

AGREEMENT #513-S1711

CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is made as of the 9th day of May 2017 ("Effective Date") between **County of El Dorado**, a political subdivision of the State of California ("County") located and **Vanir Construction Management, Inc.**, a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is located at 4540 Duckhorn Drive, Suite 300, Sacramento, California 95834 (hereinafter referred to as ("CM").

RECITALS

WHEREAS, County has determined that it is necessary to obtain a consultant to provide construction management services pursuant to Government Code section 4525 et seq. in connection with the design and construction of the El Dorado County Public Safety Facility ("Project"); and

WHEREAS, CM has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, it is the intent of the Parties hereto that such services be in conformity with all applicable federal, state and local laws; and

WHEREAS, County has determined that the provision of these services provided by CM is in the public's best interest, and that these services are more economically and feasibly performed by outside independent consultants as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000.

NOW, THEREFORE, County and CM agree as set forth below.

By executing this Agreement, each of the Signatories represents that he or she has authority to bind the Party on whose behalf his or her execution is made.

County: By: _____ (Signature) Purchasing Agent Date: _____	CM: By: _____ (Signature) Name: Alexander V. Leon Senior Vice President and Chief Financial Officer Date: _____ Telephone #: (916) 575-8888
---	---

TABLE OF CONTENTS

	<u>Page</u>
1. DEFINITIONS.....	6
1.1 Defined Terms	6
2. PROJECT DESCRIPTION AND RELATIONSHIP OF PARTIES	6
2.1 Project	6
2.2 Project Delivery Method	6
2.3 Project Team	7
2.4 Good Faith and Fair Dealing	7
2.5 Direct Communications	7
2.6 Resource Loaded Work Plan	7
3. SERVICES	7
3.1 Scope	7
3.2 Licensing Requirements.....	7
3.3 Standard of Care.....	8
3.4 Legal Compliance	8
3.5 County's Approvals	8
3.6 CM's Authority	8
3.7 Independent Contractor/Liability.....	8
4. COUNTY'S RESPONSIBILITIES.....	8
4.1 Information and Documents	8
4.2 Permits and Fees.....	8
4.3 County Contract Administrator	8
4.4 Design-Builder	9
4.5 Test and Inspections.....	9
4.6 Legal Accounting and Insurance Services	9

4.7	Separate Contracts.....	9
5.	COMPENSATION	9
5.1	CM's Fee	9
6.	PAYMENT.....	9
6.1	Invoicing	9
6.2	Payments.....	10
6.3	Right to Withhold.....	10
6.4	Final Payment.....	10
6.5	No Waiver.....	10
6.6	No Right to Stop Services.....	10
6.7	Audit Right.....	10
6.8	Audit by California State Auditor	11
7.	AMENDMENTS.....	11
7.1	Amendments.....	11
7.2	Changes	11
7.3	Submission	11
7.4	Pricing.....	11
7.5	Continued Performance	11
8.	INDEMNIFICATION AND DEFENSE	11
8.1	Indemnification and Defense.....	11
8.2	Enforcement	12
9.	INSURANCE	12
9.1	Requirements	12
10.	DISPUTE RESOLUTION.....	12
10.1	Disputes.....	12
10.2	Joinder of Parties.....	12

11.	TERMINATION.....	12
11.1	Termination for Convenience	12
11.2	Termination for Cause	13
11.3	Insolvency.....	13
11.4	Non-Appropriation.....	13
11.5	Force Majeure.....	13
12.	MISCELLANEOUS PROVISIONS	14
12.1	Confidentiality	14
12.2	Governing Law.....	14
12.3	Taxes.....	14
12.4	Assignment.....	14
12.5	Notices.....	14
12.6	Interpretation and Severability.....	14
12.7	Third Party Beneficiaries	15
12.8	Rights and Remedies.....	15
12.9	Survival.....	15
12.10	Waiver	15
12.11	Counterparts	15
12.12	Attorneys' Fees.....	15
12.13	Equal Employment.....	15
12.14	Gratuities	16
12.15	Conflict of Interest.....	16
12.16	Drug Free Workplace	16
12.17	Anti-Kickback	16
12.18	California Residency (Form 590).....	16
12.19	Nonresident Withholding	17

12.20 Exhibits 17

12.21 Electronic Signatures 17

12.22 Legal Citations 17

12.23 Entire Agreement 17

12.24 Rural Development Concurrence 17

12.25 State Energy Conservation Plan 17

12.26 Clean Air and Water Act..... 17

EXHIBITS

Exhibit 1	Definitions
Exhibit 2	Scope of Services
Exhibit 3	Resource Loaded Work Plan
Exhibit 4	Insurance Requirements
Exhibit 5	Conflict of Interest Policy and Procedures

1. DEFINITIONS

1.1 Defined Terms. Defined terms and titles of Exhibits will be capitalized throughout the Agreement and any Exhibits to the Agreement. The definitions for this Agreement are set forth in alphabetical order in Exhibit 1.

2. PROJECT DESCRIPTION AND RELATIONSHIP OF PARTIES

2.1 Project. The County intends to design and construct a new Public Safety Facility situated on a new site that is owned by the County ("Project"). The site is located in Diamond Springs and will serve as the administrative and operational headquarters for the County of El Dorado Sheriff's Office. The design criteria documents describe five (5) new buildings totaling approximately ninety-nine thousand square feet (99,000 sf); however, this may change as the design-build process evolves. Preliminary concept plans describe the following:

- **Public Safety Building:** Two (2) story facility, mainly administrative, but also includes a community room, a large locker room and exercise room, Patrol and Detective Units, an Emergency Operations Center and a Dispatch Center.
- **Morgue Building:** Autopsy rooms, labs, and technician spaces.
- **Evidence Building:** Will be mainly used for both general and specialty storage.
- **Shooting Range and Armory:** Will be comprised of ten (10) lane, fifty (50) yard shooting range as well as a simulation room, an armory, ammunition storage, and gun cleaning space.
- **Special Operations and Training Building:** Will include service/shop areas, specialty storage, general storage, a loading bay, classrooms and training facilities.

The site is accessible from Highway 50 and Missouri Flat Road, which is one of the area's main transportation routes and is served by utility infrastructure on both the north and south edges of the identified Project parcel. Adjacent to the property is a proposed seven (7) acre solar project and there will be frontage improvements adjacent to the Project. These elements will require coordination with the proposed Public Safety Facility construction activities.

The estimated cost for design and construction of the Project is approximately \$50,000,000 ("Project Budget").

The Project will be delivered using a design-build delivery method per California Public Contract Code Section 22160, et seq. Portions of the Project are subject to Essential Services Buildings Seismic Safety Act of 1986. The Project will be funded by capital contributions of County and a direct loan from the United States Department of Agriculture (USDA) pursuant to the consolidated Farm and Rural Development Act (7 U.S.C. Section 1926, et seq.). The County has completed CEQA, and has received notification from the USDA that the NEPA environmental assessment has been reviewed and accepted.

2.2 Project Delivery Method. The Project will be delivered as a design/build pursuant to California Public Contract Code Section 22160, et seq.

2.3 Project Team The Project Team will include the County, CM, Design-Builder and its design consultants and Subcontractors, as well as the County's Separate Consultants and Separate Contractors.

2.4 Good Faith and Fair Dealing. CM accepts the relationship of trust and confidence and agrees to act in good faith and to exercise its skill and judgment in furthering the interests of the County. CM will furnish efficient business administration and supervision related to coordination of its Services, will collaborate with the County, the Design Criteria Consultant, the Design-Builder and the County's other Separate Consultants and Separate Contractors in the performance of their respective tasks, and will use CM's best efforts in performing all Services in the most expeditious and economical manner consistent with the Contract Documents and the County's best interests.

2.5 Direct Communications. The CM may communicate directly with other Project Team members in furthering the best interests of the Project. However, CM must keep the Design-Builder and the County in the communications loop when having direct communications with Design-Builder's subcontractors and design consultants.

2.6 Resource Loaded Work Plan. The CM will provide a Resource Loaded Work Plan ("RLWP") (Exhibit 3) identifying its staff members and allocating portions of its Fee based on each staff member, broken down by phase, and spread over the Contract Time. The RLWP will be maintained in a format approved by County. If CM's personnel fail to perform to County's satisfaction, County may, upon written notice of ten (10) calendar days, cause CM to remove such person(s) from the project and replace them with another staff person acceptable to the County.

2.6.1 Principal. CM will name a principal whose duties include, without limitation, directing and coordinating the Services of CM. The principal will represent CM, and all communications given to the principal will be deemed to have been delivered to CM. The principal identified in Exhibit 3 is key personnel.

