

CONTRACT ROUTING SHEET

Date Prepared: May 7, 2015

Need Date: ASAP

PROCESSING DEPARTMENT:

Department: Procurement & Contracts
Dept. Contact: Sue Hennike
Phone #: x5577
Department _____
Head Signature: _____

CONTRACTOR:

Name: Jones & Mayer
Address: 3777 N. Harbor Blvd.
Fullerton, CA 92835
Phone: 916-329-9140

CONTRACTING DEPARTMENT: Human Resources

Service Requested: Advice, assistance, and representation for the Sheriff's Civil Service Commission.
Contract Term: One (1) Year Contract Value: \$10,000.00
Compliance with Human Resources requirements? Yes: No: _____
Compliance verified by: _____

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: Disapproved: _____ Date: 2/9/15 By: RD
Approved: _____ Disapproved: _____ Date: _____ By: _____

SEE ATTACHED EMAIL

PLEASE FORWARD TO RISK MANAGEMENT. THANKS!

RISK MANAGEMENT: (All contracts and MOU's except boilerplate grant funding agreements)

Approved: Disapproved: _____ Date: 5/22/15 By: [Signature]
Approved: _____ Disapproved: _____ Date: _____ By: _____

OTHER APPROVAL: (Specify department(s) participating or directly affected by this contract).

Departments: _____
Approved: _____ Disapproved: _____ Date: _____ By: _____
Approved: _____ Disapproved: _____ Date: _____ By: _____



Sue Hennike <sue.hennike@edcgov.us>

Re: FW: Draft El Dorado County Agreement

1 message

Robyn Drivon <robyn.drivon@edcgov.us>

Mon, Feb 9, 2015 at 4:21 PM

To: "Martin J. Mayer" <mjm@jones-mayer.com>

Cc: "sue.hennike@edcgov.us" <sue.hennike@edcgov.us>

This is fine. Welcome aboard. You got the word that the appointment is off calendar, I am hoping. Thank you.
Robyn

On Monday, February 9, 2015, Martin J. Mayer <mjm@jones-mayer.com> wrote:

Dear Ms. Hennike,

I have made several modifications to the draft contract and marked them all in yellow. As you know, this is an unusual agreement in that the County is retaining counsel to represent a constitutional official, the Sheriff – not an employee. As such, the confidentiality exists between the Sheriff and the law firm and the County is the funding source.

Robyn, please review the modifications and call me if there are any questions. Thank you for your attention to this matter.

Martin J. Mayer

JONES & MAYER

3777N. Harbor Blvd.

Fullerton, CA 92835

(714) 446 - 1400

From: Sue Hennike [mailto:sue.hennike@edcgov.us]

Sent: Monday, February 09, 2015 2:09 PM

To: Martin J. Mayer; Lauren Budd

Subject: Draft El Dorado County Agreement

Good Afternoon, Mr. Mayer-

Please review the attached draft agreement for your assistance with employment matters. Let me know if you

have any questions or would like revisions. Thank you,

Sue Hennike

County of El Dorado

Chief Administrative Office

(530) 621-5577

NOTICE: This e-mail and any files transmitted with it may contain confidential information, and are intended solely for the use of the individual or entity to whom they are addressed.

Any retransmission, dissemination or other use of the information by persons other than the intended recipient or entity is prohibited.

If you receive this e-mail in error please contact the sender by return e-mail and delete the material from your system.

Thank you.

PRIVILEGED AND CONFIDENTIAL COMMUNICATION

This electronic transmission, and any documents attached hereto, may contain confidential and/or legally privileged information. The information is intended only for use by the recipient named above. If you have received this electronic message in error, please notify the sender and delete the electronic message. Any disclosure, copying, distribution, or use of the contents of information received in error is strictly prohibited.

—

Robyn Truitt Drivon
County Counsel
El Dorado County Counsel's Office
330 Fair Lane
Placerville, CA 95667
530-621-5770
530-621-5774 (direct)

NOTICE: This e-mail and any files transmitted with it may contain confidential information, and are intended solely for the use of the individual or entity to whom they are addressed.

Any retransmission, dissemination or other use of the information by persons other than the intended recipient or entity is prohibited.

If you receive this e-mail in error please contact the sender by return e-mail and delete the material from your system.

