

1 **AGREEMENT FOR LEGAL SERVICES BETWEEN EL DORADO COUNTY**
2 **AND REMY, THOMAS, MOOSE AND MANLEY**

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4 This Agreement is made and entered into between EL DORADO COUNTY
5 (“County”), a governmental entity organized and existing under the laws of the State of
6 California, and REMY, THOMAS, MOOSE AND MANLEY (“Law Firm”), a professional
7 law corporation, duly authorized to do business in the State of California, whose address is
8 455 Capitol Mall, Suite 210, Sacramento, California 95814, for the performance of specific
9 legal services for County.

10 1. **Scope of Services.** The County retains Law Firm as special legal counsel to
11 advise County with regard to the preparation of one or more Environmental Impact Reports
12 for, and ultimate consideration of approval of, three related projects along the Missouri Flat
13 corridor: one development project, a road connecting Missouri Flat to Highway 49, and a
14 waste recycling facility. Such services shall include all such services normally provided by
15 the Law Firm and which are reasonably related to the preparation of one or more EIRs for
16 these related projects in compliance with applicable legal requirements. Services may
17 include, but are not necessarily limited to, providing advice to County boards, commissions,
18 officers and staff, preparing and/or reviewing such documents as may be requested by the
19 County, attending meetings as may be required by County, and providing direction to other
20 consultants which may be employed on the project with respect to the accomplishment of the
21 project. The County and Law Firm acknowledge that the County will separately contract with
22 appropriate land use planning and environmental consultants as needed to provide the
23 planning and environmental evaluation services necessary for preparation and adoption of the
24 Environmental Impact Report.

25 The Law Firm may also provide such additional services as may be mutually agreed
26 by the parties, provided that such additional services must be authorized in writing by the
27 County and may require an amendment to this Agreement.

1 2. **Compensation.** In consideration of the services set forth in paragraph 1, the
2 County shall pay the Law Firm on an hourly rate in accordance with the following hourly
3 billing rates:

4	James Moose	\$325.00
5	Andrea Leisy	\$300.00
6	Senior Associates	\$285.00
7	Other Associates	\$275.00
8	Paralegals	\$150.00
9	Land Use Analyst	\$150.00
10	Law Clerks	\$100.00

11 Law Firm shall keep proper records to enable County to verify the services rendered,
12 and such records shall be made reasonably available to County or its agents for inspection and
13 audit.

14 James Moose will be the attorney primarily responsible for the services to be provided
15 under this Agreement. The Law Firm may utilize the services of other attorneys or staff as
16 deemed appropriate and efficient provided that such other persons shall be under the
17 supervision of Mr. Moose as determined appropriate for the particular task.

18 The County and Law Firm acknowledge that there are a wide range of factors that will
19 influence the total compensation for work performed pursuant to this Agreement. An initial
20 appropriation of \$100,000 has been made for legal services in connection with the Missouri
21 Flat Project EIRs. Although total costs are expected to exceed this amount, Law Firm will not
22 incur fees or costs in excess of this amount unless and until an additional appropriation has
23 been made. The County understands that Law Firm works on a time and materials basis, and
24 that the initial appropriation of \$100,000 does not function as a budget cap requiring Law
25 Firm to complete all work on the three projects within that sum. Should Law Firm's billings
26 consume the entire \$100,000 sum and the County, for whatever reason, does not make any
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1 additional appropriation, Law Firm's work on the projects will cease, regardless of how far
2 advanced the projects are at the time the original sum is consumed.

3 3. **Costs.** The Firm will also be reimbursed for customary costs and
4 disbursements incurred in the course of representation, including long-distance telephone,
5 travel, facsimile, messenger services, and photocopying. Such costs shall be detailed in
6 billings submitted.

7 4. **Billings.** The Law Firm shall submit to County itemized statements of
8 services rendered and costs incurred monthly. Such statements shall identify the services
9 rendered, and specify the time expended in rendering such services, calculated in no larger
10 than one-tenth (.10) hour increments. County agrees to pay the Law Firm within thirty (30)
11 days of such bill or statement.

12 5. **Termination.** This Agreement shall be terminable by the County at any time
13 and for any reason, or without cause. Funds budgeted for the purpose of this Agreement are
14 made available on a fiscal year basis, and budgeting is subject to change at any time. Should
15 funding not be made available, this Agreement shall be automatically terminated in its
16 entirety. The Law Firm may terminate this Agreement upon sufficient written notice to
17 County, made in such a manner so that the County shall not be prejudiced, but in no event,
18 less than thirty (30) days notice. Upon termination of this Agreement for any reason, attorney
19 shall immediately cease all work, except as may be reasonably required to avoid prejudice to
20 County which shall be immediately reported to County and within ten (10) days shall provide
21 a final bill to County for all services rendered. The Law Firm shall take all steps necessary to
22 ensure smooth transition to any other counsel which may be retained by County. The
23 obligation of confidentiality shall continue and shall not terminate when this Agreement ends.

