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**AGREEMENT FOR SPECIALIZED LEGAL SERVICES**

THIS AGREEMENT, hereinafter referred to as "Agreement," is made and entered into this 7th day of June, 2011, by and between the COUNTY OF FRESNO, a Political Subdivision of the State of California, hereinafter referred to as "COUNTY", and (**Name of Law Firm**), whose address is (**Law Firm Address**), hereinafter referred to as "ATTORNEY" and collectively referred to hereinafter as "PARTIES."

**W I T N E S S E T H:**

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 General Liability Employment Law claims, to advise and represent COUNTY in connection with the matters, as provided herein; and

WHEREAS, COUNTY issued Request for Proposal No. 123-4567 on December 13, 2011 , for the purpose of securing said services; and

WHEREAS, ATTORNEY responded to the Request for Proposal stating that it is experienced, possesses expertise in such matters, and is willing to perform said services,

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 paralegals or other legal support staff as ATTORNEY deems necessary, and whom COUNTY Personnel Services Division, Risk Management approves pursuant to Section 5 of this Agreement.

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

1 1.3 Any additional instructions relative to the handling of a claim which are not  
2 specified or otherwise alluded to in this Agreement will be included in the letter of  
3 engagement for each claim assigned to ATTORNEY. Such instructions will be complied  
4 with by ATTORNEY as well as any additional client direction in the management of a  
5 given claim.

6 **SECTION 2**

7 **SCOPE OF SERVICES**

8 2.1 ATTORNEY shall assist, advise, and represent COUNTY in connection with  
9 all matters relative to the administration and defense of the claims assigned by Personnel  
10 Services Division, Risk Management staff as specified by COUNTY under Request for  
11 Proposal No. 123-4567, attached hereto as Exhibit No. One; and the ATTORNEY's  
12 response to Request for Proposal No. 123-4567, attached hereto as Exhibit No. Two.  
13 Exhibits One and Two are incorporated herein by reference.

14 2.2 ATTORNEY shall perform such other similar legal services as requested by  
15 COUNTY Personnel Services Division, Risk Management in connection with the matters  
16 related to the administration and defense of the assigned claims.

17 **SECTION 3**

18 **PERFORMANCE BY ATTORNEY**

19 3.1 ATTORNEY agrees to avoid unnecessary duplicative efforts by  
20 ATTORNEY and any associated counsel and/or staff members of ATTORNEY in the  
21 performance of services for COUNTY hereunder.

22 3.2 COUNTY shall not be obligated to compensate ATTORNEY for intra-office  
23 conferences between or among ATTORNEY, associate attorneys, and/or other staff  
24 members, unless such intra-office conferences promote efficiency in the performance of  
25 ATTORNEY's work on a matter, or a reduction in the cost of compensation paid or  
26 reimbursement made for related, actual, reasonable and necessary, out-of-pocket  
27 expenses to ATTORNEY, or both.

28

1           3.3     In the performance of the tasks identified in Section 2 of this Agreement,  
2 ATTORNEY shall provide only those services which are necessary to carry out such  
3 tasks in an efficient and effective manner.

4           3.4     COUNTY must approve the retention of all experts, consultants,  
5 investigators, and any other unusual expenditures.

6           3.5     ATTORNEY agrees that they will not handle any cases against COUNTY,  
7 its officers, agents, or employees unless specifically given permission in writing to do so  
8 by Personnel Services, Risk Management staff.

9  
10   **SECTION 4**

11   **COMPENSATION OF ATTORNEY**

12           4.1     COUNTY shall be obligated to compensate ATTORNEY pursuant to the  
13 terms and conditions of this Agreement and for the performance of those tasks, to the  
14 reasonable satisfaction of the COUNTY, identified in Section 2 of this Agreement that  
15 take place during the term of this Agreement. It is understood that COUNTY shall not be  
16 obligated to compensate ATTORNEYS for:

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

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

23           4.2     COUNTY agrees to pay and ATTORNEY agrees to accept as full  
24 compensation for performance of tasks under this Agreement ATTORNEY'S reasonable  
25 fees as described in Attachment A, Schedule of Rates.

26           4.3     ATTORNEY shall be reimbursed for actual, reasonable, and necessary out-  
27 of-pocket expenses, as follows: telephone charges, facsimile charges, computer  
28 research charges, filing fees, postage charges, printing and photographic reproduction  
expenses, and all other directly-related expenses. It is understood that ATTORNEY shall

1 not be reimbursed for his secretarial, clerical, word processing or typist services  
2 (including overtime hours worked), that is "normal office operating expenses," with the  
3 exception of those charges and expenses stated above. In addition, ATTORNEY shall  
4 not be reimbursed for such normal office operating expenses incurred, regardless of who  
5 performs such services or incurs such expenses.

