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**AGREEMENT FOR SPECIALIZED LEGAL SERVICES
(BOND COUNSEL AND DISCLOSURE COUNSEL SERVICES FOR FISCAL YEAR
2020-21 TAX AND REVENUE ANTICIPATION NOTES)**

THIS AGREEMENT (“Agreement”) is made and entered into this 24th day of March, 2020, by and between the COUNTY OF FRESNO, a political subdivision of the State of California (“COUNTY”) and the law firm of Hawkins Delafield & Wood LLP (“ATTORNEY”).

Recitals

- A. COUNTY has the possible need to sell and issue Tax and Revenue Anticipation Notes (“TRANS;” Govt. Code, §§ 53850 et seq.) for the fiscal year 2020-21 (“TRAN Financing Plan”).
- B. If COUNTY sells and issues the TRANS, COUNTY desires to do so on a tax-exempt basis.
- C. COUNTY wishes to engage the specialized legal services of a law firm to serve both as bond counsel and as disclosure counsel who is expert in legal matters concerning the issuance of TRANS.
- D. ATTORNEY represents that it is specially trained and experienced, and that it possesses such expertise.
- E. Such specialized legal services are either not available or not expected to be available in COUNTY’s Office of the County Counsel.

The parties therefore agree as follows:

- 1. Engagement of Attorney: COUNTY hereby engages ATTORNEY as an independent contractor through the services of the following key person(s): Arto C. Becker, Russell A. Miller, Diane K. Quan, and Brian Organ, partners of ATTORNEY; and such other partners of, and associate lawyers and staff members employed by, ATTORNEY as ATTORNEY deems necessary, and who COUNTY’s County Counsel (“County Counsel”), or his or her designee, approves pursuant to section 3 of this Agreement, except that the foregoing

1 key persons may, from time to time, consult with such of ATTORNEY's other lawyers on a
2 "limited basis" (as defined below) as ATTORNEY reasonably deems prudent and necessary
3 under the circumstances. ATTORNEY may not replace any of the aforementioned key persons
4 named above without the prior, express, written approval of County Counsel, or his or her
5 designee. In case of death, illness or other incapacity, or departure of any of the foregoing key
6 persons, ATTORNEY shall provide a replacement of at least equal professional ability and
7 experience as the key person replaced.

8 A. Scope of Bond Counsel Services: In its capacity as bond counsel,
9 ATTORNEY shall provide the following professional legal services in order to assist COUNTY
10 in selling and issuing TRANs:

11 (1) Legal review of the financing structure of the TRAN Financing
12 Plan.

13 (2) Consultation with COUNTY officials, County Counsel, or his or
14 her designee, lawyers in ATTORNEY's firm who are acting in their capacity as COUNTY's
15 disclosure counsel ("Disclosure Counsel"), and the municipal financial advisor selected by
16 COUNTY, concerning the timing, terms, and structure of the TRAN Financing plan.

17 (3) Preparation and review of, and advise COUNTY in connection
18 with, any and all documents, agreements, resolutions, instruments and certificates to be used for
19 the sale and issuance of the TRANs for the TRAN Financing Plan including, but not limited to,
20 the paying agent or fiscal agent agreement or certificate (if used), the TRANs, the resolution(s)
21 of COUNTY's Board of Supervisors (collectively, "COUNTY Board Resolution") authorizing
22 the sale and issuance of the TRANs under the TRAN Financing Plan, setting forth the terms and
23 conditions of the notes, their form, date, denominations, and maturities, and providing for the
24 establishment of a fund as security for the notes to ensure compliance with applicable laws and
25 regulations, the tax certificate, insurance policies, and credit or liquidity facilities.

26 (4) Review, and advise COUNTY in connection with, the Preliminary
27 Official Statement and the Official Statement for the TRAN Financing Plan, prepared by

1 Disclosure Counsel, describing the sale and issuance of the TRANs, and other related
 2 documents, agreement, resolutions, instruments and certificates.

3 (5) Review, and advise COUNTY in connection with, any and all
 4 documents, resolutions, instruments and certificates to be executed by COUNTY at the closing
 5 of the TRAN Financing Plan, which are necessary for COUNTY to comply with the continuing
 6 disclosure requirements under Securities and Exchange Commission Rule 15c-212, including,
 7 but not limited to the amendments thereto (collectively, “SEC Continuing Disclosure
 8 Certificate”).

9 (6) If a negotiated sale is used for the TRAN Financing Plan, review,
 10 and advise COUNTY in connection with, the note purchase contract with the underwriter
 11 (“Contract of Purchase”) prepared by Disclosure Counsel for the TRAN Financing Plan, and
 12 other related documents, agreements, resolutions, instruments and certificates.

13 (7) If a competitive sale is used for the TRAN Financing Plan, review,
 14 and advise COUNTY in connection with:

15 (a) the Official Notice of Sale of the TRANs and Bid Form
 16 prepared by bond counsel;

17 (b) the notice of intention to sell securities, prepared by bond
 18 counsel, to be published in a publication selected by COUNTY’s Auditor-Controller/Treasurer-
 19 Tax Collector, as provided by Government Code § 53692;

20 (c) the bids submitted for the purchase of the TRANs; and

21 (d) other related documents, agreements, resolutions,
 22 instruments and certificates;

23 (8) Provide comment to underwriter’s counsel, if such counsel is
 24 employed by an underwriter, and to Disclosure Counsel, concerning any and all documents,
 25 agreements, instruments and resolutions referred to herein which are prepared by Disclosure
 26 Counsel.

