



# El Dorado County Master Report

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**File Number: 06-1572**

**File ID:** 06-1572

**Type:** Agenda Item

**Status:** Clerk's Inbox

**Version:** 4

**Reference:**

**In Control:** Board Of  
Supervisors

**Created:** 09/26/2006

**Agenda Title:**

**Final Action:**

**Title:** Treasurer/Tax Collector recommending the Board Chairman execute Agreement #250-S0711 with Allen Haim

**RECOMMENDED ACTION:** Approve

**FUNDING:** General Fund

**Notes:** prepared by Linda Smith X 6655

**Code Sections:**

**Agenda Date:** 10/17/2006

**Sponsors:**

**Agenda Number:**

**Enactment Date:**

**Attachments:**

**Enactment Number:**

**Same:**

**Hearing Date:**

**Contact:** C.L. Raffety

**Next Meeting Date:**

**Approval History**

Version	Date	Approver	Action
1	09/26/2006	Sylvia Earl	Incomplete
<b>Notes</b>	Fiscal Impact - Total cost to the County will not exceed \$20,000 over a two-year period. Fix ...Title - can you simply delete the first ...Body and type ...Title?		
2	09/26/2006	Sylvia Earl	Incomplete
<b>Notes</b>	Action to be taken ... "Board's" is misspelled. Sorry I didn't catch it before		
3	09/26/2006	Sylvia Earl	Approved
3	10/02/2006	C. L. Raffety	Approved
3	10/03/2006	Agenda Coordinator	Delegate
3	10/03/2006	Sue Hennike	Disapproved
<b>Notes</b>	Please provide explanation for non-standard contract provisions and address County Counsel concerns on blue route.		
4	10/06/2006	Sylvia Earl	Approved
4	10/06/2006	Agenda Coordinator	Delegate
4	10/09/2006	Sue Hennike	Approved
<b>Notes</b>	Consent Not Approved by County Counsel and Risk Management		
4	10/09/2006	Laura Gill	Approved
<b>Notes</b>	County Counsel and Risk Management have disapproved this agreement due to a non-standard indemnity clause and lack of insurance provisions. The Board has approved similar agreements with this consultant since 2001. The Treasurer/Tax Collector recommends approval of the contract because of Mr. Haim's special skills and abilities and because of the complexity of the issues involved.		

**History of Legislative File**

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

**Text of Legislative File 06-1572**

Treasurer/Tax Collector recommending the Board Chairman execute Agreement #250-S0711 with Allen Haim

**RECOMMENDED ACTION:** Approve

**FUNDING:** General Fund

Background: County Counsel and Risk Management have disapproved this agreement due to a non-standard indemnity clause and lack of insurance provisions. The Board has approved similar agreements with this consultant in the past.

Reason for Recommendation: 1) It is more economical and feasible to obtain an outside consultant to review deferred compensation plans and advise the Deferred Compensation Committee regarding 457 plan issues on an "as requested" basis in accordance with County Ordinance 3.13, Section 3.13.03; 2) Approve Agreement #250-S0711 with Allen Haim to provide those services for a total not to exceed \$20,000.00; and 3) Authorize the Chairman to execute said Agreement.

County Counsel disapproved the contract because the indemnity language is non-standard. The standard language was requested and the consultant rejected it. Because of Mr. Haim's special skills and abilities and because of the complexity of the issues involved, the alternative language was negotiated with Mr. Haim in November 2001 and has been approved by the Board of Supervisors since that time.

No insurance is required by the contract because the consultant does not travel to/from County property to perform the requested services and does not physically interact with County staff. Communication is conducted by telephone, email, and standard mail. No special licenses or certifications are required to perform the services provided.

Fiscal Impact/Change to Net County Cost: Total cost to the County will not exceed \$20,000 over a two-year period. Costs for 2006-2007 were included in the proposed budget.