6 4.4 COUNTY will not reimburse ATTORNEY for any travel within the cities of  
7 Fresno and Clovis.

8 4.5 Notwithstanding anything else stated to the contrary in this Agreement, in  
9 no event shall the maximum amount paid by COUNTY to ATTORNEY as compensation,  
10 and as reimbursement of related, actual, reasonable and necessary, out-of-pocket  
11 expenses, exceed One million dollars (\$1,000,000.00) annually.

## 12 SECTION 5

### 13 PAYMENT AND RECORD-KEEPING

14 5.1 Subject to Section 4 of this Agreement, payment of compensation for the  
15 services provided and reimbursement for related, actual, reasonable and necessary, out-  
16 of-pocket expenses incurred which are described herein shall be made by COUNTY after  
17 submission of an itemized invoice by ATTORNEY to Personnel Services Division, Risk  
18 Management. ATTORNEY shall submit such invoices for half of the files on the 1<sup>st</sup> of the  
19 month and the other half on the 15<sup>th</sup> of the month following the month services are  
20 completed, unless the bill totals less than One hundred dollars (\$100). The file will not be  
21 billed until the total reaches at least One hundred dollars (\$100) or the claim is closed.

22 5.2 All such invoices shall have sufficient detail as may be required by the  
23 COUNTY Auditor-Controller/Treasurer-Tax Collector, including, but not limited to:

24 5.2.1 The plaintiff's name, the date of loss, the COUNTY's claim number  
25 and any other indentifying information that will indicate the file the billing is to be assigned  
26 to.

27 5.2.2 The specific nature of each task performed as services under this  
28 Agreement

- 1           5.2.3     The name of the attorney or staff member performing each task;
- 2           5.2.4     The number of hours worked by each such person for each such
- 3 task;
- 4           5.2.5     The hourly rate per each such person performing each such task;
- 5           5.2.6     The related, actual, reasonable and necessary, out-of-pocket
- 6 expenses incurred, as provided for in Section 4 of this Agreement;
- 7           5.2.7     A certification by ATTORNEY that each such invoice is true and
- 8 accurate as to the information and specification contained therein;

9           5.3     In addition to the requirements of Section 5.2, each invoice shall set forth a  
10 summary of hours worked by each attorney and staff member for the applicable billing  
11 period. Each invoice shall set forth the product of such summary of hours worked by  
12 each person multiplied by each such person's billing rate, as set forth in the Schedule of  
13 Rates attached as Attachment A.

14           5.4     In preparing invoices, if requested by COUNTY Personnel Services  
15 Division, Risk Management, ATTORNEY shall segregate each task performed on a daily  
16 basis. If so requested by COUNTY, ATTORNEY shall not combine unrelated tasks as a  
17 single entry in lieu of setting forth the hours of work performed by an attorney or staff  
18 member on each specific task.

19           5.5     ATTORNEY shall prepare all invoices in an organized manner that  
20 facilitates an efficient review of the services performed and the expenses incurred in  
21 order to provide COUNTY with a clear and complete picture of how much time was  
22 devoted to specific tasks and projects, and the cost associated therewith.

23           5.6     ATTORNEY shall provide to COUNTY a W-9, 1099 and CA Form 590 as  
24 appropriate upon execution of the agreement and annually thereafter.

25           5.7     ATTORNEY shall keep complete records of the services provided, as  
26 described in this Section 5, together with all related actual, reasonable and necessary,  
27 out-of-pocket expenses applicable to the work provided under this Agreement. The  
28 County Auditor-Controller/Treasurer-Tax Collector, or his or her duly authorized

1 representatives, shall be given reasonable access to all of these records for the purposes  
2 of audit of this Agreement. In addition, ATTORNEY shall be subject to the examination  
3 and audit of such records by the State Auditor for a period of three (3) years after final  
4 payment under this Agreement, pursuant to Government Code section 8546.7, as  
5 applicable.

