

SONOMA COUNTY AGREEMENT NO.

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Contract") is entered into by and between SONOMA COUNTY, a political subdivision of the State of California, the Sonoma County Agricultural Preservation and Open Space District and the Sonoma County Water Agency ("Client"), on the one hand, and Baron & Budd, P.C., (collectively and individually, "Attorneys"), on the other hand, as of the __ day of January, 2020 (the "Effective Date"). Hereinafter, the Client and Attorneys may be referred to individually as "Party" and collectively as "Parties."

RECITALS

WHEREAS, the Client wishes to obtain specialized services, as authorized by Government Code section 31000, concerning litigation arising from the wildfire that occurred in and around Sonoma County in October 2019 (the "Kincade Fire"); and

WHEREAS, Attorneys are willing to provide such specialized services to Client under the terms and conditions set forth herein.

TERMS

NOW, THEREFORE, the Client hereby engages the services of Attorneys, and Attorneys agree to provide professional services to Client in accordance with the terms and conditions set forth herein:

1. **CONDITIONS.** This Contract will not take effect, and Attorneys will have no obligation to provide legal services, until Client returns a signed copy of this Contract.
2. **AUTHORIZED REPRESENTATIVE OF CLIENT.** Client designates Bruce Goldstein, Sonoma County Counsel, or his designee, successor or successor's designee, as the authorized representative to direct Attorneys and to be the primary individual to communicate with Attorneys regarding the subject matter of Attorneys' representation of Client under this Contract. The designation is intended to establish a clear line of authority and to minimize potential uncertainty but not to preclude communication between Attorneys and other representatives of Client.
3. **SCOPE OF SERVICES AND DUTIES.** Client hires Attorneys to provide, and Attorneys shall provide, all legal services (the "Services") necessary for the investigation, analysis, preparation, filing, service, prosecution, handling, and collection on a judgment or monetary recovery of any amounts established under tort law as owing to the Client in a tort lawsuit to be brought by Attorneys on Client's behalf against PG&E and its companies and any other potentially liable third parties (collectively "Defendants"), including any claims to be pursued by Attorneys in PG&E's Chapter 11 bankruptcy proceeding, and in related regulatory proceedings before the California Public Utilities Commission as part of the effort

towards recovery of tort damages from Defendants, and pursuit of any and all other available remedies to Clients within the scope of tort damages, which resulted from fires occurring in October 2019 in and around Sonoma County, California (the "Action"). Attorneys shall provide all legal services reasonably required to represent Client in connection with the Action, and shall take reasonable steps to keep Client informed of progress and to respond to Client's inquiries. Client shall be truthful with Attorneys, cooperate with Attorneys, and keep Attorneys informed of developments. Attorneys shall be truthful with Client, cooperate with Client, and keep Client informed of developments.

4. CLIENT RETAINS DECISION MAKING AUTHORITY. Client retains complete control of all decisions in the Action. Client in no way assigns its prosecutorial discretion to Attorneys and retains all of its inherent powers related to prosecutorial discretion, judgment, control and decision making related to the Action. This authority and controls include but are not limited to:
- (a) Decisions regarding settlement of the Action are reserved exclusively to the discretion of the Client's Board of Supervisors, as communicated directly to the Attorneys by the County Administrator or the Office of County Counsel.
 - (b) Any of the Defendants that is the subject of the Action may contact County Counsel directly, without first having to confer with or get permission to do so from Attorneys;
 - (c) The Client's Board of Supervisors through County Counsel will retain complete control over the course and conduct of the Action;
 - (d) County Counsel retains veto power over any decisions made or proposed to be made by Attorneys; and
 - (e) A member of the County Counsel's office having expressly delegated or designated supervisory authority may and shall be personally involved in overseeing the Action and participating in all significant legal decisions.
 - (f) Attorneys shall provide all significant written court briefing and other submittals to the County Counsel's Office for review reasonably in advance of the filing or delivery deadline to allow for meaningful review and editing.

These provisions are not meant to be exhaustive, and the parties agree that at all times related to the Client's interest in the litigation will remain vested in the County Counsel. It is the intent of the parties that this paragraph be construed broadly to effectuate the parties' intent that County Counsel does not assign his prosecutorial discretion to Attorneys and that County Counsel retains all control over the course and conduct of the Action as they relate to the Client's interests and that County Counsel have the final decision-making authority over all aspects of the litigation strategy as it relates to the Client.