27 (9) As to those documents, agreements, resolutions, instruments and

1 certificates prepared by bond counsel, distribute necessary drafts and revisions of same, receive
 2 comments from members of the financing team for the TRAN Financing Plan and from other
 3 parties for such financing plan, and resolve same to the satisfaction of County Counsel or his or
 4 her designee.

5 (10) Examination of proofs of the notes for the TRANs.

6 (11) Draft all closing documents, instruments and certificates in
 7 connection with the TRAN Financing Plan.

8 (12) Render written unqualified opinions relating to the TRAN
 9 Financing Plan, which shall be acceptable to County Counsel, or his or her designee, in form and
 10 substance, to the following effect:

11 (a) that the TRANs have been duly authorized and issued and
 12 constitute legally valid and binding obligations of COUNTY, enforceable in accordance with
 13 their terms;

14 (b) that the TRANs and interest thereon are payable solely
 15 from the taxes, income, revenues, cash receipts and other monies received by COUNTY for its
 16 general fund for fiscal year ending June 30, 2021 (“Source of Payment of the TRANs and Interest
 17 Thereon”);

18 (c) that the Source of Payment of the TRANs and Interest
 19 Thereon is lawfully available for the payment thereof;

20 (d) that the interest on the TRANs is excluded from “gross
 21 income” for federal income tax purposes under Section 103 of the Internal Revenue Code of
 22 1986;

23 (e) that the interest on the TRANs is excluded from personal
 24 income taxes of the State of California;

25 (f) that the Official Statement, to the extent that the statements
 26 contained therein purport to summarize the provisions of the TRANs, the COUNTY Board
 27 Resolution, and the governing law related thereto, is accurate and complete in all material

1 respects;

2 (g) that, based upon the information developed and received
 3 in the provision of its services herein, no information has come to the attention of bond counsel
 4 which would cause bond counsel to believe that the Official Statement, as of the date of the
 5 Official Statement and as of the closing of the TRAN Financing Plan, contains any untrue
 6 statements of material fact or omits to state any material fact required to be stated therein or
 7 necessary to make the statements therein, in light of the circumstances under which they were
 8 made, not misleading; and

9 (h) if a paying agent or fiscal agent agreement or certificate is
 10 used, that the paying agent or fiscal agent agreement or certificate has been duly authorized,
 11 executed and delivered by COUNTY, and constitutes a legally valid and binding obligation of
 12 COUNTY, enforceable against COUNTY in accordance with its terms.

13 All such opinions shall be addressed in a letter to COUNTY’s Board of
 14 Supervisors (which letter shall expressly state that COUNTY’s Board of Supervisors is the
 15 ATTORNEY’s client), and be provided at the time of the delivery of and receipt for payment of
 16 the TRAns. Any and all such opinions shall also be addressed to the underwriter (if requested
 17 by the underwriter), as a reliance opinion, as hereinafter provided, and be provided at the time
 18 of the delivery of and receipt for payment of the TRAns.

19 If ATTORNEY provides a written opinion to any third party (*e.g.*, an
 20 underwriter) whereby the third party is allowed to rely upon any opinion given by ATTORNEY
 21 to COUNTY under this Agreement (a “reliance opinion”), such reliance opinion shall (i) be
 22 provided in a letter, separate from the opinions given by ATTORNEY to COUNTY herein, and
 23 (ii) expressly state substantially to the effect that no attorney-client relationship exists or is
 24 created by reason of giving such opinion.

25 (13) Comment and advise COUNTY on issues that arise in the course
 26 of the implementation of the TRAN Financing Plan.

27 (14) Attend meetings with either COUNTY staff, COUNTY Debt

1 Advisory Committee, or the Board of Supervisors, or all of them, upon request by the County
 2 Counsel, or his or her designee.

3 (15) Attend meetings with rating agencies and COUNTY’s municipal
 4 financial advisor, upon request by County Counsel, or his or her designee.

5 (16) Handle closing and post-closing issues in connection with the
 6 TRAN Financing Plan, and distribute any and all documents, agreements, resolutions,
 7 instruments and certificates to appropriate persons or organizations.

8 (17) Perform such other similar services as County Counsel, or his or
 9 her designee, may request.

10 B. Scope of Disclosure Counsel Services: In its capacity as disclosure
 11 counsel, ATTORNEY shall provide the following professional legal services in order to assist
 12 COUNTY in selling and issuing the TRANs:

13 (1) Consultation with COUNTY officials, County Counsel, or his or
 14 her designee, lawyers in ATTORNEY’s firm who are acting in their capacity as COUNTY’s
 15 bond counsel (“Bond Counsel”), and the municipal financial advisor selected by COUNTY,
 16 concerning the timing, terms, and structure of the TRAN Financing Plan.

