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May 19, 2021

Via U.S. Mail & E-mail: scott@mcmillanlaw.us

Scott A. McMillan
The McMillan Law Firm
4670 Nebo Drive, Suite 200
La Mesa, CA 91941

RE: Public Records Act Request (Government Code §6250, et. seq.)

Mr. McMillan,

This letter is in response to your Public Records Act Request submitted to the Merced County Registrar of Voters (“Registrar”) on January 28, 2021, requesting records related to the November 3, 2020 election. Please note that the Registrar does not utilize any Dominion Voting Systems, as referenced in several of your requests.

The Registrar also received your Application for Voter Information and Election Data on April 6, 2021, including your Use Agreement for Voter Information. The Registrar is therefore able to provide responsive records, if any, to the several requests which seek confidential voter information. Below please find our responses to each of your requests.

1. Provide those documents identifying, by date, time and means, all synchronization transmissions between the California Secretary of State and the county Registrar of Voters.

Response: This request does not include a specified date range. The Registrar assumes this request relates to the November 3, 2020 general election. If this is not correct, please clarify.

The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 1-5, Question 1: Secretary of State Memo dated June 16, 2020.

2. Provide those documents with the results of each synchronization transmission between the California Secretary of State and the county Registrar of

Voters, by number of registrants confirmed as valid, and those that are identified as invalid.

Response: This request does not include a specified date range. The Registrar assumes this request relates to the November 3, 2020 general election. If this is not correct, please clarify.

The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 1-5, Question 2: screenshot summary of Synchronization Check.

3. Provide those documents which reflect notifications from the Secretary of State requesting or directing modifications to a voter's registration record between September 1, 2020 and November 15, 2020.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 1-5, Question 3a and 3b: Transactions Sent 9/1/2020 – 11/15/2020.

4. Provide those documents that reflect, in summary form, the modifications to the voter registration record, by date, time, and by any unique voter registration number or name of voter, for those records modified between September 1, 2020 and November 15, 2020

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 1-5, Question 4, Excel spreadsheet. Redactions have been made pursuant to Government Code Section 6254.4 and 6255.

5. Provide those documents identifying where, by geographic location, ballots were counted in the County between October 15, 2020, through November 30, 2020.

Response: The Registrar counted ballots at its Merced County Elections Warehouse located at 250 E 15th Street, Merced, CA. Further, the Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 1-5, Question 5: Merced County Public Notice.

6. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting "Active management (inventory, tracking, and correction) of all software on the network so that only

authorized software is installed and can execute" took place in compliance with 2 CCR§ 19064(c)(2).

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

7. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting "active management (tracking, reporting, and correction) of the security configuration of laptops, servers, and workstations in order to prevent attackers from exploiting vulnerable services and settings" took place in compliance with 2 CCR§ 19064(c)(3).

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

8. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting "Active management (tracking, control, and correction) of the ongoing operational use of ports, protocols, and services on networked devices in order to minimize vulnerabilities available for attack" took place in compliance with 2 CCR § 19064(c)(9).

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

9. Provide the log files for all data traffic, including connection requests accepted and refused, between the county's election information file and any other location between September 1, 2020 and November 15, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the]

information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

10. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting" Tracking, controlling, preventing, and correcting the security use of wireless local area networks, access points, and wireless client systems" which took place in compliance with 2 CCR § 19064(c)(15).

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

11. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November 15, 2020 reflecting the inventory and identification of all wireless connections in the County's ballot processing location.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

12. Provide those documents, i.e., logs, narratives of inspection, created between September 1, 2020 and November I 5, 2020 reflecting the inventory and identification of all wireless-capable devices in the County's ballot processing location.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

13. Provide those documents, identifying by serial number, MAC address, device, and location, and the custodian of, all wireless-capable devices in the

County's ballot processing location between November 2, 2020 and November 13, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

14. Provide those documents, reflecting any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) operational prior to October 15, 2020, which took place in compliance with 2 CCR§ 19064(c)(19).

Response: The Registrar has identified responsive records and is producing herewith general policies and procedures that do not describe potential vulnerabilities or otherwise increase the potential for an attack on the information technology system associated with the Registrar and the County of Merced. However, the County shall withhold any information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

15. Provide those documents, reflecting training on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: The Registrar has identified responsive records and is producing them herewith, along with general policies and procedures that do not describe potential vulnerabilities or otherwise increase the potential for an attack on the information technology system associated with the Registrar and the County of Merced. However, the County shall withhold any information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

16. Provide those documents, reflecting roles on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: The Registrar has identified responsive records and is producing herewith general policies and procedures that do not describe potential vulnerabilities or otherwise increase the potential for an attack on the information

technology system associated with the Registrar and the County of Merced. However, the County shall withhold any information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

17. Provide those documents, reflecting communications on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: The Registrar has identified responsive records and is producing herewith general policies and procedures that do not describe potential vulnerabilities or otherwise increase the potential for an attack on the information technology system associated with the Registrar and the County of Merced. However, the County shall withhold any information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

18. Provide those documents, reflecting management oversight on any incident response infrastructure (e.g., plans, defined roles, training, communications, and management oversight) prior to October 15, 2020.