24 6. **Independent Contractor.** The Law Firm and all persons who perform
25 services for or through the Law Firm pursuant to this Agreement shall be an independent
26 contractor and shall not be deemed to be an employee of the County for any purpose. The
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1 Law Firm's services shall be under the general direction for the County Counsel, who shall
2 also be responsible for administering this Agreement on behalf of the County.

3 7. **Standards of Performance.** The Law Firm and every employee thereof shall
4 provide their services, advice and any reports in full compliance with all applicable law and
5 professional standards. Law Firm represents that it is specially trained, experienced, expert
6 and competent to perform the services required under this Agreement, and that each
7 individual providing legal services is a member in good standing of the State Bar and is
8 licensed to practice in California. Further, Law Firm certifies that it will not accept
9 representation in any matters, including litigation, under this Agreement if it or any employee
10 thereof has any personal or financial interest therein.

11 8. **Qualifications.** Law Firm certifies that it accepts this retention because it has
12 the time, energy, skills and ability necessary to perform the duties required in an efficient,
13 trustworthy, professional and businesslike manner. It is understood that the services under
14 this Agreement must be provided immediately, and that they are time critical. Law Firm is
15 engaged by County for its unique qualifications and skills. Law Firm shall not subcontract,
16 delegate or assign the services to be provided under this Agreement, in whole or in part, to
17 any other person or entity not employed by Law Firm without consent of County.

18 9. **Insurance.** Law Firm shall maintain insurance in a form acceptable to County
19 to be in full force and effect from the first day of the term of this Agreement, as set forth in
20 paragraph 16. Law Firm specifically represents that it maintains errors and omissions
21 insurance applicable to the services to be rendered under this Agreement.

22 10. **Attorney-Client Relationship.** Law Firm agrees that it will comply with all
23 ethical duties, will maintain the integrity of the lawyer-client relationship, and will take all
24 steps available to preserve all applicable legal privileges, confidences, and records from
25 disclosure. All documents and information obtained by or generated by Law Firm pursuant to
26 this contract, all opinions and conclusions of Law Firm, any reports, information, data,
27 statistics, form, procedures, systems, studies and all communications with County are
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1 confidential. Law Firm agrees to take all steps reasonably necessary to maintain this
2 confidentiality. Law Firm is responsible for ensuring that it and all of its employees faithfully
3 adhere to the confidentiality requirements of law and this Agreement.

4 11. **Ownership of Documents**. All documents and other writings prepared by or
5 for the Law Firm in the course of implementing this Agreement shall become the property of
6 the County immediately, and the County shall have the right to use such materials in its
7 discretion without compensation to the Law Firm or any other party other than the
8 compensation provided under this Agreement.

9 12. **Notification of Conflict**. Law Firm shall immediately notify County if any
10 services to be performed under this Agreement involves an actual or potential conflict of
11 interest, financial or otherwise. Law Firm shall not engage in any activity under this
12 Agreement that involves any actual or potential conflict of interest unless Law Firm first
13 makes a full and complete disclosure of all relevant facts and obtains a written waiver of such
14 conflict in advance.

15 The Law Firm has disclosed the ongoing representation of three private developers
16 with El Dorado County: AKT, Pac Trust and “Cameron Park Ventures” (Cameron Park
17 Ventures, Pacific Oak Development and Erik Pilegaard).

18 The County acknowledges that disclosure and hereby consents to the Law Firm’s
19 representation of the County in the matters which are the subject of this Agreement
20 notwithstanding the ongoing representation of AKT, Pac Trust and Cameron Park Ventures,
21 Pacific Oak Development and Eric Pilegaard on these matters. The County expressly waives
22 any conflict of interest, or potential conflict of interest, arising out of the Law Firm’s
23 representation of those parties in the matters disclosed.

24 13. **Indemnity**. To the fullest extent allowed by law, the Law Firm shall defend,
25 indemnify, and hold harmless the County against and from any and all claims, suits, losses,
26 damages, and liability for damages of every name, kind and description, including reasonable
27 attorneys’ fees and costs incurred, which are claimed to or in any way arise out of, directly or
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1 indirectly, or are connected with: (1) any negligent act, whether passive or active, error or
2 omission, or willful misconduct, of the Law Firm, its subcontractor(s), agents or employee(s)
3 or any of these; or (2) any breach of any statutory, regulatory, contractual or legal duty of any
4 kind related directly or indirectly to the services, responsibilities or duties required of Law
5 Firm by this Agreement. This duty of Law Firm to indemnify and save County harmless
6 includes the duties to defend set forth in California Civil Code section 2778. In interpreting
7 this paragraph, the County acknowledges that, despite Law Firm's best efforts to provide
8 informed legal advice to the County, the California courts are inherently unpredictable in
9 interpreting and enforcing state environmental laws, including the California Environmental
10 Quality Act. For that reason, the mere fact that a court does not agree with particular advice
11 given by Law Firm is not per se evidence of negligence or error on the part of Law Firm.

