SAMPLE AGREEMENT FOR
PROFESSIONAL SERVICES

FINAL AGREEMENT TERMS WILL INCLUDE ALL TERMS AND CONDITIONS INCLUDED IN THE RFP AND ADDENDA ISSUED. FINAL TERMS AND CONDITIONS WILL BE NEGOTIATED WITH THE AWARDED VENDOR.

THIS AGREEMENT for a unarmed Security Guard Services ("Agreement") is made as of the Agreement Date set forth below by and between the County of Yuba, a political subdivision of the State of California ("the COUNTY"), and

"CONTRACTOR"

In consideration of the Services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

OPERATIVE PROVISIONS

1. SERVICES.

The CONTRACTOR shall provide those services described in Attachment "A", Provision A-1. CONTRACTOR shall provide said services at the time, place and in the manner specified in Attachment "A", Provisions A-2 through A-3.

2. TERM.

Commencement Date:

Termination Date:

The term of this Agreement shall become effective ***, and shall continue in force and effect for a period of three years. After this period, the term of this Agreement shall be extended for two, one-year periods at the option of the County.

Notwithstanding the term set forth above, and unless this contract is terminated by either party prior to its termination date, the term of the Agreement may be automatically extended up to ninety (90) days. Any Notice of Termination during this automatic extension period shall be effective upon a thirty (30) day written notice to the other party. The purpose of this automatic extension is to allow for continuation of services, and to allow County time in which to complete a novation or renewal contract for CONTRACTOR AND COUNTY approval.

CONTRACTOR understands and agrees that there is no representation, implication, or understanding that the services provided by CONTRACTOR pursuant to this Agreement will be purchased by COUNTY under a new agreement following expiration or termination of this Agreement, and CONTRACTOR waives all rights or claims to notice or hearing respecting any failure to continue purchase of all or any such services from CONTRACTOR.

3. PAYMENT.

COUNTY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to CONTRACTOR for services rendered pursuant to this Agreement. CONTRACTOR shall submit all billings for said services to COUNTY in the manner specified in Attachment "B".

4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY.

CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, unless an exception to this requirement is provided in Attachment "A", Provision A-4.

5. ADDITIONAL PROVISIONS.

Those additional provisions unique to this Agreement are set forth in Attachment "C".

6. GENERAL PROVISIONS.

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other term or condition insofar as it is inconsistent with the general provisions.

7. DESIGNATED REPRESENTATIVES.

The COUNTY'S Purchasing Agent is the representative of the COUNTY and will administer this Agreement for the COUNTY. The COUNTY'S Board Chair is the authorized signer for the COUNTY. Monty Hecker, President, is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

8. ATTACHMENTS.

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

Attachment A – Scope of Work
Attachment B – Payment
Attachment C – Other Terms
Attachment D – General Provisions
Attachment E – Insurance Requirements
Attachment F – CONTRACTOR'S Proposal

9. TERMINATION. COUNTY and CONTRACTOR shall each have the right to terminate this Agreement upon ten (30) days written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have executed this

Agreement on _____, 2016.

"COUNTY"
COUNTY OF YUBA

_____
,
Board Chair

"CONTRACTOR"

_____

INSURANCE PROVISIONS
APPROVED

_____
Jill Abel,
Risk Manager

REVIEWED & RECOMMEND FOR APPROVAL
ADMINISTRATIVE SERVICES

_____
Doug McCoy,
Purchasing Agent

APPROVED AS TO FORM:
COUNTY COUNSEL

_____
Angil Morris-Jones,
County Counsel

ATTEST:
CLERK OF THE BOARD

_____
Donna Stottlemeyer,
Clerk of the Board of Supervisors

COUNTY OF YUBA
*** – Countywide Security

ATTACHMENT A

SCOPE OF WORK

A.1 SCOPE OF SERVICES AND DUTIES.

A.2. TIME SERVICES RENDERED.

The services will be provided above are to be rendered during the times specified in A.** above and as required to support evening meetings at the Courthouse, Annex, Government Center and One Stop Center. Services shall also be provided as need and directed by the Point of Contracts (POC's) for each location. POC's are indicated in Attachment C.8.2.

A.3. MANNER SERVICES ARE TO BE PERFORMED.

As an independent CONTRACTOR, CONTRACTOR shall be responsible for providing services and fulfilling obligations hereunder in a professional manner. COUNTY shall not control the manner of performance.

