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AGREEMENT FOR SPECIALIZED LEGAL SERVICES

(BOND COUNSEL SERVICES FOR SPECIAL PROJECTS - FISCAL YEAR 2018-19)

THIS AGREEMENT ("Agreement") is made and entered into this 5th day of June, 2018, 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").

WITNESSETH:

WHEREAS, COUNTY may, from time to time, have the need to seek the advice of bond counsel for special projects in connection with municipal finance issues; and

WHEREAS, COUNTY wishes to engage the specialized legal services of bond counsel who is expert in legal matters concerning such issues; and

WHEREAS, ATTORNEY represents that it is specially trained and experienced, and that it possesses such expertise; and

WHEREAS, such specialized legal services are either not available or expected not to be available in COUNTY's Office of the County Counsel.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions herein described, the parties hereto 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, Esq., Russell A. Miller, Esq., Brian Organ, Esq., and Diane K. Quan, Esq., partners of ATTORNEY; and such other partners of, and associate lawyers and staff members employed by, ATTORNEY as ATTORNEY deems necessary, and which COUNTY's County Counsel ("County Counsel"), or his or her designee, approves pursuant to section 3 of this Agreement, except that the foregoing key persons may, from time to time, consult with such of ATTORNEY's other lawyers on a "limited basis" (as defined below) as ATTORNEY reasonably deems prudent and necessary under the circumstances. It is understood that

1 ATTORNEY may not replace any of the aforementioned key persons named above without the
2 prior, express, written approval of County Counsel, or his or her designee. In case of death,
3 illness or other incapacity, or departure of any of the foregoing key persons, ATTORNEY shall
4 provide a replacement of at least equal professional ability and experience as the key person
5 replaced.

6 A. Scope of Work: From time to time, County Counsel, or his or her
7 designee, may request ATTORNEY to perform specialized legal services in connection with
8 various municipal financing matters, each which is a "project," or all of which also may be
9 referred to collectively as "projects." Such projects also may cover bond counsel services to
10 COUNTY arising due to requests from outside agencies. Upon County Counsel's, or his or her
11 designee's, written request to perform such services, and ATTORNEY's written
12 acknowledgment that ATTORNEY will provide such services, ATTORNEY shall perform
13 such services pursuant to the terms and conditions of this Agreement. Notwithstanding the
14 foregoing provisions of this subsection 1.A., in the event of exigent circumstances, County
15 Counsel may make such request orally, and County Counsel and ATTORNEY shall within a
16 reasonable time thereafter document such request for services and acknowledgment thereof.

17 B. Authorization to Proceed With Work: For each project, ATTORNEY
18 shall commence performance of services upon receiving authorization to proceed with work
19 from the County Counsel, or his or her designee.

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

24 COUNTY shall not be obligated to compensate ATTORNEY for intra-office
25 conferences between or among ATTORNEY's partners, associate lawyers, and staff members,
26 unless such intra-office conferences promote efficiency in the performance of ATTORNEY's
27 work on a matter, or a reduction in the cost of compensation paid or reimbursement made for

1 related, reasonable and necessary, out-of-pocket expenses to ATTORNEY, or both.

2 In the performance of the tasks identified in section 1 under this Agreement,
 3 ATTORNEY shall provide only those services which are necessary to carry out such tasks in
 4 an efficient and effective manner.

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

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

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

10 C. the lawyer has exceptional technical legal skills;

11 D. the lawyer vigorously represents COUNTY so that COUNTY's
 12 best interests are served;

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

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

16 G. the lawyer anticipates potential problems and advises County Counsel
 17 regarding same;

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

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

24 3. Compensation of ATTORNEY: COUNTY shall be obligated to compensate
 25 ATTORNEY pursuant to the terms and conditions of this Agreement only for the performance
 26 of those tasks, to the reasonable satisfaction of COUNTY, which are related to the subject
 27 matter of this Agreement. It is understood that COUNTY shall **not** be obligated to compensate

1 ATTORNEY for any work, services, or functions performed by ATTORNEY: (i) in seeking to
 2 obtain COUNTY's business or negotiating with COUNTY to enter into this Agreement or (ii)
 3 in providing COUNTY with documentation, explanations, or justifications concerning the
 4 adequacy or accuracy of its invoices for the performance of services under this Agreement and
 5 resolving same to the reasonable satisfaction of COUNTY.

