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**AGREEMENT FOR SPECIALIZED LEGAL SERVICES**

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008 (the Agreement) by and between the COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and \_\_\_\_\_, a Professional Corporation, hereinafter referred to as "ATTORNEY".

**RECITALS:**

WHEREAS, COUNTY is in the process of the administration and defense of General Liability, Auto Liability and Medical Malpractice claims against the COUNTY; and

WHEREAS, COUNTY needs and wishes to engage appropriate legal counsel, who is skilled and knowledgeable in defense of such claims, to advise and represent COUNTY in connection with the matters, as provided herein; and

WHEREAS, ATTORNEY represents that it is experienced and that it possesses expertise in such matters.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the Parties hereto agree as follows:

Section 1

Engagement of Attorney

1.1 COUNTY hereby engages ATTORNEY as an independent contractor, and any associated staff attorneys and paralegal/s as ATTORNEY deems necessary, and whom COUNTY Risk Management approves pursuant to Section 5 of this Agreement.

1.2 Each claim referred to ATTORNEY will be handled by the Attorney to which the assignment is made by COUNTY unless COUNTY approves the handling by another Attorney in the firm. Associated staff may assist the Attorney as deemed necessary.

1.3 Any additional instructions relative to the handling of a claim which are not specified or otherwise alluded to in this Agreement will be included in the letter of engagement for each claim assigned to ATTORNEY. Such instructions will be complied with by ATTORNEY as additional client direction in the management of the claim.

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Section 2  
Scope of Services

2.1 ATTORNEY shall assist, advise and represent COUNTY in connection with all matters relative to the administration and defense of the claims assigned by Risk Management staff.

2.2 ATTORNEY shall perform such other similar legal services as requested by COUNTY Risk Management in connection with the matters related to the administration and defense of the assigned claims.

Section 3  
Performance by Attorney

3.1 ATTORNEY agrees to avoid unnecessary duplicative efforts by ATTORNEY and any associated counsel and/or staff members of ATTORNEY in the performance of services for COUNTY hereunder.

3.2 COUNTY shall not be obligated to compensate ATTORNEY for intra-office conferences between or among ATTORNEY'S associate attorneys and/or staff members, unless such intra-office conferences promote efficiency in the performance of ATTORNEY'S work on a matter, or a reduction in the cost of compensation paid or reimbursement made for related, actual, reasonable and necessary, out-of-pocket expenses to ATTORNEY, or both.

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

3.4 COUNTY must approve the retention of all experts, consultants, investigators, and any other unusual expenditures.

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Section 4

Compensation of Attorney

4.1 COUNTY shall be obligated to compensate ATTORNEY pursuant to the terms and conditions of this Agreement and for the performance of those tasks, to the reasonable satisfaction of the COUNTY, identified in Section 2 of this Agreement that take place during the term of this Agreement. It is understood that COUNTY shall not be obligated to compensate ATTORNEYS for:

(a) any work, services, or functions performed by ATTORNEY that do not arise directly from the performance of tasks identified in Section 2 of this Agreement; and

(b) in providing COUNTY with documentation, explanations, or justifications concerning the adequacy or accuracy of ATTORNEY'S invoices for the performance of services under this Agreement, and resolving same to the reasonable satisfaction of COUNTY.

4.2 COUNTY agrees to pay and ATTORNEY agrees to accept as full compensation for performance of tasks under this Agreement ATTORNEY'S reasonable fees as described in the Attached Schedule of Rates. These scheduled rates may be increased up to Five percent (5%) after the third (3<sup>rd</sup>) year of this Agreement with approval from the COUNTY.

4.3 ATTORNEY shall be reimbursed for actual, reasonable, and necessary out-of-pocket expenses, as follows: telephone charges, facsimile charges, computer research charges, filing fees, postage charges, printing and photographic reproduction expenses, and all other directly-related expenses. It is understood that ATTORNEY shall not be reimbursed for his secretarial, clerical, word processing or typist services (including overtime hours worked), that is "normal office operating expenses," with the exception of those charges and expenses stated above. In addition, ATTORNEY shall not be reimbursed for such normal office operating expenses incurred, regardless of who performs such services or incurs such expenses.

