

## **COUNTY OF MENDOCINO INTERIM COUNTY COUNSEL AGREEMENT**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between COUNTY OF MENDOCINO, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and DOUGLAS L. LOSAK, an individual, hereinafter referred to as "EMPLOYEE".

Pursuant to Mendocino County Resolution No. 10-006 and Mendocino County Municipal Code Section 3.16.100(C), COUNTY appoints EMPLOYEE and EMPLOYEE accepts appointment by the County Board of Supervisors as Interim County Counsel upon the following terms and conditions:

1. **DUTIES AND RESPONSIBILITIES:**

The purpose of this AGREEMENT is to retain EMPLOYEE to be the Interim County Counsel, on a temporary basis, and to perform duties as assigned and directed by the Mendocino County Board of Supervisors pursuant to this interim position.

EMPLOYEE will do, perform, and carry out in good and professional manner, on a temporary basis, the duties and responsibilities of the position of County Counsel as set forth in the attached job description (see Exhibit A attached hereto), and as otherwise directed by the Mendocino County Board of Supervisors.

This includes providing advice and representation to County departments, divisions and office, and numerous special districts within the County, including but not limited to: preparing written and oral opinions; prosecuting and defending civil actions and administrative proceedings; conducting civil trials; pursuing or defending appeals; preparing and approving agreements for execution by the Board of Supervisors; preparing and approving ordinances, resolutions, and rules and regulations for adoption by the Board of Supervisors and other legislative bodies; and attendance at meetings of the Board of Supervisors, Planning Commission, and other boards, commissions, and committees.

In performance of duties EMPLOYEE will devote time, ability, and attention equivalent to the professional effort necessary to fulfill EMPLOYEE's duties. EMPLOYEE's duties will require flexibility in work hours and location of work. EMPLOYEE shall maintain regular telephonic and e-mail hours. EMPLOYEE also will endeavor to be in Mendocino County for Board of Supervisor's meetings or other derivative Board meetings or necessary meetings prescheduled for Department Heads, Directors or the County Chief Executive Officer.

EMPLOYEE shall perform the duties required hereunder in accordance with all local, state, and federal laws applicable to County operations.

2. **AT-WILL APPOINTMENT AND COMMENCEMENT OF AGREEMENT:**

EMPLOYEE's appointment as Interim County Counsel is an at-will appointment as that term is defined by Labor Code section 2922. EMPLOYEE shall accrue no property rights in EMPLOYEE's employment with COUNTY under this AGREEMENT. EMPLOYEE is not entitled to any due process prior to termination of this AGREEMENT by COUNTY or to any due process rights post-termination of this AGREEMENT by COUNTY.

The Interim County Counsel Agreement shall commence on September 22, 2014, and shall continue for a period of time of up to one (1) year, unless terminated earlier by either party pursuant to the termination provisions of Section 5 of this AGREEMENT, whichever occurs first.

EMPLOYEE understands that EMPLOYEE's appointment as Interim County Counsel is a temporary appointment and that, should a permanent appointment be made to the position of County Counsel during EMPLOYEE's temporary appointment, this AGREEMENT shall cease pursuant to the termination provisions of Section 5.

3. **COMPENSATION:**

COUNTY, in consideration of the covenants, conditions, agreements, and stipulations agreed to by EMPLOYEE as set forth herein, hereby agrees to provide the following compensation and benefits to EMPLOYEE during the time of EMPLOYEE'S employment with the COUNTY.

Nothing in this agreement affects any accruals employee has acquired as result of past employment.

A. **Salary:**

COUNTY shall pay EMPLOYEE an annual salary of One Hundred Eighteen Thousand, One Hundred Twenty-Three Dollars and Twenty Cents (\$118,123.20), payable on a biweekly basis.

In the event EMPLOYEE's employment is terminated, EMPLOYEE resigns, or EMPLOYEE's employment otherwise ends or is modified, EMPLOYEE will only receive the portion of total salary that EMPLOYEE earned based upon the time period in which EMPLOYEE was employed as Interim County Counsel prior to termination, resignation, other separation, or modification of employment.