Thank you.

ORIGINAL

**AGREEMENT FOR LEGAL SERVICES
#412-S1510**

THIS AGREEMENT made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Richard D. Jones, A Professional Law Corporation doing business as Jones & Mayer, a California corporation duly qualified to conduct business in the State of California, whose principal place of business is 3777 N. Harbor Blvd. Fullerton, CA 92835, (hereinafter referred to as "Attorney");

RECITALS

WHEREAS, County has determined that it is necessary to retain an attorney to provide advice, assistance, and representation to Sheriff John D'Agostini ("Sheriff") regarding an employment related issue; and

WHEREAS, Attorney 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

NOW, THEREFORE, County and Attorney mutually agree as follows:

ARTICLE I

Scope of Services: County retains Attorney to advise, assist, and represent Sheriff John D'Agostini in employment related proceedings and as mutually agreed upon by the parties. It is understood by all parties that the attorney/client relationship exists between the Sheriff and Attorney and that the County is not privileged to receive or be aware of any communication between the Sheriff and Attorney absent the written consent of the Sheriff.

ARTICLE II

Standards of Performance: Attorney and every employee thereof shall provide their services, advice and any reports in full compliance with all applicable law and professional standards. Attorney represents that it is specially trained, experienced, expert and competent to perform the services required under this Agreement, and that each individual providing legal services is a member in good standing of the State Bar and is licensed to practice in California. Attorney certifies that it will not accept representation in any matters under this Agreement if it or any employee thereof has any personal or financial interest therein. Attorney certifies that it accepts this retention because it has the time, skill, and ability necessary to perform the duties required in an efficient, trustworthy, professional and businesslike manner. Attorney is engaged by County for its unique qualifications and skills. Attorney shall not subcontract, delegate or assign the services to be provided under this Agreement, in whole or in part, to any other person or entity not employed in Attorney's firm without prior written consent of County.

ARTICLE III

Term: This Agreement shall become effective upon final execution by both parties hereto and shall expire one year from the date thereof. However, this Agreement shall be terminable by Sheriff John D'Agostini at any time and for any reason, or without cause. Funds budgeted for the purposes of this Agreement are made available on a fiscal year basis, and budgeting is subject to change at any time. Should funding not be made available, this Agreement shall be automatically terminated in its entirety. Attorney may terminate this Agreement upon sufficient written notice to Sheriff and the County, made in such a manner so that the County shall not be prejudiced, but in no event less than thirty (30) days notice. Upon termination of this Agreement for any reason, Attorney shall immediately cease all work, except as may be reasonably required to avoid prejudice to the Sheriff which shall be immediately reported to the Sheriff, shall immediately transfer all files relating to the Sheriff's matter either to the Sheriff or any other lawyer hired by County on behalf of the Sheriff, at Sheriff's direction, and within ten (10) days shall provide a final bill to County for all services rendered. The obligation of confidentiality between Attorney and the Sheriff shall continue and shall not terminate when this Agreement ends. Attorney shall take all steps necessary to ensure smooth transition to any other counsel which may be designated by County on behalf of and with the consent of the Sheriff.

ARTICLE IV

Compensation for Services: For the purposes of this Agreement, the billing rate shall be \$275 per hour. County shall reimburse Attorney for the reasonable cost of long distance telephone calls, mailing, photocopying, legal research on electronic databases, and, upon prior approval, for extraordinary photocopying and extraordinary facsimile transmissions. Other reasonable,

customary and necessary expenses, including but not limited to statutory fees, witness fees, reporter's per diem and transcription fees, jury fees, and expense of serving process, shall be advanced by Attorney and reimbursed by County. Expert consultants and witnesses may be retained by Attorney with County's prior approval.

Attorney shall submit to County for review and approval a confidential itemized statement of services rendered and costs incurred under this Agreement monthly. Such statement shall describe the nature of the services rendered, and specify the time expended in rendering such services, calculated in one-tenth (.10) hour segments or smaller. Provided, however, that in Attorney's discretion, such statements need not be submitted until the total amount due exceeds Five Hundred Dollars (\$500.00). Attorney shall keep time records for a minimum period of three (3) years and make them available for review and internal audit by the County, and its authorized auditors.