Action to be taken following Board approval: The department will notify Purchasing of the Board's approval of the agreement. The department will utilize services of the outside consultant on an as needed basis. The department will approve invoices upon receipt and forward them to Auditor-Controller for payment.

**C. L. RAFFETY  
TREASURER-TAX COLLECTOR**

<b>Vendor</b>	<b>Service</b>	<b>Date of Initiation</b>	<b>Estimated Cost FY 2006-2007</b>
Bank of America	Banking Services	05/13/2004	\$ 38,400.00
Bloomberg LP	Investment service: Lease 15" flat panel with PC and dedicated T1-E1 line	BOS approval 4/09/2002	25,500.00
BNY Western Trust	Custody of Securities	BOS approval 4/25/2000	20,000.00
Columbia Ultimate (CUBS)	Collection software license and support	1996 signed by Co. Counsel	23,557.30
Electronic Data Systems	Third-party provider of credit card services	04/24/2001	No Cost to County
NCR	Hardware maintenance for remittance processors	10/01/2005	14,075.00
Netvantage, Inc.	Software maintenance for remittance processor	06/01/2005	2,800.00
Professional Consultancy Inc., (PCI)	Cashiering software license	BOS approval 11/20/2001	13,500.00
Sympro, Inc.	Portfolio Tracking System software maintenance	09/30/1998	3,800.00
<b>Total:</b>			<b>\$ 141,632.30</b>

# CONTRACT ROUTING SHEET

Date Prepared: 9/8/06

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

**PROCESSING DEPARTMENT:**

Department: CAO/Proc. & Contracts  
Dept. Contact: Pam Carlone  
Phone #: 5833  
Department Head Signature: Bonnie H. Rich  
Bonnie H. Rich

**CONTRACTOR:**

Name: Allen Haim  
Address: 57 W. Crescent Drive  
San Rafael, CA 94901  
Phone: 415-453-8431

**CONTRACTING DEPARTMENT:** Treasurer/Tax Collector

Service Requested: Review Deferred Comp Plans & Advise to Committee  
Contract Term: 2 Years Contract Value: \$20,000  
Compliance with Human Resources requirements? Yes: \_\_\_\_\_ No: \_\_\_\_\_  
Compliance verified by: \_\_\_\_\_

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

Approved: \_\_\_\_\_ Disapproved:  Date: 9/8/06 By: [Signature]  
Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

ASSIGNMENT: 9-8-06  
DATE: \_\_\_\_\_  
ATTORNEY: M.L.  
DIST./INDEX NO.: 026100  
① Non standard indemnity - need to explain to BOS why the standard indemnity provision NOT used. language is weak.  
② No ins requirements  
③ Are any special licenses/certifications required to advise 457 plan issues? If so need provision that licenses/certifications be kept in good standing.  
EL DORADO COUNTY CA  
SUPERVISOR

PLEASE FORWARD TO RISK MANAGEMENT. THANKS!

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

Approved: \_\_\_\_\_ Disapproved:  Date: 9/18/06 By: J Costello  
Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

Article XII unacceptable

SEP 18 2006

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

Departments: \_\_\_\_\_  
Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_  
Approved: \_\_\_\_\_ Disapproved: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

# ORIGINAL

## AGREEMENT FOR SERVICES #250-S0711

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**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 Allen Haim, an individual duly qualified to conduct business in the State of California, whose principal place of business is 57 West Crescent Drive, San Rafael, CA 94910; (hereinafter referred to as "Consultant");

### WITNESSETH

**WHEREAS**, County has determined that it is necessary to obtain a Consultant to review current deferred compensation plans and advise the El Dorado County Deferred Compensation Committee regarding 457 plan issues on an "as requested" basis or as directed by the Auditor-Controller and/or the Treasurer-Tax Collector; and

**WHEREAS**, Consultant 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

**WHEREAS**, County has determined that the provision of these services provided by Consultant is in the public's best interest, and that these services are more economically and feasibly performed by outside independent consultants as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