17 (2) Review of, and advise COUNTY in connection with, any and all
 18 documents, agreements, resolutions, instruments and certificates to be used for the sale and
 19 issuance of the TRANs for the TRAN Financing Plan including, but not limited to, the paying
 20 agent or fiscal agent agreement or certificate (if used), the TRANs, the COUNTY Board
 21 Resolution, the tax certificate, insurance policies, and credit or liquidity facilities.

22 (3) Preparation and review of, and advise COUNTY in connection
 23 with, the Preliminary Official Statement and the Official Statement for the TRAN Financing
 24 Plan describing the sale and issuance of the TRANs, and other related documents, agreements,
 25 resolutions, instruments and certificates.

26 (4) Preparation and review of, and advise COUNTY in connection
 27 with, any and all documents, agreements, instruments and resolutions to be executed by

1 COUNTY at the closing of the TRAN Financing Plan, including, but not limited to, the SEC
2 Continuing Disclosure Certificate.

3 (5) Perform due diligence necessary to prepare COUNTY's
4 Preliminary Official Statement, Official Statement, SEC Continuing Disclosure Certificate, and
5 any other disclosure documents for the TRAN Financing Plan, in order to ensure that such
6 financing plan is in compliance with the applicable securities laws and regulations, including,
7 but not limited to Securities and Exchange Commission Rule 10b-5 and Rule 15c2-12, as
8 amended.

9 (6) If a negotiated sale is used for the TRAN Financing Plan,
10 preparation and review of, and advise COUNTY in connection with, the Contract of Purchase
11 with the underwriter, for the TRAN Financing Plan, and other related documents, agreements,
12 resolutions and certificates.

13 (7) Provide comment to underwriter's counsel, if such counsel is
14 employed by an underwriter, and to Bond Counsel, concerning any and all documents,
15 agreements, instruments and resolutions referred to herein which are prepared by Bond Counsel.

16 (8) As to those documents, agreements, resolutions, instruments and
17 certificates prepared by disclosure counsel, distribute necessary drafts and revisions of same,
18 receive comments from members of the financing team for the TRAN Financing Plan and from
19 other parties for such financing plan, and resolve same to the satisfaction of County Counsel or
20 his or her designee.

21 (9) Render unqualified written opinions relating to the TRAN
22 Financing Plan, which shall be acceptable to County Counsel, or his or her designee, in form and
23 substance, to the following effect:

24 (a) that the Official Statement for the TRAN Financing Plan,
25 to the extent that the statements contained therein purport to summarize the underlying
26 information referred to therein (including, but not limited to, the instruments, resolutions,
27 transactions, agreements, and records, and the laws and regulations governing same, in

1 connection with the TRAns and the COUNTY Board Resolution) is accurate and complete in
2 all material respects, assuming the accuracy and completeness and fairness of the statements
3 contained in such underlying information;

4 (b) if a negotiated sale is used, that the Contract of Purchase
5 has been duly authorized, executed, and delivered by COUNTY, and that it constitutes a legally
6 valid and binding obligation of COUNTY, enforceable against COUNTY in accordance with its
7 terms;

8 (c) that, based upon the information developed and received
9 in the provision of its services under this Agreement, no information has come to the attention
10 of disclosure counsel which would cause disclosure counsel to believe that the Official Statement
11 for the TRAN Financing plan, as of the date of such Official Statement and as of the closing of
12 such financing plan, contains any untrue statements of material fact or omits to state any material
13 fact required to be stated or necessary to make such statements, in light of the circumstances
14 under which they were made, not misleading.

15 (d) that the TRAns are exempt from the registration
16 requirements of the Securities Act of 1933, as amended; and

17 (e) that the COUNTY Board Resolution is exempt from
18 qualification under the Trust Indenture Act of 1939, as amended.

19 All such opinions shall be addressed in a letter to COUNTY's Board of
20 Supervisors (which letter shall expressly state that COUNTY's Board of Supervisors is the
21 ATTORNEY's client), and be provided at the time of the delivery of and receipt for payment of
22 the TRAns. Any and all such opinions shall also be addressed to the underwriter (if requested
23 by the underwriter), as a reliance opinion, as hereinafter provided, and be provided at the time
24 of the delivery of and receipt for payment of the TRAns.

25 If ATTORNEY provides a reliance opinion to any third party (*e.g.*, an
26 underwriter) whereby the third party is allowed to rely upon any opinion given by ATTORNEY
27 to COUNTY under this Agreement, such reliance opinion shall (i) be provided in a letter,

1 separate from the opinions given by ATTORNEY to COUNTY herein, and (ii) expressly state
 2 in the text of such reliance opinion substantially to the effect that no attorney-client relationship
 3 exists or is created by reason of giving such opinion.

4 (10) Assist COUNTY, and its municipal financial advisor, in
 5 corresponding with the printer of the Preliminary Official Statement and Official Statement in
 6 order to facilitate a prompt and efficient printing of same.

7 (11) Render advice, as requested by COUNTY’s Auditor-Controller/
 8 Treasurer-Tax Collector, or her designee, or by County Counsel, or his or her designee, to
 9 COUNTY, and its municipal financial advisor, regarding the marketing and sale of the TRANs.

