

**PROFESSIONAL SERVICES AGREEMENT**

**1516-134**

**Title: Representation of Carson City by the Law Office of Edmond "Buddy" Miller in regard to Empire Ranch Golf Course, LLC ("Empire Ranch" or "Debtor"), Chapter 11 Bankruptcy Case No. 15-50211-gwz, United States Bankruptcy Court, District of Nevada (the "Empire Ranch Bankruptcy")**

THIS CONTRACT made and entered into this 7<sup>th</sup> day of April, 2016, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as "CITY", and the Law Office of Edmond Buddy Miller, hereinafter referred to as "ATTORNEY".

**WITNESSETH:**

**WHEREAS**, the Purchasing and Contracts Manager for CITY is authorized pursuant to Nevada Revised Statutes (hereinafter referred to as "NRS") 332 and 338 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

**WHEREAS**, this Contract (does involve     ) (does not involve X) a "public work" construction project, which pursuant to NRS 338.010(17) means any project for the new construction, repair or reconstruction of an applicable project financed in whole or in part from public money; and

**WHEREAS, ATTORNEY'S** compensation under this agreement (does     ) (does not X) utilize in whole or in part money derived from one or more federal grant funding source(s); and

**WHEREAS, ATTORNEY** was initially engaged by the CITY on July 8, 2015 to represent the interests of CITY in the Empire Ranch Bankruptcy in accordance with Sections 4 and 6 of CITY's Purchasing and Contracts Policy in anticipation that the CITY would incur less than \$25,000 in the ATTORNEY's fees during the course of ATTORNEY's engagement; in September, 2015, the CITY authorized additional expenditures in accordance with Sections 4 and 6 of CITY's Purchasing and Contracts Policy as the nature, scope, and duration of the Empire Ranch Bankruptcy expanded beyond original expectations and required additional expenditures in excess of \$25,000 due to circumstances beyond the control of the CITY and ATTORNEY; the CITY now anticipates that the total expenditures required will exceed \$50,000;

**WHEREAS**, it is deemed necessary that the services of ATTORNEY for **CONTRACT No. 1516-134** (hereinafter referred to as "Contract") are both necessary and in the best interest of CITY; and

**NOW, THEREFORE**, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

**1. REQUIRED APPROVAL:**

This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

**2. SCOPE OF WORK (Incorporated Contract Documents):**

2.1 ATTORNEY's engagement letter is attached hereto as **Exhibit A**. ATTORNEY shall provide and perform the following services set forth in **Exhibit A**, which shall all be attached hereto and incorporated herein by reference for and on behalf of CITY and hereinafter referred to as the "SERVICES".

2.2 ATTORNEY represents that he is duly qualified and licensed in the State of Nevada for the purposes of performing the SERVICES.

For P&C Use Only	
CCBL expires	_____
GL expires	_____
AL expires	_____
PL expires	_____
WC expires	_____

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2.3 **ATTORNEY** represents that he and/or the persons he may employ possess all skills and training necessary to perform the SERVICES described herein and required hereunder. **ATTORNEY** shall perform the SERVICES faithfully, diligently, in a timely and professional manner, to the best of his ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **ATTORNEY** shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **ATTORNEY** to **CITY**.

2.4 **ATTORNEY** represents that neither the execution of this Contract nor the rendering of services by **ATTORNEY** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **ATTORNEY** is a party or by which **ATTORNEY** is bound, or which would preclude **ATTORNEY** from performing the SERVICES required of **ATTORNEY** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such SERVICES.

2.5 Special Terms and Conditions for Engineers, Architects, and Land Surveying/Testing: **OMITTED**

2.6 **CITY Responsibilities:**

2.8.1 **CITY** shall make available to **ATTORNEY** all technical data that is in **CITY'S** possession, reasonably required by **ATTORNEY** relating to the SERVICES.

2.8.2 **CITY** shall provide access to and make all provisions for **ATTORNEY** to enter upon public and private lands, to the fullest extent permitted by law, as reasonably required for **ATTORNEY** to perform the SERVICES.