Response: The Registrar has identified responsive records and is producing herewith general policies and procedures that do not describe potential vulnerabilities or otherwise increase the potential for an attack on the information technology system associated with the Registrar and the County of Merced. However, the County shall withhold any information security records that are exempt from disclosure pursuant to Government Code sections 6254(aa), 6254.19 and 6255 and 2 Cal. Code. Reg. § 19064.

19. Provide those documents reflecting the identity of each person that has accessed the routers for the county's EMS and election information systems between October 15, 2020 and November 13, 2020.

Response: The Registrar has identified no responsive records to this request. Further, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

20. Provide those documents which identify all persons, not permanently employed by the County, who accessed servers or routers of the EMS and election information system between October 15, 2020 and November 14, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

21. Provide documents which identify all persons authorized by the county who accessed servers or routers of the EMS and election information system between October 15, 2020 and November 14, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

22. Provide those documents which identify all persons with USB or "flash drives" that were allowed access to any location where votes were tallied or processed in the County.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).) Further, records identifying Registrar employees who have access to voting machine tabulation storage devices are additionally exempt from disclosure pursuant to Government Code §§ 6254(c), 6254(k), and California Constitution, article I, Section 1.

23. Provide those documents which identify all persons with sign-on authentication authorization as a direct user to the county's EMS and election information system between September 15, 2020 and December 1, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal

vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).) Further, records identifying Registrar employees who have access to voting machine tabulation storage devices are additionally exempt from disclosure pursuant to Government Code §§ 6254(c), 6254(k), and California Constitution, article I, Section 1.

24. Provide the log files for the county's EMS and election information system with entries between September 15, 2020 and December 1, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

25. Provide those documents or records reflecting a network topology plan or map referencing the devices attached each other device within the county's EMS and election information system.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

26. Provide those documents or records reflecting the log monitoring tools used to send real-time alerts and notifications.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

27. Provide the "real-time alerts and notifications", as referenced in 2 CCR 19064(e)(3) sent between September 1, 2020 through December 10, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

28. Provide those documents or records reflecting review, at any time, of "any errors, abnormal activities, and any system configuration changes", identified between September 1, 2020 through December 10, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

29. Provide those documents which reflect "any errors" in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

30. Provide those documents which reflect "abnormal activities" in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

31. Provide those documents which reflect “system configuration changes” in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: To the extent that the Registrar has potentially responsive records to this request, the production of any such records would “reveal vulnerabilities to, or otherwise increase the potential for an attack on [the] information technology system” of the County. (Gov. Code § 6254.19.) Accordingly, any such records are exempt from production and will not be produced. (See Gov. Code §§ 6254.19, 6254(aa), 6255(a); 2 CCR § 19064(a).)

32. Provide those documents which reflect “unauthorized use” in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: The Registrar has determined that it possesses no records responsive to this request.

33. Provide those documents which reflect “suspected breach” in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: The Registrar has determined that it possesses no records responsive to this request.

34. Provide those documents which reflect “denial of service attack” in the county's EMS and election information system identified between September 1, 2020 through December 10, 2020.

Response: The Registrar has determined that it possesses no records responsive to this request.

35. Provide those documents reflecting a report to the Secretary of State Elections Division Help Desk of a “detected unauthorized use, suspected breach, or denial of service attack” between September 1, 2020 through December 10, 2020, as required under 2 CCR 19064 (g).

Response: The Registrar has determined that it possesses no records responsive to this request.

36. All records reflecting change in registration status submitted to the statewide voter system by the county due to felony status processed between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 36, 38-43: screenshot VoteCal Transactions 9.10.2020 to 11.10.2020.

37. All records reflecting change in registration status submitted to the statewide voter system by the county due to federal felony status processed between September 1, 2020, and November 10, 2020.

Response: The Registrar's records do not identify whether a change in registration status is due to a state felony versus a federal felony.

38. All records reflecting change in registration status submitted to the statewide voter system by the county due to county death records reflecting voter to be deceased processed between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 36, 38-43: screenshot VoteCal Transactions 9.10.2020 to 11.10.2020.

39. All records reflecting the total cancellations directed by the Secretary of State processed by the county between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 36, 38-43: screenshot VoteCal Transactions 9.10.2020 to 11.10.2020.

