

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CONSULATE OF MEXICO  
IN FRESNO, CALIFORNIA AND THE COUNTY OF FRESNO, CALIFORNIA, OF THE  
UNITED STATES OF AMERICA REGARDING CONSULAR FUNCTION IN  
DEPENDENCY PROCEEDINGS INVOLVING MEXICAN MINORS**

This Memorandum of Understanding (hereinafter "MOU") is made and entered into between the Consulate of Mexico in Fresno, California (hereinafter "Consulate") and the County of Fresno, a political subdivision of the State of California of the United States of the United States of America (hereinafter "County") and hereinafter jointly referred to as "the Parties";

**WHEREAS**, the County, through its Department of Social Services, works to protect children from abuse and neglect, to strengthen families and provide permanent homes;

**WHEREAS**, the Consulate's duty and goals are to assist Mexican nationals and to protect their interests;

**WHEREAS**, both Parties desire to work together in the best interest of the children and families of Mexican nationality residing in the County and to provide them with a safe, stable and permanent home in a timely fashion; and

**WHEREAS**, both Parties bear in mind the international commitments of the United Mexican States and the United States of America under the Consular Convention between the United Mexican States and the United States of America of August 12, 1942 and Vienna Convention on Consular Relations of April 24, 1963; the Memorandum of Understand on Consular Protection of the United States and Mexican Nationals of May 7, 1996 (relevant articles attached as Appendix 1); and the Fresno County Superior Court Local Rules 6.2.22 (attached as Appendix 2);

Now, therefore, it is mutually agreed as follows:

I. **Definitions:**

**These terms have the following meanings when used within this MOU:**

**DIF-** Means the Agency of the National System for Integral Family Development ("Sistema Nacional para el Desarrollo Integral de la Familia"). This is the agency in Mexico responsible with ensuring the welfare of minors.

**Immigration Liaison-** Is the Fresno County Social Worker identified by the County to facilitate communication to Consulate and other immigration agencies.

**Mexican minor** – Refers to any child or unmarried person under the age of eighteen that was born in Mexico, or is eligible for Mexican nationality.

**Primary Social Worker**- Is the Fresno County Social Worker identified as the primary responsible social worker for a specific case.

## **II. Purpose of MOU:**

The purposes of this MOU is to clarify the responsibilities of each Party and determine how the Parties will work together in the best interests of minors and families who are Mexican nationals involved in the Fresno County, Department of Social Services Child Protective Services Program (hereinafter referred to as "CPS") and who are eligible for assistance from the Consulate.

## **III. Responsibilities:**

### **A. County shall:**

1. Use its best efforts to determine the nationality or the residence status of minor placed in protective custody by County and their parents. If the minor and/or the parents are Mexican nationals, the Mexican minor and the Mexican parents shall be immediately informed of their right to contact and include the Mexican Consulate's office in their case. This notification shall be done by the Primary Social Worker.
2. Notify Consulate through Immigration Liaison when a minor is either in protective custody or a dependency petition has been filed and:
  - a. The minor is known to be a national of Mexico; and/or
  - b. Either parent of the minor is a national of Mexico and the parent requests that Consulate be notified.
3. Through Primary Social Worker, give consideration to available relatives desiring placement in Mexico when out-of-home care is being pursued for a Mexican minor that meets the criteria above.
  - a. Requests for home evaluation in Mexico will be referred directly to the Consulate through Immigration Liaison.
  - b. Primary Social Worker should contact the Consulate through Immigration Liaison for aid in obtaining services available to family members in Mexico.

- c. Translation of documents if necessary shall be completed by the County in accordance with Title VI of the Civil Rights Act of 1964.
4. Use its best efforts to respond to any inquiries from Consulate in matters involving Mexican nationals (child, parents and relatives) pertaining to the protection of children that are residents of Fresno County. Both Parties understand that the County may not share CPS case files or information with the Consulate in the absence of an appropriate court order.
5. Notification given under this section should occur by telephone, email, fax, letter or official hearing notification. The provision of notice shall be documented in the case file and include the date, time and the individual Consulate Officer to whom notice was given.
- B. Consulate shall:
  1. Observe all Federal, State and local laws, rules, regulation and procedures, as well as court orders, concerning confidentiality requirements of CPS case information.
  2. Facilitate the process of returning children to Mexico when determined appropriate.
  3. Refer requests for home evaluations from the County to DIF and notify the County of the receipt and results of home evaluations performed by DIF.
  4. Respond to any inquiries from the County in matters pertaining to the protection of children that are residents of County and may be eligible for assistance from Consulate.
  5. Assist the County in obtaining necessary documents from the Civil Registry of Mexico.
  6. Assist the County in obtaining necessary documents for Mexican minors to travel or obtain legal residency status.
  7. Assist in the arrangement of visits between dependent minors and their relatives at the office under the supervision of the Consulate General of Mexico in San Diego located at the United States-Mexico border in San Isidro. All visits will be supervised by the staff of the Defense Security Service- Child Welfare Services of the United State of America, at all times.

