

**AGREEMENT
FOR
AUDITOR-CONTROLLER SERVICES**

This Agreement for Auditor-Controller Services (“Agreement”) is made and entered into on _____ (“Effective Date”), by and between the County of Tulare (“County”) and the Yettem-Seville Community Services District (“District”), also individually referred to as “Party” and collectively, “Parties.”

RECITALS

- A. The District is a public entity created pursuant to California law and operates within the County’s jurisdiction.
- B. The District is in need for bookkeeping and accounting services and is permitted to contract for these services under Government Code section 25265.
- C. The District wishes to retain the County’s Auditor-Controller’s Office (“TCAC”) to provide these bookkeeping and accounting services pursuant to the terms and conditions set forth below.
- D. The County is willing to perform these bookkeeping services for the District through its TCAC pursuant to the terms and conditions set forth below.

The Parties agree to all of the following:

TERMS AND CONDITIONS

- 1. **Recitals.** The above “Recitals” are true and correct.
- 2. **Services.** TCAC shall provide the District the following services (“Services”):
 - a. Receipt deposits made by the District to the County’s Treasury.
 - b. Vendor payment services as follows:
 - i. Maintain copies of paid bills for any future audit.
 - ii. Maintain a detailed list of all bills paid.
 - iii. Issue Form 1099s, if applicable.
 - c. Bookkeeping services as follows:
 - i. Establish and maintain such funds and accounts as may be required by good accounting practice.
 - ii. Prepare periodical expenditure reports compared to budgets.
 - iii. Prepare periodical revenue reports compared to budgets.
 - iv. Maintain general ledger accounts on a double entry basis.
 - v. Provide a written report of all financial activities for the fiscal year within 120

days after the close of the fiscal year.

- d. Any other services that may be required to provide complete accounting records for the District.

The District agrees that County shall have the full cooperation and assistance from the District's employees and Governing Board in order to facilitate the performance of Services.

3. **Costs & Payment.** The costs for the Services will range from Fifty Dollars (\$50) to Two Hundred Fifty Dollars (\$250) for each quarter of the calendar year. TCAC will determine the exact cost to the District based on the amount of Services TCAC provided to the District during that quarter ("Billed Cost"). The District agrees to pay all Billed Costs to the County. TCAC shall collect Billed Costs directly from the District's funds through a journal entry transferring the amount billed from the District to TCAC.
4. **Responsibility to Pay Taxes.** District shall be responsible for all payroll, sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the District under this Agreement. In no event shall the District pay or be responsible for any taxes imposed on, or with respect to the County's income, revenues, gross receipts, personnel, or real or personal property, or other assets.
5. **Termination.** Either Party may terminate the Agreement for any reason by giving at least thirty (30) days' prior written notice to the other Party of its intent to terminate the Agreement and specifying the date of the termination. District must pay County the Billed Cost for Services provided up to the date of termination.
6. **Independent Contractor Status.** The Parties enter into this Agreement with the express understanding that the County will perform all Services as an independent contractor. The Parties agree that the County and any of its agents, employees, or officers cannot be considered agents, employees, or officers of the District. County will be solely responsible for determining the means and methods to provide the Services and the District will have no right to control or exercise any supervision over the County as to how the County will provide the Services. Because the County's employees are not the District's employees, the County is responsible for paying all required state and federal taxes. Specifically, the District will not do any of the following:
 - a. Withhold FICA (Social Security) from payments to the County.
 - b. Make state or federal unemployment insurance contributions on County's behalf.
 - c. Withhold state or federal income tax from payments to the County.
 - d. Make disability insurance contributions on behalf of the County.
 - e. Obtain unemployment compensation insurance on behalf of the County.

7. **Confidentiality.** Unless required to do so by law, including, but not limited to the Ralph M. Brown Act or the California Public Records Act, the Parties may not disclose to third parties any information it receives from the other Party that the Party has previously identified as being confidential. If a Party (“Disclosing Party”) determines it must disclose information that has been identified as confidential, it shall promptly provide the other Party (“Responding Party”) written notice of its intent to disclose the information and the authority requiring the disclosure. The Responding Party shall have no longer than five (5) calendar days from the date of the written notice to seek a protective order to prevent such a disclosure or notify the Disclosing Party it will not be seeking such an order. The Disclosing Party shall not disclose information until the earliest of the following events occurs: (a) the five (5) day period has expired without a response from the Responding Party; (b) the Responding Party has indicated it will not seek such an order; or (c) the Responding Party has sought an order, but it was not granted. If a Responding Party seeks a protective order from disclosing the information, the Responding Party shall defend and indemnify the Disclosing Party from any and all loss, injury, or claim arising from the Disclosing Party’s withholding of the information from the third party requesting it. The duty of the Parties to maintain confidentiality of information under this Section 7 survives the termination of the Agreement.