A.4. FACILITIES FURNISHED BY COUNTY.

CONTRACTOR shall, at his/her sole cost and expense, furnish all materials, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, except for the X-ray machines/metal detectors located at the Yuba County Courthouse and Yuba County Government Center. COUNTY shall provide access to COUNTY computers that are available for CONTRACTOR use.

COUNTY OF YUBA
*** – Countywide Security

ATTACHMENT B

PAYMENT

COUNTY shall pay CONTRACTOR as follows:

B.1 BASE CONTRACT FEE.

B.1.1 COUNTY shall pay CONTRACTOR a contract fee not to exceed ***

B.2 TRAVEL COSTS. COUNTY shall not pay CONTRACTOR for meals, lodging or other travel costs not included in this Agreement unless said costs are approved in advance by the COUNTY Purchasing Agent and then COUNTY shall pay CONTRACTOR per diem rates in effect on the date of invoice upon presentation of invoices.

B.3 AUTHORIZATION REQUIRED. Services performed by CONTRACTOR and not authorized in this Agreement shall not be paid for by COUNTY. Payment for additional services shall be made to CONTRACTOR by COUNTY if, and only if, this Agreement is amended by formal written agreement signed by both parties in advance of performing additional services.

COUNTY OF YUBA
*** – Countywide Security

ATTACHMENT C

OTHER TERMS

C.1 FUNDING. CONTRACTOR and COUNTY agree that this Agreement will be null, void and not enforceable if all or part of the funds secured by COUNTY for the purposes of this Agreement are not made available to COUNTY. If this provision is invoked, COUNTY shall be liable for work already completed by CONTRACTOR at contracted rates.

C.2 FORCE MAJEURE. Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

C.3 LAW, POLICY AND PROCEDURES, LICENSES, AND CERTIFICATES. CONTRACTOR agrees to administer this Agreement in accordance with all applicable local, county, state, and federal laws, rules, and regulations applicable to their operations. CONTRACTOR shall further comply with all laws including, but not limited to, those relevant to wages and hours or employment, occupational safety, fire safety, health, sanitation standards and directives, guidelines, and manuals related to this Agreement. All issues shall be resolved using reasonable administrative practices and judgment. CONTRACTOR shall keep in effect all licenses, permits, notices, and certificates required by law and by this Agreement.

C.4 RECORDS. CONTRACTOR agrees to maintain and preserve, and to be subject to examination and audit for a period of three (3) years after termination of agreement to the COUNTY'S Auditor and/or to any duly authorized fiscal agent of the COUNTY, any books, documents, papers, and records of CONTRACTOR which are relevant to this Agreement for the purpose of making an audit, or an examination, or for taking excepts and transcriptions.

C.5 GENERAL REQUIREMENTS. CONTRACTOR shall furnish all labor, uniforms, badges, materials, equipment, transportation, supervision and management, unless otherwise specified herein, required to provide security guard services in accordance with all terms and conditions of this specification.

C.6 BILLING. CONTRACTOR will submit itemized monthly statements to the Purchasing Agent. Separate invoices will be prepared weekly for the Courthouse, Superior Court Annex, One Stop Center, Government Center and Department of Health and Human Services. The County reserves the right to inspect and audit CONTRACTOR'S billing procedures and records.

C.7 TERMINATION OF CONTRACT.

C.7.1 In the event of a breach of contract by CONTRACTOR, or in the event that CONTRACTOR's actions compromise the integrity or security of the COUNTY, its employees or property, COUNTY reserves the right to immediately terminate the contract.

C.7.2 Under normal circumstances CONTRACTOR shall be given written notice by COUNTY of any failure to perform as specified in the contract. CONTRACTOR will then be given one week to correct the specified deficiencies. Failure to perform or continued non-cooperation on the part of CONTRACTOR may be deemed grounds for termination of this contract upon 48 hours written notice.

C.7.3 COUNTY reserves the right to cancel any contract entered into hereby upon a 30 calendar day written notice to CONTRACTOR.

C.8 CONTRACT ADMINISTRATION.

C.8.1 The Director of Administrative Services or his/her representative is the designated Contracting Officer and is the only COUNTY official authorized to make any changes to this contract.