2.8.3 **CITY** shall examine all reports, correspondence, and other documents presented by **ATTORNEY** upon request of **CITY**, and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of **ATTORNEY**.

2.7 In the event of any conflict between the terms of this Contract and **Exhibit A**, the terms of this Contract shall control.

3. **CONTRACT TERM:**

3.1 This Contract shall be effective from April 7, 2016, subject to Carson City Board of Supervisors' approval, to March 31, 2017, unless sooner terminated by either party as specified in **Section 7** (CONTRACT TERMINATION). Provided however, any compensation due for SERVICES rendered prior to April 7, 2016, may be paid in accordance with the terms of this Contract.

4. **NOTICE:**

4.1 Except any applicable bid and award process where notices may be limited to postings by **CITY** on its Finance Department/Bid Opportunities website ([www.carson.org](http://www.carson.org)), all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

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4.2 Notice to **ATTORNEY** shall be addressed to:

Edmond "Buddy" Miller  
Attorney at Law  
1610 Montclair Avenue  
Suite C  
Reno, NV 89509  
775-828-9898/ FAX 775-828-9893  
[bmiller@buddymillerlaw.com](mailto:bmiller@buddymillerlaw.com)

4.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts Department  
Laura Tadman, Purchasing and Contracts Administrator  
201 North Carson Street, Suite 3  
Carson City, NV 89701  
775-283-7137 / FAX 775-887-2107  
[LTadman@carson.org](mailto:LTadman@carson.org)

and

Carson City District Attorney  
Jason D. Woodbury  
885 East Musser Street  
Suite #2030  
Carson City, NV 89701  
775-887-2070/FAX 775-887-2129  
[JWoodbury@carson.org](mailto:JWoodbury@carson.org)

**5. COMPENSATION:**

5.1 The parties agree that **ATTORNEY** will provide the **SERVICES** specified in **Section 2** (SCOPE OF WORK) and **CITY** agrees to pay **ATTORNEY** the Contract's compensation based upon an hourly rate of \$250 per hour for a not to exceed maximum amount of Twenty-Five Thousand Dollars and 00/100 (\$25,000.00), and hereinafter referred to as "Contract Sum".

5.2 Contract Sum represents full and adequate compensation for the completed **SERVICES**, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the **SERVICES**.

5.3 Payment by **CITY** for the **SERVICES** rendered by **ATTORNEY** shall be due within sixty (60) calendar days from the date **CITY** acknowledges that the performance meets the requirements of this Contract or from the date the correct, complete, and descriptive invoice is received by **CITY**, whichever is the later date.

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5.4 Except as otherwise provided in Exhibit A, **CITY** does not agree to reimburse **ATTORNEY** for expenses.

**6. TIMELINESS OF BILLING SUBMISSION:**

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **ATTORNEY** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **ATTORNEY**.

**7. CONTRACT TERMINATION:**

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for **SERVICES** actually completed. If termination occurs under this provision, in no event shall **ATTORNEY** be entitled to anticipated profits on items of **SERVICES** not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead.

7.2 Termination for Nonappropriation:

7.2.1 All payments and **SERVICES** provided under this Contract are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **ATTORNEY** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If **ATTORNEY** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or any **SERVICES** called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

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7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **ATTORNEY** to provide the goods or SERVICES or any services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **ATTORNEY** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **ATTORNEY'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **ATTORNEY**, or any agent or representative of **ATTORNEY**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **ATTORNEY** has failed to disclose any material conflict of interest relative to the performance of this Contract.

**7.4 Time to Correct (Declared Default or Breach):**

7.4.1 Termination upon a declared default or breach may be exercised only after providing 7 (seven) calendar days written notice of default or breach, and the subsequent failure of the defaulting or breaching party, within five (5) calendar days of providing that default or breach notice, to provide evidence satisfactory to the aggrieved party demonstrating that the declared default or breach has been corrected. Time to correct shall run concurrently with any notice of default or breach and such time to correct is not subject to any stay with respect to the nonexistence of any Notice of Termination. Untimely correction shall not void the right to termination otherwise properly noticed unless waiver of the noticed default or breach is expressly provided in writing by the aggrieved party. There shall be no time to correct with respect to any notice of termination without cause or termination for nonappropriation.

