

L-316 Fine  
Rosenberg/Probation

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LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "LEASE") is made and entered into this 17th day of October, 2017, by and between ROSENBERG ASSOCIATES, a California Limited Partnership, P. O. Box 137, San Ardo, CA 93450 (hereinafter "LESSOR"), and the COUNTY of FRESNO, a political subdivision of the State of California, 333 W. Pontiac Way, Clovis, CA 93612, (hereinafter "LESSEE"). LESSOR and LESSEE shall also be referred to herein singularly as a "Party" and collectively, as "Parties".

1. LEASED PREMISES - LESSOR hereby leases to LESSEE the office space at the location commonly known as 2048 N. Fine Ave., Fresno, CA 93727, which is approximately 19,008 square feet, together with common area parking (hereinafter "Premises").

2. TERM – The initial term of this LEASE shall be for five (5) years beginning March 1, 2018 through February 28, 2023 (hereinafter "Initial Term"). Thereafter, this LEASE shall be renewable for a maximum of three (3) consecutive one-year terms, each to take place automatically, unless one Party provides the other with written notice of non-renewal at least 180 days prior to the end of the then current term. As to LESSEE, the Director of Internal Services or Director of Probation, or a designee of one of them, is hereby authorized to provide such notice of non-renewal. In no event shall the term of this LEASE extend beyond February 28, 2026.

3. RENT - LESSEE agrees to pay to LESSOR rent in advance on or about the first of each month for the Premises ("Rent") beginning March 1, 2018 according to the following schedule:

Rent Year	Cost/SF	Rent/ Month
March 1, 2018	\$ 1.65	\$ 31,363.20
March 1, 2019	\$ 1.70	\$ 32,313.60
March 1, 2020	\$ 1.75	\$ 33,264.00
March 1, 2021	\$ 1.80	\$ 34,214.40
March 1, 2022	\$ 1.85	\$ 35,164.80
March 1, 2023	\$ 1.91	\$ 36,305.28
March 1, 2024	\$ 1.97	\$ 37,445.76
March 1, 2025	\$ 2.03	\$ 38,586.24

1           4.     UTILITIES – LESSEE shall pay those metered costs associated with its use of  
2 natural gas and electricity, to include water, garbage and sewer fees, all of which are in  
3 addition to the Rent. LESSEE shall also pay all costs associated with its use of telephone  
4 service, internet communication and security services. Nonpayment notice of Fresno City  
5 utilities to Landlord.

6           5.     USE – LESSEE shall use the Premises as office space for the Probation  
7 Department or any other County department or authorized agent of LESSEE. LESSEE agrees  
8 to comply with all applicable laws, ordinances and regulations in connection with such use.

9           LESSOR covenants that: (i) the Premises are suitable for the intended use; (ii) the  
10 Premises are in compliance with all applicable laws, ordinances and regulations, including but  
11 not limited to safety regulations, health and building codes; and (iii) the Premises shall remain  
12 in such compliance throughout the term of this LEASE.

13          6.     MAINTENANCE – LESSOR shall be responsible for the structural condition of  
14 the Premises and for all exterior maintenance, including but not limited to the air conditioning,  
15 heating, plumbing systems, electrical systems, fire sprinkler systems, roof,  
16 landscaping and parking lot. LESSOR covenants that the Premises shall be maintained in  
17 substantially the same condition as that existing at the commencement of this LEASE, normal  
18 wear and tear excepted.

19           LESSEE shall provide its own janitorial services, including all janitorial supplies.  
20 LESSEE will also be responsible for the cost of reglobbing and repairing plugged toilets from  
21 improper use.

22          7.     LESSOR IMPROVEMENTS TO PREMISES - LESSOR, at no cost to LESSEE,  
23 shall provide tenant improvements to include: interior painting, replacing all flooring and  
24 replacing all bathroom and break room faucets, installing new laminate counter tops,  
25 repainting existing bathroom stalls, re-striping parking spaces and handicapped spaces,  
26 thermostat replacement, re-ducting, repair and/or replace of HVAC unit(s) as determined by  
27 Patton AC as necessary, as well as other agreed upon improvements. All of the foregoing  
28 work shall be completed prior to the March 1, 2018 starting date of this LEASE.

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8. COMPLIANCE WITH ALL LAWS – As to the Premises, LESSOR

acknowledges public funds are used for payments made by LESSEE under this LEASE and for “public works” projects. Accordingly, LESSOR shall comply with, and shall ensure compliance by all contractors and subcontractors with, all applicable laws and regulations, including the payment of prevailing wages pursuant to Section 1770 et. seq. of the Labor Code.