B. **Retirement:**

EMPLOYEE will be enrolled in the Mendocino County 1937 Retirement Act Plan in accordance with plan requirement.

C. Benefits:

County agrees to provide the same benefits (including retirement) and automobile allowance as defined in the Mendocino County Department Head Memorandum of Understanding BOS Agreement No. 14-078.

D. Paid Leave:

County agrees to provide the same leaves and absences as defined in the Mendocino County Department Head Memorandum of Understanding BOS Agreement No. 14-078 and County Code.

When an EMPLOYEE terminates, the accrual of vacation shall cease as of the last day of work, except when an EMPLOYEE is on paid sick leave. Upon separation from employment, EMPLOYEE shall be paid for all unused accrued vacation hours.

Upon retirement from the County, EMPLOYEE shall be credited with unused sick leave accruals in accordance with County Code and Retirement System rules.

E. Health and Life Insurance Benefits:

EMPLOYEE is eligible to enroll in the medical, prescription, vision and dental health insurance plan. COUNTY agrees to pay 75% of the premium for enrollment in the County Health Insurance Plan. Enrollment in the County Health Insurance Plan includes \$50,000 Life Insurance and \$5,000 Accidental Death and Dismemberment Insurance.

The contributions to health insurance premiums may be increased in an amount necessary to pay for "health care industry cost trends" as determined by the health system actuary, utilizing the same share-of-cost ratio.

4. **EMPLOYEE PERFORMANCE EVALUATION:**

COUNTY, through the Board of Supervisors, shall review and evaluate EMPLOYEE'S performance at least annually, unless the Board of Supervisors determines a more frequent performance review is necessary.

5. **TERMINATION:**

Notwithstanding any other provision of this AGREEMENT, nothing herein precludes either party, COUNTY or EMPLOYEE, from terminating EMPLOYEE's at-will employment as Interim County Counsel.

In the event COUNTY terminates this AGREEMENT without cause, COUNTY will provide EMPLOYEE at least sixty (60) days advance written notice, except that, should a permanent appointment be made to the position of County Counsel, the AGREEMENT will terminate upon the appointment of permanent County Counsel which may provide less than sixty (60) days written notice to EMPLOYEE.

Upon a finding of cause, COUNTY may terminate this AGREEMENT immediately.

If EMPLOYEE terminates this AGREEMENT, EMPLOYEE shall provide at least sixty (60) days advance written notice.

EMPLOYEE understands and agrees that upon termination of the AGREEMENT pursuant to the provisions of Section 5, EMPLOYEE is only entitled to the compensation and benefits earned by EMPLOYEE under this AGREEMENT up to and including EMPLOYEE's last day of work under this AGREEMENT.

If either party terminates this agreement EMPLOYEE may return to his previous position as Chief Deputy County Counsel at the discretion of the Board of Supervisors and/or County Counsel, unless the EMPLOYEE is removed by the board of supervisors for neglect of duty, malfeasance or misconduct in office, or other good cause.

EMPLOYEE further understands and agrees that COUNTY does not owe EMPLOYEE anything further under this AGREEMENT if EMPLOYEE is reassigned to another position with COUNTY after this AGREEMENT terminates or ends by its terms. Nothing herein, however, gives EMPLOYEE the right to a reassignment to another position with COUNTY when this AGREEMENT terminates or ends by its terms.

6. **ENTIRE AGREEMENT:**

This AGREEMENT constitutes the entire agreement between the parties regarding the terms and conditions of employment, and there are no agreements between the parties relating to the subject matter other than those set forth or expressly incorporated into this AGREEMENT. This AGREEMENT supersedes all prior representations or agreement relating to the subject matter and may be changed only by an agreement in writing signed by both parties.

7. **MODIFICATION, AMENDMENT, WAIVER:**

No modification or amendment of any provisions of this AGREEMENT shall be effective unless approved in writing and signed by duly authorized representative of COUNTY and EMPLOYEE. The failure of COUNTY or EMPLOYEE to enforce any of the provisions of this AGREEMENT shall in no way be construed as a waiver of such provisions and shall not affect the right of either party thereafter to enforce each and every provision in accordance with its terms.