**7.5 Winding Up Affairs Upon Termination:**

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this **Subsection 7.5** (Winding Up Affairs Upon Termination) survive termination:

7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination; and

7.5.1.2 **ATTORNEY** shall satisfactorily complete SERVICES in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**; and

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7.5.1.3 **ATTORNEY** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with **Section 19** (**CITY OWNERSHIP OF PROPRIETARY INFORMATION**).

7.6 **Notice of Termination:**

7.6.1 Unless otherwise specified in this Contract, termination shall not be effective until seven (7) calendar days after a party has provided written notice of default or breach, or notice of without cause termination. Notice of Termination may be given at the time of notice of default or breach, or notice of without cause termination. Notice of Termination may be provided separately at any time after the running of the 7-day notice period, and such termination shall be effective on the date the Notice of Termination is provided to the party unless a specific effective date is otherwise set forth therein. Any delay in providing a Notice of Termination after the 7-day notice period has run without a timely correction by the defaulting or breaching party shall not constitute any waiver of the right to terminate under the existing notice(s).

**8. REMEDIES:**

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorney's fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **ATTORNEY** to **CITY**.

**9. LIMITED LIABILITY:**

**CITY** will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **ATTORNEY**, for the fiscal year budget in existence at the time of the breach. **ATTORNEY'S** tort liability shall not be limited.

**10. FORCE MAJEURE:**

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

**11. INDEMNIFICATION: OMITTED**

**12. INDEPENDENT CONTRACTOR:**

12.1 **ATTORNEY**, as an independent contractor, is a natural person, firm or corporation who agrees to perform **SERVICES** for a fixed price according to his or its own methods and without subjection to the supervision or control of the **CITY**, except as to the results of the **SERVICES**, and not as to the means by which the **SERVICES** are accomplished.

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12.2 It is mutually agreed that **ATTORNEY** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted **SERVICES** pursuant to this Contract. **ATTORNEY** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **ATTORNEY** or any other party.

12.4 **ATTORNEY** shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, or expenses arising out of or incurred in any way because of **ATTORNEY'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **ATTORNEY** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

13. **INSURANCE REQUIREMENTS (GENERAL): OMITTED**

14. **BUSINESS LICENSE: NOT APPLICABLE**

15. **COMPLIANCE WITH LEGAL OBLIGATIONS:**

**ATTORNEY** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **ATTORNEY** to provide the goods or **SERVICES** or any services of this Contract. **ATTORNEY** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **ATTORNEY** in accordance with NRS Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for profit activity. **ATTORNEY** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

16. **WAIVER OF BREACH:**

Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

17. **SEVERABILITY:**

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

18. **ASSIGNMENT / DELEGATION: OMITTED**

19. **CITY OWNERSHIP OF PROPRIETARY INFORMATION:**

Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **ATTORNEY** (or its subcontractors) in performance of his obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **ATTORNEY**

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upon completion, termination, or cancellation of this Contract. **ATTORNEY** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **ATTORNEY'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

**20. PUBLIC RECORDS: NOT APPLICABLE**

**21. CONFIDENTIALITY:**

**ATTORNEY** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **ATTORNEY** to the extent that such information is confidential by law or otherwise required by this Contract.

**22. FEDERAL FUNDING: OMITTED**

**23. LOBBYING:**

23.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

23.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

23.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

23.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

**24. GENERAL WARRANTY: OMITTED**

**25. PROPER AUTHORITY:**

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **ATTORNEY** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any **SERVICES** performed by **ATTORNEY** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **ATTORNEY**.