1 4.4 Notwithstanding anything else stated to the contrary in this Agreement, in  
2 no event shall the maximum amount paid by COUNTY to ATTORNEY as compensation,  
3 and as reimbursement of related, actual, reasonable and necessary, out-of-pocket  
4 expenses, exceed One million dollars (\$1,000,000.00) per calendar year.

5 Section 5

6 Payment and Record-Keeping

7 5.1 Subject to Section 4 of this Agreement, payment of compensation for the  
8 services provided and reimbursement for related, actual, reasonable and necessary, out-  
9 of-pocket expenses incurred which are described herein shall be made by COUNTY after  
10 submission of an itemized invoice by ATTORNEY to Risk Management. ATTORNEY  
11 shall submit such invoices as specified in the case assignment letter unless the bill totals  
12 less than One hundred dollars (\$100.00). The file will not be billed until the total reaches  
13 at least One hundred dollars (\$100.00) or the claim is closed.

14 5.2 All such invoices shall have sufficient detail as may be required by the  
15 COUNTY Auditor-Controller/Treasurer-Tax Collector, including, but not limited to:

16 5.2.1 The specific nature of each task performed as services under this  
17 Agreement;

18 5.2.2 The name of the attorney or staff member performing each task;

19 5.2.3 The number of hours worked by each such person for each such  
20 task;

21 5.2.4 The hourly rate per each such person performing each such task;

22 5.2.5 The related, actual, reasonable and necessary, out-of-pocket  
23 expenses incurred, as provided for in Section of this Agreement;

24 5.2.6 A certification by ATTORNEY that each such invoice is true and  
25 accurate as to the information and specification contained therein;

26 5.3 In addition to the requirements of Section 5.2, each invoice shall set forth a  
27 summary of hours worked by each attorney and staff member for the  
28 applicable billing period. Each invoice shall set forth the product of such

1 summary of hours worked by each person multiplied by each such person's  
2 billing rate, as set forth in the attached Schedule of Rates.

3 5.4 In preparing invoices, if requested by COUNTY Risk Management,  
4 ATTORNEY shall segregate each task performed on a daily basis. If so requested by  
5 COUNTY, ATTORNEY shall not combine unrelated tasks as a single entry in lieu of  
6 setting forth the hours of work performed by an attorney or staff member on each specific  
7 task.

8 5.5 ATTORNEY shall prepare his invoices in an organized manner that  
9 facilitates an efficient review of the services performed and the expenses incurred in  
10 order to provide COUNTY with a clear and complete picture of how much time was  
11 devoted to specific tasks and projects, and the cost associated therewith.

12 5.6 ATTORNEY shall keep complete records of the services provided, as  
13 described in this Section 5, together with all related actual, reasonable and necessary,  
14 out-of-pocket expenses applicable to the work provided under this Agreement. The  
15 County Auditor-Controller/Treasurer-Tax Collector, or his or her duly authorized  
16 representatives, shall be given reasonable access to all of these records for the purposes  
17 of audit of this Agreement. In addition, ATTORNEY shall be subject to the examination  
18 and audit of such records by the State Auditor for a period of three (3) years after final  
19 payment under this Agreement, pursuant to Government Code section 8546.7, as  
20 applicable.

## 21 Section 6

### 22 Term of Agreement

23 6.1 The Agreement shall be effective and shall commence upon the date the  
24 Agreement is approved by the Board of Supervisors. This Agreement shall continue in  
25 full force and effect until June 30, 2011 and shall automatically be extended for two (2)  
26 additional twelve (12) month periods upon the same terms and conditions herein set  
27 forth, unless earlier terminated hereunder by either or both parties. The County may  
28 terminate this agreement at any time for any reason by providing written notice to

1 Contractor. The Contractor may terminate this agreement for material breach after giving  
2 County written notice and 10 days to correct the breach. However, COUNTY'S rights  
3 under any pending matter which may arise from ATTORNEY'S service hereunder shall  
4 not be prejudiced due to such termination, as required by the Rules of Professional  
5 Conduct of the State Bar of California. Subject to Section 4 of this Agreement,  
6 ATTORNEY shall be paid for all services performed to the date of termination of this  
7 Agreement, which services are performed to the reasonable satisfaction of the COUNTY.  
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## 10 Section 7

