

L-351 /DSS
 Parking Lot/5610

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LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is made and entered into this 13th day of April, 2021 (the “Effective Date”), by and between Pontiac Parking Solutions LLC, 2780 N. Miami Ave., Ste. 101, Fresno, CA 93727, (“LESSOR”), and the COUNTY OF FRESNO, a political subdivision of the State of California, 333 W. Pontiac Way, Clovis, CA 93612 (“LESSEE”). LESSOR and LESSEE may be referred to in this Lease individually as a “Party” or collectively at times as the “Parties”.

1. PREMISES – LESSOR hereby leases to LESSEE the real property at the location commonly known as 2500 E. Dakota, Fresno, CA 93727, which includes approximately 600 parking stalls (“Parking Lot”), and which comprises a portion of Fresno County Assessor’s Parcel Number 493-070-34s, as depicted on Attachment “A”, which is attached to and by this reference incorporated herein (the “Premises”).

2. TERM – The term of this Lease shall be ten (10) years (the “Term” or “term”), commencing on the Effective Date of this Lease, and terminating on April 12, 2031.

3. RENT/OPERATION COSTS – LESSEE shall pay to LESSOR, on a monthly basis, both Base Rent and Additional Rent (as both terms are defined herein). Base Rent and Additional Rent shall hereinafter be collectively referred to as the “Rent.” If the Effective Date is not on the first day of a month, LESSEE shall pay Rent as prorated for such partial month.

4. Base Rent – LESSEE shall pay rent on a monthly basis for the Premises (“Base Rent”) as shown in the payment schedule below.

Rent Period	Parking
Year One	\$ 1.00
Year Two	\$ 1.00
Year Three	\$ 1.00
Year Four	\$ 1.00
Year Five	\$ 1.00
Year Six	\$ 1.00
Year Seven	\$ 1.00
Year Eight	\$ 1.00
Year Nine	\$ 1.00
Year Ten	\$ 1.00

1 5. ADDITIONAL RENT – In addition to the Base Rent, LESSEE shall pay on a
2 monthly basis as “Additional Rent”, the annual operations costs for the Premises
3 to LESSOR, consisting of 100% of LESSOR’S actual out of pocket costs for real
4 estate taxes, insurance, and all maintenance-related expenses incurred by
5 LESSOR allocable to the Premises (collectively, “Operation Costs”), as listed in
6 the Operating Budget attached as Attachment “B” and incorporated by this
7 reference. Anticipated total Operation Costs for the 2021 calendar year based on
8 current Operation Costs are \$105,454.12, as set forth in Attachment “B.” Based on
9 the foregoing estimate, LESSEE shall pay Additional Rent to LESSEE for each
10 month or partial month at the rate of \$8,787.84 per month, unless LESSOR
11 provides LESSEE with an revised budget or a statement (as described herein),
12 showing that LESSOR’s actual Operation Costs have increased, at which time
13 LESSEE shall pay Additional Rent in accordance with LESSOR’s revised budget
14 estimate or statement.

15 Within 90 days after the end of each calendar year this Lease is in force, LESSOR
16 shall furnish to LESSEE a statement covering the calendar year just expired, showing by cost
17 category the actual Operation Costs incurred for that year, and the monthly payments made
18 by LESSEE during that year for the Operation Costs. If LESSEE’s share of the Operation
19 Costs exceeds LESSEE’s prior payments, LESSEE shall pay to LESSOR, as Additional Rent,
20 the deficiency, within 45 days after receipt of such annual statement. If LESSEE’s payments
21 for the calendar year exceed LESSEE’s actual share of the Operation Costs, and provided
22 LESSEE is not in arrears as to the payment of any Rent, LESSEE may offset the excess
23 against any payments of Operation Costs next due LESSOR.

24 6. LESSEE RESPONSIBILITIES –
25 LESSEE shall be responsible to provide Security Patrols, and if the LESSEE so
26 desires, the installation of any Video Monitoring devices at the Premises.

27 7. UTILITIES –
28 LESSEE shall pay market rate to the LESSOR for metered electricity, which amounts

1 shall be included as a component of Operation Costs payable monthly to LESSOR as
2 Additional Rent.

3 8. MAINTENANCE AND REPAIRS – LESSOR shall be responsible for all
4 maintenance, drainage systems, electrical systems, and exterior lights and fixture ballasts,
5 painting, landscape, pest and bird control, parking and other maintenance at the Premises, as
6 set forth in Attachment “C”, which is attached and incorporated herein by reference. LESSOR
7 is responsible for the condition of the Premises, and agrees that the Premises will always be
8 maintained in a condition acceptable for the LESSEE'S intended use of the Premises. All
9 items of maintenance and repair set forth in Attachment “C” shall be included as a component
10 of Operation Costs payable monthly to LESSOR as Additional Rent.

11 In the event any systems malfunction that immediately impact the use of the Premises
12 by LESSEE, LESSOR shall respond within twenty-four (24) hours after contact by LESSEE to
13 diligently pursue repairs and replace equipment to restore the systems to full working order.
14 Structural issues shall be addressed within the same day such are reported. LESSOR
15 covenants that the Premises shall be maintained in substantially the same condition as
16 existing on the Effective Date.

17 LESSEE shall be responsible for damages and repairs caused by LESSEE or
18 LESSEE's employees, clients, contractors, or other invitees.

19 9. USE - LESSEE shall use the Premises as parking space for its Department of
20 Social Services or for any other County department. LESSEE shall strictly comply with all
21 applicable laws, ordinances, and regulations in connection with such use.

22 10. ALTERATIONS – LESSEE shall make no alterations, installation, changes, or
23 additions in or to the Premises (collectively, “Alterations”) without written consent from
24 LESSOR.