**26. ALTERNATIVE DISPUTE RESOLUTION (Public Work): OMITTED**

**27. GOVERNING LAW / JURISDICTION:**

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **ATTORNEY** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

**28. ENTIRE CONTRACT AND MODIFICATION:**

This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or



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amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors. Conflicts in language between this Contract and any other agreement between CITY and ATTORNEY on this same matter shall be construed consistent with the terms of this Contract. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

**29. ACKNOWLEDGMENT AND EXECUTION:**

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:


**CITY**

Chief Financial Officer  
Attn: Laura Tadman, Purchasing & Contracts Administrator  
Purchasing and Contracts Department  
201 North Carson Street, Suite 3  
Carson City, Nevada 89701  
Telephone: 775-283-7137  
Fax: 775-887-2107  
[LTadman@carson.org](mailto:LTadman@carson.org)

By: \_\_\_\_\_  
Nancy Paulson, Chief Financial Officer  
  
Dated \_\_\_\_\_

**CITY'S LEGAL COUNSEL**  
Carson City District Attorney

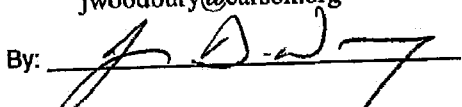
I have reviewed this Contract and approve as to its legal form.

By:   
Jason D. Woodbury, District Attorney  
Dated April 4, 2016

**CITY'S ORIGINATING DEPARTMENT**

BY: Jason D. Woodbury, District Attorney  
885 East Musser Street  
Suite #2030C  
Carson City, NV 89701  
Telephone: 775-887-2070  
Fax: 775-887-2129  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)

Funding Source:  
Project #

By:   
Dated April 4, 2016

**PROJECT CONTACT PERSON:**

Jason D. Woodbury, District Attorney  
Telephone: 775-887-2070

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Undersigned deposes and says under penalty of perjury: That he/she is the ATTORNEY or authorized agent of ATTORNEY; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions and requirements thereof.

ATTORNEY

BY: Edmond "Buddy" Miller  
TITLE: Attorney at Law  
FIRM: Law Office of Buddy Miller  
Address: 1610 Montclair Avenue  
City: Reno State: Nevada Zip Code: 89509  
Telephone: 775-828-9898/Fax: 775-828-9893  
E-mail Address: bmiller@buddymillerlaw.com

Edmond Buddy Miller  
Edmond "Buddy" Miller, Esq.

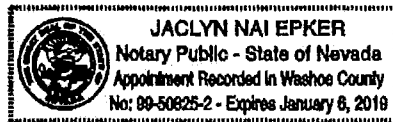
DATED 4 April 2016

STATE OF Nevada )  
County of Washoe )ss

Signed and sworn (or affirmed) before me by Edmond "Buddy" Miller on this 4<sup>th</sup> day of April, 2016.

[Signature]  
(Signature of Notary)

(Notary Stamp)



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**CONTRACT ACCEPTANCE AND EXECUTION:**

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of April 7, 2016 approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 1516-134**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

**CARSON CITY, NEVADA**

ROBERT L. CROWELL, MAYOR

DATED this \_\_\_\_ day of April, 2016.

**ATTEST:**

SUSAN MERRIWETHER, CLERK-RECORDER

DATED this \_\_\_\_ day of April, 2016.

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# **EXHIBIT A**

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# **EXHIBIT A**

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EDMOND "BUDDY" MILLER  
ATTORNEY AT LAW  
1610 MONTCLAIR AVENUE, SUITE C  
RENO, NEVADA 89508  
TELEPHONE (775) 828-8888  
FACSIMILE (775) 828-8888  
bmiller@buddymillerlaw.com

July 8, 2015

**U.S. MAIL**

Mr. Nick Marano  
City Manager  
City Hall  
201 N. Carson Street, Suite 2  
Carson City, NV 89701  
[NMarano@carson.org](mailto:NMarano@carson.org)

**RE: Representation of Carson City by the Law Office of Edmond "Buddy" Miller in regards to:**

1. **Empire Ranch Golf Course, LLC ("Empire Ranch" or "Debtor"), Chapter 11 Bankruptcy Case No. 15-50211-gwz, United States Bankruptcy Court, District of Nevada (the "Empire Ranch Bankruptcy")**

Dear Mr. Marano:

This letter will confirm that Carson City (hereinafter the "Client") has requested, through your office, that the Law Office of Edmond Buddy Miller (hereinafter "I" or "me") serve as counsel in connection with the Empire Ranch Bankruptcy. This letter is also the agreement between the Client and me for legal services (the "Agreement"). This letter sets forth the terms and conditions for services that I am expected to provide to Client and the basis for the payment of my fees and expenses so that there is a clear understanding of the nature and scope of my engagement and method of compensation.