8. **INTEREST OF CONTRACT EMPLOYEE:**

EMPLOYEE hereby declares that EMPLOYEE has no interest, directly or indirectly, which would conflict in any manner or degree with the performance of service required to be performed pursuant to this Agreement, and that EMPLOYEE shall not in the future acquire any such interest. EMPLOYEE shall comply with the laws of the State of California regarding conflicts of interest, including but not limited to Government Code section 1090, and provisions of the Political Reform Act found in Government Code section 87100 et seq., including regulations promulgated by the California Fair Political Practices Commission.

9. **INDEMNIFICATION:**

For purposes of indemnification and defense of legal actions, EMPLOYEE shall be considered an EMPLOYEE of the COUNTY and entitled to the same rights and subject to the same obligations as are provided for other EMPLOYEES of the COUNTY.

10. **SEVERABILITY:**

It is the desire of the parties that this AGREEMENT be binding and enforceable to the maximum extent permitted by law. Should any term or provision of this AGREEMENT be declared or determined by a final and binding arbitrator or by a court of law or other tribunal of valid jurisdiction to be invalid or unenforceable in whole or in part, that adjudication shall not affect the validity of the remainder of the AGREEMENT, which shall be severable, and shall remain in force and not be affected thereby.

11. **GOVERNING LAW:**

This AGREEMENT has been negotiated and entered into in the State of California and shall be governed by, construed, and enforced in accordance with the laws of the State of California.

12. **COUNTERPARTS:**

This AGREEMENT may be executed by the parties in counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties specifically agree that signatures on this AGREEMENT received by facsimile or electronic transmission (i.e., a PDF version) shall be legally binding and that each party is entitled and authorized to rely on the signatures transmitted by facsimile or electronically of the other parties as if they were original signatures.

13. **TIME:**

Time is of the essence.

14. **NOTICES:**

All notices that are required to be given by one party to the other under the Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with the United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses, unless such addresses are changed by notice in writing, to the other party.

***IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.***

**ATTEST:**

CARMEL J. ANGELO, Clerk of said Board

**CONTRACTOR:**

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

\_\_\_\_\_  
DOUGLAS L. LOSAK

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

CARMEL J. ANGELO, Clerk of said Board

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

**COUNTY OF MENDOCINO**

By: \_\_\_\_\_  
JOHN PINCHES, Chair  
BOARD OF SUPERVISORS

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

**FISCAL REVIEW:**

By: \_\_\_\_\_  
Deputy CEO/Fiscal

**EXECUTIVE OFFICE REVIEW:**

APPROVAL RECOMMENDED

By: \_\_\_\_\_  
CARMEL J. ANGELO, Chief Executive  
Officer

**Signatory Authority:** \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; **\$50,001+ Board of Supervisors**  
**Exception to Bid Process Required/Completed** ☐ \_\_\_\_\_

# EXHIBIT A

## MENDOCINO COUNTY GOVERNMENT CLASS SPECIFICATION

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<b>CLASS TITLE:</b>	<b>COUNTY COUNSEL</b>	<b>CLASS CODE: 7019</b>
<b>DEPARTMENT:</b>	<b>COUNTY COUNSEL</b>	<b>FLSA STATUS: E</b>
<b>REPORTS TO:</b>	<b>BOARD OF SUPERVISORS</b>	<b>DATE: 10/99</b>

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### **JOB SUMMARY AND DISTINGUISHING FEATURES:**

Subject to policy direction by the Board of Supervisors, primary responsibility is to plan, organize and direct the County's legal services; serves as legal advisor to the Board of Supervisors, County Administrator, all County department heads, special districts and various boards and commissions.

### **ESSENTIAL JOB FUNCTIONS:** (All responsibilities may not be performed by all incumbents.)

Plans long-range goals, objectives, organizational structure, and overall direction for the department.