10 (12) Comment and advise COUNTY on issues that arise in the course
 11 of the implementation of the TRAN Financing Plan.

12 (13) Attend meetings with COUNTY staff, COUNTY’s Debt Advisory
 13 Committee, or COUNTY’s Board of Supervisors, or all of them, upon request by the County
 14 Counsel, or his or her designee.

15 (14) Handle closing and post-closing issues in connection with the
 16 TRAN Financing Plan, and distribute any and all documents, agreements, resolutions,
 17 instruments and certificates to appropriate persons or organizations.

18 (15) Perform such other similar services as County Counsel, or his or
 19 her designee, may request.

20 C. Authorization to Proceed With Work: ATTORNEY shall commence
 21 performance of services upon receiving authorization to proceed with work from County
 22 Counsel, or his or her designee.

23 2. Performance by Attorney: ATTORNEY agrees to timely perform all services
 24 provided under this Agreement. ATTORNEY agrees to avoid unnecessary duplicative efforts
 25 on the part of ATTORNEY and ATTORNEY’s partners, associate lawyers, and staff members
 26 in ATTORNEY’s performance of services for COUNTY under this Agreement.

27 COUNTY shall not be obligated to compensate ATTORNEY for intra-office conferences

1 between or among ATTORNEY’s partners, associate lawyers, and staff members, unless such
 2 intra-office conferences promote efficiency in the performance of ATTORNEY’s work on a
 3 matter, or a reduction in the cost of compensation paid or reimbursement made for related,
 4 reasonable and necessary, out-of-pocket expenses to ATTORNEY, or both.

5 In the performance of the tasks identified in section 1 under this Agreement,
 6 ATTORNEY shall provide only those services that are necessary to carry out such tasks in an
 7 efficient and effective manner.

8 ATTORNEY shall provide lawyers who possess the following qualities and skills:

9 A. the lawyer possesses a high level of professional ethics and personal
 10 integrity, and exercises good judgment;

11 B. the lawyer has experience and expertise in the particular municipal
 12 finance matter for which he or she is providing services;

13 C. the lawyer has exceptional technical legal skills;

14 D. the lawyer vigorously represents COUNTY so that COUNTY’s
 15 best interests are served;

16 E. the lawyer efficiently and timely completes assigned tasks;

17 F. the lawyer is reasonably available when County Counsel, or his or her
 18 designee, needs to consult with the lawyer on short notice;

19 G. the lawyer anticipates potential problems and advises County Counsel
 20 regarding same;

21 H. the lawyer explains complex municipal finance concepts to County
 22 Counsel, or his or her designee, so that County Counsel, or his or her designee, has a clear and
 23 complete understanding of the relevant issues and facts of a matter; and

24 I. the lawyer cooperates with County Counsel, or his or her designee, and
 25 other members of the financing team, including amicably resolving disputes, if any, among
 26 financing team members to the satisfaction of County Counsel, or his or her designee.

27 3. Compensation of ATTORNEY: COUNTY shall compensate ATTORNEY

1 pursuant to the terms and conditions of this Agreement only for the performance of those tasks,
 2 to the reasonable satisfaction of COUNTY, that relate to the subject matter of this Agreement. It
 3 is understood that COUNTY shall **not** be obligated to compensate ATTORNEY for any work,
 4 services, or functions performed by ATTORNEY: (i) in seeking to obtain COUNTY’s business
 5 or negotiating with COUNTY to enter into this Agreement or (ii) in providing COUNTY with
 6 documentation, explanations, or justifications concerning the adequacy or accuracy of its
 7 invoices for the performance of services under this Agreement and resolving same to the
 8 reasonable satisfaction of COUNTY.

9 COUNTY agrees to pay and ATTORNEY agrees to accept as full compensation for
 10 performance of tasks under this Agreement the following sum per hour per person:

11	<u>Partners:</u>	
12	Arto C. Becker	\$575
13	Russell A. Miller	\$575
14	Diane K. Quan	\$540
15	Brian Organ	\$540
16	<u>Associates:</u>	\$350

17 The foregoing lawyers may, from time to time, consult with such of ATTORNEY’s other
 18 lawyers on a “limited basis” as ATTORNEY reasonably deems prudent and necessary under the
 19 circumstances, and ATTORNEY may also, upon the written approval of County Counsel, or his
 20 or her designee, provide additional partners of, or associate lawyers employed by its firm to
 21 perform significant services under this Agreement, provided that such additional persons who
 22 are consulted or who provide significant services are compensated by COUNTY for performance
 23 of tasks under this Agreement at a rate not to exceed each such person’s customary billing rate
 24 per hour for local governmental entities. Notwithstanding anything stated to the contrary in this
 25 section, the term “limited basis” means fifteen (15) hours or less worked by ATTORNEY’s
 26 lawyers, collectively, other than the lawyers identified above, per month or fraction thereof.

27 In addition, ATTORNEY shall be reimbursed for reasonable, and necessary out-of-

1 pocket expenses, as follows: telephone charges, telephonic facsimile transmission charges,
2 computer research charges, publication costs, filing fees, courier charges, postage charges,
3 printing and photographic reproduction expenses, in-State travel, and all such directly-related
4 expenses. ATTORNEY shall also be reimbursed for the actual and reasonable cost of
5 publications and reports obtained for the financing and the preparation of bound or compact disc
6 transcripts.