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

8 Partners:

9	Arto C. Becker, Esq.	\$550
10	Russell A. Miller, Esq.	\$550
11	Diane K. Quan, Esq.	\$520
12	Brian Organ, Esq.	\$400
13	<u>Associates:</u>	\$315

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

25 County Counsel, or his or her designee, on behalf of COUNTY, and ATTORNEY, may
 26 agree to a fixed rate of compensation, and related, reasonable and necessary out-of-pocket
 27 expenses, payable to ATTORNEY for ATTORNEY's performance of any arbitrage rebate and

1 yield restriction compliance services pursuant to the terms and conditions of this Agreement.

2 In addition, ATTORNEY shall be reimbursed for reasonable, and necessary out-of-
3 pocket expenses, as follows: telephone charges, telephonic facsimile transmission charges,
4 computer research charges, filing fees, courier charges, postage charges, printing and
5 photographic reproduction expenses, in-State travel, and all such directly-related expenses.

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

16 4. Payment and Record-keeping: Subject to section 3 of this Agreement, payment
17 of compensation for the services provided under this Agreement and reimbursement for
18 related, reasonable and necessary out-of-pocket expenses incurred shall be made by COUNTY
19 after submission of an itemized invoice by ATTORNEY to the County Counsel, which invoice
20 may be submitted in the month following the month in which such services were rendered or
21 expenses incurred, or from time to time as such invoice is requested by County Counsel or his
22 or her designee. All payments of compensation and reimbursement for related, reasonable and
23 necessary out-of-pocket expenses incurred shall be made by COUNTY no later than forty-five
24 (45) days following the date that COUNTY receives a properly completed invoice requesting
25 the payment for such services rendered and expenses incurred.

26 All such invoices shall reflect accurately the tasks performed by ATTORNEY under
27 this Agreement. In addition, all such invoices shall have sufficient detail as may be required by

1 COUNTY's Auditor-Controller/Treasurer-Tax Collector, including, but not limited to:

- 2 A. The specific nature of each task performed as services under this
- 3 Agreement;
- 4 B. The name of the person performing each such task;
- 5 C. The number of hours worked by each such person for each such task;
- 6 D. The hourly rate per each such person performing each such task; and
- 7 E. The related, reasonable and necessary, out-of-pocket expenses incurred,
- 8 as provided for in section 3 of this Agreement.

9 In addition to the requirements of this section 4 of this Agreement, each invoice shall
 10 set forth a summary of hours worked by each partner and associate lawyer, and paralegal for
 11 the applicable billing period. Furthermore, each such invoice shall set forth the product of such
 12 summary of hours worked by each person multiplied by such person's billing rate, as set forth
 13 herein (e.g., Mr. Becker's's total hours worked = 10 hours; Mr. Becker's hourly billing rate is
 14 \$550; 10 hours x Mr. Becker's billing rate of \$550 per hour = \$5,500).

15 In preparing invoices, ATTORNEY shall segregate each task performed on a daily
 16 basis. If requested by County Counsel, or his or her designee, ATTORNEY shall segregate
 17 work performed and related, reasonable and necessary, out-of-pocket expenses incurred on the
 18 basis of each project. ATTORNEY shall not combine unrelated tasks as a single entry in lieu
 19 of setting forth the hours of work performed by a partner, associate lawyer, or paralegal on
 20 each specific task.

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

25 ATTORNEY shall keep complete records of the services provided, as described in this
 26 section 4 of this Agreement, together with all related reasonable and necessary, out-of-pocket
 27 expenses applicable to the work provided under this Agreement. COUNTY's Auditor-

1 Controller/Treasurer-Tax Collector, or his or her duly authorized representatives, shall be
2 given reasonable access to all of these records for the purposes of audit of this Agreement.

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

6 5. Term of Agreement: This Agreement shall be effective as of July 1, 2018. At
7 any time during the period of July 1, 2018, through and including June 30, 2019, the County
8 Counsel, or his or her designee, may authorize ATTORNEY to perform any work under
9 section 1 of this Agreement, and ATTORNEY's performance of such work may occur during
10 such period, or may occur any time after June 30, 2019.

11 Either party may terminate this Agreement at any time, either in whole or in part.
12 However, if ATTORNEY elects to terminate this Agreement, COUNTY's rights under any
13 pending matter which may arise from ATTORNEY's services hereunder shall not be
14 prejudiced due to such termination as required by the Rules of Professional Conduct of the
15 State Bar of California. Subject to section 3 of this Agreement, ATTORNEY shall be paid for
16 all services performed to the date of termination of this Agreement, which are done to the
17 reasonable satisfaction of COUNTY.