25 11. INDEPENDENT CONTRACTOR – In performance of the work, duties and
26 obligations assumed by LESSOR under this Lease, if any, it is mutually understood and agreed
27 that LESSOR, including any and all of the LESSOR'S officers, agents, and employees will at all
28 times be acting and performing as an independent contractor, and shall act in an independent

1 capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of
2 the LESSEE. Furthermore, LESSEE shall have no right to control or supervise or direct the
3 manner or method by which LESSOR shall perform its work and function; provided, LESSOR
4 shall satisfy and comply with its obligations as set forth herein.

5 LESSOR and LESSEE shall comply with all applicable provisions of law and the rules
6 and regulations, if any, of governmental authorities having jurisdiction over matters the
7 subject thereof.

8 Because of its status as an independent contractor, LESSOR shall have absolutely no
9 right to employment rights and benefits available to LESSEE'S employees. LESSOR shall be
10 solely liable and responsible for providing to, or on behalf of, its employees all legally-required
11 employee benefits. In addition, LESSOR shall be solely responsible and save LESSEE
12 harmless from all matters relating to payment of LESSOR'S employees, including compliance
13 with Social Security withholding and all other law and regulations governing such matters. It is
14 acknowledged that during the term of this Lease, LESSOR may be providing services to
15 others unrelated to the LESSEE or to this Lease.

16 12. COMPLIANCE WITH ALL LAWS – If any work is undertaken at the Premises by
17 or on behalf of LESSEE, LESSOR shall comply with, and shall ensure compliance by all
18 contractors and subcontractors with, all applicable laws and regulations, including the payment
19 of prevailing wages pursuant to Section 1770 et. seq. of the Labor Code. Notwithstanding the
20 foregoing, neither this Lease nor either party contemplates LESSOR undertaking any
21 improvements to the Premises during the term of this Lease.

22 13. NON-FUNDING TERMINATION – This Lease is contingent on the allocation of
23 funds by a governmental agency. Should funds not be allocated, this Lease may be
24 terminated by the Board of Supervisors at any time by giving at least thirty (30) days prior
25 written notice to LESSOR.

26 14. BREACH OF OBLIGATION TO MAINTAIN – In the event LESSOR breaches
27 its obligation to maintain the Premises as herein provided, LESSEE shall give written notice
28 to LESSOR within fifteen (15) days of the discovery of such breach. LESSOR shall then have

1 thirty (30) days from the date of such notice to cure its breach; however, if such default
2 continues beyond thirty (30) days after written notice thereof from LESSEE to LESSOR then
3 LESSOR will not be in default hereunder if within such thirty (30) day period, LESSOR
4 commences the curing of such default and diligently and in good faith prosecutes the same to
5 completion. If the period for cure expires and if, in LESSEE'S sole and reasonable
6 determination, LESSOR has failed to cure, then LESSEE may, at its election:

7 (A) terminate this LEASE by providing thirty (30) days prior written notice. In such
8 case, LESSEE shall have the right to demand LESSOR refund any monies
9 which, in the reasonable judgment of LESSEE, were paid to LESSOR
10 pursuant to the LEASE but which were not earned by LESSOR by
11 consequence of its breach. Upon receipt of such demand, LESSOR shall
12 promptly refund all such monies; or

13 (B) cure LESSOR'S breach and deduct the cost of such cure, together with
14 reasonable administrative costs, from LESSEE'S future rent obligation.
15 LESSEE'S decision to cure LESSOR'S breach shall not constitute a waiver of
16 any rights or remedies that LESSEE may have arising from this LEASE or by
17 operation of law, except that LESSEE shall not have the right to terminate
18 described above with respect to the circumstances related to such cured
19 breach.

20 15. CONDEMNATION OR PROHIBITED USE – If the Premises, or any portion
21 thereof, is appropriated, condemned, or taken by any governmental authority or public agency
22 other than LESSEE by use or exercise of eminent domain proceedings or other proceedings,
23 or by inverse condemnation, or is sold under threat of use or exercise of eminent domain by
24 any governmental authority or public agency other than LESSEE, or if by reason of law,
25 ordinance, regulation, or court judgment, LESSEE's use or occupancy of the Premises, or
26 any portion thereof, shall be materially and adversely affected for the period set forth in
27 clause (i) below, but excluding therefrom any day that is not a LESSEE business day
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1 (hereinafter collectively "Condemnation or Prohibited Use"), then LESSEE shall have the right
2 to do either of the following:

3 (i) If the Condemnation or Prohibited Use has a material adverse effect on
4 LESSEE's use and occupancy of the Premises and is reasonably anticipated
5 to impact such use in excess of ninety (90) days, then LESSEE may terminate
6 this LEASE by giving written notice thereof to LESSOR. Such notice shall
7 specify a date of termination of this LEASE not less than one hundred eighty
8 (180) calendar days, and not more than two-hundred ten (210) calendar days,
9 from the date of such notice, or from the date that LESSEE's use of the
10 Premises will be materially adversely affected pursuant to the notice LESSEE
11 receives from LESSOR of such appropriation, condemnation, taking, or sale
12 that shall prohibit LESSEE's use or occupancy of the Premises, or the affected
13 part thereof, whichever is earlier. The County Administrative Officer or the
14 Director of Internal Services/Chief Information Officer, or a designee of one of
15 them, shall have the authority to provide such notice on behalf of LESSEE.

16 (ii) LESSEE may renegotiate with LESSOR with respect to the terms of any
17 amounts to be owed by LESSEE hereunder, including any portion or
18 installment of the Rent, when such are due and payable, and/or any other
19 amounts otherwise due and payable hereunder, for the remainder of Premises
20 not affected by such Condemnation or Prohibited Use during the balance of
21 the term of this Lease. Any such renegotiated terms of the Rent, and/or any
22 other amounts otherwise to be due and payable herein shall be sought in good
23 faith and without unreasonable delay by the Parties, and made only by written
24 amendment, pursuant to Section 22, herein.

