

RESOURCE MANAGEMENT AGENCY

5961 SOUTHMOONEY BLVD
VISALIA, CA. 93277
PHONE (559) 624-7000
FAX (559) 730-2653

**REQUEST FOR PROPOSALS
FOR
ARCHITECTURAL & ENGINEERING DESIGN SERVICES
TRANSIT OPERATIONS AND MAINTENANCE FACILITY**

December 2013

PROPOSAL SUBMITTALS DUE JANUARY 24, 2014 BY 10 A.M.

This RFP, enclosures and relevant project information are available at the County of Tulare website at
<http://tularecounty.ca.gov/rma/index.cfm/public-works/public-works-projects/>

I. SUBMISSION INSTRUCTIONS

All proposals, consisting of one (1) original, five (5) copies and one (1) electronic copy (on a flash drive) must be submitted by 10 a.m. on Friday, January 24, 2014.

Adolfo R. Gonzalez
Engineering Technician III
Tulare County Resource Management Agency
Public Works Department
Traffic Operations
5961 South Mooney Boulevard
Visalia, CA 93277

Late proposals will not be considered and will be returned, unopened.

All questions should be directed to:

Adolfo R. Gonzalez
Engineering Technician III
email: ARGonzalez@co.tulare.ca.us
phone: 559-624-7179

Under the provisions of the California Public Records Act (the “Act”), Government Code section 6252 et seq., all “public records” (as defined in the Act) of a local agency, such as the County, must be available for inspection and copying upon request of any person. Under the Act, the County may be obligated to provide a copy of any and all responses to this Request for Proposal, if such requests are made after the contract is awarded.

II. INTRODUCTION

The Tulare County Resource Management Agency (RMA) Public Works Department is seeking qualified consulting firms for the planning, design, specification development and project cost estimate for construction of a new Transit Operations and Maintenance Facility (TOMF). The ideal candidate will have an expertise in the design of such facilities. This new facility will be constructed on an undeveloped parcel of land located adjacent to the existing County of Tulare’s Road Yard located at 14001 Avenue 256, Visalia, CA 93292. (EXHIBIT A)

III. BACKGROUND AND PROJECT DESCRIPTION

The RMA is requesting a proposal for professional services from qualified consulting firms with an expertise in transit operations and maintenance facilities, for the planning, design, specification development and project cost estimate for construction of a new TOMF. Additionally, the Consultant will be responsible for developing biddable documents, plans, and project cost estimate needed for construction. The Consultant will also provide professional assistance during the bidding process, bid evaluation and selection of the construction firm as well as submittal review and field observation during construction as needed.

Funding in the amount of \$3.2M has been secured for the design and construction of the TOMF and the associated infrastructure. The RMA completed a facility site master plan in 2012 with conceptual designs (EXHIBIT B). The RMA desires the services from Consultants to design a TOMF. The new TOMF will be constructed on an undeveloped 19 acre parcel of land adjacent to our existing Road

Yard which allows us to build a complete facility without demolition of any existing buildings. The design calls for a Compressed Natural Gas (CNG) fueling facility as part of the TOMF. The TOMF building and CNG facility will be designed as one project on approximately 15 of the 19 acres. However, construction will be completed using a phased in approach.

- A. Phase 1 is the design, surveying, geotechnical analysis as needed in the design, of the TOMF, CNG and associated infrastructure. Which includes but is not limited to:
- a) Curb, gutter, sidewalk, roadway improvements, entrances to facility
 - b) Parking areas, landscaping
 - c) Lighting, fencing/security gates, security system, backup generator
 - d) Water, gas, electrical, septic/sewer system, storm drain system
 - e) A 500 GPM potable water well which will tie in to the future Master Plan expansion
 - f) A 200,000 gallon water tank
 - g) Storm Pond – sufficient to sustain the TOMF, CNG and expandable to meet the needs of the full master plan
 - h) A septic system – Sufficient to sustain the TOMF and expandable to meet the needs of the full master plan
 - i) A 7,700 square foot Bus Operations, Maintenance and Administration building which will house at minimum:
 - Office space
 - Dispatch and operations centers
 - Maintenance bays
 - Oil and parts room
 - Engine and equipment steam room
 - Employee locker rooms
 - Restroom facilities
 - Break room
- The maintenance bays will be designed to accommodate the maintenance of both gasoline and CNG vehicles. The maintenance bays shall be of sufficient size to accommodate a 40 foot bus.
- j) Approximately 22 bus covered parking spaces with solar panels.
 - k) The project also will require the inclusion of an automated bus wash system.
- B. Phase 2 is the design of a CNG fueling facility with 12 slow fill stations and 2 fast fill stations. The slow fill stations will be restricted solely for the use of County buses. The fast fill stations will be open to the general public and will include a card billing system.

IV. SCOPE OF WORK

This section identifies the essential elements of the project which include, but are not limited to the following:

A. Facility Master Plan Review

The Consultant will re-evaluate and comment on the completed facility site master plan. The Consultant will include a review of the findings and recommendations of the previous site master plan including construction options, conceptual design and project cost estimates.

B. Completion of Conceptual Facility Design

The Consultant will re-evaluate the design of the new TOMF facility and work with the RMA project management staff to finalize the new design.

