

**AGREEMENT BETWEEN THE COUNTY OF TEHAMA AND
VAN DERMYDEN MAKUS LAW CORPORATION**

This agreement is entered into between the County of Tehama, through its Personnel Office, (“County”) and Van Dermymden Makus Law Corporation (“Contractor”) for the purpose of conducting independent, impartial, and objective investigations of County employees.

1) RESPONSIBILITIES OF CONTRACTOR

During the term of this agreement, Contractor shall provide services to County in accordance with EXHIBIT B (Definition of Services) attached hereto and incorporated by reference.

2) RESPONSIBILITIES OF THE COUNTY

County shall compensate Contractor for said services pursuant to Section 3 and 4 of this agreement. County shall provide Contractor with all necessary information and access to County employees and documents so as to enable Contractor to perform the tasks required by this agreement.

3) COMPENSATION

In full consideration for Contractor’s services, Contractor shall be paid for performance under this Agreement in accordance with the rates set forth in EXHIBIT C (Payment Terms), attached hereto and incorporated herein by reference. The Maximum Compensation (including expense reimbursement) payable under this Agreement shall not exceed \$40,000, with all investigations to receive prior, written authorization by County. Contractor shall not be entitled to payment or reimbursement for any tasks or services performed except as specified herein. Contractor shall have no claim against County for payment of any compensation or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Agreement. Contractor shall not be paid any amount in excess of the Maximum Compensation amount set forth above, and Contractor agrees that County has no obligation, whatsoever, to compensate or reimburse Contractor for any expenses, direct or indirect costs, expenditures, or charges of any nature by Contractor that exceed the Maximum Compensation amount set forth above (without prior authorization). Should Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. This provision shall survive the expiration or other termination of this Agreement.

4) BILLING AND PAYMENT

Contractor shall submit periodic (monthly) statements electronically to Tehama County Personnel Office within 15 days after completion of the services rendered each month. County shall make payment within 30 days of receipt of Contractor's invoice.

5) TERM OF AGREEMENT

This agreement shall commence on the date of signing and shall terminate one year from that date, unless terminated in accordance with section 6 below.

6) TERMINATION OF AGREEMENT

If Contractor fails to perform his/her duties to the satisfaction of the County, or if Contractor fails to fulfill in a timely and professional manner his/her obligations under this agreement, or if Contractor violates any of the terms or provisions of this agreement, then the County shall have the right to terminate this agreement effective immediately upon the County giving written notice thereof to the Contractor. Either party may terminate this agreement on 30 days' written notice. County shall pay contractor for all work satisfactorily completed as of the date of notice. County may terminate this agreement immediately upon oral notice should funding cease or be materially decreased, or should the Tehama County Board of Supervisors fail to appropriate sufficient funds for this agreement in any fiscal year.

The County's right to terminate this agreement may be exercised by the Personnel Office.

7) ENTIRE AGREEMENT; MODIFICATION

This agreement for the services specified herein supersedes all previous agreements for these services and constitutes the entire understanding between the parties hereto. Contractor shall be entitled to no other benefits other than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Contractor specifically acknowledges that in entering into and executing this agreement, Contractor relies solely upon the provisions contained in this agreement and no other oral or written representation.

8) NONASSIGNMENT OF AGREEMENT

Inasmuch as this agreement is intended to secure the specialized services of Contractor, Contractor may not assign, transfer, delegate or sublet any interest herein without the prior written consent of the County.

9) EMPLOYMENT STATUS

Contractor shall, during the entire term of this agreement, be construed to be an independent contractor and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which Contractor performs the services which are the subject matter of this agreement; provided always, however, that the services to be provided by Contractor shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of the County is to insure that the services shall be rendered and performed in a competent, efficient and satisfactory manner. Contractor shall be fully responsible for payment of all taxes due to the State of California or the Federal government, which would be withheld from compensation of Contractor, if Contractor were a County employee. County shall not be liable for deductions for any amount for any purpose from Contractor's compensation. Contractor shall not be eligible for coverage under County's Workers Compensation Insurance Plan nor shall Contractor be eligible for any other County benefit.