### 11 Independent Contractor

12 7.1 In performance of the work, duties, and obligations assumed by  
13 ATTORNEY under this Agreement, it is mutually understood and agreed that  
14 ATTORNEY, including any and all of ATTORNEYS' officers, agents, and employees will  
15 at all times be acting and performing as independent contractors, and shall act in an  
16 independent capacity and not as an officer, agent, servant, employee, joint venturer,  
17 partner, or associate of COUNTY. However, COUNTY shall retain the right to administer  
18 this Agreement to verify that ATTORNEY is performing its obligations in accordance with  
19 the terms and conditions thereof. ATTORNEY and COUNTY shall comply with all  
20 applicable provisions of law and the rules and regulations, if any, of governmental  
21 authorities having jurisdiction over the subject matter thereof.  
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24 7.2 Because of its status as an independent contractor, ATTORNEY, including  
25 any and all of ATTORNEY'S officers, agents, and employees, shall have absolutely no  
26 right to employment rights and benefits available to COUNTY employees. ATTORNEY  
27 shall be solely liable and responsible for providing to, or on behalf of, its employees all  
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1 legally required employee benefits. In addition, ATTORNEY shall be solely responsible  
2 and save COUNTY harmless from all matters related to payment of ATTORNEY'S  
3 employees, including compliance with social security, withholding, and all other  
4 regulations governing such matters. It is acknowledged that during the term of this  
5 Agreement, ATTORNEY may be providing services to others unrelated to the COUNTY  
6 or to this Agreement.  
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9 Section 8

10 Hold Harmless

11 8.1 ATTORNEY shall hold COUNTY, its officers, agents, and employees  
12 harmless and indemnify and defend COUNTY, its officers, agents, and employees  
13 against payment of any and all costs and expenses (to include legal fees), claims, suits,  
14 losses, damages, and liability arising from or arising out of any wrongful acts or  
15 omissions of ATTORNEY, including its officers, agents, and employees, in performing or  
16 failing to perform the services provided herein. COUNTY'S receipt of any insurance  
17 certificates required herein does not in any way relieve ATTORNEY from the obligations  
18 under Section 8 of this Agreement.  
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21 Section 9

22 Insurance

23 9.1 Professional Liability

24 ATTORNEY shall maintain Professional Liability Insurance with limits of not less  
25 than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars  
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1 (\$3,000,000) annual aggregate. ATTORNEY shall provide COUNTY with written  
2 evidence of such coverage upon request.

3 This coverage may be issued on a per claim basis. If so, ATTORNEY agrees that  
4 it shall maintain, at its sole expense, so called "tail coverage" in full force and effect for  
5 a period of three (3) years following the termination of this Agreement, which shall be  
6 one or more policies of professional liability insurance with limits of coverage as  
7 specified herein.  
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10 9.2 Automobile Liability

11 ATTORNEY shall maintain Comprehensive Automobile Liability Insurance with  
12 limits for bodily injury of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00)  
13 per person, Five Hundred Thousand Dollars (\$500,000.00) per accident, and for property  
14 damages of not less than Fifty Thousand Dollars (\$50,000.00), or such coverage with a  
15 combined single limit of Five Hundred Thousand Dollars (\$500,000.00). Coverage shall  
16 include owned and non-owned vehicles used in connection with this Agreement.  
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20 9.3 Commercial General Liability

21 Commercial General Liability Insurance with limits of not less than One Million  
22 Dollars (\$1,000,000.00) per occurrence and annual aggregate of Two Million Dollars  
23 (\$2,000,000.00). This policy shall be issued on a per occurrence basis. COUNTY may  
24 require specific coverage including completed operations, product liability, contractual  
25 liability, Explosion-Collapse-Underground liability, fire legal liability, or any other liability  
26 insurance deemed necessary because of the nature of the contract.  
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1 9.4 Worker’s Compensation