3. SERVICES

3.1 Scope. The CM's role is to assist the County with completion of the Project Program, procurement of the Design-Builder, and to help the County oversee and manage the design and construction process during all phases of the Project, including commissioning. The CM Services are described in Exhibit 2. All Services will be performed in accordance with the Contract Documents. The CM will represent the County's interests and work collaboratively with the County's selected Design Criteria Consultant, the Design-Builder and other Separate Contractors and Separate Consultants throughout the design and construction process, including commissioning and Project close-out to provide the best value to the County at or below the Project Budget.

3.2 Licensing Requirements. CM warrants that it is either a California state licensed general contractor, or a firm practicing architectural or engineering services satisfying the requirements of the applicable Business and Professions Code sections, and is authorized to do business in the State of California. CM is required to possess a County business license in order to furnish supplies, Services, or transact any kind of business in the unincorporated territory of El Dorado County unless exempt under County Code Section 5.08.070.

3.3 Standard of Care. CM meets the experience requirements of Government Code Section 4525(e) and the licensing requirements of Government Code Section 4529.5 and will timely perform its Services using skill and judgment consistent with the degree of care ordinarily used by competent CMs who provide construction management services for projects of similar size, scope, location, and complexity.

3.4 Legal Compliance. CM agrees to comply with all federal, state, municipal and local laws, ordinances, rules, regulations, building codes and standards, orders, notices and requirements applicable to its Services on the Project.

3.5 County's Approvals. All requests for approval must be in writing. County approval will be in accordance with Section 4.3. An approval by the County of any Services will not relieve CM from its obligations or liabilities for the technical or professional adequacy of its Services.

3.6 CM's Authority. The CM has the authority to order minor changes in the Work that do not impact the Design-Builder's Contract Time or contract price; to reject Design-Builder's Work that does not comply with the Project Program or Construction Documents; to participate in the preparation of punch list items for correction upon substantial completion and final completion; and other tasks to fulfill CM's Services. Minor revisions may be made through responses to requests for information or other such clarifications. Interpretations and decisions of CM will be consistent with the intent and reasonably inferable from the Project Program. At the direction of the County, the CM may review Design-Builder's change order requests or prepare change orders for review and approval by the County, and may provide construction change directives for signature by the County.

3.7 Independent Contractor/Liability. CM is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs Services required by terms of this Agreement. CM exclusively assumes responsibility for acts of its employees, associates, and Subcontractors, if any are authorized herein, as they relate to Services to be provided under this Agreement during the course and scope of their employment. CM shall be responsible for performing the Work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees, associates, and Subcontractors. County shall have no right of control over the manner in which Work is to be done and shall, therefore, not be charged with responsibility of preventing risk to CM or its employees, associates, and Subcontractors.

4. COUNTY'S RESPONSIBILITIES

4.1 Information and Documents. The County will provide full information regarding requirements for the Project, including preliminary architectural studies, other information describing the Project site including any geotechnical and environmental impact reports, schedule requirements, County's Budget constraints and other criteria.

4.2 Permits and Fees. The County will secure and pay for all applicable permits, approval, easements, assessments and fees required for the development, construction, use or occupancy of the Project.

4.3 County Contract Administrator. The designated County officer or employee with responsibility for administering this Agreement is Russell Fackrell, Facilities Manager, or successor. The County Contract Administrator will render decisions in a timely manner

pertaining to documents submitted by the CM in order to avoid unreasonable delay in the progress of the CM's Services and the Design-Builder's Work.

4.4 Design-Builder. The County will retain a Design-Builder for design and construction of the Project. The terms and conditions of the agreement between the County and Design-Builder, as amended, will be furnished to the CM. The CM will not be responsible for acts or omissions by Design-Builder or its design consultants or subcontractors.

4.5 Test and Inspections. The County will provide and be financially responsible for all third party testing, inspections, or commissioning (only applicable if County will contract separately for these services).

4.6 Legal Accounting and Insurance Services. The County will furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the County may require to verify invoices or to ascertain how or for what purposes the money paid by or on behalf of the County has been used.

4.7 Separate Contracts. The County reserves the right to perform administration and operations related to the Project with the County's own forces, and to award contracts in connection with the Project that are not part of the CM's responsibilities. The CM will notify the County if any such independent action will interfere with the CM's ability to perform the CM's Services under this Agreement.

5. COMPENSATION

5.1 CM's Fee. The CM will be paid monthly in arrears based upon a percentage of completion basis:

Phase A – Project Setup and Administration \$67,060

Phase B – Selection of Design Builder \$35,010

Phase C – Design and Preconstruction \$90,220

Phase D – Construction \$1,067,600

Phase E – Closeout and Commissioning \$154,140

The total amount of this Agreement, inclusive of all costs and expenses, shall not exceed \$1,414,030. The amounts noted in the above phases may be adjusted upon Contract Administrator approval but shall not exceed \$1,414,030 unless adjusted through executed Amendment(s) under Article 7 of this Agreement for additional Services.

6. PAYMENT

6.1 Invoicing. For Services provided herein, including any deliverables that may be identified herein, County agrees to pay CM in arrears. Invoices for payment will be prepared by CM in the format agreed to by the County Contract Administrator and the USDA representative. The period covered by each invoice will be one (1) calendar month. The invoice will include a breakdown of the Services performed for that particular calendar month and itemized

Reimbursable Expenses. All Reimbursable Expenses must be supported by sufficient documentation such as receipts, invoices, etc., substantiating the amount requested.

6.2 Payments. CM shall submit invoices within fifteen (15) days of the end of the previous month for review by the County Contract Administrator. The County Contract Administrator and CM will attempt to resolve any disagreements regarding amounts before processing the invoice. The County will make payment for all approved amounts within forty-five (45) days of receipt of approved invoice.

6.3 Right to Withhold. The County Contract Administrator may refuse to approve an invoice, in whole or in part, or, because of subsequently discovered evidence, subsequent observations, or post review issues raised by the USDA that may nullify the whole or any part of a prior invoice to the extent the County determines it is necessary to protect County from loss due to, among other things, deficient Services or failure to perform Services in accordance with the Contract Documents; disputed amounts; third party Claims against the County allegedly arising from the Services; or reasonable doubt that the Services can be completed within the NTE Amount set forth in Section 5.1, as adjusted through approved Amendments.

6.4 Final Payment. The County will make final payment to the CM after completion of the Services, and within forty-five (45) days of receipt of an approved invoice for final payment.

6.5 No Waiver. Payment by County will not constitute approval or acceptance of any Services included in the invoice or final acceptance or approval of that portion of the Services.

6.6 No Right to Stop Services. If CM disputes any determination with respect to an invoice, CM will nevertheless expeditiously continue to perform the Services, provided that undisputed amounts are timely paid. County will not be deemed to be in default or breach of contract for withholding of any payment under Section 6.3. CM may submit unresolved payment disputes as a Claim under Article 10.

6.7 Audit Right.

6.7.1 The County may audit CM records at any time throughout the duration of the Project and for a period up to three (3) years after final payment is made and all other pending matters upon are closed. CM will be provided with ten (10) business days' written notice. The audit will take place during normal business hours and will be coordinated with CM. CM will produce all records related to its Fee, as amended, invoices, as well as any other Project records deemed necessary by the County Contract Administrator to substantiate charges related to the Services. Should the audit indicate that CM's records were fraudulently or negligently prepared or maintained, the County reserves the right to seek damages and legal remedies from CM.

6.7.2 County, USDA Rural Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the CM which are directly pertinent to a specific federal loan program for the purpose of making audits, examinations, excerpts, and transcriptions. CM shall maintain all required records for a period of 3 years after final payment is made and all other pending matters are closed.

6.8 Audit by California State Auditor. CM acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code Section 8546.7. In order to facilitate these potential examinations and audits, CM shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement

7. AMENDMENTS

7.1 Amendments. An Amendment is a mutually agreed written order adjusting the CM's Services or NTE Amount. Changes will only be authorized by an executed Amendment and performed under the applicable conditions of the Contract Documents. An Amendment signed by the CM indicates the CM's agreement to the adjustment in its compensation and fully and completely resolves any Claim by CM for additional compensation arising from or related to the additional Services required as a result of the change, or an extension of the Contract Time. Additional compensation will only be allowed to the extent that the changed condition requires additional Services or if the Contract Time is extended, and provided that the extension is not due to any negligent act or omission of the CM in rendering its Services. No payment will be made for any additional Services performed prior to the approval and full execution of an Amendment.

7.2 Changes. CM must submit pricing to the County within ten (10) business days of discovering facts or circumstances giving rise to the change. If CM does not timely request adjustment of its NTE Amount, CM's claim for adjustment will be waived.

