2323 Mariposa Street
P.O. Box 1788	Fresno, CA 93717
Fresno, CA 93717	(559) 621-2000
(559) 600-8145	

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

27 12. VENUE AND GOVERNING LAW: The parties agree that performance under this  
28 Agreement, venue for any action arising out of or related to this Agreement shall only be in Fresno County,

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

3 13. SEVERABILITY: In the event any provisions of this Agreement are held by a court of  
4 competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement will  
5 nevertheless continue in force and effect without being impaired or invalidated in any way.

6 14. INTERPRETATION: The parties acknowledge that this Agreement in its final form is the  
7 results of the combined efforts of the parties and that, should any provisions of this Agreement be found to  
8 be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or  
9 against either party, but rather by construing the terms in accordance with their generally accepted  
10 meaning.

11 15. ELECTRONIC SIGNATURE: The parties agree that this Agreement may be executed by  
12 electronic signature as provided in this section. An "electronic signature" means any symbol or process  
13 intended by an individual signing this Agreement to represent their signature, including but not limited to (1)  
14 a digital signature; (2) a faxed version of an original handwritten signature; or (3) an electronically scanned  
15 and transmitted (for example by PDF document) of a handwritten signature. Each electronic signature  
16 affixed or attached to this Agreement (1) is deemed equivalent to a valid original handwritten signature of  
17 the person signing this Agreement for all purposes, including but not limited to evidentiary proof in any  
18 administrative or judicial proceeding, and (2) has the same force and effect as the valid original handwritten  
19 signature of that person. The provisions of this section satisfy the requirements of Civil Code section  
20 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title 2.5,  
21 beginning with section 1633.1). Each party using a digital signature represents that it has undertaken and  
22 satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through (5),  
23 and agrees that each other party may rely upon that representation. This Agreement is not conditioned  
24 upon the parties conducting the transactions under it by electronic means and either party may sign this  
25 Agreement with an original handwritten signature.

26 16. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the  
27 CITY and COUNTY with respect to the subject matter hereof and supersedes all previous Agreement  
28 negotiations, proposals, commitments, writings, advertisements, publications, and understanding of any

1 nature whatsoever unless expressly included in this Agreement.

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

5 **CITY OF FRESNO**

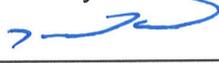
**COUNTY OF FRESNO**

7 \_\_\_\_\_ Date  
Paco Balderrama  
Chief of Police

\_\_\_\_\_ Date  
Brian Pacheco  
Chairman of the Board of Supervisors  
of the County of Fresno

9 APPROVED AS TO FORM:  
10 DOUGLAS T. SLOAN  
City Attorney

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

11 By:  \_\_\_\_\_ 11/22/21  
Kristi M. Costa Date  
12 Deputy City Attorney

By: \_\_\_\_\_  
Deputy

13  
14 **ATTEST:**  
TODD STERMER  
City Clerk

15 By: \_\_\_\_\_  
16 Deputy Date

17  
18 **FOR ACCOUNTING USE ONLY:**

19 Fund: 0001

20 Subclass: 10000

21 ORG: 31114000

22 Account: 5031  
23  
24  
25  
26  
27  
28

**EXHIBIT "A"**

Jail Beds and Master Schedule of Fees

Term of Agreement

Effective September 1, 2021 – June 30, 2024 with two (2) additional one year periods until 2026.

Total Number of Beds:

Five (5) Beds

Fiscal Year	Description	Total # of beds	Rate	Rate Per Day	Total Per Year
FY2021-22	From 9/1/2021 – 6/30/2022	5	\$ 130	\$ 650	\$ 196,950
FY2022-23	From 7/1/2022 – Through 6/30/2023	5	\$ 130	\$ 650	\$ 237,250
FY2023-24	From 7/1/2023 Through 6/30/2024	5	\$ 130	\$ 650	\$ 237,900
FY2024-25	From 7/1/2024 Through 6/30/2025 – 1 <sup>st</sup> Extension	5	\$ 134	\$ 670	\$ 244,550
FY2025-26	From 7/1/2025 Through 6/30/2026 – 2 <sup>nd</sup> Extension	5	\$ 134	\$ 670	\$ 244,550
<b>Total 5 Years Agreement</b>					<b>\$ 1,161,200</b>