1. **SCOPE AND DUTIES.** Client engages me as its counsel to advise and represent Client regarding the Empire Ranch Bankruptcy. I will take direction from you as the representative of the Client, and from the District Attorney for Carson City, Mr. Jason Woodbury, and anyone else that Client authorizes.

No other services will be rendered outside the above-described scope of representation. Because my practice consists primarily of matters related to bankruptcy and commercial litigation, I will not be required to represent or advise Client in matters which I believe are beyond my areas of practice or knowledge, including but not limited to corporate law, estate planning, tax law, securities law, tort law, criminal law, labor law and mining, land planning, environmental, or other real estate law. In addition, I will not be required to represent Client in matters where I determine that I lack the ability to staff the matter adequately, such as in certain major complex litigation. It

EDMOND "BUDDY" MILLER  
ATTORNEY AT LAW

Mr. Nick Marano  
City Manager  
Carson City  
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is a condition of this Agreement that Client retain such other counsel, as is necessary, to represent Client in matters beyond the scope of my representation.

2. **FEEES AND COSTS.** My fees for this representation will be charged on an hourly basis at the rate of \$300.00. Paralegal services are billed at the hourly rate of \$75-\$120 (although a paralegal is not currently available for this matter). My office's rates are adjusted annually, or as market conditions otherwise warrant, and such adjustments will apply to this engagement.

I charge in six-minute units of time. For example, if I record "0.3 hours" to perform a task, it means that I spent eighteen minutes working on that task. I will bill Client for all time spent on this representation. That will include but is not limited to the following: review of documents and records; drafting documents; preparation of pleadings, motions, affidavits, responses and other court papers; legal research and analysis; investigation, including computerized searches; in-person and telephone conferences within and outside my office with Client, opposing counsel or parties, or otherwise on Client's behalf; attendance at and preparation for meetings; attendance at and preparation for court appearances, depositions, Rule 2004 Examinations and negotiations; travel time and waiting time.

Client agrees to pay any costs that I actually incur on Client's behalf, including, but not limited to, court filing fees, court reporter and similar deposition and hearing fees, transcription fees for depositions, Rule 2004 Examinations and court hearings, court and sheriff's fees for judgment enforcement, county recording fees, mailing labels, photocopying, scanning and other reproduction costs (\$.10 per page or the actual cost of duplication charged by any outside service); faxes (\$.10 per page); mail and postage charges; overnight courier and other messenger or delivery services; long distance calls, conference calls and other telephone charges; charges for computerized searches and legal research; electronic copies of online court papers; title searches and county recorder searches; all other expenses related to legal services whether or not enumerated above. Costs are reviewed quarterly and adjusted as required. Other expenses charged to Client include out-of-town travel expenses at reasonable business rates, including airfare, meals, lodging, parking and other automobile expenses.

3. **BILLING STATEMENTS.** I will send to Client billing statements reflecting the fees and costs incurred in connection with my representation of Client. Each billing statement will state the date of each service, my name and hourly rate, the service performed, and the time devoted to such service. My out-of-pocket costs will be itemized. Client will have the opportunity to review all such billing statements. You have asked me to submit the billing statements to the division of Purchasing & Contracts at City Hall, 201 N. Carson Street, Suite 3, Carson City, NV 89701, together with a copy to you and to the District Attorney at his address below.

Payment on a billing statement is due upon receipt and delinquent if not paid within sixty (60) days of the date of the billing statement. Interest shall accrue on any delinquent balance at

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the rate of five per cent (5.0%) per annum, and I may withdraw as Client's counsel, file an attorney's lien or impose a retaining lien as well as apply the retainer to the unpaid balances.