10) INDEMNIFICATION

Contractor shall defend, hold harmless, and indemnify Tehama County, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of County), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of County) being damaged, arising out of contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, whether by negligence or otherwise. Contractor shall, at its own expense, defend any suit or action founded upon a claim of the foregoing. Contractor shall also defend and indemnify County against any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency against the County with respect to Contractor's "independent contractor" status that would establish a liability for failure to make social security or income tax withholding payments, or any other legally mandated payment.

11) INSURANCE

Contractor shall procure and maintain insurance pursuant to Exhibit A, “Insurance Requirements For Contractor,” attached hereto and incorporated by reference.

12) PREVAILING WAGE

Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the Services hereunder are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with and to require its subcontractors to fully comply with such Prevailing Wage Laws, to the extent that such laws apply. If applicable, County will maintain the general prevailing rate of per diem wages and other information set forth in Labor Code section 1773 at its principal office, and will make this information available to any interested party upon request. Contractor shall defend, indemnify and hold the County, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of the Contractor or its subcontractors to comply with the Prevailing Wage Laws. Without limiting the generality of the foregoing, Contractor specifically acknowledges that County has not affirmatively represented to contractor in writing, in the call for bids, or otherwise, that the work to be covered by the bid or contract was not a “public work.” To the fullest extent permitted by law, Contractor hereby specifically waives and agrees not to assert, in any manner, any past, present, or future claim for indemnification under Labor Code section 1781.

Contractor acknowledges the requirements of Labor Code sections 1725.5 and 1771.1 which provide that no contractor or subcontractor may be listed on a bid proposal or be awarded a contract for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5, with exceptions from this requirement specified under Labor Code sections 1725.5(f), 1771.1(a) and 1771.1(n).

If the services are being performed as part of the applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, Contractor acknowledges that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

13) NON-DISCRIMINATION

Contractor shall not employ discriminatory practices in the treatment of persons in relation to the circumstances provided for herein, including assignment of accommodations, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

14) GREEN PROCUREMENT POLICY

Through Tehama County Resolution No. 2021-140, the County adopted the Recovered Organic Waste Product Procurement Policy (available upon request) to (1) protect and conserve natural resources, water and energy; (2) minimize the jurisdiction’s contribution to pollution and solid waste disposal; (3) comply with state requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383); (4) support recycling and waste reduction; and (5) promote the purchase of products made with recycled materials, in compliance with the California Integrated Waste Management Act of 1989 (AB 939) and SB1382 when product fitness and quality are equal and they are available at the same or lesser cost of non-recycled products. Contractor shall adhere to this policy as required therein and is otherwise encouraged to conform to this policy.

15) COMPLIANCE WITH LAWS AND REGULATIONS

All services to be performed by Contractor under to this Agreement shall be performed in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Any change in status, licensure, or ability to perform activities, as set forth herein, must be reported to the County immediately.

16) LAW AND VENUE

This agreement shall be deemed to be made in, and shall be governed by and construed in accordance with the laws of the State of California (excepting any conflict of laws provisions

which would serve to defeat application of California substantive law). Venue for any action arising from this agreement shall be in Tehama County, California.

17) AUTHORITY

Each party executing this Agreement and each person executing this Agreement in any representative capacity, hereby fully and completely warrants to all other parties that he or she has full and complete authority to bind the person or entity on whose behalf the signing party is purposing to act.

18) NOTICES

Any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first class mail to the following addresses:

- a. If to County: Tehama County Personnel Office
727 Oak Street
Red Bluff, CA 96080
- b. If to Contractor: Van Dermeyden Makus Law Corporation
Eli Makus, Firm Managing Partner
2520 Venture Oaks Way, Suite 450
Sacramento, CA 95833

Notice shall be deemed to be effective two days after mailing.

19) NON-EXCLUSIVE AGREEMENT:

Contractor understands that this is not an exclusive agreement, and that County shall have the right to negotiate with and enter into agreements with others providing the same or similar services to those provided by Contractor, or to perform such services with County's own forces, as County desires.

20) STANDARDS OF THE PROFESSION

Contractor agrees to perform its duties and responsibilities pursuant to the terms and conditions of this agreement in accordance with the standards of the profession for which Contractor has been properly licensed to practice.