**IV. Notice:**

Written notice shall be personally delivered or sent by United States Mail, certified or return receipt requested, and addressed as follows:

To County

Department of Social Services  
P.O. Box 1912  
Fresno, CA 93718-1912

To Consulate

Consul of Mexico  
7435 N. Ingram Avenue  
Fresno, CA 93711

**V. Interview of a Mexican minor:**

A Consular Representative may interview the Mexican minor in custody and/or subject to the jurisdiction of the County as authorized by law.

**VI. Interview of Mexican Parents:**

A consular Representative may interview the Mexican parents of a minor in custody and/or subject to the jurisdiction of the County as authorized by law.

**VII. Factors to Consider When Placing Mexican Minors in Mexico:**

A. County Primary Social Worker to assess appropriateness of the Family requesting placement.

1. Conduct a risk assessment: Immigration Liaison shall contact family member by telephone, assess as normally would any other relative (their prior knowledge of abuse, their ability to care and provide for the Mexican minor, their ability to protect the Mexican minor from abuser, the most permanent plan they would be able to provide, etc).
2. If family member is appropriate after telephone interview, contact Consulate through Immigration Liaison to request a home study from DIF.

B. If a family member is found to be an appropriate placement, prior to the minor being placed in Mexico, the County shall obtain documentation from Consulate verifying the placement is appropriate. The County Social Worker shall arrange travel through available means (case by case basis).

**VIII. Safety & Travel Issues:**

A. The Immigration Liaison is responsible to inform supervisor, Program Manager and Consulate of itinerary as soon as possible regarding travel dates.

B. Consulate is to:

1. Arrange with DIF or *the Ministry of Foreign Affairs of the United Mexican States*, to meet at arrival airport with County Social Worker and the Mexican minor; and
2. Prepare necessary documents to allow the Mexican minor to travel with County Social Worker to Mexico.

**IX. Further Agreements:**

A. This MOU in no way interferes with the County existing working relationships with other Mexican governmental agencies.

B. This MOU shall become effective when fully executed and continue in full force and effect until either Party notifies the other of its intention to terminate it.

C. This MOU may be amended by written consent of both Parties. All amendments shall be attached to MOU and made part thereof.

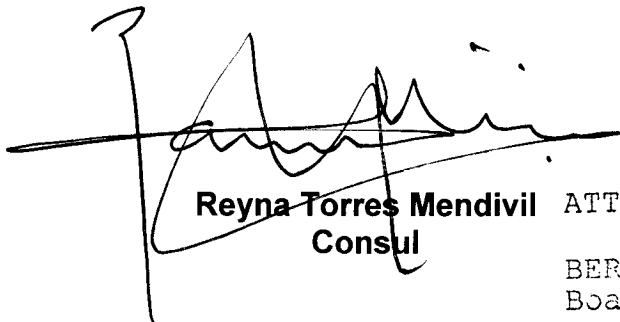
D. Either Party to this MOU may terminate this MOU at any time by giving the other Party thirty (30) days written notice of such termination. Termination shall have no effect upon the rights and obligations of the Parties arising out of any activities occurring prior to the effective date such termination. Written notice of termination shall be deemed duly served when personally delivered to the other Party, or in lieu of such personal service, when deposited in the United States Mail postage prepaid.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding in duplicate at Fresno this 12<sup>th</sup> day of 2012 in the Spanish and English and languages, both texts being equally valid.