5. LEGAL SERVICES SPECIFICALLY EXCLUDED. Unless otherwise agreed in writing by Client and Attorneys, Attorneys will not provide legal services with respect to (a) defending any legal proceeding or claim against the Client commenced by any person unless such proceeding or claim is filed against the

Client in the Action, filed separately by Defendants related to the Action, or unless the legal proceeding or claim is based on or arises from any statement or conduct by Attorneys in connection with their handling of the Action (including but not limited to any action for defamation arising from press releases or public statements prepared or issued by Attorneys on behalf of Client), in which case Attorneys' Services shall include representation of Client in connection with such legal proceeding or claim, or (b) proceedings before any federal or state administrative or governmental agency, department, or board including, but not limited to, the United States Environmental Protection Agency and the California Environmental Protection Agency (with the exception of the California Public Utilities Commission). With Client's permission, however, Attorneys may elect to appear at such administrative proceedings to protect Client's rights. If Client wishes to retain Attorneys to provide any legal services not provided under this Contract for additional compensation, a separate written agreement between Attorneys and Client will be required.

6. FEES. Client will pay attorneys' fees to Attorneys as follows:

- (a) CONTINGENCY FEE. The Parties agree that Attorneys shall be compensated solely (except in the limited circumstances expressly provided below) on a contingency fee basis. The contingency fee shall be based on eighteen percent (18%) of any net settlement or net recovery that Attorneys obtain for Client. Fees shall be based on a percentage of any settlement or recovery after the deduction of any expense or cost, i.e., the "net" recovery. Contingency fee rates are not set by law, but have been negotiated. If no recovery is made, no fees will be charged or received by Attorneys. The terms "net settlement" or "net recovery" shall include, without limitation, the then present value of any monetary payments agreed or ordered to be made by the Defendants or their insurance carriers as a result of the Services, whether by settlement, arbitration award, court judgment (after all appeals exhausted), or otherwise. Any attorneys' fee paid by Defendants shall be included in calculating the gross recovery. Excluded from the gross recovery are monies or funds reimbursed to the Federal Emergency Management Agency (FEMA) or the California Governor's Office of Emergency Services (Cal OES).
- i. "Net recovery," if by settlement, also includes (1) the then-present value of any monetary payments to be made to the Client; and (2) the fair market value of any non-monetary property and/or services to be transferred and/or rendered for the benefit of the Client; and (3) any attorney's fees and costs recovered by the Client as part of any cause of action that provides a basis for such an award. "Recovery" may come from any source, including, but not limited to, the adverse parties to the Client and/or their insurance carriers and/or any third party, whether or not a party to formal litigation. The contingent fee is calculated by multiplying the net recovery by the fee percentage. This calculation is

performed on the net recovery amount after the deduction of expenses or costs as provided below.

- ii. Attorneys are not entitled to recover any fees or costs unless Attorneys are successful in obtaining a net recovery on the Client's behalf as a result of the Services.
- iii. Attorneys agree that Client is not obligated to pay attorneys' fees from any existing or future public fund or funds and that attorneys' fees will be paid solely from amounts recovered from the Defendants, their insurance companies, or third-party liable companies.
- iv. In-Kind Benefits- The Client and Attorney agree that Defendants may attempt to offer an "in-kind" benefit in lieu of monetary payment during resolution efforts. Should the Defendant offer the Client an "in-kind" benefit, and should Client choose to accept an "in-kind" benefit after consulting with Attorney, in lieu of monetary payment, Client and Attorney agree that Attorneys' Fees equal to eighteen percent (18%) of the value of the "in-kind" benefit is owing. Client and Attorney agree that Client is not responsible to pay the contingency fee on the "in-kind" benefit, including that the Client is not responsible to pay any fees out of pocket or out of any general funds. An "in-kind" benefit as used herein is a benefit that is proposed in lieu of or as a replacement for tort damages, and/or a benefit entitled as a tort remedy.
- v. The contingent fee amount which Attorneys are entitled to receive shall be calculated by multiplying the Net Recovery by eighteen (18) percent.
- vi. If Client and Attorneys disagree as to the fair market value of any non-monetary property or services as described above, Attorneys and Client agree that a binding appraisal will be conducted to determine this value by an appraiser to be mutually selected by Attorneys and Client.
- vii. It is possible that payment to the Client by Defendants or their insurance carrier(s) or any third-party may be deferred, as in the case of an annuity, a structured settlement, or periodic payments. In such event, net recovery will consist of the initial lump sum payment plus the present value (as of the time of the settlement) of the total of all payments to be received thereafter. The contingent fee is calculated, as described above, by multiplying the net recovery by the fee percentage of eighteen percent (18%). The Attorney's fees will be paid out of the initial lump-sum payment, to the extent that it can, and/or by the Defendant at the time of settlement or initial recovery. Any fees not paid by the initial lump-sum payment will be paid in the second or subsequent payment(s). In no event will the Client be required to pay Attorney's fees out of any public funds as described in subsection (c).