C. Schematic Design

Develop a schematic design. The schematic design shall accommodate, operate and maintain a 23 bus fleet operations as well as allow for future expansion. The schematic design shall also include a new CNG slow/fast fill fueling station. The fueling station shall accommodate 12 slow and 2 fast fill fueling stations for buses and private vehicles. The Consultant will provide schematic design plans for review and preliminary project cost estimates at the 30%, 60%, and 90% stages.

D. Plan Development

The Consultant will be responsible for developing plans, project cost estimates and biddable documents for construction based on County format and subject to County Counsel approval.

E. Design Development

This phase will consist of the production of design development plans to 100 percent completion. The design development services uses the initial design documents from the schematic phase and takes them to final completion. This phase lays out the civil, surveying, mapping, geotechnical, environmental mitigation (EXHIBIT C), mechanical, electrical, plumbing, structural, architectural details and all other plans necessary for a complete project. This includes the production of:

1. Survey for the 19 acre parcel
2. Maps for the 19 acre parcel
3. Onsite traffic circulation plans and roadway improvement plans along Road 140 at access points to the TOMF and CNG facility, as needed
4. Geotechnical surveys as needed for design
5. Project cost estimates to construct TOMF and CNG fueling facility

V. DESIRED OUTCOMES

The desired outcome of the project is to plan, design, and build a modern state-of-the-art new TOMF that will accommodate a 23 bus fleet operation, 2 slow and 12 fast fill CNG fueling station, as well as allow for future expansion.

The new TOMF design shall substantially increase operation efficiencies and offer modern spacious floor plans to comfortably accommodate 15 employees, 15 bus operators, operate and maintain 23 buses.

VI. PROPOSAL FORMAT

A qualifying proposal must address all of the following points and shall be in the format outlined in this section:

A. Project Title

B. Applicant or Firm Name

C. Firm Qualifications

1. Type of organization, size, professional registration and affiliations. Provide a general description of your firm and qualifications in the area of design of general transit operations facilities.
2. The project requires that architects and engineers performing the work be licensed in the state of California. List the names and qualifications of personnel to be assigned to this project. Specifically:
 - Principal in Charge
 - Project Manager
 - Design Manager
 - Lead Architect
 - Lead Design Engineer
3. For each of the key personnel, describe their experience with similar projects, with an emphasis on CNG slow/fast fill fueling, bus operations, maintenance, and administration facilities projects. Projects involving extensive collaboration with public agencies, Board of Directors, contractors or other stakeholders, and projects involving creative and cost effective design solutions to challenging architecture, engineering, or construction problems. Provide resumes for each participating team member.
4. For each key personnel, identify the percentage of his/her time that will be committed to the Project. The key personnel must remain engaged on the project, until the expiration of the Consulting Contract. The parties recognize that the key personnel constitute a critical element of the project, and that loss of any of the key personnel could cause significant loss to Tulare County. Provide concise resumes for the key personnel including education, work history, relevant project experience, references and length of time with the firm.
5. Outline of recent projects completed that are directly related to this project. This listing should include location, date started/completed, client contact and telephone number, and a brief description of the project scope. Consultant is required to demonstrate specific design and project expertise relating to the requirements of the Scope of Work.
6. Qualifications of consultants, subcontractors, or joint venture firm, if appropriate.
7. Client references from recent related projects, including name, address and phone number of individual to contact for referral. Please include only references that are directly relevant to this Request for Proposal and are current (last 4 years). Please include at least 3 such references with detailed contact information.

D. Project Approach

It is intended that the Consultant responding to this RFP will expand on the general outline of the description of the project and approach to the project including a detailed list of activities, deliverables, and schedules to be accomplished for the project.

E. Fees and Insurance

1. Propose project estimated hours to be billed and rate schedule for each per billed.
2. The consulting firm shall be willing to comply with County insurance requirements as outlined in EXHIBIT D – Insurance Requirements. No contract insurance changes shall be allowed. Insurance shall be maintained in full force and effect for the duration of the contract and must be in the amount and format satisfactory to the County.

F. PROPOSAL EVALUATION

Qualifying proposals received by 10 a.m. on Friday, January 24, 2014, will be evaluated by County staff. County staff will select the Consultant that is best qualified and demonstrates its ability to meet RMA's desired TOMF goals. The evaluation will be based on the following criteria:

	CRITERIA	MAXIMUM POINTS
1	Experience with similar projects	25
2	Project Management	25
3	Project approach	20
4	Key personnel qualifications	10
5	Proven quality of similar group	10
6	Overall impression and responsiveness	5
7	Client references	5
	Total	100

VII. SELECTION AND SCHEDULE

From the responses to this Request for Proposals, the County of Tulare will create a short list of proposals. From this short list, the County may request interviews and negotiate costs. The selected consulting firm must be qualified to provide the requested services, able to satisfy the insurance requirements of the County of Tulare, and be available to commence work in April 2014.