7 It is understood that ATTORNEY shall not be reimbursed for its secretarial or clerical
8 services (including overtime hours worked), or normal office operating expenses, with the
9 exception of those charges and expenses stated in the immediately preceding paragraph of this
10 Agreement. In addition, ATTORNEY shall not be reimbursed for such services performed or
11 expenses incurred, regardless of whether such tasks are performed or expenses are incurred by
12 ATTORNEY's partners, associate lawyers, or anyone else. Upon approval by the County
13 Counsel, ATTORNEY may use paralegals to perform services under this Agreement. Under no
14 circumstances shall COUNTY compensate ATTORNEY for secretarial or clerical work
15 performed by paralegals. Furthermore, COUNTY shall not compensate ATTORNEY for work
16 performed by paralegals where such work ordinarily is performed by licensed attorneys,
17 including legal research and legal document drafting.

18 It is understood that COUNTY may abandon the TRAN Financing Plan, at any time,
19 without any reason.

20 Notwithstanding anything else stated to the contrary in this Agreement, the closing of the
21 TRAN Financing Plan and COUNTY's receipt of the funds from the issuance of the TRANs
22 under such financing plan shall be a **condition precedent** to COUNTY's obligation to
23 compensate ATTORNEY for such services performed under financing plan, and to COUNTY's
24 obligation to reimburse ATTORNEY for related reasonable and necessary out-of-pocket
25 expenses incurred in connection with such financing plan. It is understood that such condition
26 precedent to COUNTY's obligations stated in this section is solely for COUNTY's benefit.

27 **IN NO EVENT SHALL THE MAXIMUM AMOUNT PAID TO ATTORNEY AS**

1 **COMPENSATION FOR ATTORNEY'S SERVICES PERFORMED EXCEED \$38,000**
2 **UNDER THIS AGREEMENT. IN NO EVENT SHALL THE MAXIMUM AMOUNT**
3 **PAID TO ATTORNEY AS REIMBURSEMENT OF RELATED, REASONABLE AND**
4 **NECESSARY OUT-OF-POCKET EXPENSES EXCEED \$1,500 UNDER THIS**
5 **AGREEMENT, PLUS THE ACTUAL AND REASONABLE COST OF PUBLICATIONS**
6 **AND REPORTS OBTAINED FOR THE FINANCING AND THE PREPARATION OF**
7 **BOUND OR COMPACT DISC TRANSCRIPTS.**

8 4. Payment and Record-keeping: Subject to section 3 of this Agreement, payment
9 of compensation for the services provided in connection with the TRAN Financing Plan and
10 reimbursement for related, reasonable and necessary out-of-pocket expenses incurred shall be
11 made by COUNTY after submission of an itemized invoice by ATTORNEY to County Counsel
12 no later than the fifteenth (15th) day following the closing of such financing plan. All payments
13 of compensation and reimbursement for related, reasonable and necessary out-of-pocket
14 expenses incurred shall be made by COUNTY no later than forty-five (45) days following the
15 date that COUNTY receives a properly completed invoice requesting the payment for such
16 services rendered and expenses incurred. COUNTY shall remit any payment to ATTORNEY's
17 address specified in the invoice for payment.

18 All such invoices shall reflect accurately the tasks performed by ATTORNEY under this
19 Agreement. In addition, all such invoices shall have sufficient detail as may be required by
20 COUNTY's Auditor-Controller/Treasurer-Tax Collector, including, but not limited to:

- 21 A. The specific nature of each task performed as services under this
22 Agreement;
- 23 B. The name of the person performing each such task;
- 24 C. The number of hours worked by each such person for each such task;
- 25 D. The hourly rate per each such person performing each such task; and
- 26 E. The related, reasonable and necessary, out-of-pocket expenses incurred,
27 as provided for in section 3 of this Agreement.

1 In addition to the requirements of this section 4 of this Agreement, each invoice shall set
2 forth a summary of hours worked by each partner and associate lawyer, and paralegal (if
3 compensable under section 3 of this Agreement), for the applicable billing period. Furthermore,
4 each such invoice shall set forth the product of such summary of hours worked by each person
5 multiplied by such person's billing rate, as set forth herein (*e.g.*, Mr. Becker's total hours worked
6 = 10 hours; Mr. Becker's hourly billing rate is \$575; 10 hours x Mr. Becker's billing rate of \$575
7 per hour = \$5,750).

8 In preparing invoices, ATTORNEY shall segregate each task performed on a daily basis.
9 If requested by County Counsel, or his or her designee, ATTORNEY shall not combine unrelated
10 tasks as a single entry in lieu of setting forth the hours of work performed by a partner, associate
11 lawyer, or paralegal on each specific task.

12 ATTORNEY shall prepare its invoices in an organized manner that facilitates an efficient
13 review of the services performed and the expenses incurred in order to provide COUNTY with
14 a clear and complete understanding of how much time was devoted to specific tasks and projects,
15 and the associated cost.