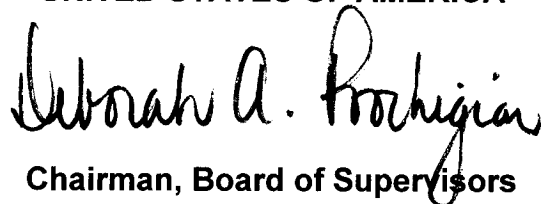
↓  
June,

**FOR THE CONSULATE OF MEXICO  
FRESNO, CALIFORNIA**

**FOR THE COUNTY OF FRESNO, OF  
THE STATE OF CALIFORNIA, OF THE  
UNITED STATES OF AMERICA**

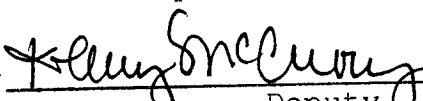


**Reyna Torres Mendivil  
Consul**



**Chairman, Board of Supervisors**

ATTEST: BERNICE E. SEIDEL, Clerk  
Board of Supervisors

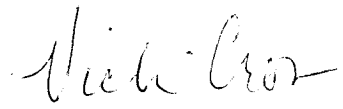
By   
Deputy

~~Berenice Seidel, Clerk  
Board of Supervisors~~


**Approved as To Legal Form :**

  
**Kevin Briggs  
County Counsel**

**Approved to Accounting Form:**

  
**Vicky Crow, C.P.A.  
Auditor Controller/ Treasurer-Tax  
Collector**

**Reviewed and Recommended for  
Approval:**

  
**Howard K. Himes, Director  
Department of Social Service**

## MEMORANDUM OF UNDERSTANDING ON CONSULAR PROTECTION OF MEXICAN AND UNITED STATES NATIONALS

The Government of the United Mexican States and the Government of the United States of America,

Considering their firm commitment to respect the human rights of all individuals within their respective territories;

Considering their firm will to strengthen and enhance their relationships in all areas, within the spirit of good neighbors and mutual respect;

Considering the need to continue to foster and strengthen the effective relationships and communications among consular officials and local authorities of both countries, within the spirit of the Consular Convention between the two Governments and the Vienna Convention on Consular Relations;

Considering that the Working Group on Migration and Consular Affairs of the Binational Commission has proven to be an effective forum to discuss and exchange information on the migratory phenomenon between the two countries, as well as to agree on measures that serve the interest of both nations;

Considering the will of both Governments to strengthen the Border Liaison Mechanisms and the Consultation Mechanisms on Immigration and Naturalization Service Activities and Consular Protection, which have been recently established for, among other purposes, sharing information concerning migratory practices and procedures by authorities on both sides of the border, and resolving problems at the local level, including issues related to the protection of human rights;

Considering the interest of both Governments in preventing situations that negatively affect the physical safety, dignity and human rights of their nationals within the territory of the other country, and the importance of having adequate institutional mechanisms to effectively address those situations when they might occur,

Adopt the following principles and measures:

To include within the mandate of the Working Group on Migration and Consular Affairs of the Binational Commission, the discussion and evaluation of issues, problems and trends related to the consular protection and human rights of nationals of both countries and the understandings expressed in this memorandum as regular matters on its agenda, in order to make recommendations to the respective Governments, if mutually agreed upon.

To provide any individual detained by migration authorities with notice of his/her legal rights and options, including the right to contact his/her consular representatives, and to facilitate communication between consular representatives and their nationals. Both Governments will endeavor, consistent with the relevant laws of each country, to ensure that specific notification to consular representatives is given in cases involving the detention of minors, pregnant women and people at risk.

To endeavor to provide settings conducive to full and free exchange between the consular representatives and detained individuals in order to allow, consistent with the relevant laws of each country, consular officials to interview their respective nationals when they are detained, arrested, incarcerated or held in custody in accordance with Article VI, paragraph 2, section (c) of the Consular Convention between the United Mexican States and the United States of America of August 12, 1942, and in accordance with Article 36, first paragraph, of the Vienna Convention on Consular Relations of 1963.

To allow and to facilitate, consistent with the relevant laws of each country, consular officials to be present at all times at the trials or judicial procedures concerning their respective nationals, including those legal procedures relating to minors.

To bring to the attention of the Working Group on Migration and Consular Affairs significant reports concerning consular protection and respect for human rights of nationals of both countries discussed at the Border Liaison Mechanisms and the Consultation Mechanisms on Immigration and Naturalization Service Activities and Consular Protection.

To promote bi-cultural sensitivity and understanding related to human rights protection through the Border Liaison Mechanisms and the Consultation Mechanisms on Immigration and Naturalization Service Activities and Consular Protection, and to encourage the participation of local authorities in these entities.

To encourage cooperation at the highest levels to facilitate investigation of violent and serious incidents involving consular protection of their respective nationals.