- (b) Reasonable Fee if Contingent Fee is Unenforceable or if Attorney is Discharged Before Any Recovery.

In the event that the contingent fee portion of this Contract is determined by a court of competent jurisdiction to be unenforceable for any reason, or if the Attorneys are discharged by Client before any net recovery is received, and/or if Attorneys are otherwise prevented by the court from representing Client on a contingent fee basis, Client agrees to pay a reasonable fee for the Services rendered. If the Parties are unable to agree on a reasonable fee for the Services rendered, Attorneys and Client agree that the fee will be determined by arbitration proceedings before a mutually agreed-upon neutral affiliated with either the Judicial Arbitration and Mediation Services (JAMS) or Judicate West (JW). The Parties agree that such compensation based on the reasonable value of Attorneys' services shall be payable solely out of any net recovery received by the Client from Defendants in the Action and in any event shall not exceed eighteen percent (18%) of the net recovery as defined above.

- (c) No General Fund Payments

Notwithstanding any other provision in this Contract, in no event will the Client be required to pay legal fees or any litigation costs out of any public fund or funds other than the monies recovered from Defendants, their insurance companies, or third-party liable companies, in the Action.

- (d) Community Contribution and Solutions: Notwithstanding the contingent fee provision, Attorneys recognize that this litigation is the result of a disastrous fire of historic proportion where many thousands of people have suffered tragic losses. Attorneys' interests include not only obtaining the best results for Client and reasonable compensation but assisting the affected communities in their recovery. Towards that end, Attorneys agree that they will make a significant charitable donation to (a) non- profit agency(ies) in the Client's community to support wildfire disaster relief or recovery efforts. The subject(s) of the donation(s) shall be at the sole and complete discretion of Attorneys. Attorneys and Client also acknowledge that Client and the affected community have as a common goal solutions to help prevent future utility-caused fires, and Attorneys agree to cooperate towards that goal.

7. COSTS AND EXPENSES.

- (a) GENERAL PROVISION: Attorneys shall advance and pay any and all litigation costs, third party fees and expenses ("Litigation Costs") necessary for handling and prosecution of the Action. In addition to Client's obligation to pay Attorneys for their Services through the contingency fee

of eighteen-percent of any net recovery, Client shall reimburse Attorneys, solely from any recovery obtained by Attorneys for Client from Defendants, for all Litigation Costs incurred, advanced and paid by Attorneys in connection with the Action. Such Litigation Costs that are subject to reimbursement to Attorneys from the recovery include but are not limited to the following: process servers' fees, fees fixed by law or assessed by courts or other agencies, court reporters' fees, document managements costs (described in further detail below), messenger and other delivery fees, parking, investigation expenses, consultants' fees, expert witness fees, and other similar items, that are actually incurred and paid by Attorney. Prior Client approval is required before Attorneys hire any investigators, consultants, or expert witnesses reasonably necessary for handling of the Action in Attorney's judgment. Prior Client approval does not apply to experts hired by Attorneys prior to the execution of this Contract. In addition to the above, County Counsel attorney, legal assistant and other in-house litigation fees and costs directly attributable to the Action shall be reimbursed, up to one hundred and fifty thousand dollars (\$150,000) only per Sonoma agency/entity represented, not to exceed four hundred and fifty thousand dollars (\$450,000) total regardless of the number of Sonoma agencies/entities represented, to the Client as a litigation cost and deducted from the total gross recovery. If there is no recovery from Defendants, Client will not be required to reimburse Attorneys for any Litigation Costs. In the event recovery from Defendants is less than the total of the Litigation Costs incurred and paid by Attorneys, Client will not be required to reimburse Attorneys for any amount of Litigation Costs that exceed the funds available from the recovery from Defendants.