Department of Administrative Services
County of Yuba
Attn: Purchasing Agent
915 8th Street, Suite 119
Marysville, CA 95901
Telephone: 530-749-7880

C.8.2 The COUNTY has designated the following individuals as Points of Contact:

***

C.8.3 The Points of Contact may attend CONTRACTOR performance evaluation meetings and are designated to receive and approve CONTRACTOR'S invoices for payment. The Points of Contact are not authorized to change any terms and conditions of the contract. The COUNTY'S Purchasing Agent shall coordinate the COUNTY'S contract administration functions, monitor the CONTRACTOR'S performance to ensure compliance with the terms and conditions of the contract, audit and inspect CONTRACTOR'S record and services, and provide other technical guidance as required. Changes to the scope of work will be made only by the Board of Supervisors and/or Purchasing Agent issuing properly executed change order modifications.

C.9 CONTRACTOR QUALIFICATIONS.

C.9.1 Licensed by the State of California as a private patrol operator.

C.9.2 Maintain a manned operations/dispatch center with radio communications to assigned guards during all times guards are on duty. Provide a supervisor on immediate standby to respond to calls for assistance or inquiries from guards.

C.10 SECURITY GUARD QUALIFICATIONS.

C.10.1 Must be a high school graduate or possess a GED certificate.

C.10.2 Must be CPR certified.

C.10.3 Must be certified and licensed by the California Department of Consumer Affairs, Bureau of Security and Investigative Services.

C.10.4 Must be in physical condition sufficient to fully satisfy the demands of security services per this specification.

C.10.5 Must be able to speak English clearly and distinctly, to hear a normal speaking voice and to write legibly.

C.10.6 Security Guards must <u>not</u> have any of the following:

C.10.6.1 Any conviction or charge pending court disposition with respect to felonies or misdemeanors involving violence, weapons, theft, robbery, burglary, embezzlement, dishonesty, moral turpitude, drugs (excluding misdemeanor marijuana convictions), or sexual activity (for a list of crimes constituting moral turpitude, please see C.10.8)

C.10.6.2 Any conviction or charge pending court disposition involving a serious felony which is listed in Penal Code section 1192.7(c) or any violent felony which is listed in Penal Code section 667.5(c).

C.10.6.3 Any conviction or charge pending court disposition with respect to felonies or misdemeanors contributing to the delinquency of a minor.

C.10.6.4 Any conviction or charge pending court disposition with respect to felonies or misdemeanors involving mob action (a.k.a. gang activity).

C.10.6.5 Any conviction or charge pending court disposition with respect to felonies or misdemeanors involving any crime (other than a minor traffic

violation) not included in paragraphs 1 through 4, above, for which the Administrative Office of the Court's Emergency & Response Unit ("ERS") has not provided a written exemption for that conviction or pending charge.

C.10.6.6 Outstanding bench warrant.

C.10.6.7 Failure to appear in court within six (6) months.

C.10.7 In order to obtain a written exemption with respect to subsection C.10.6, above, the CONTRACTOR must submit all relevant information relating to the conviction or pending charge (e.g. type of offense, date of conviction, and sentence) to the Senior Manager of ERS. The CONTRACTOR shall not include the name of the employee with this information. After review of the submitted information, the Senior Manager of ERS will notify the COUNTY AND CONTRACTOR in writing if an exemption for that conviction or pending charge will be provided by the AOC.

For purposes of these criteria, "conviction" includes a verdict of guilty, a plea of guilty, a plea of *nolo contendre,* or a forfeiture of bail in municipal, superior, or federal court regardless of whether sentence is imposed by the court.

C.10.8 The appellate courts have determined that the following crimes are crimes of moral turpitude:

a. Property Crimes. Arson; auto theft; attempted auto theft; burglary (any degree); attempted burglary; embezzlement; forgery; grand theft; receiving stolen property; theft; and vandalism (felony).
b. Assaultive Crimes. Assault by force likely to produce grievous bodily injury; assault with deadly weapon; assault with intent to murder; assault with intent to rape; battery of non-inmate by inmate; battery on peace officer; corporal injury to child; discharge a firearm; false imprisonment; robbery; shooting at inhabited dwelling; and spousal battery.
c. Homicide. Murder; second degree murder; and voluntary manslaughter.
d. Sex Crimes. Assault with intent to rape; indecent exposure; lewd act on child; pimping and pandering; rape; statutory rape; and sexual battery.
e. Escape. Escape with or without violence; and evading a peace officer.
f. Drug Crimes. Maintaining a drug house; possession of heroin for sale; possession of marijuana for sale; sale of drugs; and transportation of controlled substance.
g. Weapons. Felon in possession of firearm; possession or conspiracy to possess illegal firearm; and possession of deadly weapon with intent to assault.
h. Other. Felony drunk driving; felony false imprisonment; felony hit and run;
kidnapping; terrorist threat; bribery; extortion; and perjury.