7.3 Submission. All requests for additional compensation or an extension of Contract Time to the CM will be presented in writing to the County Contract Administrator and approved by County and the USDA representative before the expense is incurred. The County Contract Administrator and USDA representative will review all requests for additional compensation or an extension of the Contract Time within 10 business days of receipt and make a recommendation to the County on whether or not to proceed with the additional Services.

7.4 Pricing. CM will provide a not to exceed amount for the additional Services. Upon approval, the NTE Amount will be adjusted. CM will keep and present an itemized summary of the additional Services performed on an employee and task basis, and will itemize additional Reimbursable Expenses and present receipts (as applicable). CM will be paid the actual cost for Services rendered in accordance with Article 6.

7.5 Continued Performance. CM shall continue to provide current Services pending any adjustment in the Services or NTE Amount through an Amendment. Disputes regarding Amendments will be resolved in accordance with Article 10. Failure to properly execute the Services as directed by the County Contract Administrator will constitute a material breach of contract.

8. INDEMNIFICATION AND DEFENSE

8.1 Indemnification and Defense. To the fullest extent allowed by law, CM shall defend, indemnify, and hold harmless the County and its officers, agents, employees and

representatives from and against any and all claims, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, brought for or on account of, injury to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CM, its officers, agents, employees, volunteers, representatives, contractors and Subcontractors. This duty of CM includes the duty of defense, inclusive of that set forth in California Civil Code Section 2778. Each Party shall notify the other Party immediately in writing of any claim or damage related to activities performed under this Agreement. The Parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement.

8.2 Enforcement. Nothing contained in this Article 8 will be construed to impose any obligation in conflict with current California state law. In the event of a conflict with California State law, as may be amended, the Agreement will be modified to allow indemnification and defense by CM to the greatest extent permitted by law.

9. INSURANCE

9.1 Requirements. The CM will carry the insurance required in Exhibit 4. Proof of appropriate insurance, including endorsements of additional insureds as required per Exhibit 4 must be submitted to the County Contract Administrator before commencement of the Services. CM will provide additional insured status to County, and any other entities or persons set forth in Exhibit 4 on all required coverage.

10. DISPUTE RESOLUTION

10.1 Disputes. In the event of any dispute, Claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the Contract Administrator and Principal CM identified in Exhibit 3 shall use their best efforts to settle the dispute, Claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such resolution within a period of five (5) days, then, upon notice by either Party to the other, all disputes, Claims, questions, or differences shall be escalated to the County's Chief Administrative Office and CM Chief Executive Officer. An informal conference to meet and confer for settlement of the issues in dispute shall be conducted within fifteen (15) days. In the event that the meet and confer conference is unsuccessful, Parties may pursue any and all available remedies under the law.

10.2 Joinder of Parties. Notwithstanding the above, CM acknowledges that the Project is being constructed under a design-build project delivery method where the Design-Builder is under direct contract with County. If any Claim arises under the Design-Builder's contract for the Project that also involves CM, the dispute resolution process set forth in the Design-Builder's contract shall apply. Any other Claims by the Parties under this Agreement arising out of or in connection with the Design-Builder's contract may also be asserted in the same dispute resolution process, arbitration, or litigation.

11. TERMINATION

11.1 Termination for Convenience. County may terminate this Agreement for convenience upon ten (10) calendar days' prior written notice at any time before completion of

the Services. Upon termination, County will pay CM the earned billable amounts and Reimbursable Expenses per Article 5 as of the Effective Date of termination. CM expressly waives any Claims for consequential damages, including anticipated lost profits and unabsorbed overhead. The notice will state the Effective Date of termination. All payments under this Section are subject to the payment provisions in Article 6.

11.2 Termination for Cause. County may terminate this Agreement for material breach of any term or conditions of the Contract Documents upon ten (10) business days' written notice unless CM has commenced curing its breach to the County's satisfaction. The notice will set forth the reason for termination and the Effective Date of termination. If the County terminates this Agreement for cause, CM will be entitled to payment for all undisputed Services performed prior to the date of termination less any costs or expenses anticipated or projected by County to satisfy any Claims arising out of, or Services required for, curing the breach. In no event shall County be obligated to pay any consequential damages and CM expressly waives any Claims for consequential damages, including anticipated lost profits and unabsorbed overhead. CM will not be entitled to receive any further payments until 35 calendar days after final completion of the Project, and only to the extent that the cost of completing the Services does not exceed the remaining NTE Amount. Nothing stated in this paragraph will prevent the County from pursuing and recovering any damages allowed by law from CM arising out of the breach of the Contract Documents. If a court of competent jurisdiction deems that termination of this Agreement was wrongful or otherwise improper, the termination will be deemed a termination for convenience under Section 11.1.

11.3 Insolvency. This Agreement, at the option of County, shall be terminable in the event of bankruptcy, voluntary or involuntary, or insolvency of CM.

11.4 Non-Appropriation. The Parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or Services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the Services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the Effective Date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which Services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for Services performed prior to cancellation.

11.5 Force Majeure. Neither Party shall be held liable for any delay or failure in the performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as fire or other casualty, earthquake, explosion, flood, hurricane, acts

of God, enemy or hostile government action, civil commotion, war, invasion, terrorist attack, riots, strikes, lockouts, or any other cause or occurrence beyond the reasonable control of the Party obligated to perform.”

12. MISCELLANEOUS PROVISIONS

12.1 Confidentiality. CM will keep information provided by County or made available to CM during performance of the Services confidential, and will not disclose confidential information to persons or entities other than as necessary to perform the Services.

12.2 Governing Law. Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

12.3 Taxes. CM certifies that as of Effective Date, it is not in default on any unsecured property taxes or other taxes or fees owed by CM to County. CM agrees that it shall not default on any obligations to County during the term of this Agreement.

12.4 Assignment. County and CM respectively bind themselves, their partners, successors, assignees, and legal representatives to the other Party to this Agreement. CM may not assign this Agreement. Upon notice, County may assign this Agreement to any lender in obtaining Project financing, and CM will cooperate with the County and execute required assignment and subordination agreements.

12.5 Notices. Any notice required to be given by this Agreement will be in writing and deemed effective upon: (i) the date of personal delivery, or fax, if received by the addressee before 5:00 p.m. local time on a business day; (ii) 3 business days after being sent via registered or certified mail with a return receipt requested; or (iii) 1 business day after being sent by overnight commercial courier providing next-business-day delivery. Fax delivery must be evidenced by an automated fax confirmation. Notices will be addressed to the following respective Parties:

County:

Russell Fackrell
Facilities Manager
County of El Dorado
Chief Administrative Office
Facilities Division
3000 Fair Lane Court, Suite One
Placerville, CA 95667
russell.fackrell@edcgov.us

CM:

Andrew Freeman. PE
Vice President
Vanir Construction Management, Inc.
4540 Duckhorn Drive, Suite 300
Sacramento, CA 95834
andrew.freeman@vanir.com

12.6 Interpretation and Severability. This Agreement's terms and conditions will be interpreted according to their plain meaning, and not strictly for or against either County or CM. Any contrary rule of construction or interpretation will be of no force or effect with respect to this Agreement. If a court of competent jurisdiction finds any term or provision of this Agreement to be void or unenforceable for any reason, the term or provision will be amended to comply with the law. If a term or condition is severed, the remainder of the Agreement will remain in full force and effect to the maximum extent permitted by law and consistent with the County's and CM's overall intent.

12.7 Third Party Beneficiaries. Nothing contained in this Agreement creates a contractual relationship with, or a cause of action in favor of, a third party against the County or the CM. The Parties acknowledge and agree that the obligations of the CM are solely for the benefit of the County and are not intended in any respect to benefit any third parties.

12.8 Rights and Remedies. All rights and remedies under the Contract Documents will be cumulative and in addition to, and not in limitation of, all other rights and remedies of the Parties under the Contract Documents or otherwise available at law or in equity.

12.9 Survival. The following provisions will survive termination of this Agreement or completion of the Services: Sections 6.7 (Audit Rights), 6.8 (Audit by California State Auditor), Article 8 (Indemnification and Defense), Article 10 (Dispute Resolution), Section 11.4 (Non-Appropriation), Sections 12.1, 12.2, 12.6, 12.7, 12.8, 12.12, and 12.15.2 of Article 12 (Miscellaneous Provisions).

12.10 Waiver. Unless otherwise indicated in this Agreement, County's and CM's action or failure to act will not waive any right or duty it has under the Agreement, and such action or failure to act will not be an approval of or acquiescence in a breach of the Agreement unless specifically agreed to in writing by the Party.