25 16. DESTRUCTION OR DAMAGE FROM CASUALTY – If the Premises are
26 damaged or destroyed as a result of fire, earthquake, act of God, or any other identifiable
27 event of a sudden, unexpected, or unusual nature ("Casualty"), then LESSOR shall either
28 promptly and diligently repair the damage at its own cost, or terminate this Lease as

1 hereinafter provided. If LESSOR obtains any proceeds from the Property Insurance Policy (as
2 defined in Section 18 herein) that are not otherwise payable to any mortgagee or beneficiary,
3 and this Lease is not terminated as a result of such Casualty pursuant to the terms hereof,
4 then LESSOR shall promptly apply all of such insurance proceeds toward the repair and
5 restoration of the Premises pursuant to LESSOR's obligations under this Section 16.

6 (A) LESSOR'S Election to Repair: If LESSOR elects to repair the Casualty
7 damage to the Premises, then it shall within fifteen (15) days after the date of
8 Casualty or as soon as possible thereafter provide written notice ("Notice of
9 Repair") to LESSEE indicating the anticipated time required to repair.
10 LESSOR shall bear the cost of all repairs to the Premises, including the cost
11 to repair any alterations or fixtures installed or attached thereto by LESSEE.
12 Such repairs shall restore the Premises to substantially the same condition
13 as existing on the Effective Date; such repairs shall also be made in
14 compliance with all applicable state and local building codes. LESSOR shall
15 not be liable to LESSEE for compensation for any loss of business, or any
16 inconvenience or annoyance arising from repair of the Premises as a result
17 of the Casualty except for rent reduction as hereinafter provided. LESSEE
18 shall be responsible at its sole cost and expense for the replacement of its
19 personal property.

20 (B) LESSOR'S Election to Terminate Due to Casualty: LESSOR may only elect
21 to terminate this LEASE due to Casualty if: the Premises have been
22 destroyed or substantially destroyed by said Casualty; and the estimated
23 time to repair the Premises exceeds sixty (60) days from the date of the
24 Casualty. LESSOR shall provide LESSEE with written notice of its election to
25 terminate within forty-five (45) days after the date of Casualty, specifying a
26 termination date not less than thirty (30) days from the date of said notice.

27 (C) Rent Reduction Due to Casualty: In the event of Casualty, LESSEE'S
28 obligation to pay Rent shall be reduced beginning on the date of the

1 Casualty. Such reduction shall be proportional to the damage caused to the
2 Premises by the Casualty as reasonably determined by LESSEE. If LESSOR
3 elects to repair the Premises pursuant to the terms of this LEASE, to the
4 extent the premises remain unusable then the rent reduction shall continue
5 until the date of substantial completion of repair.

6 (D) LESSEE'S Election to Terminate Due to Casualty: If LESSEE does not
7 receive a Notice of Repair from LESSOR within fifteen (15) days, or as soon
8 as reasonably possible after a Casualty, or if the anticipated period of repair
9 contained in the Notice of Repair exceeds ninety (90) days, then LESSEE
10 may elect to terminate this LEASE by providing thirty (30) days prior written
11 notice to LESSOR. In such case, LESSEE shall have the right to demand
12 that LESSOR refund any monies which, in the reasonable judgment of
13 LESSEE, were paid to LESSOR pursuant to the LEASE but which were not
14 earned by LESSOR by consequence of the Casualty. Upon receipt of such
15 demand, LESSOR shall promptly refund all such monies.

16 17. HOLD HARMLESS – LESSOR will indemnify, defend, and hold LESSEE
17 harmless from and against any and all liabilities, claims, demands, actions, proceedings,
18 costs (including attorney's fees and costs), expenses or damages of any kind or nature
19 (collectively, "Claims") in any manner directly or indirectly caused, occasioned or contributed
20 to by reason of the negligence, whether active or passive, of LESSOR or anyone acting under
21 its direction or control or on its behalf in connection with or incidental to the performance of
22 LESSOR'S obligations pursuant to this Lease.

23 LESSEE will indemnify, defend, and hold LESSOR harmless from and against any
24 Claims in any manner directly or indirectly caused, occasioned or contributed to by reason of
25 the negligence, whether active or passive, of LESSEE or anyone acting under its direction or
26 control or on its behalf in connection with or incidental to the performance of this Lease or any
27 Claims otherwise arising in connection with LESSEE'S use and occupancy of the Premises.

28 The parties acknowledge that as between LESSOR and LESSEE, each is

1 responsible for any Claims arising from the acts or omissions of its own employees and
2 invitees, and notwithstanding anything to the contrary in this Section 17, each Party hereby
3 waives any claim for or right to consequential or punitive damages.

4 18. INSURANCE –

5 A. LESSOR shall maintain in full force and effect, the following insurance
6 policies throughout the term of the Lease:

7 1. Commercial General Liability - Commercial General Liability Insurance

8 covering the common areas located on the Premises with limits of not less
9 than Two Million Dollars (\$2,000,000) per occurrence and an annual
10 aggregate of Four Million Dollars (\$4,000,000). This policy shall be issued
11 on a per occurrence basis.

12 2. Property Insurance – A “Property Insurance Policy” which is defined herein

13 to mean a policy of special form, so called “all-risk” of physical loss
14 property insurance insuring against fire, theft, vandalism, malicious
15 mischief, sprinkler leakage and such additional perils as are now or
16 hereafter may be included in broad form coverage (at LESSOR or
17 LESSEE’s option or if otherwise required by LESSOR’s mortgagee, if any,
18 also to include coverage against earthquake and flood) from time to time in
19 general use in the State of California covering the full replacement value of
20 all alterations, additions, partitions, improvements, machinery, equipment,
21 and fixtures made or placed by LESSEE in the Premises, covering the
22 improvements on the Premises, and covering any other perils which
23 LESSEE deems reasonably necessary and so requests to be covered by
24 written notice to LESSOR. The Property Insurance Policy shall name
25 LESSOR and the holder of any mortgage or deed of trust encumbering the
26 Premises (if any), as its interest may appear, as a loss payee under such
27 policy. The limits for such insurance shall be for not less than the full
28 replacement value of the parking lot as improved and existing as of the

1 date of Casualty (the "Minimum Insured Amount"). On the Effective Date,
2 from time to time as LESSEE makes improvements to the Parking Lot,
3 upon LESSOR's request, and at such other times during the Term as
4 LESSEE elects in its discretion, LESSEE shall deliver to LESSOR written
5 notice of the Minimum Insured Amount and LESSOR shall communicate
6 such Minimum Insured Amount to its insurer. Neither LESSOR nor
7 LESSEE shall do or permit anything to be done which invalidates any such
8 insurance policies.