Activity	Deadline Date
Issue RFP	December 19, 2013
Proposal Submittal Deadline	January 24, 2014
Ranking of Consultants	January 27, 2014
Interviews	February 3, 2014
Contract Negotiations	February 10, 2014
Execute Contract and Notice to Proceed	April 1, 2014

VIII. DISCLAIMERS

- A. Where funds allocated to this project are not made available, withheld, or reduced by any federal, state, regional or local government entity, the County of Tulare is under no obligation to fund this project, including, but not limited to, any agreement that may be negotiated for consulting services which is the subject of this Request for Proposals.
- B. Any consulting firm selected must, as a condition of entering into any agreement with the County, comply with any requirements imposed upon the County by any federal,

state, regional or local public agency, which has agreed to provide funding for this project including, but not limited to, any agreement or amendment that may be negotiated for professional consulting services which is the subject of this Request for Proposal.

- C. All costs incurred in the preparation and submission of proposals and related documentation will be borne by the Consultant.
- D. Selection of qualified consulting firms will be made on the basis of the proposals as submitted, and the information provided in the interview process.
- E. The County reserves the right to award the contract to the Consultant who presents the proposal which in the judgment of the County, best accomplishes the desired results.
- F. This Request for Proposal does not constitute an offer of employment or to contract for services.
- G. The County reserves the option to accept or reject any or all proposals, wholly or in part, received by reason of this request, and make more than one award, or no award, as the best interests of the County may appear.
- H. All documents submitted to the County in response to this Request for Proposal will become the exclusive property of the County and may be returned to the proposer or kept by the County, in the County's sole discretion.
- I. All proposals shall remain firm for six (6) months, 180 days, following closing date for receipt of proposals.
- J. Any contract awarded pursuant to this Request for Proposal will incorporate the requirements and specifications contained in this Request for Proposal. All information presented in a consulting firm's proposal will be considered binding upon selection of the successful proposer, unless otherwise modified and agreed to by the County during subsequent negotiations.
- K. The selected consulting firm must be qualified to provide the requested services, able to satisfy all insurance requirements of the County, and be available to commence work according to the proposed schedule contained in this Request for Proposal.
- L. Under the provisions of the California Public Records Act (the "Act"), Government Code section 6252 et seq., all "public records" (as defined in the Act) of a local agency, such as the County, must be available for inspection and copying upon request of any person. Under the Act, the County may be obligated to provide a copy of any and all responses to this Request for Proposal, if such requests are made after the contract is awarded. One exception to this required disclosure is information which fits within the definition of a confidential trade secret [Government Code section 6254(k)] or contains other technical, financial or other data whose public disclosure could cause injury to the proposer's competitive position. If any consulting firm believes that information contained in its response to this Request for Proposal should be protected from disclosure, the consulting firm MUST specifically identify the pages of the response that contains the information by properly marking the applicable pages and inserting the following notice in the front of its response:

NOTICE: The data on pages [__] of this response identified by an asterisk (*) contain technical or financial information, which are trade secrets, or information for which disclosure would result in substantial injury to the consulting firm's competitive position. Proposer requests that such data be used only for evaluation of the response, but understands that the disclosure will be limited to the extent the County considers proper under law. If an agreement is entered into with the consulting firm, the County shall have the right to use or disclose the data as provided in the agreement, unless otherwise obligated by law.

The County will not honor any attempt by a consulting firm to designate its entire proposal as proprietary. If there is any dispute, lawsuit, claim or demand as to whether information within the response to the Request for Proposal is protected from disclosure under the Act, consulting firm shall indemnify, defend, and hold harmless, the County arising out of such dispute, lawsuit, claim or demand.

IX. AWARD OF CONTRACT

Final selection rests with the County. The selected consulting firm will be required to enter into an agreement (EXHIBIT E) with the County for professional services. The Board of Supervisors will make the final decision and award the contract. The County reserves the absolute right to reject any and all proposals submitted, to negotiate appropriate modifications to a proposal, to negotiate a different agreement with any one or more consulting firms to request clarification or additional information from competitors, to negotiate appropriate modifications, and/or to waive any irregularity in the proposal as long as County procedures remain consistent with County of Tulare procurement procedures. Formal interviews may be conducted.

The County also reserves the right to award a contract to the consulting firm that presents the proposal, which, in the sole judgment of the County, best demonstrates the expertise desired by the County. This Request for Proposal does not represent a commitment on the part of the County to award a contract

If you have any questions regarding this Request for Proposal, written questions can be sent by e-mail to ARGonzalez@co.tulare.ca.us. Responses to comments will be posted on the County website, <http://www.co.tulare.ca.us/government/rma/engineer/projects.asp>.