9. BREACH OF OBLIGATION TO MAINTAIN - In the event LESSOR breaches its

obligation to maintain the Premises as herein provided, LESSEE shall give written notice to LESSOR within fifteen (15) days of the discovery of such breach. LESSOR shall then have thirty (30) days from the date of notice to cure its breach; provided, however, that if such default continues for thirty (30) days after written notice thereof from LESSEE to LESSOR then LESSOR will not be in default hereunder if within such thirty (30) day period, LESSOR commences the curing of such default and diligently and in good faith prosecutes the same to completion. If the period for cure expires and if, in LESSEE'S reasonable written determination, LESSOR has failed to cure, then LESSEE may, at its election:

- (A) terminate this LEASE as provided in Section 11. hereinbelow. In such case, LESSEE shall have the right to demand LESSOR refund any monies which, in the judgment of LESSEE, were paid to LESSOR pursuant to the LEASE but which were not earned by LESSOR by consequence of its breach. Upon receipt of such demand, LESSOR shall promptly refund all such monies; or
- (B) cure LESSOR'S breach in which case LESSEE may deduct the reasonable cost of such cure, together with reasonable administrative costs, from LESSEE'S future rent obligation (but LESSEE'S decision to cure LESSOR'S breach shall not constitute a waiver of any other rights or remedies that LESSEE may have arising from this LEASE or by operation of law).

10. DESTRUCTION OR DAMAGE FROM CASUALTY - If the Premises are

damaged or destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a sudden, unexpected, or unusual nature (hereinafter, a "Casualty"), then LESSOR

1 shall either promptly and diligently repair the damage at its own cost, or terminate this LEASE  
2 as hereinafter provided.

3 (A) LESSOR'S Election to Repair: If LESSOR elects to repair the Casualty damage  
4 to the Premises, then it shall within thirty (30) days after the date of Casualty  
5 provide written notice (hereinafter the "Notice of Repair") to LESSEE indicating  
6 the anticipated time required to repair. LESSOR shall bear the cost of all repairs  
7 to the Premises, including the cost to repair any alterations or fixtures installed or  
8 attached thereto by LESSEE. Such repairs shall restore the Premises to  
9 substantially the same condition as that existing immediately prior to the Casualty  
10 damage and such repairs shall also be made in compliance with all applicable  
11 state and local building codes. LESSOR shall not be liable to LESSEE for (i)  
12 compensation for any loss of business, or any inconvenience or annoyance  
13 arising from repair of the Premises as a result of the Casualty except for rent  
14 reduction as hereinafter provided or (ii) any damage caused by the negligence or  
15 willful misconduct of LESSEE or its officers, agents, invitees or employees.  
16 LESSEE shall be responsible at its sole cost and expense for the replacement of  
17 its personal property.

18 (B) LESSOR'S Election to Terminate Due to Casualty: LESSOR may only elect  
19 to terminate the LEASE due to Casualty if: the Premises have been destroyed or  
20 substantially destroyed by said Casualty and the estimated time to repair the  
21 Premises exceeds one hundred twenty (120) days from the date of the Casualty.  
22 LESSOR shall provide LESSEE with written notice of its election to terminate  
23 within thirty (30) days after the date of Casualty, in accordance with the  
24 provisions of Section 11. hereinbelow.

25 (C) Rent Reduction Due to Casualty: In the event of Casualty, LESSEE'S obligation  
26 to pay rent shall be reduced beginning on the date of the Casualty in an amount  
27 proportionate to the damage caused to the Premises by the Casualty as  
28 reasonably determined by LESSEE and LESSOR. If LESSOR elects to repair

1                   the Premises pursuant to the terms of this LEASE, then the rent reduction shall  
2                   continue until the date of substantial completion of the repairs.

3                   (D) LESSEE'S Election to Terminate Due to Casualty: If LESSEE does not receive a  
4                   Notice of Repair from LESSOR within thirty (30) days after a Casualty, or if the  
5                   anticipated period of repair contained in the Notice of Repair exceeds one  
6                   hundred twenty (120) days, then LESSEE may elect to terminate this LEASE as  
7                   provided in Section 11. hereinbelow. In such case, LESSEE shall have the right  
8                   to demand that LESSOR refund any monies which, in the judgment of LESSEE,  
9                   were paid to LESSOR pursuant to the LEASE but which were not earned by  
10                  LESSOR by consequence of the Casualty. Upon receipt of such demand,  
11                  LESSOR shall promptly refund all such monies.