Done at Mexico City, this 7th day of May, 1996, in the Spanish and English languages.





## FRESNO COUNTY SUPERIOR COURT

### **6.2.22 Appearance by Consular Representative**

In cases where a parent or minor is a citizen of a foreign nation, the Consul or representative of the Consul of that nation shall have the right to appear and participate in the court proceedings to the extent such is provided for by international agreement to which the United States is a signatory. (Effective January 1, 2007, Rule 6.2.22 renumbered effective January 1, 2006; adopted as Rule 51.22 effective January 1, 1996)  
*(Rule 6.2 renumbered effective January 1, 2006; adopted as Rule 51 effective July 1, 1992)*

**MEMORÁNDUM DE ENTENDIMIENTO ENTRE EL CONSULADO DE MÉXICO EN  
FRESNO, CALIFORNIA Y EL CONDADO DE FRESNO, CALIFORNIA, DE LOS  
ESTADOS UNIDOS DE AMÉRICA SOBRE LA FUNCIÓN CONSULAR EN  
PROCEDIMIENTOS DE DEPENDENCIA QUE INVOLUCREN A MENORES  
MEXICANOS**

El presente Memorándum de Entendimiento (en lo sucesivo "MDE") realizado y celebrado entre el Consulado de México en Fresno, California (en lo sucesivo "el Consulado") y el Condado de Fresno, una subdivisión política del Estado de California de los Estados Unidos de América (en lo sucesivo "el Condado"), y en adelante referidos conjuntamente como "las Partes";

**CONSIDERANDO** que el Condado, por conducto de su Departamento de Servicios Sociales, trabaja para proteger a los niños del abuso y la negligencia, fortalecer a las familias y proveer hogares permanentes;

**CONSIDERANDO** que el deber y los objetivos del Consulado son asistir a los nacionales mexicanos y proteger sus intereses;

**CONSIDERANDO** que ambas Partes desean trabajar conjuntamente para el mejor interés de los menores y familias de nacionalidad mexicana que residen en el Condado y proveerles de un hogar estable y permanente de manera oportuna; y

**CONSIDERANDO** que las Partes tienen presente los compromisos internacionales de los Estados Unidos Mexicanos y los Estados Unidos de América conforme a la Convención Consular entre los Estados Unidos Mexicanos y los Estados Unidos de América del 12 de agosto de 1942 y la Convención de Viena sobre Relaciones Consulares del 24 de abril de 1963; el Memorándum de Entendimiento sobre Protección Consular de Nacionales de México y de Estados Unidos del 7 de mayo de 1996 (se anexan los artículos relevantes como Apéndice 1), y la Regla Local 6.2.22 de la Suprema Corte del Condado de Fresno (se anexa como Apéndice 2);

Ahora, por tanto, acuerdan mutuamente lo siguiente:

**I. Definiciones:**

**Estos términos tienen el siguiente significado en el contexto de este MDE:**

**DIF** - Significa Sistema Nacional para el Desarrollo Integral de la Familia. Es el organismo de México encargado de asegurar el bienestar de los menores.

**Enlace de Migración** – Es el Trabajador Social del Condado de Fresno, designado por el Condado para facilitar la comunicación con el Consulado y otras agencias de inmigración.

**Menor Mexicano** – Se refiere a cualquier niño o persona soltera menor de dieciocho años de edad, nacido(a) en México o elegible para obtener la nacionalidad mexicana.

**Trabajador Social Principal** – Es el Trabajador Social del Condado de Fresno identificado como el responsable principal del trabajo social para un caso específico.

## II. Propósito del MDE:

El propósito de este MDE es precisar las responsabilidades de cada Parte y determinar la forma en que las Partes trabajarán conjuntamente para el mejor interés de los menores y las familias de nacionalidad mexicana involucrados en el Programa de Servicios de Protección a Menores (en lo sucesivo SPM), del Departamento de Servicios Sociales del Condado de Fresno, y que son elegibles para recibir asistencia del Consulado.

## III. Responsabilidades:

A. El Condado deberá:

1. Hacer su mejor esfuerzo para determinar la nacionalidad o estatus de residencia tanto de los padres como del menor que sea puesto bajo custodia preventiva del Condado. Si el menor y/ o sus padres son nacionales mexicanos, el menor mexicano o los padres mexicanos deberán ser informados de inmediato de su derecho a contactar e involucrar en su caso al Consulado de México en su caso. Esta notificación deberá hacerla el Trabajador Social Principal.
2. Notificar al Consulado por conducto del Enlace de Migración cuando un menor se encuentre en custodia preventiva o se haya abierto un caso de dependencia y:
  - a. Se tenga conocimiento de que el menor es un nacional de México, y/o
  - b. Cualquiera de los padres del menor sea nacional mexicano y solicite que el Consulado sea notificado.