4. **MAXIMUM AGREEMENT AMOUNT.** The amount of this Agreement shall not exceed \$25,000.00 – (the "Maximum Agreement Amount"). It is specifically agreed that if my billing statements for professional time and expenses approach the Maximum Agreement Amount, I will notify the District Attorney of this fact and the parties may elect to amend this Agreement for additional professional services. However, I am not obligated to provide any further professional services under this Agreement after the Maximum Agreement Amount has been reached unless an amendment to this Agreement has been agreed upon by me and the District Attorney and approved by the Carson City Board of Supervisors. If the above-described matters are not completed when the Maximum Agreement Amount is reached and an amended Agreement is not entered into between the parties and me, this Agreement will terminate and I may withdraw as counsel of record in the litigation without any further obligation. In the event I withdraw as counsel of record under these circumstances, the District Attorney will consent to my withdrawal from the pending matter or litigation.

5. **RETAINER AND FEE PROCEDURE.** I have requested that you pay a retainer of two thousand dollars (\$2,000.00.) A retainer is a sum of money provided to the attorney before starting legal work or thereafter. The retainer is deposited into my non-interest bearing client trust account and will be applied to the initial billing statements. In addition, if I conduct depositions or Rule 2004 Examinations, I may require from you advance payment for any deposits required by the court reporting service.

6. **RETENTION OF EXPERTS AND OTHER PROFESSIONALS.** Client may be required to engage, or have me engage on Client's behalf, other professionals regarding the Empire Ranch Bankruptcy, including but not limited to expert witnesses (*i.e.*, an appraiser). It will be Client's sole responsibility to pay all of the fees and costs of these and any other experts.

7. **CLIENT RESPONSIBILITIES.** Client shall cooperate fully and candidly with me with respect to the legal services provided. Client shall provide all information known by or available to Client which may aid me in representing and advising Client on its legal matters. If you are not available, Client shall designate one or more of its personnel to be primarily responsible for coordinating my representation with respect to its legal matters. Client shall be available to me on reasonable notice for consultation and will provide such decisions or directions as I may need for the appropriate handling of its legal matters. Client shall be truthful with me, cooperate with me, keep me informed of all developments, provide me with all relevant financial, legal or other requested documentation, abide by the terms of this Agreement and keep me advised of Client's contact information. In the event Client perceives any actual or possible disagreement with me or my handling of its legal matters, Client shall promptly and candidly discuss the problem with me. All of my work product shall be owned by me.

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ATTORNEY AT LAW

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In the course of providing legal services on Client's behalf, I must rely on representations and statements as to facts and circumstances by you on behalf of the Client and the correctness of any and all documents delivered to me by you. You agree to respond promptly to my telephone calls, letter, emails or other communications and any requests with respect to my representation.

8. **CONFLICT OF INTEREST.** To the best of my knowledge, there are no conflicts of interest that affect the proposed representation as provided for herein. To the best of my knowledge, I have no prior connection with the Debtor, any insiders or affiliates of the Debtor identified for me as of the date of this engagement that would prevent me from serving as Client's attorney.

Carson City is the Client, and the Client is engaging me to provide representation. Client's engagement of me does not and cannot include my representation of any of Client's agents or affiliates, including employees or other parties affiliated with the Client. Any such persons or entities should engage and/or consult their own independent counsel.

9. **DISCHARGE AND WITHDRAWAL.** Client may discharge me at any time on written notice. However, Client's discharge of me will not in any way relieve Client of Client's obligation to pay all fees and costs incurred by me on Client's behalf prior to the discharge. Should Client decide to discharge me, all unpaid fees, costs and expenses will immediately become due and payable.

I may withdraw from representing Client with Client's consent or for good cause or if Client breaches this Agreement or for any reason permitted by the Rules of Professional Conduct as adopted by the Nevada Supreme Court and other applicable law. Good cause includes, but is not limited to, Client's refusal to cooperate with me or to follow my advice on a material matter, or any other fact or circumstance that would render my continuing representation of Client unlawful, unethical or otherwise inconsistent with what I believe to be appropriate under the circumstances. At the time I withdraw from representation all unpaid fees, costs and expenses will immediately become due and payable.