Plans, allocates, and monitors time, people, equipment, and other resources for the organization to ensure efficient organization and completion of work; selects, supervises, trains and evaluates staff.

Monitors and communicates policies, procedures, and standards for the department to identify and correct deficiencies or problems.

Provides legal counsel and representation to the County, its boards and commissions and department heads and joint powers authorities and commissions independent of the County and special districts.

Attends board and commission meetings in capacity of legal advisor.

Researches and prepares written and verbal legal opinions for clients upon request.

Directs support staff regarding preparation of contracts, ordinances and resolutions, legal opinions and litigation.

Assists in the negotiation and drafting of contracts; advises client with respect to legal ramifications of contracting.

Conducts legal research by interpreting and applying state, federal and local laws and regulations, relevant case law and other legal sources.

Directs complex and controversial cases; provides technical expertise and work direction to other attorneys as assigned.

Reviews legal actions filed against County Counsel clients to determine appropriate response; responds as appropriate.

Represents clients in state and federal court and before administrative tribunals.

Represents clients in appellate matters before the state and federal courts.



Maintains and upgrades professional knowledge, skills, and development by attending seminars and training programs and reading trade and professional journals and publications.

Conducts client workshops with respect to legal topics.

Performs other related duties as assigned.

**MATERIAL AND EQUIPMENT USED:**

General Office Equipment

Computer

Dictaphone

Facsimile

**MINIMUM QUALIFICATIONS REQUIRED:**

**Education and Experience:**

Juris Doctorate degree from an accredited law school; and,

Five years of experience in the practice of law, with a minimum of one year of experience in local government; or,

Any combination of education, training and experience which provides the required knowledge, skills, and abilities to perform the essential functions of the job.

**Licenses and Certifications:**

Licensed to practice law in the State of California

Valid Driver=s License

**KNOWLEDGE, SKILLS, AND ABILITIES:**

**Knowledge of:**

Principles and practices regarding the practice of law in the State of California.

Applicable state, federal and local ordinances, laws, rules and regulations.

Budgetary principles and practices.

Administrative principles and practices, including goal setting and implementation.

Administration of staff and activities, either directly or through subordinate supervision.

All computer applications and hardware related to performance of the essential functions of the job.

Recordkeeping, report preparation, filing methods and records management techniques.

Methods and techniques of research, statistical analysis and report presentation.

**Skill in:**

Planning, organizing, assigning, directing, reviewing and evaluating the work of staff.

Selecting and motivating staff and providing for their training and professional development.

Preparing clear and concise reports, correspondence and other written materials.

Using tact, discretion, initiative and independent judgment within established guidelines.

Analyzing and resolving office administrative situations and problems.

Organizing work, setting priorities, meeting critical deadlines, and following up on assignments with a minimum of direction.

Applying logical thinking to solve problems or accomplish tasks; to understand, interpret and communicate complicated policies, procedures and protocols.

Communicating clearly and effectively, both orally and in writing.

**Mental and Physical Abilities:**

Ability to establish and maintain effective working relationships with a variety of individuals.

Ability to write reports, briefs, contracts, opinions and/or other documents.

Ability to analyze situations effectively, interpret and apply laws and regulations and recommend effective courses of action.

Ability to speak effectively before groups and respond to questions.

Ability to read, analyze and interpret professional periodicals and journals, technical procedures and government regulations.

While performing the essential functions of this job the employee is regularly required to sit, use hands to finger, handle, or feel, reach with hands and arms, and speak and hear.

While performing the essential functions of this job the employee is occasionally required to stand and walk.

**Working Conditions:**

The incumbent=s working conditions are typically quiet.

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This class specification should not be interpreted as all inclusive. It is intended to identify the essential functions and requirements of this job. Incumbents may be requested to perform job-related responsibilities and tasks other than those stated in this specification. Any essential function or requirement of this class will be evaluated as necessary should an incumbent/applicant be unable to perform the function or requirement due to a disability as defined by the Americans with Disabilities Act (ADA). Reasonable accommodation for the specific disability will be made for the incumbent/applicant when possible.