9 3. Rental Loss Insurance - A policy of rental interruption or rental loss
10 insurance against loss, total or partial, of the use and occupancy of the
11 Premises, in an amount sufficient to pay the Base Rent and Additional
12 Rent required to be paid by LESSEE hereunder for a twenty – four (24)
13 month period, as a result of any of the hazards covered by the Property
14 Insurance Policy required hereunder.

15 4. Worker's Compensation - Worker's Compensation insurance, if required by
16 the California Labor Code.

17 LESSOR shall obtain endorsements to the Commercial General Liability
18 insurance naming the County of Fresno ("County"), its officers, agents, and employees,
19 individually and collectively, as additional insured, but only insofar as the operations under
20 this Lease are concerned. This insurance shall not be cancelled or changed without a
21 minimum of thirty (30) days advance written notice given to County.

22 Within (30) days after the Effective Date, LESSOR shall provide certificates of
23 insurance and endorsement as stated above for all of the foregoing policies, as required
24 herein, to the County of Fresno, Attn: ISD Lease Services (L-351), 333 W. Pontiac Way,
25 Clovis, CA 93612, stating that such insurance coverages have been obtained and are in full
26 force; that such Commercial General Liability insurance names the LESSEE, its officers,
27 agents, and employees, individually and collectively, as additional insured as required herein,
28 that for such worker's compensation insurance the CONTRACTOR has waived its right to

1 recover from the COUNTY, its officers, agents, and employees any amounts paid under the
2 insurance policy and that waiver does not invalidate the insurance policy; and that such
3 insurance shall not be cancelled or changed without a minimum of thirty (30) days advance,
4 written notice given to LESSEE.

5 In the event LESSOR fails to keep in effect at all times insurance coverage as
6 herein provided, then LESSEE may, after thirty (30) days written notice to LESSOR, obtain
7 such insurance on LESSOR'S behalf and offset Base Rent by the amount of such insurance
8 premiums incurred by LESSEE after providing written notice of such amounts and proof of
9 insurance to LESSOR.

10 The costs incurred by LESSOR in obtaining and maintaining the insurance policies
11 required of LESSOR hereunder (including any deductibles payable in the event of a loss
12 covered by such policies) shall be referred to herein collectively as "LESSOR'S Insurance
13 Costs" and shall be reimbursable to LESSOR as Additional Rent in accordance with Section 5
14 hereinabove.

15 B. LESSEE shall maintain during the term of this Lease the following policies of
16 insurance, which coverages may be provided in whole or in part through one
17 or more programs of self-insurance (provided that any such self-insurance
18 program shall not diminish or reduce LESSEE'S liability hereunder):

- 19 i. Commercial General Liability insurance with limits of not less than
20 Two Million Dollars (\$2,000,000.00) per occurrence and an annual
21 aggregate of not less than Four Million Dollars (\$4,000,000.00).
22 This policy shall be issued on an occurrence basis, shall name
23 LESSOR as additional insured, and shall be primary and non-
24 contributing as to occurrences and claims in connection with events
25 occurring within the Parking Lot (as opposed to in the common area
26 of the Premises for which LESSOR'S Commercial General Liability
27 policy shall be primary).
28 ii. All-Risk property insurance. A Special form casualty insurance

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coverage which shall include fire and such other perils as are customarily included in such insurance maintained by prudent tenants leasing similar space in the same general area of the Premises, in an amount adequate to cover the replacement cost of (i) LESSEE’S merchandise, trade fixtures, furnishings, equipment and other personal property of LESSEE located on or within the Premises, and (ii) at LESSEE’s option, the leasehold improvements, alterations and additions to the Premises for which LESSOR shall be named as a loss payee under such insurance, provided however, the proceeds of such insurance shall be delivered to and used by LESSOR to repair or replace the affected leasehold improvements, alterations and additions, and if not so used, shall be paid to LESSEE.

C. LESSEE shall provide copies of the insurance policies, appropriately authenticated by the insurer, or original insurance certificates reasonably acceptable to LESSOR, evidencing the insurance coverages called for above. Such copies of policies or certificates shall be furnished to LESSOR upon execution of this Lease. The policies or certificates shall contain a provision that the insurer will not cancel or refuse to renew the policies, or change in any material way the nature or extent of the coverage provided by such policies without first giving LESSOR thirty (30) days prior written notice. Thirty (30) days prior to expiration of any policies of insurance carried by LESSEE, LESSEE shall provide proof of continuing coverage.

D. Waiver of Subrogation. Neither LESSOR nor LESSEE shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any parking lot, structure or other tangible property, or any resulting loss of income and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents

1 or employees, if any such loss or damage is covered by insurance benefiting the
2 party suffering such loss or damage or was required to be covered by insurance
3 pursuant to this Lease. LESSOR and LESSEE shall require their respective
4 insurance companies to include a standard waiver of subrogation provisions in
5 their respective policies.

6 All policies hereunder shall be with admitted insurers licensed to do business in the
7 State of California. Insurance purchased shall be purchased from companies possessing a
8 current A.M Best Company rating of A FSC VII or better.