C.10.9 Educational/Training Requirements.

a. Satisfactorily completion of the eight-hour course of training in the exercise of the power of arrest as required by subdivision (a) of State of California Business and Professions Code Section 7583.6 and Section 7583.7.
b. Within thirty days of being assigned to duty under this Agreement, each security guard shall have satisfactorily completed an additional sixteen hours of training in security officer skills required by subdivision (b) of Section 7583.6 of the Business and Professions Code.
c. Within six months of being assigned to duty under this Agreement, each security guard shall have satisfactorily completed sixteen hours of training in addition to that training required by subdivisions (a) and (b) above, for satisfactory completion of a total of forty hours of training.
d. Annual State mandated radiation certification for the operation of an x-ray device for those assigned to sites that require use of an x-ray device.

C.11 PERSONNEL/SECURITY CLEARANCE. Upon award of contract, Contractor shall immediately provide to the Purchasing Agent a list of prospective guards to be assigned to each site prior to the start of service. That list shall include the following information on each prospective employee:

C.11.1 Full legal name and any aliases

C.11.2 Date of Birth

C.11.3 California Drivers License number

C.11.4 Current residence address

C.11.5 Current residence telephone number (or cellular phone if residence number not available)

C.11.6 Copy of the permanent (not temporary) individual State Guard License (Guard Card)

C.11.7 Department of Motor Vehicles driving record

C.11.8 Copy of current CPR training card and certificate

C.11.9 CONTRACTOR shall comply with all COUNTY facility security requirements in effect during the contract period and any extension. CONTRACTOR personnel assigned to perform services pursuant to this agreement, are required to pass a background check and security clearance. Such background and security check can be

conducted at the CONTRACTOR'S expense through the Yuba County Probation Department located at 215 5th Street in Marysville, CA. CONTRACTOR may conduct this security clearance at their own designated facility but must use the COUNTY's reporting ID number to conduct such investigation. This requirement shall apply to any new personnel due to employee turnover.

C.11.10 CONTRACTOR shall provide the same information for each of the prospective employees to be assigned to each COUNTY facility during the term of the contract. All CONTRACTOR'S employees assigned to each COUNTY site shall be subject to a background security investigation.

C.11.11 CONTRACTOR must obtain an identification badge from the Yuba County Administrative Services office located at 915 8th Street, Suite 119, Marysville, CA 95901. Each guard and supervisor that is assigned to a COUNTY site must have a badge. The COUNTY requires at least 24 hours advance notice prior to the initial assignment to the site. The identification badge shall be carried by each individual guard and supervisor while working at the COUNTY and should not be shared amongst guards. The identification badge shall be deemed property of the COUNTY and the misuse of same shall be grounds for permanent removal of the guard from the site and/or criminal prosecution. The COUNTY reserves the right to deny an identification badge to any guard.

C.12 DRUG AND ALCOHOL FREE WORKPLACE.

C.12.1 It is COUNTY policy that COUNTY employees and employees working under contract at COUNTY facilities:

C.12.2 Shall not be under the influence of alcohol or drugs while on duty.

C.12.3 Shall not possess alcohol or drugs while on COUNTY property or at work locations or in uniform.

C.12.4 Shall not sell or provide drugs or alcohol to any person while such employee is on duty.

C.12.5 Shall not have their ability to work impaired as a result of the use of alcohol or drugs when reporting for work.

C.12.6 All guards shall satisfactorily pass a drug and alcohol screening test at time of initial assignment and upon COUNTY'S request thereafter. The cost of the initial screening shall be paid by CONTRACTOR; subsequent COUNTY-requested screening of a previously screened guard shall be at COUNTY expense. Failure to pass such tests or to agree to submit to testing will result in immediate removal from assignment at COUNTY facilities.