Total amount of this Agreement shall not exceed \$10,000.00.

ARTICLE V

Taxes: Attorney certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Attorney to County. Attorney agrees that it shall not default on any obligations to County during the term of this Agreement.

ARTICLE VI

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE VII

Attorney-Client Relationship: Attorney agrees that it will comply with all ethical duties, will maintain the integrity of the attorney-client relationship, and will take all reasonable steps legally available to preserve all applicable legal privileges, confidences, and records from disclosure. All documents and information obtained by or generated by Attorney pursuant to this Agreement, all opinions and conclusions of Attorney, any reports, information, data statistics, forms, procedures, systems, studies and all communications with the Sheriff are confidential. Attorney agrees to take all steps reasonably necessary to maintain this confidentiality and to ensure that it and all of its employees faithfully adhere to the confidentiality requirements of law and this Agreement. County acknowledges that the confidentiality is between the Sheriff and Attorney and County is not a party to that confidentiality.

ARTICLE VIII

Ownership of Documents: All documents and writings prepared by or for Attorney in the course of performing this Agreement shall become the Sheriff's property immediately and the Sheriff shall have the right to use such materials in its discretion without notice or compensation to Attorney or anyone else other than compensation provided under this Agreement.

ARTICLE IX

Audit by California State Auditor: Attorney 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 §8546.7. In order to facilitate these potential examinations and audits, Attorney 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.

ARTICLE X

Indemnity: To the fullest extent permitted by law, the Attorney shall defend, indemnify and hold the County harmless from all claims for bodily injury and property damage, that may arise from Attorney's performance of services under this Agreement, but only to the extent of the negligent acts or omissions of Attorney or anyone employed directly or indirectly by it or by anyone for whose acts it may be liable. This duty of Attorney to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778. Nothing herein is intended to deprive Attorney of the benefit of the application of the doctrine of comparative fault as it would otherwise be applicable to reduce Attorney's liability as a result of the negligence or other misconduct of the County and any of its officers, employees, or agents, as determined by a court of law having jurisdiction.

ARTICLE XI

Insurance: Attorney shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Attorney maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Attorney as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Attorney in the performance of the Agreement.
- D. Professional liability with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Attorney shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.

- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Attorney agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Attorney agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Attorney agrees that no work or services shall be performed prior to the giving of such approval. In the event the Attorney fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without prior written notice to County, and;
 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Attorney's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Attorney's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Attorney shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Attorney's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.

- N. In the event Attorney cannot provide an occurrence policy, Attorney shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

ARTICLE XII

Conflict of Interest: Attorney shall immediately notify the Sheriff if any services to be performed under this Agreement involve an actual or potential conflict of interest, financial or otherwise, under the California Rules of Professional Conduct. Attorney shall not engage in any activity under this Agreement that involves an actual or potential conflict of interest under such Rules unless Attorney first makes a full and complete disclosure of all relevant facts and obtains a written waiver of such conflict in advance from the Sheriff.

ARTICLE XIII

California Residency (Form 590): If Attorney is a California resident, Attorney 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. The Attorney will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Attorney during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XIV

Nonresident Withholding: If Attorney is not a California resident, Attorney 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 Attorney during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Attorney shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

ARTICLE XV

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to the Sheriff shall be addressed as follows:

Sheriff John D'Agostini
COUNTY OF EL DORADO
300 Fair Lane
Placerville, CA 95667

or to such other location as the Sheriff directs.

Notices to Attorney shall be addressed as follows:

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA92835
Attn: Martin J. Mayer

or to such other location as the Attorney directs.

ARTICLE XVI

Administrator: The County Officer or employee with responsibility for administering this Agreement is Robyn Truitt Drivon, County Counsel, or successor.

ARTICLE XVII

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XVIII

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.


ARTICLE XIX

Venue: 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.

ARTICLE XX

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

Requesting Contract Administrator Concurrence:

By:  _____
Robyn Truitt Drivon
County Counsel

Dated: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

By:  Dated: 2/24/15
Pamela Knorr, Purchasing Agent
Chief Administrative Office
"County"

-- ATTORNEY --

By:  Dated: 2/18/15
Richard D. Jones
"Attorney"



9 of 19