9 19. SURRENDER OF POSSESSION / HOLDOVER – Upon the expiration or
10 termination of this Lease, LESSEE will surrender the Premises to LESSOR broom clean and
11 otherwise in such condition as existing on the Effective Date, less reasonable wear and tear,
12 but including all improvements made by LESSEE. If LESSEE holds over after the expiration
13 of the Term or earlier termination thereof, with or without the express or implied consent of
14 LESSOR, such tenancy shall be tenancy at sufferance only, and shall not constitute a
15 renewal hereof or an extension for any further term, and in such case LESSEE shall pay one
16 hundred three percent (103%) of the Base Rent in effect just prior to expiration or termination,
17 until either party gives the other thirty (30) days written notice of termination, reciting therein
18 the effective date of cancellation. LESSOR hereby expressly reserves the right to require
19 LESSEE to surrender possession of the Premises to LESSOR as provided in this Lease upon
20 the expiration or other termination of this Lease. The provisions of this Section 19 shall not be
21 deemed to limit or constitute a waiver of any other rights or remedies of LESSOR provided
22 herein or at law.

23 20. FIXTURES – LESSOR agrees that any equipment, fixtures or apparatus
24 installed in or on the Premises by LESSEE shall continue to be the property of LESSEE and
25 may be removed by LESSEE at any time. LESSEE shall pay for the repair of any damage
26 caused by the removal of fixtures. Any fixtures not removed after LESSEE surrenders
27 possession shall be deemed abandoned by LESSEE, and become the property of LESSOR.

28 21. RIGHT OF ENTRY – LESSOR, or its representative(s), upon twenty-four (24)

1 hour notice, or immediately in the event of an emergency, shall have the right to enter the
2 Premises at any time during business hours, or at such other time as LESSEE deems
3 appropriate, to make any alterations, repairs or improvements to the Premises. The normal
4 business of LESSEE or its invitees shall not be unnecessarily inconvenienced. In the event of
5 an emergency, LESSOR may enter the Premises at any time without giving prior notice to
6 LESSEE.

7 22. AMENDMENT – This Lease may be amended in writing by the mutual consent
8 of the parties without in any way affecting the remainder of this Lease.

9 23. NON-ASSIGNMENT – Neither Party shall assign, transfer or sub-let this Lease,
10 or the rights or duties under this Lease, without the prior written consent of the other Party, which
11 consent shall not be unreasonably withheld or denied, except that LESSOR may sell or
12 refinance the Premises or any part thereof, in which case LESSOR shall promptly notify
13 LESSEE in writing of such sale or refinancing. Further, in the event of any such assignment,
14 sublease or transfer of LESSEE’s rights or obligations hereunder, the originally named LESSEE
15 hereunder (i.e., the County of Fresno, a political subdivision of the State of California) shall
16 remain fully and primarily liable for all duties and obligations of LESSEE under this Lease.

17 24. GOVERNING LAW – Venue for any action arising out of or relating to this
18 Lease shall be in Fresno County, California. This Lease shall be governed by the laws of the
19 State of California.

20 25. AUDITS AND INSPECTIONS – The LESSOR shall at any time during
21 business hours, and as often as LESSEE may deem necessary, make available to the
22 LESSEE for examination all of its records and data with respect to the matters covered by this
23 Agreement. The LESSOR shall, upon request by LESSEE, permit LESSEE to audit and
24 inspect all of such records and data necessary to ensure LESSOR compliance with the terms
25 of this Lease.

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

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26. NOTICES – The persons and their addresses having authority to give and

receive notices under this Lease include the following:

LESSEE:

LESSOR:

County of Fresno
Jean M. Rousseau
County Administrative Office (CAO)
2281 Tulare Street, Suite 304
Hall of Records
Fresno, CA 93721
(559) 600-1710

Pontiac Parking Solutions LLC
Attn: Clayton Medina
2780 N. Miami Ave., Ste. 101
Fresno, CA 93727
(559) 346-1400

with copies to:

County of Fresno
Robert W. Bash (L-328)
Director of Internal Services
333 W. Pontiac Way
Clovis, CA 93612
(559) 600-6200

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

1 27. DISCLOSURE OF SELF DEALING TRANSACTIONS – This provision is only
2 applicable if the LESSOR is operating as a corporation (a for-profit or non-profit corporation)
3 or if during the term of this Lease, the LESSOR changes its status to operate as a
4 corporation.

5 Members of LESSOR’S Board of Directors shall disclose any self-dealing transactions
6 that they are a party to while LESSOR is providing goods or performing services under this
7 Lease. A self-dealing transaction shall mean a transaction to which the LESSOR is a party
8 and in which one or more of its directors has a material financial interest. Members of the
9 Board of Directors shall disclose any self-dealing transactions that they are a party to by
10 completing and signing a *Self-Dealing Transaction Disclosure Form* Attachment “D”, attached
11 hereto and by this reference incorporated herein, and submitting it to the County of Fresno
12 prior to commencing with the self-dealing transaction or immediately thereafter.

13 28. SUCCESSORS – This Lease shall inure to the benefit of and be binding upon
14 the heirs, executors, administrators, successors and assigns of the respective parties hereto,
15 always providing that nothing in this Section 28 shall impair any of the provisions herein
16 above set forth prohibiting assignment or other transfer of this Lease by LESSEE without the
17 prior written consent of LESSOR.

18 29. LESSEE'S DEFAULT AND LESSOR'S REMEDIES –

19 A. LESSEE’S Default. LESSEE shall be in default under this Lease if LESSEE
20 fails to perform any of its obligations hereunder, and (i) if the failure is in the
21 payment of Base Rent, or any other failure which can be cured by the payment
22 of money, the failure continues uncured for a period of five (5) days after
23 written notice thereof from LESSOR (provided, however, LESSOR shall have
24 no obligation to provide such written notice more than two (2) times in any
25 twelve (12) consecutive month period), or (ii) if the failure is in any of the other
26 provisions of this Lease and such failure continues uncured for a period of
27 thirty (30) days after written notice thereof from LESSOR, unless such cure is
28 not capable of completion within thirty (30) days, in which case LESSEE shall

1 be afforded such additional time as may be reasonably necessary to complete
2 the cure, provided LESSEE commences the cure within thirty (30) days of
3 LESSOR'S notice and diligently pursues such cure to completion, or, in the
4 event of a threatened injury to life or property due to such failure, continues for
5 such lesser period as LESSOR may specify in such written notice.