12.11 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original. When proving this Agreement, it will only be necessary to produce or account for the counterpart signed by the Party against whom enforcement is sought. Electronic copies or photocopies of this Agreement showing the true signatures may be used for all purposes as originals.

12.12 Attorneys' Fees. If County or CM commences an action or dispute resolution process in accordance with the terms and provisions of this Agreement against the other Party for Claims arising out of or in connection with the Contract Documents, the prevailing Party will be entitled to recover all reasonable attorneys' fees and costs (including charges and expenses related to the suit, expert witness, and consultants' fees) as may be determined by a court with competent jurisdiction.

12.13 Equal Employment. Pursuant to Labor Code Section 1735, the Fair Employment and Housing Act (Gov. Code Section 12900 et seq.), California Administrative Code, Title 2, sections 7285 et seq., Government Code Sections 11135-11139.5, Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by Department of Labor regulations 41 CFR Part 60, and other Applicable Law, the CM will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, political affiliation, marital status, or disability on this Project. The CM will take affirmative action to ensure that employees are treated during employment or training without regard to their race, color, religion, sex, national origin, age, political affiliation, marital status, or disability. CM will maintain policies in compliance with California state and federal law regarding equal employment opportunities through-out the duration of this Project.

Where applicable, CM shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the Services performed herein. CM shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

12.14 Gratuities. CM warrants that it has not offered or given any gratuities (in the form of entertainment, gifts, or otherwise) to any official, employee, or agent of the County or the USDA in an attempt to secure this contract or favorable treatment in awarding, amending, or making any determinations related to the performance of the Services under this Agreement. County may, by written notice to CM, terminate this Agreement in the event of a breach of this provision and County may pursue other rights and remedies under the law or this Agreement provides. In the event this Agreement as terminated as provided herein, County may pursue the same remedies against CM as it could pursue in the event of a breach of the Agreement by CM. As a penalty, in addition to any other damages to which County may be entitled by law, County may pursue exemplary damages in an amount as determined by County which shall not be less than three nor more than ten times the costs the CM incurs in providing any such gratuities to any such official, employee, or agent of the County or USDA.

12.15 Conflict of Interest

12.15.1 CM will comply with the County's Conflict of Interest Policy set forth in Exhibit 5. At all times in the performance of this Agreement, CM shall comply with the laws of the State of California regarding conflicts of interests including, but not limited to, Government Code Section 1090 et seq. and the Political Reform Act, Government Code Section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission now in effect or hereafter enacted during the term of this Agreement. CM represents and warrants that it is not in violation of said conflicts of interest provisions nor is CM aware of any facts that create a conflict of interest in the performance of Services contemplated under this Agreement. CM shall immediately notify County if it becomes aware of any facts that might raise a conflict of interest issue at any time during the term of this Agreement.

12.15.2 CM further agrees to defend, indemnify and hold harmless the County, and its officers, employees and authorized representatives, from and against any and all Claims, actions, liabilities, suits, demands, losses, costs and expenses, including reasonable attorneys' fees and all legal expenses and fees incurred, arising out of or related to CM's breach of the representations and warranties herein or failure to comply with the provisions of this section. CM shall be solely liable for any damages incurred by County, including compensatory, special, incidental, exemplary, punitive or consequential damages connected with or resulting from CM's breach of the representations and warranties herein.

12.16 Drug Free Workplace. CM certifies that it has complied with Government Code section 8355 relating to a drug free workplace and will comply with the requirements included in the safety program.

12.17 Anti-Kickback. CM will comply with the Copeland Anti-Kickback Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that CM will be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public facilities, to give up any part of the compensation to which they are otherwise entitled.

12.18 California Residency (Form 590). If CM is a California resident, CM must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. CM will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven percent (7%) of each payment made to the CM during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

12.19 Nonresident Withholding. If CM is not a California resident, CM shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Consultant during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. CM shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

12.20 Exhibits. The Exhibits listed in the table of exhibits are incorporated into this Agreement by reference as though set forth in full.

12.21 Electronic Signatures. The Parties agree that a "Digital Signature" as defined under Government Code Section 16.5 and California Code of Regulations section 22000 is an acceptable form of signature for written communications with the County and will have the same force and effect as the use of a manual signature provided that the Digital Signature is: (i) unique to the person using it; (ii) capable of verification; (iii) under the sole control of the person using it; and (iv) linked to the data in such a manner that if the data are changed, the Digital signature will be invalidated. In order to be valid, the Digital Signature must be created by an acceptable technology as defined in California Code of Regulations Section 22001 et. seq.

12.22 Legal Citations. Legal citations to statutory requirements are included in the Agreement for convenience and an omission of any statutory requirement will not relieve the CM from compliance with Applicable Law.

12.23 Entire Agreement. The Contract Documents as defined in Exhibit 1 form the entire contract between County and CM and supersede all prior oral and other written negotiations, representations, or agreements between the County and CM with respect to the Services performed for this Project.

12.24 Rural Development Concurrence. This Agreement shall not be effective unless and until concurred in writing by the USDA Rural Development State Director or designee.

12.25 State Energy Conservation Plan. CM shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

12.26 Clean Air and Water Act. CM shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations 40 CFR part 15, which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Contractor shall report violations to the EPA.

EXHIBIT 1

DEFINITIONS

1. **"Agreement"** means the written contract between the County and CM inclusive of all Exhibits.
2. **"Amendment"** is a document executed by the Parties that amends the terms and/or conditions of this Agreement, including a written order authorizing additional Services or an extension of Contract Time by increasing or decreasing CM's Fee.
3. **"Claim"** is an unresolved dispute among the Parties, which may include other Project Team members through joinder, involving monetary or equitable relief that arises out of or relates to the Project, Contract Documents, performance of the Services or Work, indemnification, or third party claims for personal injury or property damage.
4. **"CM"** means the California State licensed general contractor, architect, or registered engineer who is responsible for performing the Services described in Exhibit 2.
5. **"CM's Fee"** is the total amount that CM will be compensated for performance of the Services and all Reimbursable Expenses.
6. **"Construction Documents"** means the 2-D Drawings and Specifications developed by the Design-Builder that are approved and permitted for construction by Governmental Authorities, any clarifications through responses to requests for information, design sketches, or other such clarifications issued post-permit, and any modifications through executed change orders with the Design-Builder.
7. **"Contract Documents"** includes the Agreement (inclusive of all Exhibits), and any subsequent modifications through executed Amendments.
8. **"Contract Time"** is 28 months from the Effective Date of the Agreement.
9. **"County"** is County of El Dorado.
10. **"County's Budget"** is the County's cost model for owner costs associated with entitlements, permits, development, insurance, fixtures, furnishings, and equipment, IT, etc., Separate Contractors, Separate Consultants, CM, and design and construction of the Project.
11. **"County Contract Administrator"** is the designated County officer or employee with responsibility for administering this Agreement.
12. **"Design-Builder"** is the California state licensed general contractor that is responsible for performing all design services and construction Work ("Work").
13. **"Drawings"** means the 2-dimensional graphic illustrating the design, how the buildings are situated on the site, and the location, building elevations, plan views, dimensions, and details of the Work.
14. **"Effective Date"** is the date that the Parties agree the Agreement was executed.

15. **"Governmental Authority" or "Governmental Authorities"** means any and all federal, state, county, or municipal boards, departments, courts, offices, or agencies that have jurisdiction over the Project.

16. **"Not-to-Exceed Amount" or "NTE Amount"** is the maximum Fee that the CM will be compensated for performance of the Services. Reimbursable Expenses per Article 5 are included in the NTE Amount.

17. **"Party"** means either County or CM and "Parties" refers to County and CM collectively.

18. **"Project"** is County of El Dorado Public Safety Facility as described in Section 2.1 of the Agreement.

19. **"Project Budget"** is the amount of money that the County has to spend for design and construction of the Project.

20. **"Project Program"** includes those documents provided by the County to the Design-Builder that describe the Project and define the goals and requirements for the Project.

21. **"Project Team"** includes the County, CM, Design-Builder and its design consultants and Subcontractors, as well as the County's Separate Consultants and Separate Contractors.

22. **"Resource Loaded Work Plan"** is the cost loaded staffing plan prepared by the CM allocating its NTE Amount broken down by phase and spread over the duration of the Project.

23. **"Separate Consultants"** means those consultants, other than CM or Design-Builder, who enter into a direct agreement with the County to perform Services related to this Project.

24. **"Separate Contractor"** means those contractors, vendors, or consultants, other than CM or Design-Builder, that enter into a direct agreement with the County to perform Work or Services related to a Project.

25. **"Services"** are all Services performed by CM under this Agreement including any additional Services amended into the Agreement through executed Amendment.