## 6 **SECTION 6**

### 7 **TERM OF AGREEMENT**

8 6.1 The Agreement shall be effective and shall commence upon the date last  
9 indicated that either party signs this Agreement. This Agreement shall continue in full  
10 force and effect From January 12, 2012 until January 11, 2015. This agreement shall  
11 automatically renew for an additional one (1) year period upon the same terms and  
12 conditions herein set forth, except when written notice is delivered by either party to the  
13 other expressing intent not to renew. Such notice must be delivered a minimum of one  
14 hundred and eighty (180) days prior to the next expiration date of this agreement. The  
15 maximum number of automatic one (1) year renewal periods under the terms stated in  
16 this section under this agreement is two (2). COUNTY may terminate this Agreement at  
17 any time for any reason by providing written notice to ATTORNEY. ATTORNEY may  
18 terminate this Agreement for material breach after giving COUNTY written notice and 10  
19 days to correct the breach. However, COUNTY's rights under any pending matter which  
20 may arise from ATTORNEY'S service hereunder shall not be prejudiced due to such  
21 termination, as required by the Rules of Professional Conduct of the State Bar of  
22 California. Subject to Section 4 of this Agreement, ATTORNEY shall be paid for all  
23 services performed to the date of termination of this Agreement, which services are  
24 performed to the reasonable satisfaction of the COUNTY.

## 25 **SECTION 7**

### 26 **INDEPENDENT CONTRACTOR**

27 7.1 In performance of the work, duties, and obligations assumed by  
28 ATTORNEY under this Agreement, it is mutually understood and agreed that

1 ATTORNEY, including any and all of ATTORNEY's officers, agents, and employees will  
2 at all times be acting and performing as independent contractors, and shall act in an  
3 independent capacity and not as an officer, agent, servant, employee, joint venturer,  
4 partner, or associate of COUNTY. However, COUNTY shall retain the right to administer  
5 this Agreement to verify that ATTORNEY is performing its obligations in accordance with  
6 the terms and conditions thereof. ATTORNEY and COUNTY shall comply with all  
7 applicable provisions of law and the rules and regulations, if any, of governmental  
8 authorities having jurisdiction over the subject matter thereof.

9 7.2 Because of its status as an independent contractor, ATTORNEY, including  
10 any and all of ATTORNEY'S officers, agents, and employees, shall have absolutely no  
11 right to employment rights and benefits available to COUNTY employees. ATTORNEY  
12 shall be solely liable and responsible for providing to, or on behalf of, its employees all  
13 legally required employee benefits. In addition, ATTORNEY shall be solely responsible  
14 and save COUNTY harmless from all matters related to payment of ATTORNEY'S  
15 employees, including compliance with social security, withholding, and all other  
16 regulations governing such matters. It is acknowledged that during the term of this  
17 Agreement, ATTORNEY may be providing services to others unrelated to the COUNTY  
18 or to this Agreement.

## 19 SECTION 8

### 20 HOLD HARMLESS

21 8.1 ATTORNEY agrees to indemnify, save, hold harmless, and at COUNTY's  
22 request, defend the COUNTY, its officers, agents, and employees from any and all costs  
23 and expenses (to include attorneys fees and court costs), damages, liabilities, claims,  
24 and losses occurring or resulting to COUNTY in connection with the performance, or  
25 failure to perform, by ATTORNEY, its officers, agents, or employees under this  
26 Agreement, and from any and all costs and expenses (to include attorneys fees and court  
27 costs), damages, liabilities, claims, and losses occurring or resulting to any person, firm,  
28 or corporation who may be injured or damaged by the performance, or failure to perform,

1 of ATTORNEY, its officers, agents, or employees under this Agreement. COUNTY'S  
2 receipt of any insurance certificates required herein does not in any way relieve  
3 ATTORNEY from the obligations under this Section 8 of the Agreement.

## 4 **SECTION 9**

### 5 **INSURANCE**

#### 6 9.1 Professional Liability

7 ATTORNEY shall maintain Professional Liability Insurance with limits of not less than  
8 One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000)  
9 annual aggregate. ATTORNEY shall provide COUNTY with written evidence of such  
10 coverage.

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

#### 16 9.2 Automobile Liability

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

#### 23 9.3 Commercial General Liability

24 Commercial General Liability Insurance with limits of not less than One Million Dollars  
25 (\$1,000,000.00) per occurrence and an annual aggregate of Two Million Dollars  
26 (\$2,000,000.00). This policy shall be issued on a per occurrence basis. COUNTY may  
27 require specific coverage including completed operations, product liability, contractual  
28



1 liability, explosion-collapse-underground liability, fire legal liability, or any other liability  
2 insurance deemed necessary because of the nature of the contract.