18 6. Independent Contractor: In performance of the work, duties and obligations
19 assumed by ATTORNEY under this Agreement, it is mutually understood and agreed that
20 ATTORNEY, including any and all of ATTORNEY's officers, agents, and employees will at
21 all times be acting and performing as an independent contractor, and shall act in an
22 independent capacity and not as an officer, agent, servant, employee, joint venturer, partner, or
23 associate of COUNTY. Furthermore, COUNTY shall have no right to control or supervise or
24 direct the manner or method by which ATTORNEY shall perform its obligations under this
25 Agreement. However, COUNTY shall retain the right to administer this Agreement so as to
26 verify that ATTORNEY is performing its obligations in accordance with the terms and
27 conditions hereof. ATTORNEY and COUNTY shall comply with all applicable provisions of

1 law and the rules and regulations, if any, of governmental authorities having jurisdiction over
 2 matters of the subject hereof.

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

11 7. Hold Harmless: ATTORNEY shall hold COUNTY, its officers, agents, and
 12 employees harmless and indemnify and defend COUNTY, its officers, agents, and employees
 13 against payment of any and all costs and expenses (including attorney's fees and court cost),
 14 claims, suits, losses, damages, and liability arising from or arising out of any actual or alleged
 15 negligent or wrongful acts or omissions of ATTORNEY, including its partners, officers,
 16 agents, and employees, in performing or failing to perform the services provided herein.
 17 COUNTY's receipt of any insurance certificates required herein does not in any way relieve
 18 the ATTORNEY from its obligations under this section 7 of this Agreement.

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

20 8. Insurance: Without limiting COUNTY's rights under section 7 of this
 21 Agreement, or against any third parties, ATTORNEY, at its sole expense, shall maintain in full
 22 force and effect the following insurance policies throughout the entire term of this Agreement:

23 A. A policy of professional liability insurance with limits of coverage of not
 24 less than Ten Million and No/100 Dollars (\$10,000,000.00) per covered event;

25 B. A policy of comprehensive general liability insurance with limits of
 26 coverage of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence. The
 27 policy of comprehensive general liability shall be written on a per occurrence basis. (Such

1 insurance shall include automobile insurance coverage, provided however, if ATTORNEY
 2 maintains comprehensive general liability insurance that does not cover a loss in connection
 3 with an automobile, ATTORNEY shall also obtain and maintain automobile liability insurance
 4 coverage with limits of coverage of not less than One Hundred Thousand and No/100 Dollars
 5 (\$100,000.00) per person and Three Hundred Thousand and No/100 Dollars (\$300,000.00) per
 6 occurrence and shall be written to cover all vehicles or owned and non-owned vehicles); and

7 C. A policy of workers compensation insurance as is required by the
 8 California Labor Code, providing full statutory coverage.

9 All such insurance policies shall be issued by insurers who have at least have an A.M.
 10 Best rating of A, FSC, VII (except for the Professional Liability Insurance policy, which shall
 11 be issued by an insurer who has at least a Standard & Poor's and Fitch's rating of AA- because
 12 the specialized carrier is fulfilling a need in a specialty market) and shall be acceptable to
 13 COUNTY's Department of Human Resources, Risk Management Division. In addition, the
 14 comprehensive general liability insurance policy (and, the automobile liability insurance
 15 policy; if such policy is at any time maintained separately from the comprehensive general
 16 liability insurance policy) shall name COUNTY, its officers, agents, and employees,
 17 individually and collectively, as additional insureds, but only insofar as the operations under
 18 this Agreement are concerned. Such coverage for additional insureds shall apply as primary
 19 insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers,
 20 agents, and employees, shall be excess only and not contributing with such insurance provided
 21 under ATTORNEY's policies herein. This insurance shall not be canceled, reduced, or
 22 changed without a minimum of thirty (30) calendar days advance, written notice given to
 23 County Counsel (at the address for notices to County Counsel provided herein) and to
 24 COUNTY's Department of Human Resources, Risk Management Division, at the following
 25 address:

26 Department of Human Resources
 27 Risk Management Division
 COUNTY OF FRESNO

1 2220 Tulare Street, 16th Floor
2 Fresno, CA 93721

3 ATTORNEY shall provide to County Counsel a certificate of insurance for all the
4 foregoing policies and an endorsement to ATTORNEY's comprehensive general liability
5 insurance policy (and, to ATTORNEY's automobile liability insurance policy, if such policy is
6 at any time maintained separately from the comprehensive general liability insurance policy)
7 naming COUNTY as an additional insured, as stated above, which are acceptable to
8 COUNTY's Department of Human Resources, Risk Management Division, evidencing proof
9 of such insurance coverages required herein prior to performing any services under this
10 Agreement.