26. **"Signatory" or "Signatories"** are those persons authorized by the County and CM to execute this Agreement and any Amendments.

27. **"Specifications"** are the written requirements for materials, equipment, systems, standards, execution, and workmanship for the Work, and performance of related Services. The Specifications are included in the Contract Documents.

28. **"Subcontractor(s)"** are those trade contractors in direct privity of contract with Design-Builder.

29. **"Work"** means all design Services, labor, materials, equipment, and appurtenances required of the Design-Builder and its consultants and Subcontractors to

properly design, construct, and commission the Project in accordance with the approved, final Construction Documents.

EXHIBIT 2

SCOPE OF SERVICES

Scope of Services is described in Attachment 1 to this Agreement.

**AGREEMENT #513-S1711
ATTACHMENT 1**

SCOPE OF SERVICES

Construction Manager (CM) shall be responsible for providing personnel, job site support and business systems needed to supplement the County's resources in the management, administration and the delivery of the completed facility in the most expeditious and cost effective manner possible. CM will represent the County's interests and work collaboratively with the County's selected Design Criteria Consultant, the Design-Builder and other contractors and consultants throughout the design and construction process, including commissioning and Project close-out to provide the best value to the County at or below the Project Budget. Eligible firms will be expected to be knowledgeable about essential services and capable of utilizing collaborative design and construction integrated processes, including the use of building information modeling (BIM). **NOTE:** Scope of services may be subject to modifications or further refinement after final negotiations with the selected Proposer:

1. PROJECT SETUP AND ADMINISTRATION

- 1.1 Review County's program and project documentation including the Preliminary Architectural Report, criteria documents, and engineering reports.
- 1.2 Review California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documents including all mitigation requirements.
- 1.3 Evaluate permitting requirements including identification of associated agencies, required permits and timing.
- 1.4 Prepare an independent cost estimate based on the Design Criteria Documents. If necessary, work with the Project Team to develop recommendations for reducing the project costs.
- 1.5 Conduct such meetings and communications as necessary to implement recommendations to the final Construction Documents to maintain costs within the Project Budget.
- 1.6 Prepare a Master Project Schedule identifying the major activities and milestones in the design-build process, including the activities of the County's other subcontractors.
- 1.7 Develop a project management plan and update as circumstances require.
- 1.8 Provide a web-based project reporting portal for access to construction documents and communications and for facilitating Project Team collaboration.

- 1.9 Coordinate all communications on the project or relating to the project, including communications among the Project Team. In addition, alert County of any irregularities or inconsistencies in such communications.
- 1.10 Assist County in fulfilling the requirements of funding agencies and other Governmental Authorities.

2. SELECTION OF DESIGN-BUILD FIRM

- 2.1 Assist the County and its separate Consultants with Design-Builder Request for Proposal (RFP) development and any addenda.
- 2.2 Participate in the mandatory pre-proposal meeting(s) with the Design-Builder Proposers.
- 2.3 Collaborate with the County to review and evaluate the Design-Builder RFP responses including quality of design, value, cost estimates and technical specifications.
- 2.4 Review and comment on the life cycle analysis provided by the Proposers.
- 2.5 May assist the County with the Design-Builder selection process, including participation in interviews and confidential meetings with Design-Builder Proposers.

3. CONSTRUCTION DOCUMENT / DESIGN INTENT REVIEW

- 3.1 Schedule and lead kick off meetings with project stakeholders.
- 3.2 Assist the Design Criteria Consultant with design intent verification of the construction documents at selected milestones.
- 3.3 Provide target value design input to the Project Team.
- 3.4 Provide monthly written project reports describing the Design-Builder's' progress on the construction documents, potential cost and design issues, decision tracking, and other relevant matters affecting the Project Program.
- 3.5 Establish and maintain the master project budget utilizing information from the Design-Builder and others contracting with the County. Forecast the estimated final cost of the project relative the Project Budget and make recommendations in the event of forecasted overages.
- 3.6 Serve as a conduit to communicate project information to regulatory agencies, building department and utility companies to ensure timely delivery of all services and approvals.
- 3.7 As requested, assist the County in retaining other prime contractors and vendors for major items such as furniture, fixtures and equipment.

- 3.8 Coordinate the efforts of County's contractors and vendors with the Design-Builder.
- 3.9 Work with the County's commissioning agent to develop functional performance tests.
- 3.10 Update of Master Project Schedule as circumstances require.
- 3.11 Develop a coordinated quality control program with the Project Inspector, testing companies, and the Design-Builder.
- 3.12 Review and comment on Design-Builder's Storm Water Pollution Prevention Program and safety plans.

4. CONSTRUCTION PHASE

- 4.1 Provide all required staffing including on-site construction management staff and temporary facilities for CM staff and Project Inspector.
- 4.2 Maintain and update the Master Project Schedule at a minimum of once per month or as necessary to reflect significant events including documentation of delays and material changes affecting project completion or major activities.
- 4.3 Change order management: Review all change orders, request for substitutions, and requests for additional services submitted by the Design Builder and Separate Contractors, and Separate Consultants, and make a recommendation to the County on whether the services, product, or Work are additional and whether the costs and expenses are reasonable. To the extent required, engage in initial negotiations to resolve disputes.
- 4.4 Distribution and tracking of Request for Information (RFI's), shop drawings, and submittals and other documents necessary for the efficient administration and management of the Work.
- 4.5 Review applications for payment and make recommendations to the County as to their reasonableness and accuracy.
- 4.6 Construction Document tracking and control including changes, revisions and as-built conditions.
- 4.7 Quality Control: Ensure that the Design-Builder, testing agencies, and the Project Inspector conduct the appropriate inspections. This is for the purpose of facilitating administration and management by CM and not for the purpose of discovering errors, omissions or inconsistencies in the Contract Documents. Any design errors or omissions noted by CM during this review shall be reported promptly to the County.
- 4.8 Document the activities of the Building Services Division of the County's Community Development Agency, the County's special inspections and

testing firms, and other agencies having jurisdiction over the project.
Track non-compliance items and corrections.

- 4.9 Ensure that Design-Builder, Separate Contractors and Separate Consultants comply with monitoring and reporting for USDA and government mandated programs such as prevailing wage reports and “skilled and trained workforce” programs.
 - 4.10 Lead weekly on-site meetings with the Design-Builder, County staff and other necessary members of the Project Team to review progress, address any current or potential issues affecting schedule, budget or design issues and to address concerns of the Design-Builder. Produce and distribute meeting minutes.
 - 4.11 Provide monthly project reporting, or more frequently as required by the County, summarizing progress, project schedule status, budget status, change orders, testing and inspection logs and reports, daily logs or construction reports by the Design-Builder, disputes, potential claims and other material issues affecting the project.
 - 4.12 Coordinate and manage County's third party contractors ensuring that their work is smoothly integrated with the efforts of the Design-Builder.
 - 4.13 Coordinate with utility companies.
 - 4.14 Review and analyze all notice of claims received by the County regarding the Project from Design-Builder and other contractors and assist the County with initial business negotiations. Services requested in relation to a legal proceeding will be considered additional services.
- 5. FACILITY COMMISSIONING AND PROJECT CLOSEOUT**
- 5.1 Development and management of Project punch list.
 - 5.2 Working with the Commissioning Agent, observe startup and testing of project equipment.
 - 5.3 Conduct inspections at substantial completion and final completion of the Project with the Project Inspector, County, Design Criteria Consultant, and Design-Builder.
 - 5.4 Receive, review and document contractor provided spare parts, operation and maintenance manuals.
 - 5.5 Review the Design-Builder's as-built documents for completeness and accuracy.
 - 5.6 Recommend Project acceptance and completion to the County. Assist with Project closeout.

- 5.7 Work with Design-Builder to coordinate training of Sheriff personnel and other County staff regarding facility operations and building systems.
- 5.8 Coordinate with the Sheriff's Office transition team to ensure an orderly move in.
- 5.9 Assist the County with any warranty issues.

6. ALTERNATE SERVICES

- 6.1 Provide licensed and certified staff to act in the capacity of Project Inspector (Inspector of Record) to meet the requirements of the USDA and the Essential Services Seismic Safety Act of 1986. Costs for Alternative Services should be provided separately and not included in the base Not-to-Exceed Amount.

EXHIBIT 3

RESOURCE LOADED WORK PLAN

Attached

The Contract Administrator shall have authority to reallocate costs among the tasks listed in the Resource Loaded Work Plan.