EXHIBIT A

VICINITY MAP

Project Location
14001 Avenue 256, Visalia, CA 93292



EXHIBIT B
PROPOSED SITE PLAN

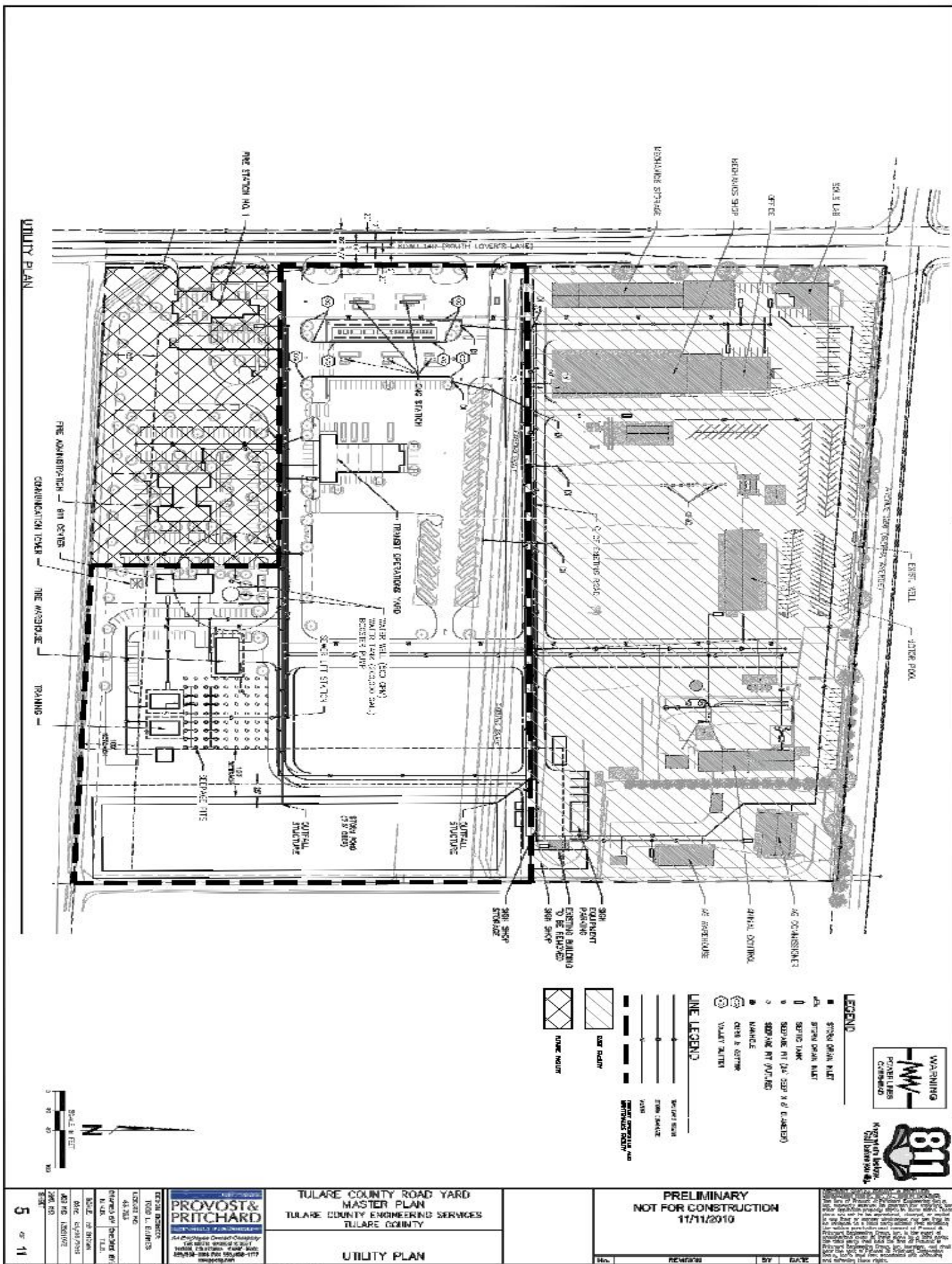


EXHIBIT C
Special Use Permit No. PSP 13-057

Standard Conditions of Approval:

1. Development shall be in accordance with the plan(s) as submitted by the applicant and/or as modified by the Planning Commission and with the Site Plan Development Standards pertaining to a use of this type adopted by the Planning Commission on February 20, 1970. (Exhibit "A")
2. Regardless of Condition No. 1 above, and in accordance with Section 18 (Minor Modifications-Director's Approval) of the Zoning Ordinance, the Planning Director is authorized to approve minor modifications in the approved plans upon a request by the applicant, or his successors as long as said modifications do not materially affect the determination of the Planning Commission. Such modifications shall be noted on the approved plans and shall be initialed by the Planning Director.
3. All exterior lighting shall be hooded and adjusted so as to deflect direct rays away from public roadways and adjacent properties.
4. The facility shall be maintained and operated in accordance with all State and County health regulations.
5. Any structures built shall conform to the building regulations and the building line setbacks of the Ordinance Code of Tulare County insofar as said regulations and setbacks are applicable to such structures.
6. The conditions set down herein which require construction of improvements shall be complied with before the premises shall be used for the purposes applied for, in order that the safety and general welfare of the persons using said premises, and the traveling public, shall be protected. The Planning Director may grant exceptions to this condition upon request by the applicant.
7. This Special Use Permit shall automatically become null and void two (2) years after the date upon which it is granted by the Planning Commission, unless the applicant, or his/her successor, has actually commenced the use or variance authorized by the permit within said two year period. The Planning Commission may grant one or more extensions of said two year time, upon request by the applicant.
8. This Special Use Permit will not be effective until ten (10) days after the date upon which it is granted by the Planning Commission.
9. All standard conditions and all special conditions of approval of this Special Use Permit must be complied with at all times in order to continue the use or uses allowed. Compliance with such conditions is subject to review at any time. Normally, an initial review of compliance shall be conducted by the Tulare County Planning Commission twelve (12) months after the granting of said permit; however, the Planning Commission may schedule the review sooner under certain circumstances. Additional reviews may be undertaken at the discretion of the Planning Commission.
10. The applicant(s), at their sole cost and expense, shall defend, indemnify and hold harmless the County of Tulare, its agents, legislative body, officers or employees in any legal or administrative action, claim or proceeding concerning approval of Special Use Permit No. PSP 13-057; or, at its election and in the alternative, shall relinquish such approval. The applicant(s) shall assume the defense of the County in any such legal or administrative action, claim or proceeding with legal counsel paid for in