12                  11.       TERMINATION – If either LESSOR or LESSEE has an election under the  
13                  terms hereof to terminate this LEASE and such Party so elects, then written notice of such  
14                  termination shall be provided to the non-terminating Party, specifying a termination date not  
15                  less than ninety (90) days from the date of said notice.

16                  In case of any termination of this LEASE by LESSEE, either the County Administrative  
17                  Officer, or the Director of Internal Services/Chief Information Officer, or the Chief Probation  
18                  Officer, or a designee of one of them, is hereby authorized to provide such notice to terminate  
19                  this LEASE.

20                  12.       NON FUNDING TERMINATION - This LEASE is contingent on the allocation of  
21                  funds by a governmental agency. Should funds not be allocated, this LEASE may be  
22                  terminated by the Board of Supervisors by giving at least thirty (30) days prior written notice to  
23                  LESSOR. LESSEE shall pay to LESSOR, within forty-five (45) days after the LEASE  
24                  termination date, any unpaid rent due LESSOR.

25                  13.       HOLD HARMLESS - LESSOR agrees to indemnify, save, hold harmless, and  
26                  at LESSEE'S request, defend LESSEE, its officers, agents, and employees from any and all  
27                  costs and expenses, damages, liabilities, claims, and losses occurring or resulting to LESSEE  
28                  in connection with the performance or failure to perform by LESSOR, its officers, agents or

1 employees under this LEASE, and from any and all costs and expenses, damages, liabilities,  
2 claims, and losses occurring or resulting to any person, firm, or corporation who may be  
3 injured or damaged by the performance or failure to perform by LESSOR, its officers, agents,  
4 or employees under the LEASE.

5 This LEASE is made upon the expressed condition that the LESSEE is to be free of all  
6 liability, damages or injury arising from structural failures of the Leased Premises, including,  
7 but not limited to external walls, doors, roof and floor. The parties acknowledge that as  
8 between LESSOR and LESSEE, each is responsible for the negligence of its own officers,  
9 agents, employees and invitees.

10 14. INSURANCE - Without limiting the LESSEE'S right to obtain indemnification  
11 from LESSOR or any third parties, LESSOR, at its sole expense, shall maintain in full force  
12 and effect, the following insurance policies or a program of self-insurance throughout the term  
13 of this LEASE:

- 14 a. Commercial General Liability - Commercial General Liability Insurance with  
15 limits of not less than One Million Dollars (\$1,000,000) per occurrence and  
16 an annual aggregate of Two Million (\$2,000,000). This policy shall be issued  
17 on a per occurrence basis. LESSEE may require specific coverages  
18 including completed operations, products liability, contractual liability,  
19 Explosion-Collapse-Underground, fire legal liability, or any other liability  
20 insurance deemed necessary because of the nature of this contract.
- 21 b. Property Insurance – All-Risk property insurance.
- 22 c. Worker's Compensation - A policy of Worker's Compensation insurance  
23 may be required by the California Labor Code.

24 Upon occupancy by LESSEE, LESSOR shall obtain endorsements to the Commercial  
25 General Liability insurance naming the County of Fresno (hereinafter "County"), its officers,  
26 agents, and employees, individually and collectively, as additional insured, but only insofar as  
27 the operations under this LEASE are concerned. Such coverage for additional insured shall  
28 apply as primary insurance and any other insurance, or self-insurance, maintained by, its

1 officers, agents, and employees shall be excess only and not contributing with insurance  
2 provided under LESSOR'S policies herein. This insurance shall not be cancelled or changed  
3 without a minimum of thirty (30) days advance written notice given to County.

4 Within (30) days from date LESSOR executes this LEASE, LESSOR shall provide  
5 certificates of insurance and endorsement as stated above for all of the foregoing policies, as  
6 required herein, to the County of Fresno, Attn: ISD Lease Services (L-316), 333 W. Pontiac  
7 Way, Clovis, CA 93612, stating that such insurance coverages have been obtained and are in  
8 full force; that the County, its officers, agents and employees will not be responsible for any  
9 premiums on the policies; that such Commercial General Liability insurance names the  
10 County, its officers, agents, and employees, individually and collectively, as additional insured,  
11 but only insofar as the operations under this Lease are concerned; that such coverage for  
12 additional insured shall apply as primary insurance an any other insurance, or self- insurance  
13 shall not be cancelled or changed without a minimum of thirty (30) days advance, written  
14 notice given to County.