11 In addition to its obligations set forth above, ATTORNEY agrees that it shall maintain,
12 at its sole expense, in full force and effect for a period of three (3) years following the
13 termination of this Agreement a policy of professional liability insurance with limits of
14 coverage of not less than Ten Million and No/100 Dollars (\$10,000,000.00) per covered event;
15 provided, however, in the event that ATTORNEY does not maintain such policy of insurance
16 for such entire three (3) year period, ATTORNEY shall maintain, at its sole expense, in full
17 force and effect extended claims reporting coverage insurance in lieu thereof in the amount of
18 not less than Ten Million and No/100 Dollars (\$10,000,000.00).

19 If either the professional liability or comprehensive general liability insurance policies
20 (or, the automobile liability insurance policy, if such policy is at any time maintained
21 separately from the comprehensive general liability insurance policy) required to be
22 maintained pursuant to this section 8 of this Agreement, or both (or all of them, as the case
23 may be), have a self-insured retention, such self-insured retentions shall be funded by
24 ATTORNEY and approved by COUNTY's Department of Human Resources, Risk
25 Management Division.

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

27 9. Agreement is Binding Upon Successors: This Agreement shall be binding upon
 COUNTY and ATTORNEY and their respective successors, executors, administrators, legal

1 representatives, and assigns with respect to all the covenants and conditions set forth herein.

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

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

8 12. Conflict of Interest: ATTORNEY promises, covenants, and warrants that, after
9 having performed a reasonable investigation, the performance of its services and representation
10 to COUNTY under this Agreement do not result in a “conflict of interest” as that term is used
11 in the Rules of Professional Conduct of the State Bar of California. In the event a “conflict of
12 interest” occurs, ATTORNEY will request COUNTY’s Board of Supervisors to waive such
13 “conflict of interest” on a case-by-case basis.

14 13. Further Assurances by ATTORNEY: ATTORNEY represents that it has read
15 and is familiar with Government Code §§ 1090 et seq. and §§ 87100 et seq. ATTORNEY
16 promises, covenants, and warrants that, after having performed a reasonable investigation, the
17 performance of its services under this Agreement shall not result in or cause a violation by it of
18 Government Code §§ 1090 et seq. and §§ 87100 et seq.

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

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

<u>COUNTY</u>	<u>ATTORNEY</u>
County Counsel COUNTY OF FRESNO 2220 Tulare Street, 5th Floor Fresno, CA 93721	Arto C. Becker Hawkins Delafield & Wood, LLP 3333 South Grand Avenue Suite 3650 Los Angeles, CA 90071

1 Any and all notices between COUNTY and ATTORNEY provided for or permitted
2 under this Agreement must be in writing and delivered either by personal service, by first-class
3 United States mail, or by an overnight commercial courier service. A notice delivered by
4 personal service is effective upon service to the recipient. A notice delivered by first-class
5 United States mail is effective three (3) COUNTY business days after deposit in the United
6 States mail, postage prepaid, addressed to the recipient. A notice delivered by an overnight
7 commercial courier service is effective one (1) COUNTY business day after deposit with the
8 overnight commercial courier service, delivery fees prepaid, with delivery instructions given
9 for next day delivery, addressed to the recipient. For all claims arising out of or related to this
10 Agreement, nothing in this section establishes, waives, or modifies any claims presentation
11 requirements or procedures provided by law, including but not limited to the Government
12 Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

13 16. Venue and Governing Law: The parties agree that, for purposes of venue,
14 performance under this Agreement is to be in Fresno County, California. The rights and
15 obligations of the parties and all interpretations and performance of this Agreement shall be
16 governed in all respects by the laws of the State of California.

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

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

1 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be
2 executed 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 Sal Quintero
Sal Quintero, Chairman of the
Board of Supervisors of the
County of Fresno

8 ATTEST:
9 BERNICE E. SEIDEL
10 Clerk of the Board of Supervisors
County of Fresno, State of California

11 By Susan Bishop
12 Deputy

13 ORG: 0710
14 FUND: 0001
ACCOUNT: 7295
15 SUBCLASS: 10000

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17 Special Projects Agreement FY 2018-19
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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:	