- a. Las solicitudes para la evaluación de un hogar en México serán remitidas directamente al Consulado por conducto del Enlace de Migración.
  - b. El Trabajador Social Principal deberá contactar al Consulado, por conducto del Enlace de Migración, para solicitar ayuda en la obtención de los servicios disponibles para los miembros de la familia en México.
  - c. La traducción de los documentos, en caso de ser necesaria deberá ser completada por el Condado, de acuerdo con el Título VI de la Ley de Derechos Civiles de 1964.
4. Hacer su mejor esfuerzo para responder a cualquier pregunta del Consulado sobre asuntos que involucren a nacionales mexicanos (niños, padres y familiares) en relación con la protección de niños que residen en el Condado de Fresno. Las Partes entienden que el Condado no puede compartir con el Consulado expedientes o información de los SPM sin la orden de la Corte correspondiente.
  5. La notificación deberá efectuarse por teléfono, correo electrónico, fax, carta o una notificación oficial de audiencia. La notificación deberá documentarse en el expediente del caso, incluyendo la fecha, hora y nombre del funcionario consular a quien se le notificó.
- B. El Consulado deberá:
1. Observar todas las leyes federales, estatales y locales, reglas, reglamentos y procedimientos, así como órdenes de la corte. concernientes a los requerimientos de confidencialidad en los casos de los SPM.
  2. Facilitar el proceso de retorno de los niños a México cuando se determine apropiado.
  3. Remitir al DIF las solicitudes de evaluación de hogar del Condado y notificar al Condado la recepción y los resultados de las evaluaciones del hogar que lleve a cabo el DIF.
  4. Responder al Condado cualquier pregunta sobre asuntos relacionados con la protección de menores que residen en el Condado y que cumplan con los requisitos para recibir asistencia del Consulado.

4. Responder al Condado cualquier pregunta sobre asuntos relacionados con la protección de menores que residen en el Condado y que cumplan con los requisitos para recibir asistencia del Consulado.
5. Ayudar al Condado a obtener los documentos necesarios de las oficinas del Registro Civil en México; y
6. Ayudar al Condado a obtener los documentos necesarios para que los menores mexicanos viajen u obtengan la residencia legal.
7. Apoyar en la coordinación de visitas entre los menores bajo custodia y sus familiares, en la oficina supervisada por el Consulado General de México en San Diego localizada en el puente internacional de San Isidro, California, en la frontera entre México y los Estados Unidos. Todas las visitas serán supervisadas, en todo momento, por el personal del Servicio de Seguridad de Defensa – Servicio de Bienestar Infantil de los Estados Unidos de América.

#### **IV. Comunicación:**

La comunicación por escrito deberá entregarse personalmente o enviarse por medio del Correo de los Estados Unidos, certificado o con acuse de recibo, y remitirse a las siguientes direcciones:

##### Al Condado

Departamento de Servicios Sociales  
P.O. Box 1912  
Fresno, CA 93718-1912

##### Al Consulado

Consulado de México  
7435 N. Ingram Avenue  
Fresno, CA 93711

#### **V. Entrevista de un Menor Mexicano:**

Un representante Consular podrá entrevistar a un menor mexicano bajo custodia y/o sujeto a la jurisdicción del Condado de conformidad con lo autorizado por la ley.

#### **VI. Entrevista de los Padres Mexicanos**

Un representante consular podrá entrevistar a los padres mexicanos del menor bajo custodia y/o sujeto a la jurisdicción del Condado de conformidad con lo autorizado por la ley.

**VII. Factores a Considerar al Colocar a los Menores en México:**

A. El Trabajador Social Principal del Condado valorará la aptitud de la familia que solicite acoger al menor.

1. Llevar a cabo una valoración de riesgo: El Enlace de Migración contactará al familiar por teléfono y lo evaluará como lo haría con cualquier otro familiar (su conocimiento previo del abuso, su capacidad para cuidar y proveer al menor mexicano, su capacidad para proteger al menor mexicano del agresor, el plan más permanente que pudieran proveer, etc.)
2. Si luego de la entrevista telefónica el familiar resulta apropiado, se deberá contactar al Consulado por conducto del Enlace de Migración para solicitar que el DIF practique un estudio del hogar.