2 A policy of Worker’s Compensation insurance as may be required by the California  
3 Labor Code.

4 Section 10

5 Additional Insured Endorsements

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7 10.1 Attorney shall obtain endorsements to the Commercial General Liability  
8 insurance naming the County of Fresno, its officers, agents, and employees, individually  
9 and collectively, as additional insured, but only insofar as the operations under this  
10 Agreement are concerned. Such coverage for additional insured shall apply as primary  
11 insurance and any other insurance, or self-insurance, maintained by county, its officers,  
12 agents and employees shall be excess only and not contributing with insurance provided  
13 under Attorney’s policies herein. This insurance shall not be cancelled or changed  
14 without a minimum of thirty (30) days advance written notice given to County.  
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16 10.2 Within thirty (30) days from the date Attorney executes this Agreement,  
17 Attorney shall provide certificates of insurance and endorsement as stated above for all  
18 of the foregoing policies, as required herein, to the County of Fresno, Risk Management,  
19 stating that such insurance coverage have been obtained and are in full force; that the  
20 County of Fresno, its officers, agents and employees, individually and collectively, as  
21 additional insured, but only insofar as the operations under this Agreement are  
22 concerned.  
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25 10.3 In the event Attorney fails to keep in effect at all times insurance coverage  
26 as herein provided, the County may, in addition to other remedies it may have, suspend  
27 or terminate this Agreement upon the occurrence of such event.  
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1           14.1 ATTORNEY promises, covenants, and warrants that the performance of his  
2 services and representation of COUNTY under this Agreement do not result in a "conflict  
3 of interest" as that term is used in the Rules of Professional Conduct of the State Bar of  
4 California. In the event a "conflict of interest" occurs, ATTORNEY will request that  
5 COUNTY waive such "conflict of interest" on a case-by-case basis.  
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7                                                 Section 15

8                                                 Further Assurances by Attorneys

9           15.1 ATTORNEY represents that it has read and is familiar with Government  
10 Code sections 1090 set seq. and sections 87100 et seq. ATTORNEY promises,  
11 covenants, and warrants that the performance of its services under this Agreement shall  
12 not result in or cause a violation of Government Code sections 1090 et seq. and sections  
13 87100 et seq.  
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15                                                 Section 16

16                                                 Compliance with Laws

17           16.1 ATTORNEY shall comply with all federal, state, and local laws and  
18 regulations applicable to the performance of its obligations under this Agreement and  
19 maintain all licenses as required in the performance of their duties.  
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22                                                 Section 17

23                                                 Notices

24           17.1 The persons and their addresses having authority to give and receive  
25 notices under this Agreement include the following:  
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COUNTY

ATTORNEY

County of Fresno \_\_\_\_\_  
Risk Manager  
ATTN: Risk Management  
2220 Tulare Street, 21st Floor  
Fresno, CA 93721

17.2 Any and all notices between COUNTY and ATTORNEY provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties, or in lieu of such personal service, when deposited in the United States mail, postage prepaid, addressed to such party. Any notices to be given or provided for under this Agreement are not modifications or changes of this Agreement.

Section 18  
Governing Law

18.1 The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of California.

Section 19  
Entire Agreement

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

1           19.2 If any part of this Agreement is found volative or any law or is found to be  
2 otherwise legally defective, ATTORNEY and COUNTY shall use their best efforts to  
3 replace that part of this Agreement with legal terms and conditions most readily  
4 approximating the original intent of the parties.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

ATTEST:

**CONTRACTOR:**  
(NAME)

**COUNTY OF FRESNO**

By \_\_\_\_\_

By \_\_\_\_\_

Board of Supervisor

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*Chairman of the Board, or*  
President, or any Vice President

Date: \_\_\_\_\_

**PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED**

Mailing Address:  
Address  
City, State, Zip Code  
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APPROVED AS TO LEGAL FORM:  
DENNIS A. MARSHALL, COUNTY COUNSEL

By \_\_\_\_\_

APPROVED AS TO ACCOUNTING FORM:  
VICKI CROW, C.P.A., AUDITOR-CONTROLLER/  
TREASURER-TAX COLLECTOR

By \_\_\_\_\_

REVIEWED AND RECOMMENDED FOR APPROVAL:  
BART BOHN, COUNTY ADMINISTRATIVE OFFICER

By \_\_\_\_\_

REVIEWED AND RECOMMENDED FOR APPROVAL:

By \_\_\_\_\_  
Ralph Jimenez, Director  
Department of Personnel Services

Fund/Subclass: 1060/10000  
Organization: 89250100  
Account #: ??????

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