Exhibit 3 - Resource Loaded Work Plan

County of El Dorado | Public Safety Facility (RFQ #17-918-035)

Team Member, Role	Pre DB (4 months)	DB Design (6 months)	Construction (16 months)	Closeout (2 months)	Onsite	Local Office	Worked Together	Responsibilities
Andrew Freeman, PE <i>Principal-In-Charge</i>	20%	5%	5%	5%		✓	✓	<ul style="list-style-type: none"> Corporate Support Assist with DB Procurement Essential Services Expertise Design-Build Specialist
Jim Aboytes <i>Project Director</i>	25%	25%	10%	10%		✓	✓	<ul style="list-style-type: none"> Design Phase Project Director USDA Funding Specialist Day-to-day POC for Services During Design
Eric Goodman <i>Project Manager</i>			100%	100%	✓	✓	✓	<ul style="list-style-type: none"> Lead Team During Construction Quality Assurance Inspection Cost/Schedule Management Issue Resolution Day-to-day POC During Construction
Kaitlin Rathe, EIT, CMIT <i>Construction Manager</i>			100%	100%	✓	✓	✓	<ul style="list-style-type: none"> Quality Assurance Inspection Change Order Management Contract Administration
Tyler Slothower <i>Project Engineering & Controls</i>	10%	25%	50%	50%	✓	✓	✓	<ul style="list-style-type: none"> Manage Project Control System RFI/Submittal Management Document Control Reporting
Rafael Martin, PE <i>Scheduler</i>	20%	10%	10%	10%		✓	✓	<ul style="list-style-type: none"> Master Schedule Baseline Schedule Review Progress Schedule Review Time Extension Requests Activation Coordination Schedule
Ben Sabati, CPE <i>Estimator</i>	25%	10%	10%	10%		✓	✓	<ul style="list-style-type: none"> Independent Estimates Change Order Estimating Life Cycle Analysis What-if Scenarios

Team Member, Role	Pre DB (4 months)	DB Design (6 months)	Construction (16 months)	Closeout (2 months)	Onsite	Local Office	Worked Together	Responsibilities
Stuart Buck, AIA <i>Design Review</i>	25%	25%				✓	✓	<ul style="list-style-type: none"> • Criteria Peer Review • Design Intent Confirmation • Architect/Engineer Support as needed
Cycle Coles <i>Site Field Manager</i>			20%		✓	✓	✓	<ul style="list-style-type: none"> • Site Work Quality Assurance • SWPPP • Unforeseen Condition Resolution
Aldo Lujan <i>Constructability</i>	25%					✓	✓	<ul style="list-style-type: none"> • Criteria Constructability Review
Dave King, CASp, AIA <i>ADA/Accessibility Architect</i>			as needed		✓	✓	✓	<ul style="list-style-type: none"> • Accessibility Design Review • Site Visits • CASp Certification if requested
Stuart Buck, AIA <i>BIM</i>	20%	20%		10%		✓	✓	<ul style="list-style-type: none"> • BIM Specification Review • DB BIM Model Review • Clash Detection • 4D Scheduling • Reporting • BIM Services as needed
Meridith Holloway <i>Inspector of Record</i>			if requested					<ul style="list-style-type: none"> • Inspector of Record Services if requested

Construction Fee

Fee Per Phase

Project Setup and Administration	\$67,060
Selection of Design Builder	\$35,010
Design and Preconstruction	\$90,220
Construction	\$1,067,600
Closeout and Commissioning	\$154,140
Total Construction Manager's Fee	\$1,414,030

Notes:

Fee includes expenses.

Fee does not include field office, furnishings and utilities.

Additional Optional Services

Inspector of Record (Estimated)	\$286,200
---------------------------------	-----------

Notes:

Does not include testing and special inspection.

EXHIBIT 4

1. REQUIRED INSURANCE LIMITS:

Workers' Compensation Employers' Liability	Statutory Limits \$1,000,000 each accident
Commercial General Liability (Occurrence Form Only)	\$2,000,000 each occurrence \$2,000,000 general aggregate/per project
Automobile Liability	\$2,000,000 each accident, and \$2,000,000 each occurrence
Professional Liability	\$2,000,000 per claim \$4,000,000 in aggregate

2. PROVISIONS APPLICABLE TO ALL INSURANCE REQUIRED FOR THIS PROJECT

2.1 Term of Insurance Policies. All liability insurance must be in force prior to any Services being performed under this Agreement and must be maintained in force for three (3) years following completion of the Services. Workers compensation insurance must be in force from the inception of this Agreement through completion of the Services and final payment. In the event of cancellation or non-renewal, the reporting period during which a claim may first be made will be extended until at least three (3) years after cancellation or non-renewal.

2.2 Qualifications and Rating. All insurance must be placed with insurers that are admitted or licensed to issue insurance in the state of California. All insurers must maintain an A.M. Best rating of at least A VII.

2.3 Additional Insureds. The County of El Dorado its officers, officials, employees and volunteers, successors and assigns will be named as additional insureds on all required commercial general liability and automobile policies for Services performed under or incident to this Agreement. If the additional insured has other insurance applicable to the loss, it will be on an excess or contingent basis. The amounts and types of insurance will conform to the minimum terms, conditions, and coverages of the Insurance Service Office (ISO) policies, forms, and endorsements in effect when this Agreement is executed, but which must be at least as broad as ISO CG 20 10 07 04 and ISO CG 20 37 07 04 unless pre-approved by the County.

2.4 Insurance Certificates and Copies of Policies. Before commencing any Services under this Agreement, the CM will provide the County with insurance certificates and endorsements reflecting the insurance required by this Agreement. Receipt of insurance certificates or copies of policies without objection by the County does not constitute acceptance or approval of insurance or relieve the CM from its obligations to provide the required insurance under this Exhibit 4. Upon renewal of any required insurance that expires before completion of the Services, the applicable Party must provide the County with renewal certificates not less than 15 days prior to the expiration. The CM will promptly furnish copies of all required policies of insurance, including any renewal or replacement policies, within 10 days of the County's written request.

2.5 No Reduction, Modification or Cancellation of Coverage. No insurance required by this Agreement may be reduced in coverage, modified, or cancelled without 30 days' written notice to County. All policy renewals during the term of insurance policies must be equal, or better, in terms and limits.

2.6 Primary Insurance. All liability policies required by CM under this Agreement are primary and non-contributory to any similar insurance maintained by County for its own respective benefit.

2.7 Waivers of Subrogation. CM will waive all rights against County, as well as any other entities set forth in Article 2.3 for loss or damage to the extent reimbursed by any property insurance. A waiver of subrogation is effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged. This waiver does not apply to professional liability insurance. If any applicable policies of insurance require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owner of those policies will cause them to either provide a "blanket waiver" endorsement or a subrogation endorsement that includes the name of the Project and the location of the Project site.

2.8 Deductibles and Self-Insured Retentions. All deductibles and/or self-insured retentions over \$25,000 are subject to County approval, and unless approved in writing, are the sole responsibility of the first named insured and are not a Reimbursable Expense.

3. SPECIFIC PROVISIONS.

3.1 Workers Compensation. Coverage will include insurance as required by California state law and employer's liability coverage per Article 1.

3.2 Commercial General Liability (CGL). Commercial general liability coverage must be issued on a policy at least as broad as ISO form CG 0001 with Project specific endorsement ISO CG 12 04 with combined single limits and aggregates in the amounts listed in Article 1. The insurance must cover all operations of the CM and must include, but is not limited to: (i) premises and operations liability; (ii) completed operations and products liability; (iii) contractual liability for liability assumed under this Agreement; (iv) broad form property damage liability (including loss of use); (v) medical and personal injury liability including coverage for sickness, disease, and death; (vi) explosion, collapse, and underground hazards; (vii) personal and advertising injury; (viii) severability of interests; and (ix) cross-liability.

3.3 Automobile Liability. Commercial automobile liability insurance must be issued on policies at least as broad as ISO Form CA 00 01, CA 00 05, CA 00 12 or CA 00 20 with each accident limits as stated in Article 1. This insurance must apply to bodily injury and property damage for all owned, non-owned, or hired vehicles to be used by the insured in performance of its obligations under this Agreement.

3.4 Occurrence Basis. All commercial general liability and automobile liability policies must be written on an occurrence basis.

3.5 Professional Liability. CM must have coverage for damages caused by CM's negligent acts, errors, or omissions arising out of the performance of the Services. CM's coverage must be in the amounts specified in Article 1.

Covering liability imposed by law or contract arising out of an error, omission or negligent act in the performance, or lack thereof, of professional services and any physical property damage, bodily injury or death resulting there from. The insurance shall include a vicarious

liability endorsement to indemnify, defend, and hold harmless El Dorado County for claims arising out of covered professional services and shall have an extended reporting period of not less than two years. That policy retroactive date coincides with or precedes CM's start of Work (including subsequent policies purchased as renewals or replacements).