6 B. LESSOR'S Remedies. In the event of a default by LESSEE, LESSOR shall
7 have the right to terminate this Lease by giving written notice of termination to
8 LESSEE or, if LESSEE'S address is unknown, by posting such notice on the
9 Premises.

10 C. No Event of Default. Notwithstanding anything herein to the contrary, LESSEE
11 shall NOT be in default under this LEASE solely because of the failure to pay
12 any amounts to be owed by LESSEE hereunder — including any portion or
13 installment of the Base Rent, when they are to be due and payable herein,
14 and/or any other amounts otherwise due and payable herein—to the extent such
15 amounts are subject to abatement as set forth in Section 33, herein.

16 D. No Acceleration of Future Rent or Other Payments/Amounts. Notwithstanding
17 anything to the contrary contained herein this Lease or any right or remedy of
18 which LESSOR may otherwise avail itself pursuant to applicable law, any right
19 of LESSOR to recover any rents (including Base Rent and Additional Rent)
20 and/or any other amounts to be paid by LESSEE as provided in this Lease shall
21 be without acceleration of any future Base Rent and/or any future Additional
22 Rent, and/or any other amounts to be paid by LESSEE herein, before they are
23 due and payable hereunder. LESSOR hereby expressly waives its right to
24 accelerate rent in the event of a termination of this Lease pursuant to Civil Code
25 section 1951.2.

26 30. WAIVER – No covenant or condition of this Lease shall be deemed waived,
27 except by the written consent of LESSOR or LESSEE, as appropriate, and any forbearance
28 or indulgence by the party entitled to performance shall not constitute a waiver of the

1 covenant or condition to be performed. Until complete performance of such covenant or
2 condition, the party entitled to performance shall have the right to invoke any remedy
3 available to it under this Lease or by law, despite such forbearance or indulgence. The
4 subsequent acceptance of Rent hereunder by LESSOR shall not be deemed to be a waiver of
5 any preceding default by LESSEE of any term, covenant or condition of this Lease, other than
6 the failure of LESSEE to pay the particular Rent so accepted, regardless of LESSOR'S
7 knowledge of such preceding default at the time of acceptance of such Rent.

8 31. LATE CHARGES – LESSEE hereby acknowledges that late payment by
9 LESSEE to LESSOR of Rent or other sums due hereunder shall cause LESSOR to incur
10 costs not contemplated by this Lease, the exact amount of which will be extremely difficult to
11 ascertain. Such costs include, but are not limited to, processing and accounting charges.
12 Accordingly, if any installment of Rent or any other sums due from LESSEE are not received
13 by LESSOR or LESSOR'S assignee within forty-five (45) days after the date due, then
14 LESSEE shall pay to LESSOR a late charge equal to three percent (3%) of such overdue
15 amount; provided that any payment postmarked by the 5th of the month shall be presumed to
16 be mailed in a timely manner. The parties hereby agree that such late charge represents a
17 fair and reasonable estimate of the cost that LESSOR will incur by reason of the late payment
18 by LESSEE. Acceptance of such late charges by LESSOR shall in no event constitute a
19 waiver of LESSEE'S default with respect to such overdue amounts, nor prevent LESSOR
20 from exercising any of the other rights and remedies granted hereunder. In addition, LESSEE
21 shall pay to LESSOR interest at the Interest Rate, as defined in Section 32, herein, on any
22 delinquent payments, commencing ninety (90) days after the date payment was due and
23 continuing until paid.

24 32. INTEREST – Any amount owing from one party to the other under this Lease
25 which is not paid within ninety (90) days of the date when due shall thereafter bear interest at
26 the Interest Rate. As used herein, the term "Interest Rate" means a per annum rate of interest
27 equal to the lesser of (i) the then most recent annual prime or reference rate of interest
28 announced by Bank of America N.A. (or in the event Bank of America N.A. ceases to publish

1 a prime or reference rate, the prime rate of a comparable national banking institution
2 reasonably agreed upon by the parties), or (ii) the maximum rate permitted by applicable law.

3 33. ABATEMENT OF BASE RENTS, AND OTHER PAYMENTS – Notwithstanding
4 anything to the contrary in this Lease, (i) LESSEE’s obligations to pay the Base Rent, and/or
5 any other amounts otherwise due and payable hereunder to LESSOR shall be abated during
6 any period, and to the extent, that the Premises, or any portion thereof (in the case of an
7 affected portion of the Premises, then, such abatement shall also be in proportion thereof),
8 cannot be used and occupied by LESSEE pursuant to this Lease as a result of any title defect
9 (excluding any permitted encumbrances at execution date), or of any Condemnation or
10 Prohibited Use of the Premises, or any portion thereof, and (ii) any abatement of any Base
11 Rent, and/or other amounts otherwise due and payable, herein pursuant to this Section shall
12 not be deemed to be a default under this Lease on the part of LESSEE.

13 Abatement of any Base Rent, and/or of any other amounts otherwise due and payable
14 hereunder shall only suspend the period during which LESSEE is otherwise required to pay
15 Base Rent, and/or any other amounts otherwise due and payable, hereunder to LESSOR,
16 and shall not relieve LESSEE from subsequently paying the remainder of all such Base Rent ,
17 and/or any other amounts otherwise due and payable herein, pursuant to this Lease once the
18 condition giving rise to the abatement has been cured, corrected, eliminated, or satisfactorily
19 resolved. Such abatement shall continue for the period commencing with the date of such title
20 defect referred to in this Section 33, or of any Condemnation or Prohibited Use of the
21 Premises, or any portion thereof, and ending with the cure, correction, elimination or
22 satisfactory resolution of the title defect whereby LESSEE may use and occupy the Premises,
23 or the adversely affected portion thereof, pursuant to this LEASE. Cure, correction,
24 elimination or satisfactory resolution may, upon prior mutual written approval of LESSOR and
25 LESSEE (which the parties will negotiate in good faith and without unreasonable delay),
26 occur in commercially reasonable stages, as determined by the nature of the problem being
27 remedied and the impact that such staged remedial action and the coordination and timing
28 thereof would have on LESSEE. LESSEE’s Director of Internal Services/Chief Information