**NOW, THEREFORE**, County and Consultant mutually agree as follows:

## **ARTICLE I**

**Scope of Services:** Consultant agrees to perform services necessary to review current deferred compensation plans and advise the El Dorado County Deferred Compensation Committee regarding 457 plan issues on an “as requested” basis, or as directed by the Auditor-Controller and/or the Treasurer-Tax Collector.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire two (2) years from date thereof.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, County agrees to pay Consultant monthly in arrears. Payment shall be made within thirty (30) days after County’s receipt and approval of invoice(s) identifying services rendered. For the purposes hereof, the billing rate shall be \$175.00 per hour. The total amount of this Agreement shall not exceed \$20,000.00 for the two (2) year period.

## **ARTICLE IV**

**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 V**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant’s responsibilities to County during term hereof.

## **ARTICLE VI**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

## **ARTICLE VII**

**Independent Consultant/Liability:** Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates,

and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant 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 negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

## **ARTICLE VIII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE IX**

### **Default, Termination, and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a



termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. Bankruptcy: This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Consultant, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

#### **ARTICLE X**

**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 County shall be addressed as follows:

COUNTY OF EL DORADO  
TREASURER/TAX COLLECTOR  
360 FAIR LANE  
PLACERVILLE, CA 95667  
ATTN: SYLVIA EARL, ASSISTANT TREASURER/TAX COLLECTOR

or to such other location as the County directs.

Notices to Consultant shall be addressed as follows:

ALLEN HAIM  
57 W. CRESCENT DRIVE  
SAN RAFAEL, CA 94910

or to such other location as the Consultant directs.

## **ARTICLE XI**

**Indemnity:** The Consultant shall defend, indemnify, and hold the County harmless against any and all claims, damages, losses and expenses that may arise by reason of the Consultant's gross negligence or willful acts or omissions, limited, however, to the amount paid by County to Consultant pursuant to this Agreement. County agrees to notify Consultant of any negligence claim in a timely manner.

## **ARTICLE XII**

**Insurance:** For the purposes of this Agreement the County waives any and all insurance requirements.

## **ARTICLE XIII**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

## **ARTICLE XIV**

**Interest of Consultant:** Consultant covenants that to the extent Consultant has or will advise other entities on issues affected by the services to be performed under this Agreement, Consultant will provide such advise in a manner that will not conflict with its responsibilities to the County. To the extent any conflict in such responsibilities may arise, Consultant will immediately advise County of such conflict and resolve the conflict. If such conflict cannot be resolved, then County may exercise the option to immediately terminate the Agreement in accordance with the provisions of this Agreement. Consultant covenants that he will at all times act in the best interest of the County for the services performed under this Agreement.

## **ARTICLE XV**

**California Residency (Form 590):** All independent Consultants providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. The Consultant 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 Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

## **ARTICLE XVI**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Sylvia Earl, Assistant Treasurer-Tax Collector 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: Sylvia Earl Dated: 9/27/06  
Sylvia Earl  
Assistant Treasurer-Tax Collector

**REQUESTING DEPARTMENT HEAD CONCURRENCE:**

By: Sylvia Earl, Asst. TTC Dated: 9/27/06  
for C. L. Raffety, Treasurer-Tax Collector

/  
/

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

-- COUNTY OF EL DORADO --

Dated: \_\_\_\_\_

By: \_\_\_\_\_

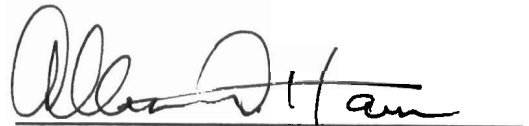
Chairman  
Board of Supervisors  
"County"

ATTEST:  
Cindy Keck, Clerk  
of the Board of Supervisors

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Deputy Clerk

-- CONSULTANT --

Dated: Oct 2, 2006

  
\_\_\_\_\_  
Allen Haim, individually  
"Consultant"