21) LICENSING OR ACCREDITATION

Where applicable the Contractor shall maintain the appropriate license or accreditation through the life of this contract.

22) RESOLUTION OF AMBIGUITIES

If an ambiguity exists in this Agreement, or in a specific provision hereof, neither the Agreement nor the provision shall be construed against the party who drafted the Agreement or provision.

23) NO THIRD PARTY BENEFICIARIES

Neither party intends that any person shall have a cause of action against either of them as a third party beneficiary under this Agreement. The parties expressly acknowledge that is not their intent to create any rights or obligations in any third person or entity under this Agreement. The parties agree that this Agreement does not create, by implication or otherwise, any specific, direct or indirect obligation, duty, promise, benefit and/or special right to any person, other than the parties hereto, their successors and permitted assigns, and legal or equitable rights, remedy, or claim under or in respect to this Agreement or provisions herein.

24) HAZARDOUS MATERIALS

Contractor shall provide to County all Safety Data Sheets covering all Hazardous Materials to be furnished, used, applied, or stored by Contractor, or any of its Subcontractors, in connection with the services on County property. Contractor shall provide County with copies of any such Safety Data Sheets prior to entry to County property or with a document certifying that no Hazardous Materials will be brought onto County property by Contractor, or any of its Subcontractors, during the performance of the services. County shall provide Safety Data Sheets for any Hazardous Materials that Contractor may be exposed to while on County property.

25) HARASSMENT

Contractor agrees to make itself aware of and comply with the County's Harassment Policy, TCPR §8102: Harassment, which is available upon request. The County will not tolerate or condone harassment, discrimination, retaliation, or any other abusive behavior. Violations of this policy may cause termination of this agreement.

26) COUNTERPARTS, ELECTRONIC SIGNATURES – BINDING

This agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ((“CUETA”) Cal. Civil Code §§ 1633.1 to 1633.17), for executing this agreement. The Parties further agree that the electronic signatures of the Parties included in this agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among Parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of “electronic signature” as defined in subdivision (i) of Section 1633.2 of the Civil Code. Facsimile signatures or signatures transmitted via pdf document shall be treated as originals for all purposes.

IN WITNESS WHEREOF, County and Contractor have executed this agreement on the day and year set forth below.

COUNTY OF TEHAMA

Date: 11/15/24

Purchasing Agent

VAN DERMYDEN MAKUS LAW CORPORATION

Date: 11/13/24



Representative

The following information is required for the agreement to be approved:

Contractor Number

Vendor Number

Budget Account Number

Vendor/Contractor email address

Vendor/Contractor phone number

Standard Form of Agreement – Services adopted 12/08/22

Exhibit A

INSURANCE REQUIREMENTS FOR CONTRACTOR

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work described herein and the results of that work by Contractor, his/her agents, representatives, employees or subcontractors. At a minimum, Contractor shall maintain the insurance coverage, limits of coverage and other insurance requirements as described below.

Commercial General Liability (including operations, products and completed operations) \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If coverage is subject to an aggregate limit, that aggregate limit will be twice the occurrence limit, or the general aggregate limit shall apply separately to this project/location.

Automobile Liability

Automobile liability insurance is required with minimum limits of \$1,000,000 per accident for bodily injury and property damage, including owned and non-owned and hired automobile coverage, as applicable to the scope of services defined under this agreement.

Workers' Compensation

If Contractor has employees, he/she shall obtain and maintain continuously Workers' Compensation insurance to cover Contractor and Contractor's employees and volunteers, as required by the State of California, as well as Employer's Liability insurance in the minimum amount of \$1,000,000 per accident for bodily injury or disease.

Professional Liability (Contractor/Professional services standard agreement only)

If Contractor is a state-licensed architect, engineer, contractor, counselor, attorney, accountant, medical provider, and/or other professional licensed by the State of California to practice a profession, Contractor shall provide and maintain in full force and effect while providing services pursuant to this contract a professional liability policy (also known as Errors and Omissions or Malpractice liability insurance) with single limits of liability not less than \$1,000,000 per claim and \$2,000,000 aggregate on a claims made basis. However, if

coverage is written on a claims made basis, the policy shall be endorsed to provide coverage for at least three years from termination of agreement.