C.12.7 Violation of any of the above actions will result in immediate removal of CONTRACTOR's employee from assignment at COUNTY facilities, and repeated offenses may result in termination of the contract.

C.13 TRAINING.

C.13.1 CONTRACTOR shall maintain training records for each employee. Training records shall document all training received, employee's qualifications, permits and certificates of completion. Such records shall be made available to COUNTY for inspection upon request.

C.13.2 CONTRACTOR shall assure that each security guard receives eight hours of annual practice and review required by subdivision (f) (1) of the State of California Business and Professions Code Section 7583.6.

C.13.3 Guards shall be trained in basic duties at the assigned facility before assuming any post. Such training shall include, but not be limited to, fundamentals of security and safety, building security, human relations and conflict management, crowd control, laws of arrest and who/when to call for backup or assistance, emergency evacuation plans and procedures, use of any special equipment, e.g. metal detector, X-ray machine, radios, etc., and all security, fire and life safety systems at the site, locking and unlocking procedures, location of all COUNTY offices and proper use of COUNTY telephone equipment.

C.13.4 It shall be the responsibility of CONTRACTOR, upon the awarding of the contract, to perform a physical inspection of the sites with the designated Points of Contact. CONTRACTOR shall then, in coordination with the Points of Contact, establish a written set of instructions for guards at each facility.

C.14 UNIFORMS AND GROOMING STANDARDS.

C.14.1 The uniform for guards will be trousers, shirt or blouse with tie, etc. as described and approved by the COUNTY. "Police style" uniforms will not be acceptable.

C.14.2 Guards shall be attired in a clean, neat appearing, well-fitted uniform bearing CONTRACTOR’S identification insignia, and shoes shall be shined and well maintained.

C.14.3 Uniforms, special clothing, equipment, insignias, badges and name tags shall be furnished by CONTRACTOR at no cost to COUNTY or CONTRACTOR’S employees.

C.14.4 Non-standard articles of clothing may not be worn with the guard uniform.

C.14.5 Worn, frayed, stained or torn uniforms shall be immediately replaced at CONTRACTOR'S expense, and CONTRACTOR shall provide laundering or dry cleaning of uniforms at no cost to the employee.

C.14.6 CONTRACTOR will provide a written statement of the grooming standards to which the guards will comply.

C.14.7 The COUNTY wishes to project a positive image and believes that the CONTRACTOR and its employees' appearance, attitude, courtesy and job knowledge are influential in creating such an image. No smoking, reading unauthorized material, eating, chewing of gum or tobacco, or grooming shall be permitted while guards are in public view. No personal telephone calls will be permitted except in an emergency, and guards may not engage in non-business conversations or fraternize with members of the public or COUNTY employees while on duty.

C.15 WEAPONS AND USE OF FORCE.

C.15.1 The use of weapons and/or force by guards assigned to any COUNTY site is strictly prohibited. Possession of weapons by guards on the site shall be grounds for immediate and permanent removal of the guard from COUNTY facilities, and repeated offenses may be grounds for termination of the contract. The use of force by a guard beyond that necessary for self defense and/or the safety of others shall also be grounds for removal of the guard.

C.15.2 Guards shall have normal concern for their own physical safety and should take reasonable precautions not to place themselves in situations which would encourage violence or abuse against either themselves or other persons in the area. However, if threatened, guards may take all reasonable steps necessary to protect themselves and others from injury or harm.

C.15.3 CONTRACTOR shall assume full liability for any use of force by its employees and any other activities not within the best interests of COUNTY.

C.15.4 At CONTRACTOR'S option and with permission of the Point of Contact as indicated in C.8.2 (POC), pepper spray may be carried by guards who have been trained in its use. Liaison may also require the guards to be equipped with handcuffs and be fully trained in their proper use.

C.16 ARREST/DETAINMENT. COUNTY prohibits the use of arrest powers by CONTRACTOR'S employees. When necessary, the proper appropriate law enforcement shall be summoned. No force shall be used by CONTRACTOR'S employees except that are absolutely necessary for self defense or protection of others in immediate danger. CONTRACTOR'S employees shall always be cooperative with authorized emergency personnel, and shall assist emergency personnel in the performance of their duties. CONTRACTOR'S employees shall surrender their authority to authorized emergency personnel. Contract guard powers of arrest are

no greater than those of a private citizen. CONTRACTOR shall assume full liability for any of its employees in the exercise of any police authority.