16 ATTORNEY shall keep complete records of the services provided, as described in this
17 section 4 of this Agreement, together with all related reasonable and necessary, out-of-pocket
18 expenses applicable to the work provided under this Agreement. COUNTY's Auditor-
19 Controller/Treasurer-Tax Collector, or his or her duly authorized representatives, shall be given
20 reasonable access to all of these records for the purposes of audit of this Agreement.

21 In addition, ATTORNEY shall be subject to the examination and audit of such records
22 by the Auditor General for a period of three (3) years after final payment under this Agreement
23 (Gov. Code, § 8546.7).

24 5. Term of Agreement: This Agreement shall be effective as of the date that it is
25 executed by both parties. This Agreement shall continue in full force and effect unless and until
26 it is terminated by either or both parties. Either party may terminate this Agreement at any time,
27 either in whole or in part. However, if ATTORNEY elects to terminate this Agreement,

1 COUNTY's rights under section 3 of this Agreement shall not be affected, and COUNTY's
2 rights under any pending matter which may arise from ATTORNEY's services hereunder shall
3 not be prejudiced due to such termination as required by the Rules of Professional Conduct of
4 the State Bar of California.

5 6. Independent Contractor: In performance of the work, duties and obligations
6 assumed by ATTORNEY under this Agreement, it is mutually understood and agreed that
7 ATTORNEY, including any and all of ATTORNEY's officers, agents, and employees will at all
8 times be acting and performing as an independent contractor, and shall act in an independent
9 capacity and not as an officer, agent, servant, employee, joint venturer, partner, or associate of
10 COUNTY. Furthermore, COUNTY shall have no right to control or supervise or direct the
11 manner or method by which ATTORNEY shall perform its obligations under this Agreement.
12 However, COUNTY shall retain the right to administer this Agreement so as to verify that
13 ATTORNEY is performing its obligations in accordance with the terms and conditions hereof.
14 ATTORNEY and COUNTY shall comply with all applicable provisions of law and the rules and
15 regulations, if any, of governmental authorities having jurisdiction over matters of the subject
16 hereof.

17 Because of its status as an independent contractor, ATTORNEY shall have absolutely no
18 right to employment rights and benefits available to COUNTY employees. ATTORNEY shall
19 be solely liable and responsible for providing to, or on behalf of, its employees all legally-
20 required employee benefits. In addition, ATTORNEY shall be solely responsible and save
21 COUNTY harmless from all matters related to payment of ATTORNEY's employees, including
22 compliance with social security, withholding, and all other regulations governing such matters.
23 Both parties acknowledge that during the term of this Agreement, ATTORNEY may be
24 providing services to others unrelated to COUNTY or to this Agreement.

25 7. Hold Harmless: ATTORNEY shall hold COUNTY, its officers, agents, and
26 employees harmless and indemnify and defend COUNTY, its officers, agents, and employees
27 against payment of any and all costs and expenses (including attorney's fees and court cost),

1 claims, suits, losses, damages, and liability arising from or arising out of any actual or alleged
 2 negligent or wrongful acts or omissions of ATTORNEY, including its partners, officers, agents,
 3 and employees, in performing or failing to perform the services provided herein. COUNTY's
 4 receipt of any insurance certificates required herein does not in any way relieve the ATTORNEY
 5 from its obligations under this section 7 of this Agreement.

6 The provisions of this section 7 shall survive the termination of this Agreement.

7 8. Insurance: Without limiting COUNTY's rights to obtain indemnification from
 8 ATTORNEY or any third parties, ATTORNEY, at its sole expense, shall maintain in full force
 9 and effect the following insurance policies throughout the entire term of this Agreement:

10 A. Professional liability insurance with limits of not less than Ten Million
 11 Dollars (\$10,000,000) per covered event.

12 B. Comprehensive general liability insurance with limits of coverage of not
 13 less than Two Million Dollars (\$2,000,000) per occurrence and an annual aggregate of Four
 14 Million Dollars (\$4,000,000). This policy must be issued on a per occurrence basis. ATTORNEY
 15 shall obtain an endorsement to this policy naming the County of Fresno, its officers, agents,
 16 employees, and volunteers, individually and collectively, as additional insureds, but only insofar
 17 as the operations under this Agreement are concerned. Such coverage for additional insureds
 18 will apply as primary insurance and any other insurance, or self-insurance, maintained by the
 19 COUNTY is excess only and not contributing with insurance provided under ATTORNEY's
 20 policy.

21 C. Automobile liability insurance coverage with limits of not less than One
 22 Million Dollars (\$1,000,000.00) per occurrence for bodily injury and for property damages.
 23 Coverage must include any auto used in connection with this Agreement.

24 C. Workers compensation insurance as required by the California Labor
 25 Code.

26 Additional Insurance Requirements

27 Within 30 days after ATTORNEY signs this Agreement, ATTORNEY shall deliver, or

1 cause its broker or producer to deliver, to the County Counsel's Office, at 2281 Tulare Street,
2 Suite 304, Fresno, California 93721, or CountyCounselMailbox@fresnocountyca.gov, copies of
3 insurance policies as produced by the broker or producer, and certificates of insurance and
4 endorsements for all of the coverages required under this Agreement.