EXHIBIT C
Special Use Permit No. PSP 13-057

the entirety by the applicant(s), but subject to the County's reasonable approvals. The applicant shall also reimburse the County, its agents, its legislative body, officers or employees for any judgments, amounts paid in the settlements court costs and attorney's fees with the County, its agents, legislative body, officers or employees may be required to pay at court as a result of such action, claim or proceeding. The County may, at its sole discretion, participate at its own expense in the defense of any such action, claim or proceeding, but such participation shall not relieve the applicant(s) of their obligations under this condition.

Planning Conditions:

11. The property owner shall sign and return the Right to Farm Notice to the Resource Management Agency in order for it to be recorded with the Resolution. (Exhibit "B")
12. A Compliance Reporting and Monitoring Schedule has been established for this project pursuant to Section 22 of the Tulare County Zoning Ordinance. Fees in the amount of \$130.00, required to defray the expenses incidental to the compliance reporting and monitoring, must be deposited into a Compliance Reporting and Monitoring Account prior to recordation of the Resolution. (Exhibit "C")
13. All on-site parking areas and driveways shall be surfaced for all-weather conditions and be maintained so that dust and mud do not create conditions detrimental to surrounding roadways.
14. No parking shall be allowed within the county right-of-way.
15. The building line setback for Road 140 is 50 feet from the centerline of the right-of-way. The AE-40 Zone has a front and rear yard area requirement of 25 feet and a side yard area requirement of 10 feet.
16. Off-street parking areas shall be paved with asphalt, concrete, or other approved material and maintained so as to eliminate dust or mud and shall be so graded and drained as to dispose of all surface water.
17. The contractors' storage yard shall be screened from public view. The screening shall be in the form of a solid wall or fence or shrubbery/foliage that shall be planted along the perimeter of the fenced storage area and spaced closely enough together in order to provide for solid screening.
18. Those areas that will be accessible to the public: the fast-fill CNG fueling facility, the Transit Operations Center, the Fire Station, and the Fire Administration/Emergency Operations Center shall be landscaped according to County standards for commercial uses and the landscaping shall be established as follows:
 - (a) Development shall be landscaped no less than five percent (5%) of its total area.
 - (b) Landscaped areas along public street frontages shall be a minimum of five (5) feet wide.
 - (c) Landscaped areas shall not be used for vehicle parking or storage.
 - (d) All landscaped areas shall be permanently maintained by the property owner.
 - (e) Plants within a required landscape area are to be of species suited to valley conditions (*Sunset Western Garden Book zones 8 and 9*).
 - (f) One 15-gallon tree shall be planted for every 20 linear feet of street frontage. Trees used shall form a full head on a single trunk.
 - (g) A minimum of five shrubs per 100 square feet are to be planted within required landscape areas, and at least 75% of all shrubs planted must be of 5-gallon in size, excepting areas used for on-site services where landscaping would interfere with the efficient function of the service. In these cases, alternate landscaping materials may be permitted subject to approval by the Planning Director.

EXHIBIT C
Special Use Permit No. PSP 13-057

- (h) Landscaping areas shall have a maximum of 20% non-living groundcover. Non-living groundcover is defined as forest humus, walk-on bark, or aggregate rock. Living groundcover is defined as low growing plants or shrubs which will form a solid cover within one year or less.
 - (i) Groundcover taken from flats shall be planted a maximum of 12 inches on center. All shrubs shall be planted a maximum of 3 feet on center.
 - (j) Plantings must be sufficient to complete a solid groundcover, or required materials storage screening, within one year, exclusive of the non-living groundcover permitted in “h” above.
 - (k) Parking islands shall be provided at the ends of each single row of parking which contains ten (10) or more parking spaces or exceeds one hundred (100) feet in length. Said islands shall contain a minimum area of one hundred square feet (100 sq. ft.) and shall be planted with trees and other suitable shrubs and ground covers as approved by the Planning Director.
 - (l) The area around the base of buildings shall be landscaped or treated architecturally in such a manner as to effectively reduce the intensity of reflected sunlight, enhance the general quality of the environment, and provide a textural relief in the merging of vertical and horizontal surfaces.
 - (m) All landscaped areas shall contain fertile, friable soils with adequate sub-surface drainage, contain provisions for convenient irrigation in the form of hose bibs and/or sprinkler systems, and be permanently maintained in a neat and viable condition.
 - (n) All landscaped areas shall contain provisions for convenient irrigation in the form of hose bibs and/or drip and/or sprinkler systems.
 - (o) All landscaped area shall be permanently maintained in a neat and viable condition.
 - (p) No landscape material shall be used that constitutes a threat to human safety, nor shall any landscape material be located in such a manner as to impair the vision of motorists or endanger the life and safety of pedestrians.
19. Landscaping shall be in conformance with Tulare County Water Efficient Landscaping Ordinance No. 3029 and in the event of conflict between the Landscaping Standards and the ordinance, the most restrictive regulation or standard shall apply.
20. Any lights provided to illuminate parking areas shall be designed to cast a uniform light over the entire parking area and shall be so arranged as to reflect light away from the public right-of-way and from any adjoining residential premises.
21. Prior to finalization of site plan design, County Staff and the adjacent property owner, David Cox, will meet and confer in effort to try to reach a reasonable accommodation in the design.