C.17 COMMUNICATIONS.

C.17.1 CONTRACTOR shall furnish portable radios/GPS enabled cellular phones/devices to guards to provide a means for immediate communications with CONTRACTOR'S operations/dispatch center. In addition, CONTRACTOR shall establish a method, (e.g. radio, cellular phone) whereby Point of Contact as indicated in C.8.2, or other designated COUNTY official, may immediately contact guard when on duty.

C.17.2 Where necessary, COUNTY will provide a telephone for use by the guard to summon assistance or conduct other official business in connection with the performance of duties.

C.18 SUPERVISION.

C.18.1 CONTRACTOR shall provide supervision of guards including a minimum of two unscheduled visits to each site weekly. Visits shall be noted in the Activity Log maintained at each site.

C.18.2 CONTRACTOR'S supervisory personnel shall be available to immediately respond to a guard's request for advice or assistance at all times the guard is on duty.

C.19 DISQUALIFICATION OF GUARD PERSONNEL.

C. 19.1 Disqualification of guard personnel will occur if a violation of any item indicated in section C.10 or subsection thereof at the time of initial employment and further subsequent employment by CONTRACTOR in any work performed under this contract. The arrest and/or conviction for any crime may be cause for reassignment of any of CONTRACTOR'S employees upon request of COUNTY.

C. 19.1 COUNTY reserves the right to require CONTRACTOR to remove any security personnel from duty and have them replaced when a guard's continued employment is deemed by the COUNTY'S Purchasing Agent or his/her designated representative to be contrary to the public interest or inconsistent with the best interests of COUNTY.

C.20 PERFORMANCE EVALUATION MEETINGS. CONTRACTOR'S representative shall meet with the Purchasing Agent, or his or her designee, and the Point of Contacts for each facility on a monthly basis during the first two months of the contract. Thereafter, meetings will be as often as necessary at the discretion of the COUNTY'S Purchasing Agent, but not less than quarterly. A mutual effort will be made to resolve all problems identified during the meetings. A written report of the meeting, prepared by

CONTRACTOR'S representative, shall be submitted to the COUNTY'S Purchasing Agent within 7 days of the meeting.

C.21 WORKERS COMPENSATION. CONTRACTOR will maintain in force and full effect Workers Compensation Insurance and will provide COUNTY with a copy of this certificate at contract execution and every renewal period thereafter.

C.22 CONTRACTOR VEHICLE. CONTRACTOR is to provide all items necessary to provide mobile patrol as necessary. This includes vehicle, fuel, GPS, monitoring devices, etc. COUNTY assumes no liability for any damage made to a CONTRACTOR vehicle by any act of nature, disaster, willful or accidental negligence.

C.23 INDEPENDENT CONTRACTORS. No independent contractors will be utilized in the performance of this contract.

C.24 ACCEPTANCE. All work performed and completed under the Agreement is subject to the acceptance of the COUNTY or its authorized representatives. Payment shall be made after inspection and approval by COUNTY. Failure by the CONTRACTOR to take corrective action within 24 hours after personal or telephonic notice by the COUNTY'S representative on items affecting essential use of the facility, safety or the preservation of property, and within ten days following written notice on other deficiencies, will result in the COUNTY taking whatever corrective action it deems necessary. All costs resulting from such action by the COUNTY will be claimed against CONTRACTOR.

C.25 CONFIDENTIALITY. CONTRACTOR must maintain compliance with confidentiality regulations. At no time shall CONTRACTOR'S employees, agents, or representatives in any manner, either directly or indirectly, use for personal benefit or divulge, disclose, or communicate in any manner, any information that is confidential to the COUNTY. CONTRACTOR and its employees, agents, and representatives shall protect such information and treat it as strictly confidential.

C.26 INTELLECTUAL PROPERTY. COUNTY shall have and retain all right, title, and interest in Intellectual Property in all plans specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, documents developed or modified under this Agreement.