1 Officer, or his/her designee, shall be authorized to execute such written approval for LESSEE.

2 The monthly Base Rent, and any other amounts otherwise due and payable
3 hereunder by LESSEE to LESSOR with respect to the Premises, or any portion thereof, shall
4 be abated to the extent that the amount of the monthly fair rental value of the portion of the
5 Premises in respect of which there is no substantial interference with LESSEE's use and
6 occupancy of the Premises is less than the amount of monthly Base Rent and any other
7 amounts otherwise due and payable hereunder, in which case the monthly Base Rent and
8 any other amounts otherwise due and payable hereunder shall be abated only by an amount
9 equal to the difference thereof.

10 During the occurrence of any Casualty which is covered by rental interruption
11 insurance or rental loss insurance (See Section 18A(3) herein) the proceeds of any rental
12 interruption insurance or rental loss insurance that LESSOR may receive as a result of such
13 Casualty shall be applied by LESSOR, to the credit of LESSEE, for any monthly Base Rent,
14 and any other amounts otherwise due and payable hereunder; in such instance of such
15 amounts so received, LESSOR shall so inform LESSEE of any such amounts so received.

16 Nothing contained in this Section 33 shall obligate LESSEE for payments of Base
17 Rent, and/or any other amounts otherwise due and payable hereunder if this LEASE is
18 terminated pursuant to Sections 14, 15 or 16 herein.

19 34. LESSOR EXCULPATION – It is expressly understood and agreed that
20 notwithstanding anything in this Lease to the contrary, and notwithstanding any applicable law
21 to the contrary, the liability of LESSOR and the LESSOR'S members, owners, agents,
22 employees, and partners (including any successor landlord) (collectively, the "LESSOR
23 Parties") and any recourse by LESSEE against LESSOR or the LESSOR Parties shall be
24 limited solely and exclusively to an amount which is equal to the ownership interest of
25 LESSOR in the Parking Lot in which the Premises is located (excluding any proceeds
26 thereof), and neither LESSOR, nor any of LESSOR's members shall have any personal
27 liability therefor, and LESSEE hereby expressly waives and releases such personal liability on
28 behalf of itself and all persons claiming by, through or under LESSEE.

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35. RESERVED.

36. COUNTERPARTS – This Lease may be executed in one or more counterparts (which may be facsimile or .pdf e-mail counterparts followed by originals), each of which will be deemed an original and all, taken together, will constitute one and the same instrument.

37. FORCE MAJEURE – In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, adverse weather (including rain), inability to procure labor or materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, fire or other casualty or other reason of a similar nature beyond the reasonable control of the party delayed in performing work or doing the act required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period from the performance of any such act shall be extended for a period equivalent to the period of such delay (any such delay is herein referred to as an “Force Majeure Delay”). In no event shall LESSEE’S inability to satisfy a monetary obligation hereunder constitute or be subject to Force Majeure Delay.

38. ESTOPPEL CERTIFICATE – LESSEE shall, at any time upon not less than thirty (30) days prior request by LESSOR, execute, acknowledge and deliver to LESSOR a written estoppel certificate, in a form satisfactory to LESSOR, certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and, if applicable, the dates to which the Rent and any other charges have been paid in advance. Any such statement delivered pursuant to this Section 38 may be relied upon by third persons, including a prospective purchaser or encumbrancer of the Premises.

LESSEE’S failure to execute and deliver an estoppel certificate within thirty (30) days after LESSEE’S receipt of LESSOR’S written request therefore shall be conclusive upon LESSEE that this Lease is in full force and effect, without modification except as may be represented by LESSOR, that there are no uncured defaults in LESSOR’S performance, that not more than one month’s rental has been paid in advance, and that all other statements

1 required to be made in the estoppel certificate are conclusively made.

2 39. SUBORDINATION AND ATTORNMENT – At LESSOR’S option, this Lease
3 shall be subordinated to any mortgage or deed of trust which is now or shall hereafter be
4 placed upon the Premises, and LESSEE agrees to execute and deliver any instrument which
5 may be necessary to further effect the subordination of the Lease to any such mortgage or
6 deed of trust; provided, however, that such instrument of subordination shall provide, or the
7 mortgagee or beneficiary of such mortgage or deed of trust otherwise shall agree in writing in
8 recordable form delivered to LESSEE, that the mortgagee or beneficiary, including their
9 successors and assigns, recognize LESSEE’S leasehold interest under this Lease and that so
10 long as LESSEE is not in default under this Lease, LESSEE shall continue in its quiet
11 enjoyment of the Lease, and foreclosure of any such mortgage or deed of trust or sale
12 pursuant to exercise of any power of sale thereunder, or deed given in lieu thereof, shall not
13 affect this Lease but such foreclosure or sale, or deed given in lieu thereof, shall be made
14 subject to this Lease, which shall continue in full force and effect, binding on LESSEE, as
15 lessee, and the transferee, as lessor. LESSEE shall attorn to the transferee as if said
16 transferee was LESSOR under this Lease.

17 40. AUTHORITY – Each individual executing this Lease on behalf of LESSOR
18 represents and warrants that the individual(s) executing this Lease on behalf of LESSOR are
19 duly authorized to execute and deliver this Lease on behalf of Cook Land Company, Inc., a
20 California corporation, and that this Lease is binding upon Pontiac Parking Solutions LLC, in
21 accordance with its terms.