5 (i) All insurance certificates must state that: (1) the insurance coverage has been
6 obtained and is in full force; (2) COUNTY, its officers, agents, employees, and
7 volunteers are not responsible for any premiums on the policy; and (3)
8 ATTORNEY has waived its right to recover from COUNTY, its officers, agents,
9 employees, and volunteers any amounts paid under any insurance policy required
10 by this Agreement and that waiver does not invalidate the insurance policy.

11 (ii) The comprehensive general liability insurance certificate must also state that: (1)
12 COUNTY, its officers, agents, employees, and volunteers, individually and
13 collectively, are additional insureds insofar as the operations under this
14 Agreement are concerned; (2) the coverage shall apply as primary insurance and
15 any other insurance, or self-insurance, maintained by COUNTY shall be excess
16 only and not contributing with insurance provided under ATTORNEY's policy.

17 (iii) The automobile liability insurance certificate must state that the policy covers any
18 auto used in connection with this Agreement.

19 All such insurance policies shall be issued by insurers who have at least have an A.M.
20 Best, Inc. rating of A:VII or greater (except for the Professional Liability Insurance policy, which
21 shall be issued by an insurer who has at least a Standard & Poor's and Fitch's rating of AA-
22 because the specialized carrier is fulfilling a need in a specialty market) and shall be acceptable
23 to COUNTY's Department of Human Resources, Risk Management Division.

24 For each insurance policy required under this Agreement, ATTORNEY shall provide to
25 COUNTY, or ensure that the policy requires the insurer to provide to COUNTY, written notice
26 of any cancellation or change in the policy as required in this paragraph. For cancellation of the
27 policy for nonpayment of premium, ATTORNEY shall, or shall cause the insurer to, provide

1 written notice to COUNTY not less than 10 days in advance of cancellation. For cancellation of
2 the policy for any other reason, and for any other change to the policy, ATTORNEY shall, or
3 shall cause the insurer to, provide written notice to COUNTY not less than 30 days in advance
4 of cancellation or change. COUNTY in its sole discretion may determine that the failure of
5 ATTORNEY or its insurer to timely provide a written notice required by this paragraph is a
6 breach of this Agreement.

7 If ATTORNEY has or obtains insurance with broader coverage, higher limits, or both,
8 than what is required under this Agreement, then COUNTY requires and is entitled to the broader
9 coverage, higher limits, or both. To that end, ATTORNEY shall deliver, or cause its broker or
10 producer to deliver, to COUNTY's Risk Manager copies of insurance policies that have such
11 broader coverage, higher limits, or both, as produced by the broker or producer, and certificates
12 of insurance and endorsements for all of the coverages that have such broader coverage, higher
13 limits, or both, as required under this Agreement.

14 ATTORNEY waives its right to recover from the County, its officers, agents, employees,
15 and volunteers any amounts paid under the policy of worker's compensation insurance required
16 by this Agreement. ATTORNEY is solely responsible to obtain any policy endorsement that
17 may be necessary to accomplish that waiver, but ATTORNEY's waiver of subrogation under
18 this paragraph is effective whether or not ATTORNEY obtains such an endorsement.

19 If ATTORNEY fails to keep in effect at all times any insurance coverage required under
20 this Agreement, COUNTY may, in addition to any other remedies it may have, suspend or
21 terminate this Agreement upon the occurrence of that failure, or purchase such insurance
22 coverage, and charge the cost of that coverage to ATTORNEY. COUNTY may offset such
23 charges against any amounts owed by COUNTY to ATTORNEY under this Agreement.

24 In addition to its obligations set forth above, ATTORNEY agrees that it shall maintain,
25 at its sole expense, in full force and effect for a period of three (3) years following the termination
26 of this Agreement a policy of professional liability insurance with limits of coverage of not less
27 than Ten Million and No/100 Dollars (\$10,000,000.00) per covered event; provided, however,

1 in the event that ATTORNEY does not maintain such policy of insurance for such entire three
2 (3) year period, ATTORNEY shall maintain, at its sole expense, in full force and effect extended
3 claims reporting coverage insurance in lieu thereof in the amount of not less than Ten Million
4 and No/100 Dollars (\$10,000,000.00).

5 If any of the insurance policies required to be maintained under this section 8 of this
6 Agreement have a self-insured retention, such self-insured retentions shall be funded by
7 ATTORNEY and approved by COUNTY's Department of Human Resources, Risk
8 Management Division.

9 The provisions of this section 8 shall survive the termination of this Agreement.

10 9. Agreement is Binding Upon Successors: This Agreement shall be binding upon
11 COUNTY and ATTORNEY and their respective successors, executors, administrators, legal
12 representatives, and assigns with respect to all the covenants and conditions set forth herein.

13 10. Assignment and Subcontracting: Notwithstanding anything stated to the contrary
14 in section 9 of this Agreement, neither party hereto shall assign, transfer, or sub-contract this
15 Agreement nor its rights or duties hereunder without the written consent of the other.

16 11. Amendments: This Agreement may only be amended in writing signed by the
17 parties hereto.