COUNTY OF YUBA
*** – Countywide Security

ATTACHMENT D

GENERAL PROVISIONS

D.1 INDEPENDENT CONTRACTOR STATUS. At all times during the term of this Agreement, the following apply:

D.1.1 All acts of CONTRACTOR shall be performed as an independent CONTRACTOR and not as an agent, officer or employee of COUNTY. It is understood by both CONTRACTOR and COUNTY that this Agreement is by and between two independent parties and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

D.1.2 CONTRACTOR shall have no claim against COUNTY for employee rights or benefits, including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

D.1.3 CONTRACTOR is solely obligated to pay all applicable taxes, deductions and other obligations, including, but not limited to, federal and state income taxes, withholding and Social Security taxes, unemployment and disability insurance and Workers' Compensation and Medi-Care payments.

D.1.4 As an independent CONTRACTOR, CONTRACTOR is not subject to the direction and control of COUNTY except as to the final result contracted for under this Agreement. COUNTY may not require CONTRACTOR to change its manner of doing business, but may require it to redirect its efforts to accomplish what it has agreed to do.

D.1.5 CONTRACTOR may provide services to others during the same period service is provided to COUNTY under this Agreement.

D.1.6 If in the performance of this Agreement any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision and control of CONTRACTOR. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the CONTRACTOR.

D.1.7 As an independent CONTRACTOR, CONTRACTOR hereby indemnifies and holds COUNTY harmless from any and all claims that may be made against COUNTY based on any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

D.2 LICENSES, PERMITS, ETC. CONTRACTOR represents and warrants to COUNTY that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed. Failure of the CONTRACTOR to comply with this provision shall authorize the COUNTY to immediately terminate this agreement.

D.3 TIME. CONTRACTOR shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of CONTRACTOR'S obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

D.4 INDEMNITY. CONTRACTOR shall defend, indemnify, and hold harmless COUNTY, its elected and appointed councils, boards, commissions, officers, agents, and employees from any liability for damage or claims for damage for personal injury, including death, as well as for property damage, which may arise from the intentional or negligent acts or omissions of CONTRACTOR in the performance of services rendered under this Agreement by CONTRACTOR, or any of CONTRACTOR'S officers, agents, employees, CONTRACTORS, or sub CONTRACTORS.

D.5 CONTRACTOR NOT AGENT. Except as COUNTY may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

D.6 ASSIGNMENT PROHIBITED. CONTRACTOR may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

D.7 PERSONNEL. CONTRACTOR shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by CONTRACTOR to perform services pursuant to this Agreement, CONTRACTOR shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

D.8 STANDARD OF PERFORMANCE. CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards or quality normally observed by a person practicing in CONTRACTOR'S profession.

D.9 POSSESSORY INTEREST. The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the California Revenue and Taxation Code, §107. For all purposes of compliance by COUNTY with Section 107.6 of the California Revenue and Taxation Code, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the COUNTY Assessor and the contracting parties hereto. A taxable possessory interest may be created by this contract; and if created, the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

D.10 TAXES. CONTRACTOR hereby grants to the COUNTY the authority to deduct from any payments to CONTRACTOR any COUNTY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to CONTRACTOR.

D.11 TERMINATION. Upon termination of this Agreement as otherwise provided herein, CONTRACTOR shall immediately cease rendering service upon the termination date and the following shall apply:

D.11.1 CONTRACTOR shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

D.11.2 COUNTY shall have full ownership and control of all such writings or other communications delivered by CONTRACTOR pursuant to this Agreement.

D.11.3 COUNTY shall pay CONTRACTOR the reasonable value of services rendered by CONTRACTOR to the date of termination pursuant to this Agreement not to exceed the amount documented by CONTRACTOR and approved by COUNTY as work accomplished to date; provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by CONTRACTOR had CONTRACTOR completed the services required by this Agreement. In this regard, CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of the COUNTY is

necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of the COUNTY shall be final. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

CONTRACTOR may terminate its services under this Agreement upon thirty (30) days written notice to the COUNTY, without liability for damages, if CONTRACTOR is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY.

D.12 NON-DISCRIMINATION. Throughout the duration of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age, sex or sexual orientation. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

D.13 REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990. In addition to application of the non-discrimination provision of this Agreement, above, CONTRACTOR agrees to comply with all provisions of section 504 et seq. of the Rehabilitation Act of 1973, and with all provisions of the Americans with Disabilities Act of 1990, and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts, pertaining to the prohibition of discrimination against qualified handicapped and disabled persons, in all programs or activities, as to employees or recipients of services.