Fire Conditions:

22. All new construction shall comply with the County Fire Safe Regulations pertaining to driveways, gate entrances, defensible space, addresses identification, and Fire Safe standards. Building permit applications shall be reviewed and approved by the County Fire Warden’s Office prior to their issuance. All required improvements shall be completed prior to issuance of Certificate of Occupancy.
23. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the premises upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into or within the jurisdiction.

Health Conditions:

24. Domestic water for the site is provided by an on-site well. The site currently has a Public Water System Permit with the Tulare County Environmental Health Services Division (TCEHSD). The

EXHIBIT C
Special Use Permit No. PSP 13-057

water system permit amendment will be required for the additional well proposed for the project. New water sources must comply with California Water Works Standard.

25. New sewage disposal systems shall be designed by an Engineer, Registered Environmental Health Specialist, Geologist, or other competent persons, all of whom must be registered and/or licensed professionals knowledgeable and experienced in the field of sewage disposal system and design. The specifications and engineering data for the system shall be submitted to the TCEHSD for review and approval prior to the issuance of a building permit.
26. The site currently has a Hazardous Materials Business Plan on file with the Tulare County Environmental Health's CUPA Division. Applicant shall file an update to the Hazardous Materials Plan when expansion is complete.

Building Department Conditions:

27. Building permits will be required for all new structures and site improvements. Permit submittal will require a minimum of 2 complete sets of construction drawings with engineering calculations and supporting documents and 3 site plans indicating proposed project and occupancy analysis.

***Mitigation Measures:**

- *28. ***Mitigation 3-1 (avoidance).*** In order to avoid impacts to all nesting migratory birds initial ground disturbance activities such as grading, scraping, material stockpiling, etc. will occur between September 1 and January 31. This will ensure that construction does not coincide with the nesting season (February 1 to August 31).
- *29. ***Mitigation 3-2 (pre-construction surveys).*** If ground disturbance must be initiated between February 1 and August 31, a qualified biologist will conduct pre-construction surveys for active migratory bird nests within 15 days of the onset of these activities.
- *30. ***Mitigation 3-3 (establish buffers).*** Should any active nests be discovered in or near proposed construction zones, the biologist will identify a suitable construction-free buffer around the nest. This buffer will be identified on the ground with flagging or fencing, and will be maintained until the biologist has determined that the young have fledged.
- *31. ***Mitigation Measure 16-1.*** Pay 1 % of the County's fair share of improvements to Caltrans for intersection improvements at SR 63 / Avenue 256.

EXHIBIT D
PROFESSIONAL SERVICES CONTRACTS
INSURANCE REQUIREMENTS

CONTRACTOR shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by the CONTRACTOR, his agents, representatives, employees and subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance

1. Insurance Services Office Commercial General Liability coverage of \$1,000,000 combined single Limit per occurrence (occurrence Form CG 00 01). If an annual aggregate applies it must be no less than \$2,000,000.
2. Insurance Services Office Form Number CA 00 01 covering Automobile Liability, (any auto) of \$1,000,000 per occurrence. If an annual aggregate applies it must be no less than \$2,000,000.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

B. Specific Provisions of the Certificate

1. If the required insurance is written on a claims made form, the retroactive date must be before the date of the contract or the beginning of the contract work and must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work.
2. CONTRACTOR must submit endorsements to the General Liability and Auto Liability reflecting the following provisions:
 - a. *The COUNTY its officers, agents, officials, employees and volunteers are to be covered as additional insured's as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired or borrowed by the CONTRACTOR.*
 - b. *For any claims related to this project, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY its officers, agents, officials, employees and volunteers. Any insurance or self-insurance maintained by the COUNTY its officers, agents, officials, employees or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.*
 - c. *Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice has been provided to the County.*
3. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors.
 - a. *Waiver of Subrogation. The workers' compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by the contractor, its employees, agents and subcontractors. CONTRACTOR waives all rights against the County and its officers, agents, official, employees and volunteers for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.*

C. Deductibles and Self-Insured Retentions

The COUNTY Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A-:

EXHIBIT D
PROFESSIONAL SERVICES CONTRACTS
INSURANCE REQUIREMENTS

VII and a Standard & Poor's Rating (if rated) of at least BBB and from a company approved by the Department of Insurance to conduct business in California. Any waiver of these standards is subject to approval by the County Risk Manager.