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

18 15. **Proof of Insurance.** Law Firm shall provide proof of a policy of insurance
19 satisfactory to the El Dorado County Risk Manager and documentation evidencing that Law
20 Firm maintains insurance that meets the following requirements:

21 A. Full Workers' Compensation and Employer's Liability Insurance
22 covering all employees of Law Firm as required by law in the State of California.

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

25 C. Automobile liability insurance of not less than \$500,000 is required in
26 the event motor vehicles are used by the Law Firm in the performance of the contact.
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1 D. In the event Law Firm or any of its personnel are licensed
2 professionals, and are performing professional services under this contract, professional
3 liability (for example, malpractice insurance) covering such services is required with a limit
4 of liability not less than \$1,000,000 per occurrence.

5 E. Law Firm shall furnish a certificate of insurance satisfactory to the El
6 Dorado County Risk Manager as evidence that the insurance required above is being
7 maintained.

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

11 G. Law Firm agrees that the insurance required above shall be in effect at
12 all times during the term of this contract. In the event said insurance coverage expires at any
13 time or times during the term of this contract, Law Firm agrees to provide at least thirty (30)
14 days prior to said expiration date, a new certificate of insurance evidencing insurance
15 coverage as provided for herein for not less than the remainder of the term of the contract, or
16 for a period of not less than one year. New certificates of insurance are subject to the
17 approval of the Risk Management Division, and Law Firm agrees that no work or services
18 shall be performed prior to the giving of such approval. In the event the Law Firm fails to
19 keep in effect at all times insurance coverage as herein provided, County may, in addition to
20 any other remedies it may have, terminate this contract upon the occurrence of such event.

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

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

25 b. The County, its officers, officials, employees and volunteers are
26 included as additional insured, but only insofar as the operations under this contract are
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1 concerned. This provision shall apply to all liability policies except Workers' Compensation
2 and professional liability insurance policies.

3 I. The Law Firm's insurance coverage shall be primary insurance as
4 respects the County, its officers, officials, employees and volunteers. Any insurance or self-
5 insurance maintained by the County, its officers, officials, employees or volunteers shall be
6 excess of the Law Firm's insurance and shall not contribute with it.

7 J. Any deductibles or self-insured retentions must be declared to and
8 approved by the County. At the option of the County, either the insurer shall reduce or
9 eliminate such deductibles or self-insured retentions as respects the County, its officers,
10 officials, employees and volunteers; or the Law Firm shall procure a bond guaranteeing
11 payment of losses and related investigations, claim administration and defense expense.

12 K. Any failure to comply with the reporting provisions of the policies shall
13 not affect coverage provided to the County, its officers, officials, employees or volunteers.

14 L. The insurance companies shall have no recourse against the County, its
15 officers and employees or any of them for payment of any premiums or assessments under
16 any policy issues by any insurance company.

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

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

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

25 17. **Entire Agreement.** This Agreement and any exhibits thereto are the entire
26 agreement between the parties and they supersede all prior written or oral agreements or
27 understandings between the parties. This Agreement may only be modified by mutual
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1 consent of the parties in writing fully executed by duly authorized officers of the parties. Any
2 dispute resolution action arising out of this Agreement including, but not limited to, litigation,
3 mediation or arbitration shall be brought in El Dorado County, California, and shall be
4 resolved in accordance with the laws of the State of California. Law firm waives any removal
5 rights it may have under Code of Civil Procedure section 394.

6 18. **Term.** This Agreement shall be effective on _____, and
7 shall remain in effect until terminated by any party or until all work contemplated hereunder
8 shall be completed. The Agreement is retroactive to October 22, 2007, insofar as Law Firm
9 began work on the project on that date, at the County's direction, pursuant to an oral
10 understanding that staff was recommending to the Board of Supervisors that it approve this
11 Agreement and retain Law Firm.

12 IN WITNESS WHEREOF, the parties have executed this Agreement the day and year
13 set forth below.

14 Dated: _____

EL DORADO COUNTY

15 By: _____
16 Chair, Board of Supervisors
17 "County"

18 ATTEST:

APPROVED AS TO FORM

19 CINDY KECK
20 Clerk of the Board of Supervisors

21 By: _____
22 Louis B. Green, County Counsel

23 By: _____
24 Deputy Clerk

25 Dated: _____

REMY, THOMAS, MOOSE AND MANLEY

26 By: _____
27 "Law Firm"

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