22 41. ELECTRONIC SIGNATURES. The parties agree that this Lease may be
23 executed by electronic signature as provided in this section. An “electronic signature” means
24 any symbol or process intended by an individual signing this Lease to represent their
25 signature, including but not limited to (1) a digital signature; (2) a faxed version of an original
26 handwritten signature; or (3) an electronically scanned and transmitted (for example by PDF
27 document) of a handwritten signature. Each electronic signature affixed or attached to this
28 Lease (1) is deemed equivalent to a valid original handwritten signature of the person signing

1 this Lease for all purposes, including but not limited to evidentiary proof in any administrative
2 or judicial proceeding, and (2) has the same force and effect as the valid original handwritten
3 signature of that person. The provisions of this section satisfy the requirements of Civil Code
4 section 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division
5 3, Part 2, Title 2.5, beginning with section 1633.1). Each party using a digital signature
6 represents that it has undertaken and satisfied the requirements of Government Code section
7 16.5, subdivision (a), paragraphs (1) through (5), and agrees that each other party may rely
8 upon that representation. This Lease is not conditioned upon the parties conducting the
9 transactions under it by electronic means and either party may sign this Lease with an original
10 handwritten signature.

11 42. ENTIRE AGREEMENT – This Lease constitutes the entire Lease between the
12 LESSOR and LESSEE with respect to the subject matter hereof, and supersedes all prior
13 leases, negotiations, proposals, commitments, writings, advertisements, publications, and
14 understandings of any nature whatsoever unless expressly referenced in this Lease.

15 43. SEVERABILITY – Each provision of this Lease is severable from any and all
16 other provisions of this Lease. Should any provision(s) of this Lease be for any reason
17 unenforceable, the balance shall nonetheless be of full force and effect.

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20 [SIGNATURES ON FOLLOWING PAGE(S)]
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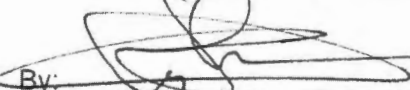
L-351 /DSS
Parking Lot/5610


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IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first
hereinabove written.

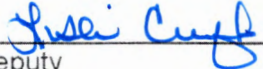
LESSOR:
Pontiac Parking Solutions LLC

LESSEE:
COUNTY OF FRESNO,

By: 
Clayton Medina, CFO

By: 
Steve Brandau, Chairman Board of
Supervisors of the County of Fresno

ATTEST:
BERNICE E. SEIDEL, CLERK
BOARD OF SUPERVISORS

By: 
Deputy

ATTACHMENT "A"

Premises Map



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Attachment "B"

Maintenance Operating Budget

Services	Monthly	Annually
Landscape	\$ 3,029.36	\$ 36, 352.36
Daily Trash Service	\$ 1,078.36	\$ 12,940.30
Sweeping	\$ 1,235.62	\$ 14,827.43
Repairs & Maintenance	\$ 424.04	\$ 5,088.50
Water	\$ 310.44	\$ 3,725.28
Electricity	\$ 1,572.61	\$ 18,871.32
Real Estate Tax	\$ 333.33	\$ 4,000.00
Insurance	\$ 41.67	\$ 500.00
Administration	\$ 762.42	\$ 9,148.99
Asphalt Maintenance	-	-
Fencing, Gates, Operators	-	-
Total	\$ 8,787.84	\$ 105,454.12

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4 **ATTACHMENT "C"**
5 **Premises Services**

6 **Landscape**

- 7 1. Maintenance of all Landscaped areas on the Premises
8 2. All Tree Maintenance
9 3. Plant replacement

10 **Daily Trash Service**

- 11 1. Daily removal of trash/litter

12 **Parking Lot**

- 13 1. Contract Vacuuming
14 a. 1 x a month sweeping of all parking lot stalls
15 2. Resurfacing or repaving

16 **Fencing, Gates and Operators**

- 17 1. Servicing and repair of all Fencing, Gates and Operators

18 **Vendors**

- 19 1. Lessee shall have the right to approve all vendors.

20 **On-Site Management**

- 21 1. Property Management available upon request
22 2. 1 x week - Property Management assessment of parking lot visits with lead personnel
23 3. Property Management or their representative will visit the parking lot on a daily basis
Monday through Friday.

24 **Utilities**

- 25 1. Utility - Electric & Water - Lessee pays to LESSOR

26 **Insurance**

- 27 1. Property Insurance based on then current parking lot value
28 2. General Liability
3. Other coverages, including earthquake insurance

Property Taxes

1. Property taxes and assessments

Operating Expenses

1. Operating expenses shall be considered Additional Rent under the Lease.
2. Additional rent shall be paid by Lessee on or about the 1st of the month along with monthly Base Rent. Each payment shall be equal to 1/12th of the annual budget.
3. Lessor shall deliver to Lessee an annual good faith Operating Expense budget at least 120 days prior to the start of the next calendar year.

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4. Within 90 days after the year is completed, Lessor shall submit to Lessee a reconciliation of the actual Operating Expenses.
5. Any overpayment of Operating Expenses shall, at Lessor's option, either be refunded to Lessee within thirty (30) days after Lessor's delivery of the statement setting forth such amount OR credited against Lessee's installment(s) of the rent next becoming due under this Lease. Any underpayment shall be paid by Lessee to Lessor within 45 days.

Modification

This attachment may be modified upon the mutual agreement of both parties.

Management Fee

Lessee shall pay a 9.5% Administration Fee to Lessor on all expenses.

Repairs

Lessor shall make any necessary repairs and replacements during the course of the life of the Lease of every kind and nature, and which shall be considered an operating expense.

*To the extent Lessor and Lessee agree upon modifications to the services to be provided by Lessor pursuant hereto, the budget shall be modified to reflect such modifications and Lessee's estimated monthly payment shall be adjusted accordingly.

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ATTACHMENT "D"

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Mail the completed form to: County of Fresno
Attn: Lease Services (L-351)
Internal Services Department
333 W. Pontiac Way
Clovis, CA 93612

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(1) Company Board Member Information:

Name:		Date:	
Job Title:			

(2) Company/Agency Name and Address:

(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):

4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):

(5) Authorized Signature

Signature:		Date:	
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