40. All records reflecting searches of county felony records between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records which are provided herewith. The Registrar processes the list of voters whose registrations are cancelled due to a felony conviction that is provided by the State. See enclosed flash drive, folder Questions 36, 38-43: screenshot VoteCal Transactions 9.10.2020 to 11.10.2020.

41. All records reflecting searches of county death records between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 36, 38-43: screenshot VoteCal Transactions 9.10.2020 to 11.10.2020.

42. All records reflecting county searches of DMV Change of Address (DMV COA) between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 36, 38-43: screenshot VoteCal Transactions 9.10.2020 to 11.10.2020.

43. All records reflecting total submissions by changes in the registration record to the statewide voter registration system in accordance with Section 19061, between September 1, 2020, and November 10, 2020.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 36, 38-43: screenshot VoteCal Transactions 9.10.2020 to 11.10.2020.

44. Those documents reflecting the dates of certifications of information provided to the Secretary of State according to 2 CCR § 19086(b).

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Question 44.

45. Those documents reflecting the date of generation of the official list extract from the statewide voter registration system for the purpose of conducting the 2020 General Election.

Response: The Registrar has identified no responsive records to this request. The County of Merced does not use paper rosters.

46. Those documents reflecting the date of each subsequent or supplemental rosters, after the initial roster for the purpose of conducting the 2020 General Election.

Response: The Registrar has identified no responsive records to this request. The County of Merced does not use paper rosters.

47. All certifications executed by any county election official for the November 3, 2020 General Election.

Response: The Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Question 47.

48. The number of ballots determined by the county through adjudication for the November 3, 2020 election.

Response: 181,438. Further, the Registrar has identified responsive records which are provided herewith. See enclosed flash drive, folder Questions 48 and 51.

To the extent this request seeks production of the ballots themselves, such records are exempt from disclosure pursuant to Government Code §§ 6254 (k) and 6255, the California Constitution, article II, Section 7, and Elections Code §§ 15370, 15360, and 17302.

49. All ballots duplicated by the county through adjudication for the November 3, 2020 election.

Response: To the extent this request seeks production of the ballots themselves, such records are exempt from disclosure. Voted ballots and/or duplicates of voted ballots are exempt from disclosure under the Public Records Act and will not be disclosed. (See Gov. Code §§ 6254(k), 6255(a); Elec. Code §§ 2300(a)(4), 15370, 15360, 17301, 17302; *Citizens Oversight, Inc. v. Vu* (2019) 35 Cal.App.5th 612; Cal. Const. art. II, § 7.)

50. Those documents that identify the records of ballots duplicated for the November 3, 2020 election.

Response: The only responsive documents are the ballots themselves, which are exempt. Voted ballots and/or duplicates of voted ballots are exempt from disclosure under the Public Records Act and will not be disclosed. (See Gov. Code §§ 6254(k), 6255(a); Elec. Code §§ 2300(a)(4), 15370, 15360, 17301, 17302; *Citizens Oversight, Inc. v. Vu* (2019) 35 Cal.App.5th 612; Cal. Const. art. II, § 7.)

51. Those documents that identify the records of ballots adjudicated for the November 3, 2020 election.

Response: The Registrar has identified responsive records, which are provided herewith. See enclosed flash drive, folder Questions 48-51. To the extent this request seeks the ballots themselves, voted ballots and/or duplicates of voted ballots are exempt from disclosure under the Public Records Act and will not be disclosed. (See Gov. Code §§ 6254(k), 6255(a); Elec. Code §§ 2300(a)(4), 15370,

15360, 17301, 17302; *Citizens Oversight, Inc. v. Vu* (2019) 35 Cal.App.5th 612; Cal. Const. art. II, § 7.)

52. Those documents that identify the records of changes to ballots made for the November 3, 2020 election.

Response: The Registrar has identified responsive records, which are provided herewith. See enclosed flash drive, folder Question 52. To the extent this request seeks the ballots themselves, voted ballots and/or duplicates of voted ballots are exempt from disclosure under the Public Records Act and will not be disclosed. (See Gov. Code §§ 6254(k), 6255(a); Elec. Code §§ 2300(a)(4), 15370, 15360, 17301, 17302; *Citizens Oversight, Inc. v. Vu* (2019) 35 Cal.App.5th 612; Cal. Const. art. II, § 7.)

Request Nos. 53 – 63: These requests seek records regarding the use of voting systems during the November 3, 2020 General Election that were manufactured by Dominion Voting Systems, including items referring to Eric Coomer, an executive of Dominion, and items containing terms used to describe features of a voting system offered by Dominion. The County of Merced does not use a Dominion voting system. Thus, it does not possess any records reflecting the use of such a voting system during the November 3, 2020 General Election.

Sincerely,

Forrest W. Hansen
Merced County Counsel



Jared E. Christensen
Deputy County Counsel

JEC/sf

Enc. (flash drive)