15 In the event LESSOR fails to keep in effect at all times insurance coverage as herein  
16 provided, the County may, in addition to other remedies it may have, suspend or terminate this  
17 LEASE upon the occurrence of such event.

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

21 LESSEE shall maintain during the term of this LEASE the following policies of  
22 insurance, which coverages may be provided in whole or in part through one or more  
23 programs of self-insurance:

- 24 a. Commercial General liability insurance with limits of not less than One Million Dollars  
25 (\$1,000,000.00) per occurrence and an annual aggregate of not less than Two Million  
26 Dollars (\$2,000,000.00). This policy shall be issued on an occurrence basis.
- 27 b. Against all risk of loss to LESSEE property, at full replacement cost with no  
28 coinsurance penalty provision, naming LESSEE as additional loss payee.

1           15. SURRENDER OF POSSESSION - Upon the expiration or termination of this  
2 LEASE, LESSEE shall surrender the Premises to LESSOR in such condition as existing at the  
3 commencement of this LEASE less reasonable wear and tear, less the effects of any  
4 Casualty, and less the effects of any breach of LESSOR'S covenant to maintain. LESSEE will  
5 not be responsible for any damage which LESSEE was not obligated hereunder to repair.  
6 Lessor and Lessee will agree on a move-out procedure that shall include determination of  
7 items that need to be repaired or cleaned by Lessee.

8           16. FIXTURES - LESSOR agrees that any equipment, fixtures or apparatus  
9 installed in or on the Premises by LESSEE shall continue to be the property of LESSEE and  
10 may be removed by LESSEE at any time; provided, however that LESSEE shall remove such  
11 fixtures at its sole cost and shall repair any damage caused by the removal of fixtures. Any  
12 fixtures not removed when LESSEE surrenders possession shall become the property of  
13 LESSOR. LESSOR acknowledges that there are cubicles at the Premises that remain there  
14 from a prior lease between LESSEE and LESSOR, and that these items shall remain the  
15 property of LESSEE. However, the existing window coverings that were installed by LESSEE  
16 during LESSEE's prior tenancy shall remain with the building upon the expiration or  
17 termination of this LEASE.

18           17. PARKING – As specified in Section 1 hereinabove, common area parking is  
19 provided as part of the Premises, however, LESSOR shall designate a minimum of 70 of the  
20 parking stalls therein for LESSEE's exclusive use.

21           18. RIGHT OF ENTRY – Excepting an emergency situation, LESSOR, or its  
22 representative(s), upon giving twenty-four (24) hours written notice, shall have the right to  
23 enter the Premises at any time during business hours, or at such other time as LESSEE and  
24 LESSOR deem appropriate and mutually agree, to make any alterations, maintenance, repairs  
25 or improvements to the Premises, provided, however, the normal business of LESSEE or its  
26 invitees shall not be unnecessarily inconvenienced.

27           19. AMENDMENT - This LEASE may be amended in writing by the mutual consent  
28 of the Parties without in any way affecting the remainder.

1           20.    ASSIGNMENT - Neither party shall assign, transfer or sub-let this LEASE, or the  
2 rights or duties under this LEASE, without the prior written consent of the other party, which  
3 consent shall not be unreasonably withheld or denied.

4           21.    GOVERNING LAW - Venue for any action arising out of or relating to this  
5 LEASE shall be in Fresno County, California. This LEASE shall be governed by the laws of  
6 the State of California.

7           22.    NOTICES - All notices given under this LEASE by either Party to the other  
8 Party shall be in writing, and given by any one of the following methods:

9                   (I)    Personal delivery to the applicable address as set for below; or

10                   (II)   Sent by certified United States mail, first class postage prepaid, with  
11 return receipt requested, to the applicable addresses as set forth below, in which case such  
12 notice shall be deemed given three (3) business days if LESSOR is the recipient, or three (3)  
13 business days if LESSEE is the recipient, after such deposit and postmark with the United  
14 States Postal Service; or

15                   (III)   Sent by a reputable overnight commercial courier, in which case such  
16 notice shall be deemed given one (1) business day if LESSOR is the recipient, or one (1)  
17 business day if LESSEE is the recipient, after such deposit with that courier to the applicable  
18 addresses as set forth below.