If the policy is terminated for any reason during the term of this Agreement, CM shall either purchase a replacement policy with a retroactive date coinciding with or preceding the retroactive date of the terminating policy, or shall purchase an extended reporting provision of at least two years to report claims arising from Work performed in connection with this Agreement and a replacement policy with a retroactive date coinciding with or preceding the expiration date of the terminating policy.

If this Agreement is terminated or not renewed, CM shall maintain the policy in effect on the date of termination or non-renewal for a period of not less than two years there from. If that policy is terminated for any reason during the two year period, CM shall purchase an extended reporting provision at least covering the balance of the two year period to report claims arising from Work performed in connection with this Agreement or a replacement policy with a retroactive date coinciding with or preceding the retroactive date of the terminating policy.

4. MISCELLANEOUS

4.1 Evidence Prior to Final Payment. Prior to receipt of final payment under the Agreement, the CM must provide evidence that its insurance coverages are effective as required by this Exhibit 4.

4.2 Additional County Remedy. If the CM does not comply with the requirements of this Exhibit, the County may provide insurance coverage to protect the County and back-charge CM for the cost of that insurance.

4.3 Insurance Does Not Limit Liability. Insurance coverage maintained by the CM does not limit the extent of liability or indemnity of the CM under the Agreement or applicable law.

4.4 Modifications Only in Writing. The coverage and limits of insurance required by this Exhibit may not be altered, modified, or changed except as expressly agreed to in writing. No course of dealing or acceptance of certificates or policies will constitute a waiver of any of these insurance requirements.

EXHIBIT 5

CONFLICT OF INTEREST POLICY AND PROCEDURES

In addition to the County's Conflict of Interest Code, Resolution No. 194-2016 (see attached), the following policies also apply:

Procurement Policy C-17, Section 4.2 Code of Ethics for Procurement:

Employees participating in a procurement process shall uphold and adhere to all applicable federal, state, and local laws, ordinances and regulations, and dedicate themselves to the highest ideals of honesty and integrity in that process. Employees shall discourage any inappropriate contact or encroachment on one's official duties by others who seek to influence a decision, and shall expose corruption whenever discovered.

No employee participating in a procurement process shall:

- (a) Accept any fee, compensation, gift, or payment of expenses which results in private gain in return for preferential treatment.
- (b) Grant any special consideration, treatment, or advantage to any person beyond that which is available to every other person in similar circumstance.

Code of Conduct

No employee, officer or agent of the County shall participate in the selection, award, or administration of a contract supported by Rural Development funds if a conflict of interest, real or apparent, would be involved. Examples of such conflicts would arise when: the employee, officer or agent; any member of their immediate family; their partner; or an organization which employs, or is about to employ, any of the above; has a financial or other interest in the firm selected for the award.

- (i) County officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties of subagreements.
- (ii) To the extent permitted by State or local law or regulations, violations of such standards by the County officers, employees, agents, or by contractors or their agents shall be subject to penalties, sanctions, or other disciplinary actions.

JDS:jh
2016ConflictInterest.Res
12/6/16



RESOLUTION NO. 194-2016

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

ADOPTING A REVISED CONFLICT OF INTEREST CODE

WHEREAS, a section of the Political Reform Act, Government Code §87300, requires that each local agency must adopt a conflict of interest code covering the local agency's officers, employees, commissioners, etc., which shall have the force and effect of law, and

WHEREAS, Government Code §87306 requires that the local agency's conflict of interest code must be amended periodically to account for changed circumstances, including the creation of new positions within the agency or the change of duties assigned to existing positions, and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, Title 2, California Code of Regulations, §18730, provides that the incorporation by reference of the terms of that regulation, along with an agency-specific designation of employees and formulation of disclosure categories in an appendix, shall constitute the adoption of a local conflict of interest code as required by Government Code §87300 or the amendment of a conflict of interest code as required by Government Code §87306, and

WHEREAS, the County of El Dorado has previously adopted a local conflict of interest code, and has previously updated it, and

WHEREAS, the County of El Dorado has recently reviewed its current positions, the duties assigned to each position, the current conflict of interest code including its Appendix of Designated Employees and Disclosure Categories, and determined that changes to the current conflict of interest code are necessary and desirable, and

WHEREAS, the Conflict of Interest Code adopted by this resolution more accurately reflects the duties of each current position and the appropriate disclosure categories for each position,

NOW THEREFORE, BE IT RESOLVED, that Resolution 244-2014 be rescinded and superseded by this resolution.

NOW THEREFORE BE IT FURTHER RESOLVED that the County of El Dorado hereby adopts the following Conflict of Interest Code, including its Appendix of Designated Employees and Disclosure Categories.

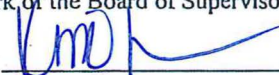
EL DORADO COUNTY CONFLICT OF INTEREST CODE

The provisions of Title 2, California Code of Regulations Section 18730 and any amendments adopted by the Fair Political Practices Commission, incorporated herein by this reference, are hereby adopted as the conflict of interest code of El Dorado County in compliance with Government Code §87300 et seq.

The attached Appendix of Designated Employees and Disclosure Categories is adopted as part of the conflict of interest code. Part A is the list of "designated employees" required by Title 2; California Code of Regulations, section 18730(b)(2), with the disclosure category for each position. Part B is the description of each "disclosure category" required by Title 2, California Code of Regulations, section 18730(b)(3), indicating the type of economic interest that must be disclosed.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 6th day of December, 20 16, by the following vote of said Board:


Attest:
James S. Mitrisin
Clerk of the Board of Supervisors

By: 
Deputy Clerk

Ayes: Frentzen, Ranalli, Mikulaco, Veerkamp, Novasel

Noes: None

Absent: None


Chairman, Board of Supervisors
Ron Mikulaco

COUNTY OF EL DORADO
 CONFLICT OF INTEREST CODE
 APPENDIX OF DESIGNATED EMPLOYEES AND DISCLOSURE CATEGORIES
[Adopted as an appendix to the County conflict of interest code on December __, 2016]

PART A: DESIGNATED EMPLOYEES

Listed below are the “designated employees” for El Dorado County, and the disclosure category which the designated employee must use when completing his or her statement of economic interest. The instructions on the disclosure form provide guidance on what specific interests must be disclosed within each category.

DEPARTMENT/POSITION	DISCLOSURE CATEGORY
Administration	
Asst. Chief Administrative Officer	I
Administrative Technician (Asst. to CAO)	II
Building/Grounds Superintendent	II
Buyer I/II	I
Deputy Chief Administrative Officer	I
Chief Fiscal Officer	II
Department Analyst	II
Economic & Business Relations Manager	I
Facilities Manager	I
Facilities Project Manager I/II	I
Parks Manager	I
Principal Administrative Analyst	I
Procurement and Contracts Manager	I
Senior Buyer	I
Senior Department Analyst (Purchasing)	I
<i>[CAO is required to file by GC §87200]</i>	
Agriculture/Weights and Measures	
Ag. Biologist/Standards Inspector I/II	II
Ag. Commissioner/Sealer-Weights & Measures	I
Deputy Ag. Commissioner/Sealer	I
Senior Ag. Biologist/Standards Inspector	II
Assessor	
Appraiser I/II	I
Assessor	I
Asst. Assessor	I
Auditor/Appraiser	I
Branch Supervising Appraiser	I
Information Tech Department Coordinator	I

DEPARTMENT/POSITION	DISCLOSURE CATEGORY
Information Tech. Department Coordinator	I
Senior Auditor/Appraiser	I
Senior Appraiser	I
Supervising Auditor/Appraiser	I
Auditor/Controller	
Auditor/Controller	I
Chief Asst. Auditor/Controller	I
Board of Supervisors	
Clerk of the Board of Supervisors	I
Supervisors Assistants	I
<i>[Board Members are required to file by GC §87200]</i>	
Child Support Services	
Deputy Director of Child Support Services	II
Director of Child Support Services	II
Program Manager	I
Revenue Recovery Officer I/II	II
Senior Revenue Recovery Officer	II
Staff Services Manager	II
Supervising Revenue Recovery Officer	II
County Counsel	
Associate County Counsel	I
Chief Asst. County Counsel	I
Deputy County Counsel	I
Principal Assistant County Counsel	I
Sr. Deputy County Counsel	I
<i>[County Counsel is required to file by GC§87200]</i>	
Community Development Agency	
Administrative Services Officer	II
Airport Operations Supervisor	II
Assistant Director of Administration and Finance	I
Assistant Director of Community Development	I
Assistant in Right of Way	I
Assistant Planner	I
Associate Planner	I
Associate Right of Way Agent	I
Building Inspector I/II/III	I
Chief Fiscal Officer	II
Clerk of the Planning Commission	II
Code Enforcement Officer I/II	I
Department Analyst I/II	II
Deputy Building Official	I