If Contractor maintains higher limits than the minimums shown above, County shall be entitled to coverage for the higher limits maintained by Contractor.

All such insurance coverage, except professional liability insurance, shall be provided on an “occurrence” basis, rather than a “claims made” basis.

Endorsements: Additional Insureds

The Commercial General Liability and Automobile Liability policies shall include, or be endorsed to include “Tehama County, its elected officials, officers, employees and volunteers” as an additional insured.

The certificate holder shall be “County of Tehama.”

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions of \$25,000 or more must be declared to, and approved by, the County. The deductible and/or self-insured retentions will not limit or apply to Contractor’s liability to County and will be the sole responsibility of Contractor.

Primary Insurance Coverage

For any claims related to this project, Contractor’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 Contractor’s insurance and shall not contribute with it.

Coverage Cancellation

Each insurance policy required herein shall be endorsed to state that “coverage shall not be reduced or canceled without 30 days’ prior written notice certain to the County.”

Acceptability of Insurers

Contractor's insurance shall be placed with an insurance carrier holding a current A.M. Best & Company's rating of not less than A:VII unless otherwise acceptable to the County. The County reserves the right to require rating verification. Contractor shall ensure that the insurance carrier shall be authorized to transact business in the State of California.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance that meets all the requirements stated herein.

Material Breach

If for any reason, Contractor fails to maintain insurance coverage or to provide evidence of renewal, the same shall be deemed a material breach of contract. County, in its sole option, may terminate the contract and obtain damages from Contractor resulting from breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Contractor, County may deduct from sums due to Contractor any premium costs advanced by County for such insurance.

Policy Obligations

Contractor's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Verification of Coverage

Contractor shall furnish County with original certificates and endorsements effecting coverage required herein. All certificates and endorsements shall be received and approved by the County prior to County signing the agreement and before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements.

The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

EXHIBIT B

DEFINITION OF SERVICES

1. **Scope of Services.** CONSULTANT will perform legal services for COUNTY in the form of an impartial personnel investigation. CONSULTANT will perform these duties as an attorney at law for the purpose of facilitating the rendering of legal advice to COUNTY by its counsel. The CONSULTANT's communications, work product, and the final report will be protected from disclosure pursuant to the attorney-client privilege, unless waived by COUNTY.
2. **Independence.** As an independent contractor, CONSULTANT has the right to determine the means, manner and findings related to the investigation. COUNTY agrees to allow CONSULTANT full discretion to undertake the investigation and otherwise make findings without influencing or interfering with the outcome. COUNTY understands and acknowledges that CONSULTANT will exercise its independent judgment to make whatever findings it deems are warranted based on the evidence developed in the investigation, and that this Agreement is not dependent on the CONSULTANT's making or failing to make any particular credibility determination, finding of fact, or conclusion.
3. **Limited Scope Agreement.** The scope of this attorney-client representation is limited. CONSULTANT will perform an investigation as an attorney at law for the purpose of facilitating the rendering of legal advice to COUNTY by its counsel. CONSULTANT will not render a legal determination whether there were violations of any law or statute. CONSULTANT will not act as an advocate or provide advice COUNTY with respect to what employment actions, if any, should be taken as a result of the findings. CONSULTANT will not represent COUNTY in any legal action or proceeding. It is expressly agreed that COUNTY will look to its regular legal counsel for such services, as well as for advice with respect to issues which may arise relating to the investigation. This includes, without limitation, the admonitions, if any, to be made to employees who are interviewed concerning confidentiality; the consequences of employee failure to cooperate in the investigation; the accessing of electronic and other data; document retention; litigation holds; appropriate interim employment measures pending investigation; compliance with the federal Fair Credit Reporting Act; and compliance with the California Investigative Consumer Reporting Agencies Act. COUNTY also agrees it will look to its regular outside counsel for advice with respect to issues of attorney-client privilege, scope of privilege, waiver, and work product in connection with the CONSULTANT's services.
4. **Cooperation.** To perform services effectively, CONSULTANT requires the full cooperation and support of all representatives of COUNTY. COUNTY will assist CONSULTANT by keeping CONSULTANT fully informed as to facts and developments relevant to the investigative services. It is essential that COUNTY (as well as any of its employees or representatives) provide CONSULTANT with accurate and complete information, including written materials when requested, and that COUNTY make personnel available to the extent required.