19                   (IV)   The addresses and telephone numbers of the Parties for purposes of  
20 giving or receiving notices under this LEASE are as follows:

21                   LESSEE:  
22                   County of Fresno (L-316)  
23                   Robert W. Bash, Director of  
                  Internal Services  
24                   333 W. Pontiac Way  
                  Clovis, CA 93612  
25                   (559) 600-6200

                  LESSOR:  
                  Rosenberg Associates  
                  Attn: Gordon & Vicki Rosenberg  
                  PO Bos 137  
                  San Ardo, CA 93450  
                  (831) 627-2511

26                   Provided however, such notices may be given to such person or at such other place as  
27 either of the Parties may from time to time designate by giving written notice to the other Party,  
28 and provided further however, in any event notices of changes of address or termination of this

1 LEASE shall not be effective until actual delivery of such notice. Notices given hereunder shall  
2 not be amendments or modifications to this LEASE.

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

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

14 24. AUTHORITY - Each individual executing this LEASE on behalf of LESSOR  
15 represents and warrants that such individual is duly authorized to execute and deliver this LEASE  
16 on behalf of ROSENBERG ASSOCIATES LP, and that this LEASE is binding upon  
17 ROSENBERG ASSOCIATES in accordance with its terms.

18 25. INDEPENDENT CONTRACTOR - In performance of the work, duties and  
19 obligations assumed by LESSOR under this LEASE, it is mutually understood and agreed that  
20 LESSOR, including any and all of the LESSOR'S officers, agents, and employees will at all times  
21 be acting and performing as an independent contractor, and shall act in an independent capacity  
22 and not as an officer, agent, servant, employee, joint venture, partner, or associate of the  
23 LESSEE. Furthermore, LESSEE shall have no right to control or supervise or direct the manner  
24 or method by which LESSOR shall perform its work and function. However, LESSEE shall retain  
25 the right to administer this LEASE so as to verify that LESSOR is performing its obligations in  
26 accordance with the terms and conditions thereof.

27 LESSOR and LESSEE shall comply with all applicable provisions of law and the  
28 rules and regulations, if any, of governmental authorities having jurisdiction over matters the

1 subject thereof.

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

10 26. ENTIRE LEASE - This LEASE constitutes the entire LEASE between the  
11 LESSOR and LESSEE with respect to the subject matter hereof and supersedes all prior leases,  
12 negotiations, proposals, commitments, writings, advertisements, publications, and  
13 understandings of any nature whatsoever unless expressly referenced in this LEASE. This  
14 LEASE shall be binding on and inure to the benefit of LESSOR'S heirs, successors and assigns.

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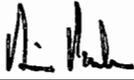
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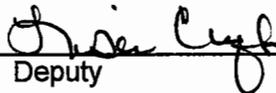
EXECUTED as of the date first herein written.

LESSEE:  
COUNTY OF FRESNO

By   
Brian Pacheco, Chairman  
Board of Supervisors

Date October 17, 2017

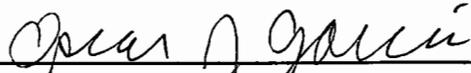
ATTEST: BERNICE E. SEIDEL, CLERK  
BOARD OF SUPERVISORS

By   
Deputy

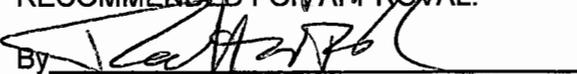
APPROVED AS TO LEGAL FORM:  
DANIEL C. CEDERBERG, COUNTY COUNSEL

By   
Deputy

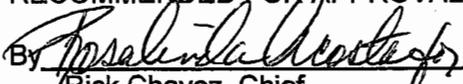
APPROVED AS TO ACCOUNTING FORM:  
OSCAR J. GARCIA, CPA  
AUDITOR-CONTROLLER/TREASURER-  
TAX COLLECTOR

By 

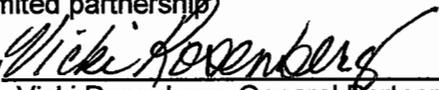
RECOMMENDED FOR APPROVAL:

By   
Robert W. Bash, Director of Internal  
Services/Chief Information Officer

RECOMMENDED FOR APPROVAL:

By   
Rick Chavez, Chief  
Probation Officer

LESSOR:  
ROSENBERG ASSOCIATES, a California  
Limited partnership

By   
Vicki Rosenberg, General Partner

Date September 29, 2017

By   
Gordon Rosenberg, General Partner

Date 9-29-17

Fund 0001, Subclass 10000, Org No. 3430, Acct. No. 7340

Property/L-316/Rosenberg/Probation

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**Exhibit "A"**

**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-316)  
Internal Services Department  
333 W. Pontiac Way  
Clovis, CA 93612

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**(1) Company Board Member Information:**

<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			

**(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**

<b>Signature:</b>		<b>Date:</b>	
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