F. Verification of Coverage

Prior to approval of this Agreement by the COUNTY, the CONTRACTOR shall file with the submitting department, certificates of insurance with original endorsements effecting coverage and a copy of the declarations page from the policy in effect in a form acceptable to the COUNTY. Endorsements must be signed by persons authorized to bind coverage on behalf of the insurer. The COUNTY reserves the right to require certified copies of all required insurance policies at any time.

EXHIBIT E
SAMPLE AGREEMENT

I. INTRODUCTION

THIS AGREEMENT is entered into as of _____, between the COUNTY OF TULARE, referred to as COUNTY, and _____, referred to as CONTRACTOR, with reference to the following:

II. RECITALS

A.

B.

C.

ACCORDINGLY, IT IS AGREED:

III. SPECIFIC TERMS

1. **TERM:** This Agreement shall become effective as of _____ and shall expire at 11:59 PM on _____ unless otherwise terminated as provided in this Agreement.
2. **SERVICES TO BE PERFORMED:** See attached **EXHIBIT A**
3. **PAYMENT FOR SERVICES:** See attached **EXHIBIT B**.

IV. GENERAL TERMS

4. INDEPENDENT CONTRACTOR STATUS:

(a) This Agreement is entered into by both parties with the express understanding that CONTRACTOR will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONTRACTOR or any of its agents, employees or officers as an agent, employee or officer of COUNTY.

CONTRACTOR agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of COUNTY. Subject to any performance criteria contained in this Agreement, CONTRACTOR shall be solely responsible for determining the means and methods of performing the specified services and COUNTY shall have no right to control or exercise any supervision over CONTRACTOR as to how the services will be performed. As CONTRACTOR is not COUNTY'S employee, CONTRACTOR is responsible for paying all required state and federal taxes. In particular, COUNTY will not:

Withhold FICA (Social Security) from CONTRACTOR'S payments.

Make state or federal unemployment insurance contributions on CONTRACTOR'S behalf.

Withhold state or federal income tax from payments to CONTRACTOR. Make disability insurance contributions on behalf of CONTRACTOR.

Obtain unemployment compensation insurance on behalf of CONTRACTOR.

Notwithstanding this independent contractor relationship, COUNTY shall have the right to monitor and evaluate the performance of CONTRACTOR to assure compliance with this Agreement.

5. COMPLIANCE WITH LAW: CONTRACTOR shall provide services in accordance with applicable Federal, State, and local laws, regulations and directives. With respect to CONTRACTOR'S employees, CONTRACTOR shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

6. GOVERNING LAW: This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County, California.

7. RECORDS AND AUDIT: CONTRACTOR shall maintain complete and accurate records with respect to the services rendered and the costs incurred under this Agreement. In addition, CONTRACTOR shall maintain complete and accurate records with respect to any payments to employees or subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, CONTRACTOR shall make such records available within Tulare County to the Auditor of Tulare County and to his agents and representatives, for the purpose of auditing for a period of five (5) years from the date of final payment under this Agreement.

8. CONFLICT OF INTEREST:

(a) CONTRACTOR agrees to, at all times during the performance of this Agreement, comply with the law of the State of California regarding conflicts of interests and appearance of conflicts of interests, including, but not limited to Government Code Section 1090 et seq., and the Political Reform Act, Government Code Section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer, employee or consultant/contractor has a direct or indirect financial interest. A violation can occur if the public officer, employee or consultant/contractor participates in or influences any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest, with certain narrow exceptions.

(b) CONTRACTOR agrees that if any facts come to its attention which raises any questions as to the applicability of conflicts of interests laws, it will immediately inform the COUNTY

designated representative and provide all information needed for resolution of this question.

9. INSURANCE: Prior to approval of this Agreement by COUNTY, CONTRACTOR shall file with the Clerk of the Board of Supervisors evidence of insurance as set forth in Exhibit _____ attached, which outlines the minimum scope, specifications, and limits of insurance required under this Agreement. Additional insured endorsements required as outlined in Exhibit _____ shall not be used to reduce limits available to COUNTY as an additional insured from CONTRACTOR's full policy limits. Insurance policies shall not be used to limit liability or to limit the indemnification provisions and requirements of this Agreement or act in any way to reduce the policy coverage and limits available from the insurer(s). Failure to maintain or renew coverage, or to provide evidence of renewal, may be considered a material breach of this Agreement.

10. INDEMNIFICATION: CONTRACTOR shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including COUNTY property, arising from, or in connection with, the performance by CONTRACTOR or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against COUNTY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against COUNTY alleging civil rights violations by CONTRACTOR under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on COUNTY for CONTRACTORS failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

11. TERMINATION:

Without Cause: County will have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. County will pay to the CONTRACTOR the compensation earned for work performed and not previously paid for to the date of termination. County will not pay lost anticipated profits or other economic loss. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of any and all plans, specifications and estimates, and other documents prepared by CONTRACTOR in accordance with this Agreement. No sanctions will be imposed.

(b) With Cause: This Agreement may be terminated by either party should the other Party:

- (1) be adjudged a bankrupt, or
- (2) become insolvent or have a receiver appointed, or
- (3) make a general assignment for the benefit of creditors, or
- (4) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) materially breach this Agreement.