[END OF DEFINITION OF SERVICES]

EXHIBIT C
PAYMENT TERMS

1. **Fees and Costs.** COUNTY agrees to pay the CONSULTANT at the following rates:

Staff	Hourly Rates
Senior Partner	\$545
Partner	\$460
Senior Attorney Investigator	\$385
Attorney Investigator	\$340
Law Clerk	\$220
Paralegal/Editor	\$170

Time charged will include, for example, time spent interviewing witnesses, writing the report of the findings, reviewing documents and performing any necessary research. The time charged will also include travel time and the time CONSULTANT spends on telephone calls and emails relating to COUNTY's matter, including calls and emails with COUNTY, witnesses, potential witnesses, or counsel representing any of the parties.

2. **Costs.** CONSULTANT may incur various costs and expenses in performing services under this Agreement. COUNTY agrees to pay for all costs and expenses, in addition to the hourly fee. Expenses may include postage, photocopies, parking fees, bridge or other road tolls, fax charges, telephone charges, messenger and other delivery fees, transcription fees, other travel costs such as mileage reimbursement at the federal standard mileage rate in effect for the year or a vehicle rental, meals, lodging, and similar charges. In the event of a vehicle rental, COUNTY will be expensed for either the rental or calculated mileage at the federal standard mileage rate in effect for the year, whichever is less. COUNTY will be responsible for reimbursing CONSULTANT for the out-of-pocket expenses as actually incurred by CONSULTANT, and all costs and expenses will be charged at CONSULTANT's cost. CONSULTANT will not charge for word processing or overtime expenses associated with administrative personnel.
3. **Billing Statements.** CONSULTANT will send COUNTY periodic statements for fees and costs incurred. Each statement will be payable within thirty (30) days of the invoice date. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount.

Payment is due upon presentation of the invoice. Invoices that remain unpaid after thirty (30) days from the invoice date are immediately subject to a late payment charge of fifteen percent (15%) per year, accrued monthly. Because this matter is of a sensitive nature and subject to the attorney-client privilege, CONSULTANT recommends that COUNTY treat invoices as confidential documents and safeguard them appropriately.

Any estimate of fees given by CONSULTANT shall not be a guarantee. Actual fees may vary from estimates given.

4. **Outside Experts.** Should the matter require expertise from any outside consultants, COUNTY will have an opportunity in advance to: (a) approve the rationale for retention of same; (b) approve the selection of same; and (c) approve the rates and anticipated fees relating to such services. As of the time of this engagement, CONSULTANT has not identified the need to hire an outside consultant to assist in this investigation, although there may be a need for transcription services relating to the tape recordings, if any, of the witness interviews.
5. **Compensation for Post-Investigative Work.** This engagement shall be considered concluded after CONSULTANT has provided a final investigation report in this matter, whether oral or written. After the conclusion of this engagement, should a need arise for CONSULTANT to respond to any subpoena or discovery, to provide testimony at deposition, trial or arbitration, or to otherwise perform services with respect to any matter relating to or arising out of this engagement, COUNTY shall compensate CONSULTANT at its then applicable rates for time expended, including all required preparation time. COUNTY agrees to reimburse CONSULTANT for all reasonable fees and costs incurred in obtaining necessary representation for such proceedings, including legal fees and costs that CONSULTANT incurs in preparing for such proceedings. COUNTY shall also compensate CONSULTANT at its then applicable rates for time expended in defending against any actual or threatened claim with respect to which CONSULTANT is entitled to indemnification pursuant to this Agreement. If and when CONSULTANT receives a request for documents or testimony related to CONSULTANT's investigation, CONSULTANT will retain counsel and timely contact COUNTY to coordinate an agreed-upon response. CONSULTANT's response will be guided by the work-product doctrine and COUNTY's decision whether to waive all or part of the attorney-client privilege.

[END OF PAYMENT TERMS]