- (b) DOCUMENT MANAGEMENT COSTS: It is Attorneys' obligation to minimize the costs/expenses advanced for both efficiency and practical considerations of modern large volume electronic discovery. In doing so, Attorneys have analyzed the most efficient way to meet their legal obligations while minimizing the costs of doing so. Two options exist:
 - i. *Outside vendor (outsource).* In most cases where the document volume is much less, Attorneys have outside vendors whose responsibility is to assist in the collection of the documents in question, copy those documents, and provide a storage mechanism (either electronic, paper or both) for them. Such costs are advanced by the firm but ultimately reimbursed by you in the event there is a recovery. Based upon the massive volume of wildfire litigation documents, Attorneys do not believe this is the most efficient or realistic method.
 - ii. *Creation of internal electronic discovery processing.* Create a wildfire electronic discovery data processing mechanism where the firm obtains computer software, hardware, and related resources reasonably necessary to procure, organize and produce litigation documents and

data. Such a mechanism would obviate the need to outsource these services. Attorneys have priced the costs charged by competent contractors who provide this service and believe that we can provide that service internally at a cheaper cost to the Client, in the event of a recovery.

The Parties agree that effective document management is critical to successful resolution of the Action. Attorneys' intention in this Contract is to promote efficiency, save Client costs, and limit legal expenses to those directly attributable to the Action for the Client. With respect to document management, Attorneys represent that internal electronic discovery processing is the best option to meet those goals. Therefore, Attorneys plan to add the resources necessary to provide that service necessary in the Action subject to cost review and approval by Client. Attorneys also reserve the right, with consent from Client's County Counsel (which shall not be unreasonably withheld), to use outside vendors where costs and circumstances warrant. Internal Document Management costs include document management costs, such as processing and hosting, incurred after the effective date of this agreement and exclude hardware and software costs. Attorneys agree to provide quarterly reporting regarding costs, including for document management.

As with all other expenses, these document related costs will be advanced by Attorneys, but reimbursed by Client only in the event of recovery.

- (c) **SHARED EXPENSES:** Client understands that Attorneys may incur certain expenses that jointly benefit multiple clients, including, for example, expenses for travel, experts, and copying. Client agrees that Attorneys shall divide such expenses pro rata among all clients, including individual clients, business clients, and public entity clients, and deduct Client's portion of those expenses from Client's share of any recovery. Prior Client approval is required for shared expenses, with the exception of those experts retained prior to the execution of this Contract. Below in section "(c) i-iv." is the method by which costs and expert fees will be allocated among the County clients for the Action.
 - i. Shared expenses will be divided among clients on a pro rata basis. Pro rata means a percentage or ratio based on recovery. In the pro rata calculation, the ratio numerator is the total amount/value of the Client's individual recovery; the ratio denominator is the total amount/value of all clients' recovery in the litigation. The pro rata ratio is applied to the shared expenses to calculate each Client's portion of the shared expenses.
 - ii. Shared expenses can include those necessary to prove liability against Defendants generally. Proving liability may include liability general to

each and all of the fires involved in the October 2019 Kincade Fire (e.g., overall practices, procedures, and protocol of Defendants, proving corporate practices or systemic failures). Such general liability expenses will be divided among all clients pro rata.

iii. Shared expenses can include those necessary to prove liability against Defendants related to a specific fire. To the extent that shared expenses are incurred by Attorneys to prove liability related to a specific fire, only those clients affected by each respective fire shall be charged those expenses.

iv. Shared expenses do not include those expenses necessary to prove client-specific damages.

(d) TRAVEL EXPENSE WAIVER: Notwithstanding the above, Attorneys agree to waive all travel expenses, including but not limited to transportation and lodging, and including but not limited to and from cause and origin areas, Client offices, and the court in the Action and agree not to seek reimbursement from any recovery for any travel expenses.

