

**AGREEMENT #019-A-07/08-BOS FOR LEGAL SERVICES BETWEEN
EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT AND
DONGELL LAWRENCE FINNEY, A LIMITED LIABILITY
PARTNERSHIP**

This Agreement #019-A-07/08-BOS is made and entered into between EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT (hereinafter referred to as the "District"), and DONGELL LAWRENCE FINNEY, A LIMITED LIABILITY PARTNERSHIP (hereinafter referred to as the "Firm"), duly qualified to conduct business in the State of California, whose principal place of business is 707 Wilshire Boulevard, Los Angeles, California 90017-3609, effective on the date services were first performed for the District in the matters described below, for the performance of specified legal services for the District.

1. The District shall have the right in its sole discretion to determine the particular services to be provided by the Firm from time to time under this Agreement. These services may include the following:

A. Legal defense of the El Dorado County Naturally Occurring Asbestos Protection Ordinance and subsequent replacement New Rules; research and examination of applicable law, and preparing memoranda and rendering opinions in connection therewith;

B. Review, analysis and application of environmental law as it applies to the naturally occurring asbestos deposits and disturbance thereof;

8/23/07

11:46a.m.

C. Participation in meetings, personal conferences, telephone conferences, discussions and other communications and proceedings held in furtherance of the District's requirements thereof; and

D. Legal defense of the County, if necessary, in any litigation arising out of or related to the administration and/or enforcement of County rules, regulations, ordinances, or actions related to the County regulation of Naturally Occurring Asbestos.

2. The Firm and all persons who perform services for or through the Firm pursuant to this Agreement shall be an independent contractor and shall not be deemed to be an employee of the District for any purpose. The Firm's services shall be under the general direction of the Director of the Environmental Management Department which shall also be responsible for administering this Agreement.

3. The Firm and every employee thereof shall provide their services, advice and any reports in full compliance with all applicable law and professional standards. The Firm 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. Further, the Firm certifies that it will not accept representation in any matters, including litigation, under this Agreement if it or any employee thereof has any personal or financial interest therein.

4. The Firm shall maintain insurance in a form acceptable to the District to be in full force and effect from the first day of the term of this Agreement, as set forth in Exhibit A attached hereto and incorporated herein. The Firm specifically represents that it maintains errors and omissions insurance applicable to the services to be rendered under this Agreement.

5. This Agreement shall upon signature by all parties hereto be deemed to be effective as of October 1, 2007 and shall be for one (1) year, expiring on September 30, 2008. This Agreement may be extended for an additional one year if mutually agreed between the parties hereto in writing no less than thirty (30) days prior to the expiration of the then current Agreement.

6. The District agrees to pay the Firm for services rendered hereunder at the rate of \$195.00 per attorney hour for partners, and associate attorney, and the rate of \$95.00 per hour for paralegal service. The Firm will use the minimum number of attorneys for this engagement consistent with good professional practice after consulting with the District.

The Firm will keep the District currently advised as to the level of attorney hours and client services performed. The Firm's travel time not devoted to the performance of client services under this retainer Agreement shall not be charged to the District.

The Firm shall keep proper records to enable the District to verify the services rendered, and such records shall be made reasonably available to the District or its agents for inspection and audit.

The Firm recognizes that this Agreement has been legislatively authorized for an amount not to exceed Eighty Thousand Dollars and No/100 (\$80,000.00).

7. In addition to the above, the District shall reimburse the Firm for the actual, reasonable, and necessary expense of travel in accordance with the El Dorado County Board of Supervisors policy No. D-1 as set forth in Exhibit B attached hereto and incorporated herein. The District shall reimburse the Firm for the reasonable costs of long distance telephone calls, mailing, legal research on electronic database, 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, reporters per diem and transcription fees, jury fees, and expenses of serving process, may be advanced by the Firm and reimbursed by the District. Expert consultants and witnesses may be retained by the Firm on terms acceptable to the District. Such expert consultants and witnesses may invoice the Firm. Prior to incurring expenses in excess of Five Hundred Dollars and No/100 (\$500.00), the Firm shall consult with the District and obtain approval.

8. The Firm shall submit to the District for review and approval an itemized statement of services rendered at periodic intervals of not less than one and not more than three months. Such statement shall identify the nature of the services rendered, and specify the time expended in rendering such services, calculated in one-tenth

(.10) hour segments. Simultaneously, the Firm shall submit a summary statement to the District for payment processing. At the Firm's discretion, such statements need not be submitted until the total amount due exceeds Five Hundred Dollars and No/100 (\$500.00).

9. The Firm certifies that it accepts this retention because it has the time, energy, skills, and ability necessary to perform the duties required in an efficient, trustworthy, professional, and businesslike manner. It is understood that the services under this Agreement must be provided immediately, and that they are time-critical. The Firm is engaged by the District for its unique qualifications and skills. The Firm 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 the Firm without consent of the District. It is specifically agreed that a partner attorney of the Firm will be primarily involved in the conduct of the work, and that a partner will be available to attend meetings of the County Board of Supervisors and the District Board as directed.

10. The Firm agrees that it will comply with all ethical duties, will maintain the integrity of the attorney-client relationship, and will take all steps available to preserve all applicable legal privileges, confidences, and records from disclosure. All documents and information obtained by or generated by the Firm pursuant to this Agreement, all opinions and conclusions of the Firm any reports, information, data, statistics, forms, procedures,

systems, studies and all communications with the District, are confidential. The Firm agrees to take all steps reasonably necessary to maintain this confidentiality. The Firm is responsible for insuring that it and all of its employees faithfully adhere to the confidentiality requirements of law and this Agreement.