8. **LIMITATION OF LIABILITY.** (A) IN NO EVENT SHALL COUNTY BE LIABLE TO DISTRICT OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT, (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT THE COUNTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(B) IN NO EVENT SHALL COUNTY’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED TWO TIMES THE AGGREGATE AMOUNTS PAID OR PAID OR PAYABLE TO COUNTY PURSUANT TO THIS AGREEMENT IN THE SIX-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

(C) THE COUNTY’S LIMITATION OF LIABILITY UNDER THIS SECTION 8 WILL SURVIVE THE TERMINATION OF THIS AGREEMENT.

9. **Disputes and Dispute Resolution.** If a dispute arises out of or relating to this Agreement, or the breach of the Agreement, and if the dispute cannot be settled through negotiation, then the Parties agree first to try in good faith to settle the dispute by non-binding mediation, to be held in Tulare County, California, before resorting to litigation or some other dispute resolution procedure, unless the Parties mutually agree otherwise. The Parties must mutually select the mediator, but in case of disagreement, then the Parties will select the mediator by lot from among two nominations provided by each Party. The Parties will split equally all costs and fees required by the mediator; otherwise each Party will bear its own costs of mediation. If mediation fails to resolve the dispute within 30 calendar days after the first session, then either Party may pursue litigation to resolve the dispute.
10. **Force Majeure.** The County shall not be liable or responsible to District for any failure or delaying in fulfilling or performing any term of this Agreement, including, but not limited to providing Services, when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of the County, including, without limitation, acts of God, flood, fire, earthquake, explosion, outbreak of a communicable disease, governmental actions, war invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, lock-outs, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays in affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, or telecommunication breakdown or power outage.
11. **No Third Party Beneficiaries Intended.** Unless specifically set forth in the Agreement, the Parties do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy. This Section 11 survives the termination of the Agreement.
12. **Governing Law.** The laws of the State of California, without reference to California's conflict of laws principles, govern this Agreement and its interpretation. The Parties agree that this Agreement is made in and will be performed in Tulare County, California. This Section 12 survives the termination of the Agreement.
13. **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 will 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, then the Agreement may be terminated at the option of the affected Party. In all other cases, the remainder of the Agreement will continue in full force and effect.

14. **Notices.** (a) Except as may otherwise be required by law, any notice to be given under this Agreement must be written and either personally delivered; sent by first class mail, postage paid; or sent by facsimile transmission; and addressed as follows:

COUNTY:

Cass Cook, Auditor-Controller
221 S Mooney Blvd, Rm 101-E
Visalia CA 93291

DISTRICT:

Linda Guttierrez, YSCSD
15590 Ave 383
Seville CA 93292

(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 will be deemed received on the fifth calendar day after the date of mailing. Either Party may change the information by giving written notice under this Section 14.

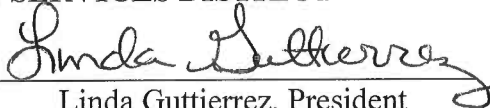
15. **Construction.** This Agreement reflects the contributions of all Parties and so the provisions of Civil Code section 1654 will not apply to address and interpret any alleged uncertainty or ambiguity.
16. **Waivers.** The failure of either Party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, whether for that breach or any later breach. The acceptance by either Party of either performance or payment will not be considered a waiver of any preceding breach of the Agreement by the other Party.
17. **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 heading in this Agreement.
18. **Entire Agreement.** This Agreement represents the entire agreement between the County and the District as to its subject matter and no prior oral or written understanding will be of any force or effect. No part of this Agreement may be modified without the written consent of both Parties.
19. **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.
20. **Authority.** District represents and warrants to County that the individual(s) signing this Agreement on its behalf are duly authorized and have legal capacity to sign this Agreement and bind District to its terms. District acknowledges that County has relied upon this representation and warranty in entering into this Agreement.
21. **Counterparts.** This Agreement may be executed by the Parties in any number of counterparts, which are defined as duplicate originals, including by facsimile or

electronic mail in a portable document format (.pdf), all of which taken together shall be construed as one Agreement.

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

YETTEM-SEVILLE COMMUNITY SERVICES DISTRICT

Date 5/28/2020

By 
Linda Gutierrez, President

Date 5/28/20

By 
Manuel Gonzalez, Vice-President

COUNTY OF TULARE

Date _____

By _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By _____
Deputy Clerk

Approved as to Form:
County Counsel

By 
Deputy

Date 06/01/2020 Matter No. 2020383

Agreement for Auditor-Controller Services between
County of Tulare and Yettem-Seville Community Services District