3 9.4 Worker's Compensation

4 A policy of Worker's Compensation insurance as may be required by the California Labor  
5 Code.

6 **SECTION 10**

7 **ADDITIONAL INSURANCE TERMS**

8 10.1 ATTORNEY shall obtain endorsements to the Commercial General Liability  
9 insurance naming the County of Fresno, its officers, agents, and employees, individually  
10 and collectively, as additional insured, but only insofar as the operations under this  
11 Agreement are concerned. Such coverage for additional insured shall apply as primary  
12 insurance and any other insurance, or self-insurance, maintained by COUNTY, its  
13 officers, agents and employees shall be excess only and not contributing with insurance  
14 provided under ATTORNEY's policies herein. This insurance shall not be cancelled or  
15 changed without a minimum of thirty (30) days advance written notice given to COUNTY.

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  
18 all of the foregoing policies, as required in Section 9 herein, to the County of Fresno,  
19 Personnel Services Division, Risk Management, stating that such insurance coverage  
20 have been obtained and are in full force and effect; that the County of Fresno, its officers,  
21 agents and employees, individually and collectively, have been named as additional  
22 insured, but only insofar as the operations under this Agreement are concerned.

23 10.3 In the event ATTORNEY fails to keep in effect at all times insurance  
24 coverage as herein provided, the COUNTY may, in addition to other remedies it may  
25 have, suspend or terminate this Agreement upon the occurrence of such event.

26 10.4 All policies shall be issued by admitted insurers licensed to do business in  
27 the State of California, and such insurance shall be purchased from companies  
28 possessing a current A.M. Best, Inc. rating of A FSC VII or better.

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**SECTION 11**

**AGREEMENT BINDING ON SUCCESSORS**

11.1 This Agreement shall be binding upon COUNTY and ATTORNEY and their successors, executors, administrators, legal representatives, and assigns with respect to all the covenants and conditions set forth herein.

**SECTION 12**

**ASSIGNMENT AND SUBCONTRACTING**

12.1 Neither party hereto shall assign, transfer, or sub-contract neither this Agreement nor its rights nor duties hereunder without the written consent of the other. County Risk Manager, or his designee, may give such consent on behalf of the COUNTY, provided however, the assignee, transferee or sub-contractor shall carry insurance of a type and in an amount that is acceptable to COUNTY'S Risk Manager, or his designee.

**SECTION 13**

**AMENDMENTS**

13.1 This Agreement may be amended only in a writing signed by the PARTIES hereto.

**SECTION 14**

**CONFLICT OF INTEREST**

14.1 ATTORNEY promises, covenants, and warrants that the performance of their services and representation of COUNTY under this Agreement do not result in a "conflict of interest" as that term is used in the Rules of Professional Conduct of the State Bar of California. In the event a "conflict of interest" occurs, ATTORNEY may request that COUNTY waive such "conflict of interest" on a case-by-case basis. If the COUNTY does not waive the conflict, ATTORNEY must resolve the conflicting issue in the favor of COUNTY.

**SECTION 15**

**FURTHER ASSURANCES BY ATTORNEYS**





1           20.2 If any part of this Agreement is found violative of 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 undersigned Parties hereby acknowledge execution of this First Amendment to Agreement by their signatures below.

**CONTRACTOR:**  
**Law Firm, Inc.**

**COUNTY OF FRESNO**

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
PHIL LARSON, CHAIRMAN  
BOARD OF SUPERVISORS  
Date: \_\_\_\_\_

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

\_\_\_\_\_  
Title (Chairman, President, any Vice President)

\_\_\_\_\_  
Authorized Signature                      Date

\_\_\_\_\_  
BERNICE E. SEIDEL, CLERK  
BOARD OF SUPERVISORS  
Date: \_\_\_\_\_

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

\_\_\_\_\_  
Title (Secretary, Assistant Secretary, CFO)

**PLEASE SEE ADDITIONAL  
SIGNATURE PAGE ATTACHED**

1 APPROVED AS TO LEGAL FORM:  
2 KEVIN BRIGGS, COUNTY COUNSEL

3  
4 By: \_\_\_\_\_

DATE: \_\_\_\_\_

5  
6  
7 APPROVED AS TO ACCOUNTING FORM:  
8 VICKI CROW, C.P.A., AUDITOR-CONTROLLER/  
9 TREASURER-TAX COLLECTOR

10  
11 By: \_\_\_\_\_

DATE: \_\_\_\_\_

12  
13  
14 REVIEWED AND RECOMMENDED FOR  
15 APPROVAL:

16  
17 By: \_\_\_\_\_

DATE: \_\_\_\_\_

18 BETH BANDY, DEPUTY DIRECTOR  
19 PERSONNEL SERVICES

20  
21 Fund/Subclass: 1060/10000

22 Organization: 89250100

23 Account/Program: 1854

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