11. The Firm shall immediately notify the District if any service to be performed under this Agreement that involves an actual or potential conflict of interest, financial or otherwise. The Firm shall not engage in any activity under this Agreement that involves any actual or potential conflict of interest unless the Firm first makes a full and complete disclosure of all relevant facts and obtains a written waiver of such conflict in advance from the District.

12. The Firm shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner, and shall be liable for its own negligence and the negligent acts of its employees. The Firm shall indemnify and defend the District, and its officers and employees, against and hold them harmless from any and all loss, damage and liability for damages, including attorneys fees and other costs of defense incurred, whether for damage to or loss of property, or injury to or death of person, including properties of the District and injury to or death of its officers, agents and employees, which shall in any way arise out of or be connected with the Firm's operations

hereunder, unless such damage, loss, injury or death shall be caused solely by the negligence of the District.

13. This Agreement shall be terminable by the District at any time for any reason upon a 10-day notice to Firm. 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. The Firm may terminate this Agreement upon sufficient written notice to the District, made in such a manner so that the District shall not be prejudiced. Upon termination of this Agreement for any reason, The Firm shall immediately cease all work, and within ten (10) days shall provide a final bill to the District for all services rendered. The obligation of confidentiality shall continue and shall not terminate when this Agreement ends.

14. All independent consultants providing services to the District must file a State of California Form 590 certifying their California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Firm will be required to submit a Form 590 prior to execution of this Agreement or the District shall withhold seven (7) percent of each payment to be made to the Firm during the term of this Agreement. This requirement applies to any Agreement exceeding \$1,500.00.

15. All independent contractors or corporations providing services to the District must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

16. In accordance with changes in Internal Revenue Law, (Form 730) OASDI (Old Age, Survivors, & Disability Insurance) and income taxes may be withheld from any payments made under terms of this Agreement if the Firm falls under "Contract-Employee" category as determined by the District prior to execution of Agreement.

17. For the purpose of administering this Agreement, the District shall be represented by the Director of the El Dorado County Department of Environmental Management. The Firm shall designate in writing the person associated with the Firm who has the responsibility to administer this Agreement on his or her behalf. This Agreement and the exhibits thereto are the entire Agreement between the parties and they supersede all prior written or oral agreements or understandings between the parties. This Agreement may only be modified by mutual consent of the parties in writing fully executed by duly authorized officers of the parties. 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. The Firm waives any removal rights it may have under Code of Civil Procedure section 394.

18. It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County, or City of Placerville, or City of South Lake Tahoe business license unless exempt under County Code section 5.08.070.

CONTRACT ADMINISTRATOR CONCURRENCE :

By: _____ Dated: _____

Gerri Silva, M.S., REHS
Director, Environmental Management Department

REQUESTING DEPARTMENT CONCURRENCE :

By: _____ Dated: _____

Gerri Silva, M.S., REHS
Director, Environmental Management Department

By: _____ Dated: _____

Marcella McTaggart, Air Pollution Control Officer, Environmental
Management Department

IN WITNESS WHEREOF, DISTRICT and the FIRM have executed this Agreement #019-A-07/08-BOS the day and year first below written.

- - C O U N T Y O F E L D O R A D O - -

Dated: _____

By: _____

Chair,
Air Pollution Control Board of Directors

ATTEST:
Cindy Keck, Clerk
Air Pollution Control Board of Directors

Dated: _____

By: _____

Deputy Clerk

- F I R M -

Dated: _____

By: _____

Tal C. Finney
Its: Partner

Dongell Lawrence Finney,
A Limited Liability Partnership
State Bar Number: 156296

ATTEST:

Dated: _____

By: _____

John A. Lawrence
Its: Managing Partner

Dongell Lawrence Finney,
A Limited Liability Partnership
State Bar Number: 073395

EXHIBIT "A"
EL DORADO COUNTY INSURANCE REQUIREMENTS

EL DORADO COUNTY INSURANCE REQUIREMENTS

The Firm shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Management Division and documentation evidencing that the Firm maintains insurance that meets the following requirements:

- A.** Full Worker's Compensation and Employer's Liability Insurance covering all employees of the Firm as required by law in the State of California.

- B.** Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

- C.** Automobile liability insurance of not less than \$1,000,000 is required in the event motor vehicles are used by the Firm in the performance of the Agreement.

- D.** In the event, the Firm or any of its personnel are licensed professionals, and are performing professional services under this Agreement, professional liability (for example, malpractice insurance) covering such services is required with a limit of liability not less than \$1,000,000 per occurrence. For the purposes of this Agreement, professional liability is required.

E. The Firm shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Management Division as evidence that the insurance required above is being maintained.

F. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.

G. The Firm 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, the Firm 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 the term of the Agreement, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Risk Management Division and the Firm agrees that no work or services shall be performed prior to the giving of such approval. In the event the Firm fails to keep in effect at all times insurance coverage as herein provided, the District may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such events.

H. The certificate of insurance must include the following provisions stating that:

a. The insurer will not cancel the insured's coverage without thirty (30) day prior written notice to the County; and

b. The County, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except worker's compensation and professional liability insurance policies.

I. The Firm'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 excess of the Firm's insurance and shall not contribute with it.

J. Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of 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 Firm shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expense.

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, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.

M. The Firm's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

N. In the event, the Firm cannot provide an occurrence policy, the Firm shall provide insurance covering claims made as a result of performance of this Agreement for not less than three years following completion of performance of this Agreement.

O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County either independently or in consultation with the Risk Management Division, as essential for protection of the County.

EXHIBIT "B"
EL DORADO COUNTY
BOARD OF SUPERVISORS TRAVEL POLICY NO. D-1

Shall be amended for one (1) additional year, expiring on September 11, 2008