D.14 OWNERSHIP OF INFORMATION. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become the property of COUNTY, and CONTRACTOR agrees to deliver reproducible copies of such documents to COUNTY on completion of the services hereunder. The COUNTY agrees to indemnify and hold CONTRACTOR harmless from any claim arising out of reuse of the information for other than this project.

D.15 WAIVER. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

D.16 COMPLETENESS OF INSTRUMENT. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

D.17 SUPERSEDES PRIOR AGREEMENTS. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

D.18 CAPTIONS. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

D.19 DEFINITIONS. Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

> **D.19.1 NUMBER AND GENDER.** In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.
>
> **D.19.2 MANDATORY AND PERMISSIVE.** "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

D.20 TERM INCLUDES EXTENSIONS. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

D.21 SUCCESSORS AND ASSIGNS. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

D.22 MODIFICATION. No modification or waiver of any provision of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

D.23 COUNTERPARTS. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

D.24 OTHER DOCUMENTS. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

D.25 PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

D.26 JURISDICTION. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a Court of competent jurisdiction in the COUNTY of Yuba, State of California.

D.27 CONTROLLING LAW. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

D.28 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and each covenant and term a condition herein.

D.29 AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

D.30 CONFLICT OF INTEREST. Neither a COUNTY employee whose position in COUNTY enables such employee to influence the award of this Agreement or any competing Agreement, nor a spouse or economic dependent of such employee, shall be employed in any capacity by CONTRACTOR herein, or have any other direct or indirect financial interest in this Agreement.

CONTRACTOR may be subject to the disclosure requirements of the COUNTY conflict of interest code if in a position to make decisions or influence decisions that could have an effect on the CONTRACTOR'S financial interest. The COUNTY Administrator shall determine in writing if

CONTRACTOR has been hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the Yuba COUNTY Conflict of Interest Code.

D.31 NOTICES. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":

Department of Administrative Services
COUNTY of Yuba
Attn: Purchasing Agent
915 8th Street, Suite 119
Marysville, CA 95901

With a copy to:

COUNTY Counsel
COUNTY of Yuba
915 8th Street, Suite 111
Marysville, CA 95901

If to "CONTRACTOR":

COUNTY OF YUBA
*** – Countywide Security

ATTACHMENT E

INSURANCE REQUIREMENTS

E. INSURANCE. CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONTRACTOR, its agents, representatives, or employees.

E.1. MINIMUM SCOPE AND LIMIT OF INSURANCE. Coverage shall be at least as broad as:

E.1.1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

E.1.2. Automobile Liability Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

E.1.3. 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.
(Not required if CONTRACTOR provides written verification it has no employees)

E.1.4. Professional Liability (Errors and Omissions) Insurance as appropriate to CONTRACTOR's profession, with limits no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, COUNTY requires and shall be entitled to coverage for the higher limits maintained by CONTRACTOR.

E.2 OTHER INSURANCE PROVISIONS The insurance policies are to contain, or be endorsed to contain, the following provisions:

E.2.1. ADDITIONAL INSURED STATUS COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of CONTRACTOR; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

E.2.2. PRIMARY COVERAGE For any claims related to this contract, **CONTRACTOR's insurance coverage shall be primary** insurance as respects COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, officials, employees, or volunteers shall be excess of CONTRACTOR's insurance and shall not contribute with it.

E.2.3. NOTICE OF CANCELLATION Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the COUNTY**.

E.3. WAIVER OF SUBROGATION CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not COUNTY has received a waiver of subrogation endorsement from the insurer.

E.4. DEDUCTIBLES AND SELF-INSURED RETENTIONS
Any deductibles or self-insured retentions must be declared to and approved by COUNTY. COUNTY may require CONTRACTOR to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

E.5. ACCEPTABILITY OF INSURERS Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the COUNTY.

E.6. CLAIMS MADE POLICIES If any of the required policies provide coverage on a claims-made basis:

E.6.1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

E.6.2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

E.6.3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

E.7. VERIFICATION OF COVERAGE CONTRACTOR shall furnish COUNTY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONTRACTOR's obligation to provide them. COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

E.8. SUBCONTRACTORS CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

E.9. SPECIAL RISKS OR CIRCUMSTANCES COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

COUNTY OF YUBA
*** – Countywide Security

ATTACHMENT F

CONTRACTOR'S PROPOSAL