B. Si el familiar resulta apropiado, antes de que el menor sea colocado en México, el Condado deberá obtener documentación del Consulado que verifique que la colocación es apropiada. El Trabajador Social del Condado deberá organizar el viaje por los medios disponibles (que se determinarán caso por caso).

**VIII. Asuntos de Seguridad y del Viaje:**

A. El Enlace de Migración será responsable de informar al supervisor, al Administrador del Programa y al Consulado del itinerario de viaje tan pronto como sea posible.

B. El Consulado:

1. Coordinará que el DIF o la Secretaría de Relaciones Exteriores se encuentren en el aeropuerto de llegada con el Trabajador Social del Condado y el menor mexicano; y
2. Preparará los documentos necesarios para permitir que el menor mexicano viaje a México con el Trabajador Social del Condado.

**IX. Acuerdos Adicionales:**

A. Este MDE no interfiere de ninguna manera en la relación de trabajo del Condado con otras agencias gubernamentales mexicanas.

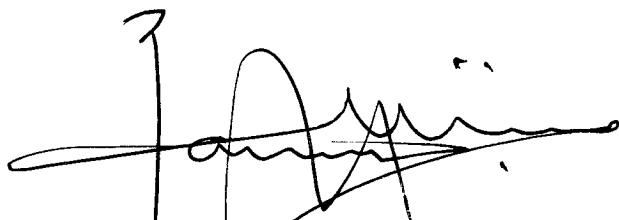
B. Este MDE entrará en vigor cuando se suscriba y tendrá plena vigencia hasta que cualquiera de las Partes notifique a la Otra sobre su intención de darlo por terminado.

C. Este MDE podrá ser enmendado mediante el consentimiento por escrito de ambas Partes. Toda enmienda deberá ser anexada al MDE y ser parte integrante del mismo.

D. Cualquiera de las Partes puede terminar este MDE en cualquier momento presentando a la otra Parte una notificación por escrito con treinta (30) días de anticipación. La terminación no tendrá efecto sobre los derechos y obligaciones de las Partes, derivadas de cualquier actividad ocurrida antes de la fecha efectiva de terminación. La notificación por escrito de la terminación se considerará debidamente emplazada cuando se entregue personalmente a la otra Parte, o en su lugar, cuando se deposite en el Correo de los Estados Unidos, con franqueo pagado, dirigido a la otra Parte.

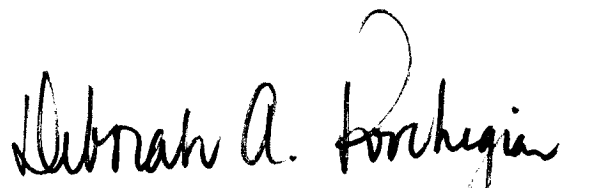
EN PRUEBA DE CONFORMIDAD, las Partes han firmado este Memorándum de Entendimiento por duplicado, en Fresno, el 12<sup>th</sup> de June de 2012, en español e inglés, siendo ambos textos igualmente válidos.

**POR EL CONSULADO DE MÉXICO  
EN FRESNO, CALIFORNIA**



Reyna Torres Mendivil  
Cónsul

**POR EL CONDADO DE FRESNO,  
CALIFORNIA DE LOS  
ESTADOS UNIDOS DE AMÉRICA**

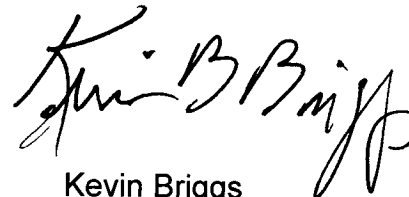


Deborah A. Porchegia  
Presidente de la Junta de Supervisores,  
Condado de Fresno



Berencie Seidel  
Secretaria de la Junta de Supervisores

Aprobado en la Forma Legal:



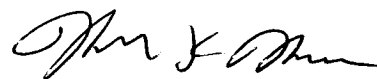
Kevin Briggs  
Consejero del Condado

Aprobado en la Forma Contable:

Vicki Crow  
C.P.A. Auditora-Contralora  
Tesorera-Fiscalizadora



Revisado y Recomendado para su  
Aprobación:



Howard K. Himes  
Director Departamento de Servicios  
Sociales