(e) FEDERAL MDL AND STATE COORDINATION FEE ASSESSMENTS: In the event there is a court ordered assessment or agreement for fees and costs required to be paid to any current or future Federal Multidistrict Litigation (MDL) or any State Court coordinated proceedings, which typically ranges from 6% to 9% of the gross proceeds, any attorney's fees under such an assessment will be paid from the Attorneys' fees. However, any costs required to be paid under such an assessment or agreement will be paid from Client's share of any settlement proceeds as part of the costs and expenses advanced, pursuant to section 6. At this time, Attorneys cannot determine what fees and costs, if any, will be paid to the Federal Multidistrict litigation or to a State Court coordinated proceeding. Additionally, members of Attorneys frequently serve on plaintiffs' management or executive committees in MDL and/or the California state court coordinated proceedings and perform work which benefits our clients as well as clients of other attorneys involved in similar litigation. As a result, the court or courts where the cases are pending may order that Attorneys are to receive additional compensation for our time and effort which has benefitted all claimants. Compensation for this work and effort, which is known as "common benefit," may be awarded to Attorneys by a court or courts directly from the assessments paid by the Client and others who have filed claims in this litigation, and will not in any way reduce the amount of fees owed under this Contract.

8. LIEN. In the event any third party attempts to lien any proceeds recovered from a recovery in the Action, Client hereby grants, and agrees, to the extent permitted by applicable law, that Attorneys hold a first priority and superior lien on any and all

proceeds recovered from Defendants in the Action in the amount of the Attorneys' fees and costs that the Attorneys are entitled to, under this Contract. This lien right is limited to only those monies recovered from Defendants and in no way affects any other rights of the Client in any way whatsoever.

9. **DISCHARGE AND WITHDRAWAL.** Client may discharge Attorneys at any time. Attorneys may withdraw with Client's consent or for good cause. Good Cause includes Client's breach of this Contract, Client's refusal to cooperate with Attorneys or to follow Attorneys' advice on a material matter, or any other fact or circumstance that would render Attorneys' continuing representation unlawful or unethical. Attorneys may also discharge Client if Client at any time is dishonest with Attorneys, or fails to provide relevant information to Attorneys. Attorneys may also discharge Client if Attorneys determine Client's claims no longer economically merit prosecution by Attorneys. If Attorneys discharge Client for any reason other than breach of this Contract by Client or irreconcilable differences between Attorneys and Client, Attorneys shall not be entitled to recovery of any reasonable compensation for their Services and the provisions of Section 6(b) above shall not apply.
10. **AUTHORITY OF ATTORNEY.** Attorneys may, with prior Client approval, associate co-counsel if the law firm believes it advisable or necessary for the proper handling of the Action, and if such approval is granted the Parties agree and expressly authorize the Attorneys to divide any attorneys' fees that may eventually be earned with co-counsel so associated for the handling of our claim (but subject to the limitations on the amount, percentage, and source of recovery of such fees, as set forth above). Attorneys understand that the amount of attorneys' fees which Client will pay shall not be increased by the work of co-counsel associated to assist with the handling of the Action, and that such associated co-counsel will be paid solely by the Attorneys out of the attorneys' fees to which Attorneys are entitled in this Contract.
11. **DISCLAIMER OF GUARANTEE.** Nothing in this Contract and nothing in Attorneys' statements to Client will be construed as a promise or guarantee about the outcome of the Action. Attorneys make no such promises or guarantees. Attorneys' comments about the outcome of the Action are expressions of opinion only.
12. **MULTIPLE REPRESENTATIONS:** The Client understands that Attorneys do or may represent many other individuals with actual or potential wildfire claims. Attorneys' representation of multiple claimants at the same time may create certain actual or potential conflicts of interest in that the interests and objectives of each client individually on certain issues are, or may become, inconsistent with the interests and objectives of the other. Attorneys are governed by specific rules and regulations relating to their professional responsibilities in their representation of the Client and Attorneys' other clients, and especially where conflicts of interest may arise from their representation of multiple clients against the same or similar

Defendants, Attorneys are required to advise their clients of any actual or potential conflicts of interest and obtain their informed written consent to Attorneys' representation when actual, present, or potential conflicts of interest exist. By signing this Contract, the Client is acknowledging that it has been advised of the potential conflicts of interest which may be or are associated with our representation of the Client and other multiple claimants and that the Client nevertheless wants Attorneys to represent the Client, and that the Client consents to Attorneys' representation of others in connection with the wildfire litigation. Attorneys advise the Client, that the Client remains completely free to seek other legal advice at any time even after the Client signs this Contract. Client does not however, waive any actual conflict, if another client of Attorneys files a legal action against the County for matters related to or arising out of the wildfire.