10. **DISCLAIMER OF WARRANTY.** Nothing in this Agreement and nothing in my statements to Client shall be construed as a promise or warranty about the outcome of any matter. Under the rules of ethics governing attorneys I cannot make promises or guarantee the outcome for any of the services rendered. I make no such promises and render no such warranties as to the results to be accomplished by me on Client's behalf.

Client should also be aware that if the opposing party prevails in any of the legal actions now or hereafter filed, Client may be liable for the opposing party's attorney fees as well as the opposing party's costs as required by law. In addition, Client could be liable for any tortious



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ATTORNEY AT LAW

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conduct, and could be required to pay damages. Legal proceedings brought solely to harass or to coerce a settlement or renegotiated agreement may result in liability for malicious prosecution or abuse of process.

11. **ENTIRE AGREEMENT.** This Agreement constitutes the complete agreement between me and Client concerning the terms of Client's engagement of me regarding the Empire Ranch Bankruptcy and the fees, costs and expenses billed. This Agreement supersedes all prior or contemporaneous statements, discussions and agreements between Client and me. This Agreement shall not be modified except by written agreement signed by Client and me. This Agreement shall be binding upon Client and me and our respective heirs, executors, legal representatives and successors.

I am advising Client to obtain independent legal advice regarding this Agreement. By executing this Agreement, Client acknowledges that Client has either obtained such independent legal advice or knowingly waived the benefit of such independent legal advice.

12. **CHOICE OF FORUM AND CHOICE OF LAW; ATTORNEYS FEES.** This attorney-client fee agreement is made in Nevada, and Nevada is the principal place of performance. Client and I expressly agree that Nevada law applies to the interpretation of this agreement without reference to Nevada's choice of law provisions. Any dispute between Client and me, or any claims arising out of the attorney-client relationship, will be determined solely under Nevada law. In any such dispute between Client and me or any claims arising out of the attorney-client relationship, Client consents to the exclusive jurisdiction and venue of the courts in Carson City or Washoe County, Nevada. The prevailing party in any arbitration or litigation shall be entitled to reasonable costs, attorneys' fees and expert witness fees.

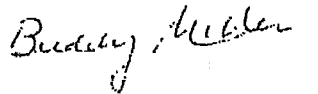
13. **CONDITIONS.** Usually I do not commence work until I have received the signed Agreement and the retainer, but because of the pending discovery being conducted on the Client by the Debtor I am making an exception and will commence work immediately. However, please send as soon as possible a faxed or PDF copy of this Agreement signed by you on behalf of the Client. I must also receive at my office the payment of the retainer and the original signatures to this Agreement within 10 business days of your transmission of the faxed or PDF copy of the signed Agreement to me.

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If Client is in agreement with the foregoing, please sign this Agreement and return it to me.  
Thank you for considering me for this representation.

Very truly yours,



Edmond "Buddy" Miller, Esq.

cc: Jason D. Woodbury, District Attorney (via email)

I have reviewed the foregoing terms and conditions for legal representation by Edmond "Buddy" Miller, and on behalf of Carson City I accept and agree to such terms and conditions.

CARSON CITY

By: Nick Marano

Date: 7/13/15

Nick Marano  
City Manager  
City Hall  
201 N. Carson Street, Suite 2  
Carson City, NV 89701  
(775) 887-2100  
[NMarano@carson.org](mailto:NMarano@carson.org)

Reviewed by Separate Counsel:

OFFICE OF THE CARSON CITY DISTRICT ATTORNEY

By: Jason D. Woodbury

Date: 7/13/2015

Jason D. Woodbury  
District Attorney

Address: 885 East Musser Street, Suite 2030  
Carson City, NV 89701  
(775) 887-2070  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)

## Jason Woodbury

---

**From:** Buddy Miller <bmill@buddymillerlaw.com>  
**Sent:** Friday, September 04, 2015 3:22 PM  
**To:** Jason Woodbury  
**Cc:** Jaclyn Epker  
**Subject:** RE: In Re Empire Ranch Golf Course, LLC, Case No. 15-50211-gwz-Maximum Agreement Amount Notification

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

JASON - FYI:

If we do end up amending the Engagement Letter to provide for future legal services, I am willing to reduce my billing rate \$250/hour, down from \$300/hour. I have enjoyed my time working for the City, and I consider it to be a valued client and am willing to bill accordingly. Frankly, the "no-charges" ended up reducing my effective billing rate to below \$250/hour anyway. At any rate, in light of Kevin Darby's request to extend escrow to September 21, 2015, I wanted you to know where I stand.