Deputy Director Developmental Services	
– Building Official	I
Deputy Director of Engineering	I
Deputy Director of Maintenance & Operations	I
Development Services Division Director	I
Director of Community Development Agency	I
Disposal Site Supervisor	II
Environmental Health Specialist I/II	II
Environmental Management Division Director	I
Environmental Management Programs Manager	II
Equipment Superintendent	II
Fiscal Services Supervisor	II
Geologist	II
Hazardous Materials/Recycling Specialist	II
Highway Superintendent	II
Office Services Supervisor	II
Operations Supervisor	I
Principal Engineering Tech	II
Principal Planner	I
Right of Way Program Manager	I
Right of Way Supervisor	I
Sr. Accountant	II
Sr. Civil Engineer	I
Sr. Department Analyst	II
Sr. Environmental Health Specialist	II
Sr. Planner	I
Supervising Accountant/Auditor	II
Supervising Civil Engineer	I
Supervising Code Enforcement Officer	I
Supervising Development Technician	II
Supervising Environmental Health Specialist I/II	II
Supervising Waste Specialist	II
Traffic Engineer	II
Traffic Superintendent	II
Transportation Division Director	I
Transportation Planner	II
District Attorney	
Asst. District Attorney	I
Chief Asst. District Attorney	I
Chief Investigator	II
Deputy District Attorney I- IV	I
<i>[District Attorney is required to file by GC §87200]</i>	

Elections- Registrar of Voters (See Recorder/Clerk/Elections)

DEPARTMENT/POSITION	DISCLOSURE CATEGORY
Health & Human Services Agency	
Administrative Services Officer	II
Alcohol and Drug Program Division Manager	III
Animal Control Operations Manager	II
Assistant Director of Health Services	I
Assistant Director of Human Services	I
Chief Animal Control Officer	II
Chief Asst. Director Health & Human Services Agency	I
Chief Fiscal Officer	II
Community Public Health Nursing Division Manager	III
Department Analyst I/II	II
Deputy Director of Health & Human Services Agency	I
Deputy Public Guardian I/II	II
Director of Health & Human Services Agency	I
Employment and Training Worker Supervisor	II
EMS Agency Administrator	III
EMS Agency Medical Director	III
Fiscal Services Supervisor	II
Health Program Manager	III
Manager of Mental Health Programs	III
Mental Health Medical Director	III
Program Manager	II
Program Manager Protective Services	II
Public Health Laboratory Director	III
Public Health Officer	II
Psychiatrist I/II/Extra Help	II
Senior Citizen's Attorney I/II/III	II
Social Services Supervisor I/II	II
Staff Services Analyst I/II	II
Social Services Program Manager	II
Social Worker I/II/III/IV	II
Supervising Accountant/Auditor	II
Supervising Animal Control Officer	II
Supervising Deputy Public Guardian	II
Sr. Department Analyst	II
Human Resources	
Director of Human Resources	I
Human Resources Manager	I
Human Resources Technician	II
Human Resources Analyst I/II	II
Principal Human Resources Analyst	II
Principal Risk Management Technician	II
Risk Manager	II
Senior Human Resources Analyst	II

DEPARTMENT/POSITION	DISCLOSURE CATEGORY
Senior Risk Management Analyst	II
Training & Organizational Development Specialist	II
Information Technology	
Assistant Director of Information Technology (IT)	I
Departmental Systems Analyst I/II (IT)	II
Deputy Director of Information Technology	I
Director of Information Technology (IT)	I
Sr. Department System Analyst (IT)	II
Supervising IT Analyst (IT)	II
Library	
Director of Library Services	I
IT Department Specialist	II
Museum Administrator	II
Supervising Librarian	II
Probation Department	
Administrative Services Officer	I
Chief Fiscal Officer	I
Chief Probation Officer	I
Department Analyst	II
Deputy Chief Probation Officer	II
Sr. Department Analyst	II
Sr. Information Technology Department Coordinator	II
Public Defender	
Administrative Services Officer	II
Asst. Public Defender	I
Chief Asst. Public Defender	I
Public Defender	I
Recorder/Clerk/Elections	
Asst. County Recorder	I
Asst. Registrar of Voters	I
Recorder/Clerk/Registrar of Voters	I
Sheriff-Coroner-Public Administrator	
Assistant Public Administrator	I
Chief Fiscal Officer	II
Correctional Lieutenant	I
Senior Department Analyst	II
Sheriff	I
Sheriff's Captain	I
Sheriff-Coroner-Public Administrator	I
Sheriff's Communication Manager	II

DEPARTMENT/POSITION	DISCLOSURE CATEGORY
Sheriff's Lieutenant	I
Sheriff's Support Services Manager	II
Undersheriff	I
Surveyor	
Deputy Surveyor	II
GIS Manager	II
Surveyor	I
Treasurer-Tax Collector	
Accountant-Auditor	I
Accounting Division Manager	I
Administrative Technician	II
Assistant Treasurer-Tax Collector	I
Sr. Information Technology Department Coordinator	II
Treasury Quantative Specialist	I
<i>[Treasurer/Tax Collector is required to file by GC §87200]</i>	
Veterans	
Veteran Services Officer	I
Boards and Commissions	
Members of the Assessment Appeals Board	I
Members of the Agriculture Commission	I
Members of the Civil Service Commission	II
Members of the Child Abuse Prevention Council	II
<i>[Planning Commission members are required to file by GC §87200]</i>	
All Departments	
Consultants*	V

*Consultants are those persons defined by Title 2, California Code of Regulations, Section 18701(a)(2), who contract with the County through any County Department. Disclosure Category V describes the process to be used to identify those contractors who meet the definition of consultant and thus must file a statement of economic interests.

APPENDIX OF DESIGNATED EMPLOYEES AND DISCLOSURE CATEGORIES

PART B: DISCLOSURE CATEGORIES FOR DESIGNATED POSITIONS

CATEGORY I

Persons who are designated in this category must disclose all sources of income, interests in real property located in El Dorado County, investments in business entities, and positions held in business entities, located in or doing business in El Dorado County.

CATEGORY II

Persons who are designated in this category must disclose all sources of income, investments in business entities and positions held in business entities, located in or doing business in El Dorado County.

CATEGORY III

Persons who are designated in this category must disclose investments in business entities, positions held in business entities, and sources of income, from providers of health care services or equipment, including but not limited to pharmacies, physicians, suppliers of equipment, etc.

Persons who are designated in this category must also disclose investments in business entities, positions held in business entities, and sources of income, from those persons or entities which may be the recipient of patient referrals for the delivery of health care services or supplies by the county or any county-related entity.

Persons who are designated in this category must also disclose investments in business entities, positions held in business entities, and sources of income, which are of the type that provide consultant services to any business entity or nonprofit corporation made reportable by this disclosure category.

CATEGORY IV

Persons who are designated in this category must disclose any sources of income who are employees of the county.

CATEGORY V (CONSULTANTS)

Those persons who meet the criteria to be considered "consultants" as defined in Title 2, California Code of Regulations, §18701(a)(2), shall file a statement of economic interests. At the time the contract with the consultant is made, the County contract administrator shall make an initial determination whether or not the consultant meets the criteria of 2 CCR §18702(a)(2) (quoted below). If the County Contract Administrator determines that the consultant meets the criteria, he or she shall notify the Chief Administrative Officer who shall then make a final determination. If the CAO determines that the consultant meets the criteria, the CAO shall make a written determination including a description of the consultant's duties and, based upon that

description, a statement of the extent of disclosure requirements. Such determination shall be a public record.

The current version of Title 2, California Code of Regulations, §18701(a)(2), reads as follows:

"Consultant" means an individual who, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:

(i) Approve a rate, rule, or regulation;

(ii) Adopt or enforce a law;

(iii) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;

(iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;

(v) Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;

(vi) Grant agency approval to a plan, design, report, study, or similar item;

(vii) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or

(B) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code under Government Code Section 87302.

2 CCR § 18730

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which

kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$460.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$460 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms

available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

- a. The date the loan was made.
- b. The date the last payment of \$100 or more was made on the loan.
- c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$460 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

² See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14). Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).

5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).
9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47).
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).
22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).
23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).
24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).
25. Editorial correction of History 24 (Register 2003, No. 12).
26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).
27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).
28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).
29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).
30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing and printing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

This database is current through 10/28/16 Register 2016, No. 44.

2 CCR § 18730, 2 CA ADC § 18730