13. **AGGREGATE SETTLEMENTS:** Often times in cases where Attorneys represent multiple clients in similar litigation, the opposing parties or defendants attempt to settle or otherwise resolve cases in a group or groups, by making a single settlement offer to settle a number of cases simultaneously. There exists a potential conflict of interest whenever a lawyer represents multiple clients in a settlement of this type because it necessitates choices concerning the allocation of limited settlement amounts among the multiple clients. However, if all clients consent, a group settlement can be accomplished and a single offer can be fairly distributed among the clients by assigning settlement amounts based upon the strengths and weaknesses of each case, the relative nature, severity and extent of injuries, and individual case evaluations. In the event of a group or aggregate settlement proposal, Attorneys may implement a settlement program, overseen by a referee or special master, who may be appointed by a court, designed to ensure consistency and fairness for all claimants, and which will assign various settlement values and amounts to each client's case depending upon the facts and circumstances of each individual case. The Client authorizes Attorneys to enter into and engage in group settlement discussions and agreements which may include the Client's individual claims. Although the Client authorizes Attorneys to engage in such group settlement discussions and agreements, the Client will still retain the sole right to approve, and Attorneys are required to obtain the Client's approval of, any settlement of the Client's Action.
14. **TERM OF THE CONTRACT.** The term of this Contract shall commence on the Effective Date and shall expire upon completion of Attorneys' Services hereunder, unless terminated earlier in accordance with the provisions of this Contract. The following obligations of Attorneys owed to Client shall continue in full force and effect after completion of the Attorneys' Services and/or after any earlier termination of the Contract: the Attorneys' obligations covered by the provisions below regarding confidentiality, taxes, and access to records/retention.
15. **LEGAL STATUS.** So that Client may properly comply with its reporting obligations under federal and state laws pertaining to taxation, if Attorneys are or become a corporation during the term of this Contract, proof that such status is

currently recognized by and complies with the laws of both the state of incorporation or organization and the State of California, if different, shall be provided to the Legal Administrative Specialist in the County Counsel's Office upon request in a form satisfactory to the Sonoma County Auditor. Such proof shall include, but need not be limited to, a copy of any annual or other periodic filings or registrations required by the state of origin or California, the current address for service of process on the corporation or limited liability partnership, and the name of any agent designated for service of process by Attorneys within the State of California.

16. **INDEPENDENT CONTRACTORS.** Attorneys shall perform this Contract as independent contractors. Attorneys and their officers, agents and employees are not, and shall not be deemed to be, Sonoma County employees for any purpose, including workers' compensation and employee benefits. Attorneys shall, at their own risk and expense, determine the method and manner by which duties imposed on Attorneys by this Contract shall be performed; provided, however, that the Client may monitor the work performed by Attorneys as provided above. The Client shall not deduct or withhold any amounts whatsoever from the compensation paid to Attorneys, including, but not limited to amounts required to be withheld for state and federal taxes. As between the Parties to this Contract, Attorneys shall be solely responsible for all such payments.
17. **INSURANCE.** Attorneys shall obtain and maintain in full force and effect throughout the term of this Contract, and thereafter as to matters occurring during the term of this Contract, the following insurance coverage:
 - (a) **Workers' Compensation insurance.** To the extent required by law during the term of this Contract, Attorneys shall provide workers' compensation insurance for the performance of any of Attorneys' duties under this Contract, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide the Client with certification of all such coverages upon request by the Client's Risk Manager.
 - (b) **Liability insurance.** Attorneys shall obtain and maintain in full force and effect during the term of this Contract the following liability insurance coverages, issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better:
 - i. **General Liability.** Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of Attorneys or any officer, agent, or employee of Attorneys under this Contract. If the coverage

includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

- ii. Professional Liability/Errors and Omissions. Professional liability [or errors and omissions] insurance for all activities of Attorneys arising out of or in connection with this Contract in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per claim.
 - iii. Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with Attorneys of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence.
- (c) Certificates. All insurance coverages referenced in Section 17(b), above, shall: be evidenced by one or more certificates of coverage or, with the consent of the Client's Risk Manager, demonstrated by other evidence of coverage acceptable to the Risk Manager, which shall be filed by Attorneys with the County Counsel's Office prior to commencement of performance of any of Attorneys' duties; reference this Contract by its Sonoma County Agreement Number specified above on page 1; be kept current during the term of this Contract; shall provide that the Client shall be given no less than thirty (30) days' prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days' prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability. For the commercial general liability insurance coverage referenced in Section 17(b)(1), above, and, where the vehicles are covered by a commercial policy rather than a personal policy, for the comprehensive automobile liability insurance coverage referenced in Section 17(b)(3), above, Attorneys shall also file with the evidence of coverage an endorsement from the insurance provider naming Sonoma County, its officers, employees, agents and volunteers as additional insureds and waiving subrogation, and the certificate or other evidence of coverage shall provide that if the same policy applies to activities of any Attorneys or agents of the Attorneys not covered by this Contract then the limits in the applicable certificate relating to the additional insured coverage of the Client shall pertain only to liability for activities of Attorneys under this Contract, and that the insurance provided is primary coverage to the Client with respect to any insurance or self-insurance programs maintained by the Client. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11

85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94. Upon request of the Client's Risk Manager, Attorneys shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

- (d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, Client's Risk Manager, which approval shall not be denied unless the Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Contract and the risks of liability associated with the activities required of Attorneys by this Contract. At the option of and upon request by the Client's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects the Client, its officers, employees, agents and volunteers or Attorneys shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

- 18. **TERMINATION FOR CAUSE.** If either Party shall fail to fulfill in a timely and proper manner that Party's obligations under this Contract or otherwise breach this Contract and fail to cure such failure or breach within fifteen (15) days of receipt of written notice from the other Party describing the nature of the breach, the non-defaulting party may, in addition to any other remedies it may have, terminate this Contract by giving fifteen (15) days' prior written notice to the defaulting Party in the manner set forth in the Notices provision below. The Client hereby authorizes the Sonoma County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Contract on behalf of the Client for cause.
- 19. **TERMINATION FOR CONVENIENCE.** Subject and subordinate to any other provisions of this Contract above, this Contract may be terminated by either Party for any reason and at any time by giving no less than thirty (30) days' prior written notice of such termination to the other Party and specifying the effective date thereof. The Client hereby authorizes the Sonoma County Executive Officer to make all decisions and take all actions required under this Paragraph to terminate this Contract on behalf of the Client for the convenience of the Client.
- 20. **DISPOSITION OF AND TITLE TO WORK IN PROGRESS UPON COMPLETION OF SERVICES OR EARLIER TERMINATION.**

Upon completion of Attorneys' Services or upon earlier termination of this Contract, all finished or unfinished documents and other materials, if any, and all rights therein shall become, at the option of the Client, the property of, and shall be

promptly returned to, the Client, although Attorneys may retain a copy of such work for their personal records only.

21. NO WAIVER. The waiver by either Party of any breach or violation of any requirement of this Contract shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Contract.
22. CONFIDENTIALITY. Confidential information is defined as all information disclosed to Attorneys which relates to the Client's past, present, and future activities, as well as activities under this Contract. Attorneys shall hold all such information as Attorneys may receive, if any, in trust and confidence, except with the prior written approval of the Client, expressed through its County Counsel. Upon completion of Attorneys' Services under this Contract, or upon any earlier termination of this Contract, Attorneys shall return to the Client written and descriptive matter which contains any such confidential information, except that Attorneys may retain for their files a copy of Attorneys' work product if such product has been made available to the public by the Client. To comply with this paragraph, Attorneys confirm that they are subject to and agree to comply with the applicable Rules of Professional Conduct regarding Confidentiality.
23. AMENDMENT/MODIFICATION. Except as specifically provided herein, this Contract may be modified or amended only in writing signed by all Parties.
24. INTERPRETATION/ VENUE.
 - (a) Interpretation. The headings used herein are for reference only. The terms of the Contract are set out in the text under the headings. This Contract shall be governed by the laws of the State of California without regard to the choice of law or conflicts.
 - (b) Venue. This Contract is made in Sonoma County, California. The venue for any legal action in state court filed by either Party to this Contract for the purpose of interpreting or enforcing any provision of this Contract shall be in the Superior Court of California, County of Sonoma. The venue for any legal action in federal court filed by either Party to this Contract for the purpose of interpreting or enforcing any provision of this Contract lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Contract shall be Sonoma County, California; however, nothing in this sentence shall obligate either Party to submit to mediation or arbitration any dispute arising under this Contract.
25. COMPLIANCE WITH LAWS. Attorneys shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, the following, except where prohibited by law:

- (a) Non-Discrimination. During the performance of this Contract, Attorneys and their subcontractors shall not deny the benefits thereof to any person on the basis of sex, race, color, ancestry, religion or religious creed, national origin or ethnic group identification, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), nor shall they discriminate unlawfully against any employee or applicant for employment because of sex, race, color, ancestry, religion or religious creed, national origin or ethnic group identification, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), or use of family care leave. Attorneys shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination or harassment. In addition to the foregoing general obligations, Attorneys shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), the regulations promulgated thereunder (Title 2, California Code of Regulations, section 7285.0, et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (sections 11135-11139.5) and any state or local regulations adopted to implement any of the foregoing, as such statutes and regulations may be amended from time to time.
 - (b) Documentation of Right to Work. Attorneys agree to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all newly-hired employees of Attorneys performing any services under this Contract have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for each employee. Attorneys shall make the required documentation available upon request to the Client for inspection.
 - (c) Inclusion in Subcontracts. To the extent any of the services required of Attorneys under this Contract are subcontracted to a third party, Attorneys shall include all of the provisions of this Paragraph in all such subcontracts as obligations of the subcontractor.
26. TAXES. Attorneys agree to file federal and state tax returns or applicable withholding documents and to pay all applicable taxes or make all required withholdings on amounts paid pursuant to this Contract and shall be solely liable and responsible to make such withholdings and/or pay such taxes and other obligations including, without limitation, state and federal income and FICA taxes. In the event that the Client is audited for compliance regarding any withholding or other applicable taxes or amounts, Attorneys agree to furnish the Client with proof of payment of taxes or withholdings on those earnings.
27. ACCESS TO RECORDS/RETENTION. The Client, any federal or state grantor

agency funding all or part of the compensation payable hereunder, the State Controller, the Comptroller General of the United States, or the duly authorized representatives of any of the above, shall have access to any books, documents, papers and records of Attorneys which are directly pertinent to the subject matter of this Contract for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, Attorneys shall maintain all required records for at least seven (7) years after the Client makes final payment for any other work authorized hereunder and all pending matters are closed, whichever is later.

28. SEVERABILITY. If any provision of this Contract, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Contract.
29. NOTICES. All notices required or authorized by this Contract shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either Party desires to give the other Party shall be addressed to the other Party at the address set forth below. Either Party may change its address by notifying the other Party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

CLIENT

Bruce Goldstein
County Counsel
575 Administration Drive, 105-A
Santa Rosa, California 95403

ATTORNEYS

John Fiske
Shareholder, Baron & Budd
11440 West Bernardo Court, Ste 265
San Diego, CA 92127

30. EFFECTIVE DATE. This Contract will take effect upon full execution by Client and Attorneys, as reflected by the most recent date specified in the signature blocks below. This Contract may be signed in counterparts, which taken together shall constitute one and the same Contract, and which may be signed and transmitted by facsimile or e-mail. Once this Contract has been fully executed by all Parties, any signed counterpart shall be equivalent to a signed original for all purposes.

IN WITNESS WHEREOF, this Contract was executed by the Parties hereto effective as of the date first above written.

SIGNATURES ON FOLLOWING PAGE

Dated: _____

Baron & Budd, P.C.
Scott Summy
John Fiske

Dated: _____

SONOMA COUNTY, a political
subdivision of the State of California

By _____
CHAIR OF THE BOARD OF SUPERVISORS,
SONOMA COUNTY

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