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Buddy Miller, Attorney at Law  
1610 Montclair Ave., Suite C  
Reno, NV 89509-3497  
Telephone: (775) 828-9898  
Facsimile: (775) 828-9893

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that, to the extent this communication (or any attachment) addresses any tax matter, it was not written to be (and may not be) relied upon to (i) avoid tax-related penalties under the Internal Revenue Code, or (ii) promote, market or recommend to another party any transaction or matter addressed herein (or in any such attachment).

CONFIDENTIALITY NOTICE: This communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly prohibited. Any such inadvertent disclosure shall not compromise or waive the confidentiality or the applicable privilege as to this or any other communication. If you have received this communication in error, please contact us at or by telephone at (775)828-9898. Thank you.

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**From:** Buddy Miller  
**Sent:** Friday, September 04, 2015 1:03 PM  
**To:** 'Jason Woodbury' <JWoodbury@carson.org>  
**Cc:** Jaclyn Epker <jepker@buddymillerlaw.com>  
**Subject:** In Re Empire Ranch Golf Course, LLC, Case No. 15-50211-gwz-Maximum Agreement Amount Notification  
**Importance:** High

Jason:

Yesterday I billed Carson City \$18,769.17 for legal services provided and costs advanced for the month of August, 2015, which is in addition to the \$4,549.45 billed for the month of July, 2015. I wanted to let you know that because August was a very active month, the total fees and costs billed to date are nearing the Maximum Agreement Amount, as that term is defined in Section 4 on page 3 of the July 8, 2015 Engagement Letter with Carson City, as follows:

<u>Total Billed to Date</u>	
Maximum Agreement Amount	\$ 25,000.00
<b>Total Billed to Date</b>	<b>\$(23,318.62)</b>
Remaining Balance	<u>\$ 1,681.38</u>

For your convenience, a copy of the July 8, 2015 Engagement Letter is attached, and Section 4 of the July 8, 2015 Engagement Letter is quoted below.

I am always available to discuss the invoices that I have sent to Carson City and the work performed if you have any questions or concerns. We can also discuss whether to amend the July 8, 2015 Engagement Letter to provide for the payment of additional attorney fees and costs for the Chapter 11 Bankruptcy Case of Empire Ranch Golf Course, LLC, which such amendment is subject to the approval of the Carson City Board of Supervisors as required by Section 4 of the Agreement. Whether the sale of the golf course closes today may influence your decision.

As always, it has been a pleasure to work as outside counsel for Carson City and I look forward to hearing from you.

From the July 8, 2015 Engagement Letter:

- 4. MAXIMUM AGREEMENT AMOUNT.** The amount of this Agreement shall not exceed \$25,000.00 – (the “Maximum Agreement Amount”). It is specifically agreed that if my billing statements for professional time and expenses approach the Maximum Agreement Amount, I will notify the District Attorney of this fact and the parties may elect to amend this Agreement for additional professional services. However, I am not obligated to provide any further professional services under this Agreement after the Maximum Agreement Amount has been reached unless an amendment to this Agreement has been agreed upon by me and the District Attorney and approved by the Carson City Board of Supervisors. If the above-described matters are not completed when the Maximum Agreement Amount is reached and an amended Agreement is not entered into between the parties and me, this Agreement will terminate and I may withdraw as counsel of record in the litigation without any further obligation. In the event I withdraw as counsel of record under these circumstances, the District Attorney will consent to my withdrawal from the pending matter or litigation.

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Buddy Miller, Attorney at Law  
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Reno, NV 89509-3497  
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