In addition, COUNTY may terminate this Agreement based on:

- (6) material misrepresentation, either by CONTRACTOR or anyone acting on CONTRACTOR's behalf, as to any matter related in any way to COUNTY's retention of CONTRACTOR, or
- (7) other misconduct or circumstances which, in the sole discretion of the COUNTY, either impair the ability of CONTRACTOR to competently provide the services under this Agreement, or expose the COUNTY to an unreasonable risk of liability.

County will pay to the CONTRACTOR the compensation earned for work performed and not previously paid for to the date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of any and all plans, specifications and estimates, and other documents prepared by CONTRACTOR by the date of termination in accordance with this Agreement. County will not pay lost anticipated profits or other economic loss, nor will the County pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If this Agreement is terminated and the expense of finishing the CONTRACTOR's scope of work exceeds the unpaid balance of the agreement, the CONTRACTOR must pay the difference to the County. Sanctions taken will be possible rejection of future proposals based on specific causes of non-performance.

(c) **Effects of Termination:** Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where CONTRACTOR's services have been terminated by the County, said termination will not affect any rights of the County to recover damages against the CONTRACTOR.

(d) **Suspension of Performance:** Independent of any right to terminate this Agreement, the authorized representative of COUNTY for which CONTRACTOR's services are to be performed, may immediately suspend performance by CONTRACTOR, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONTRACTOR to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

12. LOSS OF FUNDING: It is understood and agreed that if the funding is either discontinued or reduced for this project for the COUNTY, that the COUNTY shall have the right to terminate this Agreement. In such event, the affected party shall provide the other party with at least thirty (30) days prior written notice of such termination.

13. FORM DE-542: If CONTRACTOR is an individual, CONTRACTOR acknowledges that this Agreement is subject to filing obligations pursuant to Unemployment Insurance Code Section 1088.8. Accordingly, COUNTY has an obligation to file a report with the Employment Development Department, which report will include the CONTRACTOR's full name, social security number, address, the date this contract was executed, the total amount of the contract, the contract's expiration date or whether it is ongoing. CONTRACTOR agrees to cooperate with COUNTY to make such information available and to complete Form DE- 542. Failure to provide the required information may, at COUNTY's option, prevent approval of this Agreement, or be grounds for termination by COUNTY.

14. NOTICES:

(a) Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY:

Phone No.: _____

Fax No.: _____

CONTRACTOR:

Phone No.: _____

Fax No.: _____

(b) Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

15. ASSIGNMENT/SUBCONTRACTING: Unless otherwise provided in this Agreement, COUNTY is relying on the personal skill, expertise, training and experience of CONTRACTOR and CONTRACTOR'S employees and no part of this Agreement may be assigned or subcontracted by CONTRACTOR without the prior written consent of COUNTY.

16. DISPUTE RESOLUTION: If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.

17. FURTHER ASSURANCES: Each party will execute any additional documents and perform any further acts that may be reasonably required to effect the purposes of this Agreement.

18. CONSTRUCTION: This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.

19. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

20. NO THIRD-PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

21. WAIVERS: The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

22. EXHIBITS AND RECITALS: The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

23. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY: This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties to be, in conflict with any code or regulation governing its subject matter, only the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

24. ENTIRE AGREEMENT REPRESENTED: This Agreement represents the entire agreement between CONTRACTOR and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

25. ASSURANCES OF NON-DISCRIMINATION: CONTRACTOR shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

It is recognized that both the Contractor and the County have the responsibility to protect County employees and clients from unlawful activities, including discrimination and sexual harassment in the workplace. Accordingly, Contractor agrees to provide appropriate training to its employees regarding discrimination and sexual harassment issues, and to promptly and appropriately investigate any allegations that any of its employees may have engaged in improper discrimination or harassment activities. The County, in its sole discretion, has the right to require Contractor to replace any employee who provides services of any kind to County pursuant to this Agreement with other employees where County is concerned that its employees or clients may have been or may be the subjects of discrimination or harassment by such employees. The right to require replacement of employees as aforesaid shall not preclude County from terminating this Agreement with or without cause as provided for herein.

26. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA):

(a) CONTRACTOR shall comply with the Health Insurance Portability and Accountability Act (HIPAA) Business Associate exhibit, as set forth in EXHIBIT D attached.

(b) At termination of this Agreement, CONTRACTOR shall, if feasible, return or destroy all protected health information received from, or created or received by, CONTRACTOR on behalf of COUNTY that CONTRACTOR still maintains in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protection of this Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information feasible.

(c) COUNTY may immediately terminate this Agreement if COUNTY determines that CONTRACTOR has violated a material term of this provision.

///

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

Date: _____

BY _____

Chairman, Board of Supervisors

ATTEST: JEAN ROUSSEAU

County Administrative Officer/Clerk of the Board of
Supervisors of the County of Tulare

By _____

Deputy Clerk

CONTRACTOR

Date: _____

By _____

TITLE _____

Date: _____

By _____

TITLE _____

Corporations Code section 313 requires that contracts with a corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice president, and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer, unless the contract is accompanied by a certified copy of the corporation's Board of Directors' resolution authorizing the execution of the contract.

Approved as to Form
County Counsel

By _____

Deputy

Date _____