18 12. Conflict of Interest: ATTORNEY promises, covenants, and warrants that, after
19 having performed a reasonable investigation, the performance of its services and representation
20 to COUNTY under this Agreement do not result in a "conflict of interest." ATTORNEY further
21 promises, covenants, and warrants that it will keep reasonably informed of its services to the
22 COUNTY and other clients to ensure that the performance of its services and representation to
23 COUNTY under this Agreement will not result in a "conflict of interest." In the event a "conflict
24 of interest" occurs, ATTORNEY will request COUNTY's Board of Supervisors to waive such
25 "conflict of interest" on a case-by-case basis. For purposes of this paragraph 12, the phrase
26 "conflict of interest" has the same meaning as in the California Rules of Professional Conduct.

27 13. Further Assurances by ATTORNEY: ATTORNEY represents that it has read and

1 is familiar with Government Code §§ 1090 et seq. and §§ 87100 et seq. ATTORNEY promises,
 2 covenants, and warrants that, after having performed a reasonable investigation, the performance
 3 of its services under this Agreement shall not result in or cause a violation by it of Government
 4 Code §§ 1090 et seq. and §§ 87100 et seq.

5 14. Compliance With Laws: ATTORNEY shall comply with all federal, state, and
 6 local laws and regulations applicable to the performance of its obligations under this Agreement.

7 15. Notices: The persons and their addresses having authority to give and receive
 8 notices under this Agreement include the following:

9 <u>COUNTY</u> 10 County Counsel 11 COUNTY OF FRESNO 12 2220 Tulare Street, 13 5th Floor 14 Fresno, CA 93721	9 <u>ATTORNEY</u> 10 Arto C. Becker 11 Hawkins Delafield & Wood LLP 12 333 South Grand Avenue 13 Los Angeles, CA 90071
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14 Any and all notices between COUNTY and ATTORNEY provided for or permitted
 15 under this Agreement must be in writing and delivered either by personal service, by first-class
 16 United States mail, or by an overnight commercial courier service,. A notice delivered by
 17 personal service is effective upon service to the recipient. A notice delivered by first-class
 18 United States mail is effective three (3) COUNTY business days after deposit in the United
 19 States mail, postage prepaid, addressed to the recipient. A notice delivered by an overnight
 20 commercial courier service is effective one (1) COUNTY business day after deposit with the
 21 overnight commercial courier service, delivery fees prepaid, with delivery instructions given
 22 for next day delivery, addressed to the recipient. For all claims arising out of or related to this
 23 Agreement, nothing in this section establishes, waives, or modifies any claims presentation
 24 requirements or procedures provided by law, including but not limited to the Government
 25 Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

25 16. Venue and Governing Law: The parties agree that for purposes of venue,
 26 performance under this Agreement is to be in Fresno County, California. The rights and
 27 obligations of the parties and all interpretations and performance of this Agreement shall be

1 governed in all respects by the laws of the State of California.

2 17. Disclosure of Self-Dealing Transactions: This provision is only applicable if
3 ATTORNEY is operating as a corporation (a for-profit or non-profit corporation) or if during
4 the term of this Agreement, ATTORNEY changes its status to operate as a corporation.

5 Members of ATTORNEY's Board of Directors shall disclose any self-dealing
6 transactions that they are a party to while ATTORNEY is providing goods or performing
7 services under this Agreement. A self-dealing transaction shall mean a transaction to which the
8 ATTORNEY is a party and in which one or more of its directors has a material financial interest.
9 Members of the Board of Directors shall disclose any self-dealing transactions that they are a
10 party to by completing and signing a *Self-Dealing Transaction Disclosure Form* (Exhibit A) and
11 submitting it to COUNTY prior to commencing with the self-dealing transaction or immediately
12 thereafter.

13 18. Entire Agreement: This Agreement constitutes the entire agreement between
14 COUNTY and ATTORNEY with respect to the specialized legal services to be provided herein
15 and supersedes any previous agreement concerning the subject matter hereof, negotiations,
16 proposals, commitments, writings, or understandings of any nature whatsoever unless expressly
17 included in this Agreement.

18 If any part of this Agreement is found to violate any law or is found to be otherwise
19 legally defective, ATTORNEY and COUNTY shall use their best efforts to replace that part of
20 this Agreement with legal terms and conditions most readily approximating the original intent
21 of the parties.

22 19. Counterparts: This Agreement may be executed in one or more counterparts, each
23 of which when executed shall be deemed to be an original, and such counterparts shall together
24 constitute one and the same instrument.

25
26 [SIGNATURE PAGE FOLLOWS]
27

1 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed
2 as of the day and year first above written.

3 HAWKINS DELAFIELD & WOOD LLP COUNTY OF FRESNO

4 By Arto C. Becker
5 Arto C. Becker
6 Partner

By Ernest Buddy Mendes
Ernest Buddy Mendes, Chairman of the
Board of Supervisors of the
County of Fresno

7

8

ATTEST:

9

BERNICE E. SEIDEL
Clerk of the Board of Supervisors
County of Fresno, State of California

10

11

By Susan Bishop
Deputy

12

13

ORG: 2540
FUND: 0001
ACCOUNT: 7295
SUBCLASS: 10000

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TRANS Agreement FY 2020-21

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EXHIBIT A

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno ("County"), members of a contractor's board of directors ("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).

(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:	