

**AGREEMENT FOR LEGAL SERVICES BETWEEN
COUNTY OF EL DORADO
AND BURKE, WILLIAMS & SORENSEN, LLP
Agreement # 6755**

This Agreement is made and entered into between COUNTY OF EL DORADO ("County"), a political subdivision of the State of California, and BURKE, WILLIAMS & SORENSEN, LLP, ("Law Firm"), a California professional law corporation, duly authorized to do business in the State of California, whose address is 444 S. Flower Street, Suite 2400, Los Angeles, California 90071, for the performance of special legal services for County as authorized by Government Code sections 25203 and 31000.

1. **Scope of Services.** The County retains the Law Firm as special legal counsel to provide legal services to the County with respect various public works projects in the County, including the Diamond Springs Parkway Parkway- Phase 1B (County CIP # 36105011), as may be required by County. These services include, but are not limited to, providing legal advice on project issues, funding issues, property acquisition matters and any other facet of the project, preparation, and review of resolutions of necessity and providing legal advice to that effect, and to prepare and file on behalf of the County litigation where necessary related to the public works project, including eminent domain proceedings.

Services may include, but are not necessarily limited to, the following: providing legal advice to the County Board of Supervisors, County boards, commissions, officers, and staff; preparing or reviewing such documents as may be requested by the County; attending meetings (including attending meetings electronically) as may be required by County; the retention of and providing direction to other consultants or experts which may be needed in the litigation; and all services normally provided by the Law Firm which are reasonably related to the court proceedings inclusive of mediation and arbitration, and any and all associated pleadings and documents including, but not limited to, points and authorities and references to the record.

This Agreement recognizes the ongoing representation of Brenda Aquilar-Guerrero, formerly employed by Meyers Nave a Professional Law Corporation, in existing eminent domain proceedings on behalf of the County, including *COUNTY OF EL DORADO v. MARTIN MURILLO and DIANE S. MURILLO, Trustees of the MDM Trust under Declaration of Trust Dated December 18, 2007, et al* (El Dorado County Superior Court Case No. PC20210310).

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

2. **Compensation and Billings.** In consideration of the services set forth in paragraph 1, the County shall pay the Law Firm on an hourly rate at Law Firm's prevailing rates for all time spent on the matter by Law Firm's legal personnel. Current hourly rates set forth on Exhibit A, "Burke, Williams & Sorenson Rate Schedule." These fees will increase annually on January 1 for

inflation using the index and procedures set out in Exhibit A. Law Firm's rates are subject to change on 30 days' written notice to Contract Administrator and concurrence that rate increase is consistent with Exhibit A. Upon concurrence of Contract Administrator, rates shall automatically increase annually on January 1 of each year as set forth in Exhibit A to this Agreement, without further amendment to this Agreement. If Contract Administrator declines to pay increased rates, Law Firm may withdraw as attorney for County. Fees for professional services include routine office expenses including, but not necessarily limited to, long distance, telephone, facsimile, photocopier and digital media duplication, postage charges, and Lexis/Nexis or Westlaw fees. Charges for any expense of any category jointly deemed to be extraordinary by Law Firm and County Contract Administrator may be submitted for payment with sufficient accompanying documentation to identify the nature of the expense, the cost of and payment therefore.

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

Brenda Aquilar-Guerrero will be the attorney primarily responsible for the services to be provided under this agreement. The Law Firm may utilize the services of other attorneys or staff as deemed appropriate and efficient; provided, that such other persons shall be under the supervision of Mrs. Aquilar-Guerrero.

The County and Law Firm acknowledge that there are a wide range of factors that will influence the total compensation for work performed pursuant to this Agreement. Funds budgeted for the purposes of this Agreement are made available on a fiscal year basis, and budgeting is subject to change at any time.

County shall reimburse Law Firm for the actual, reasonable, and necessary expense of travel at the business mileage rate authorized by IRS. Other travel expense, such as parking or meals and hotels costs, or any individual travel expense which will exceed \$250.00 must be approved by County Contract Administrator in advance. Reasonable, customary, and necessary litigation costs and expenses shall be advanced by Law Firm and reimbursed by County. Reasonable, customary, and necessary litigation costs and expenses includes, but is not limited to, service of process charges, filing fees, court and deposition reporters' fees, jury fees, notary fees, deposition costs, long distance telephone charges, messenger and other delivery fees, professional, mediator, arbitrator and/or special master fees. To aid in the preparation or presentation of County's case, it may become necessary for Law Firm to hire expert witnesses, consultants, investigators, appraisers, and outsourced support services (such as eDiscovery). Law Firm may retain any such experts on terms acceptable to the County, and County shall reimburse Law Firm for said expenses. Significant expenses may, upon prior arrangement and approval by County, be submitted to County for payment to such vendors, witnesses, consultants, or experts directly. Law firm shall include costs described in this paragraph in the billing statement and shall accompany that statement with documentation to identify the nature of the expense and the cost incurred.

At monthly intervals, the Law Firm shall submit to County itemized statements of services rendered and costs incurred. Such statements shall identify the nature of services rendered, e.g. whether it be research, investigation, consultation, discovery, trial etc; the name of the case or matter the services relate to; and specify the time expended in rendering such services, calculated

in no larger than one-tenth (.10) hour increments. County agrees to pay the Law Firm within thirty (30) days of such bill or statement. Provided, however, that in Attorney's discretion, such statements need not be submitted until the total amount due exceeds five hundred (\$500.00) dollars. The statement rendered to County shall contain a statement of all services provided under this Agreement since the last statement.

3. **County's Duties.** County agrees to be truthful with Law Firm, to cooperate, to keep Law Firm informed of any information or developments relevant to the services being provided to County by Law Firm which may come to County's attention, to abide by this Agreement, to pay Law Firm's bills on time, and to keep Law Firm advised of County's address, telephone number, and whereabouts. County will assist Law Firm in providing necessary information and documents and will appear when necessary at legal proceedings. Unless otherwise agreed, the contact person for County to whom Law Firm may report and who has management and decision-making authority for County in all respects regarding the Client Matter is the Contract Administrator. Law Firm may rely on that person's instructions, decisions, and authorizations, without consulting with or obtaining the approval of any other person. It also will be that person's obligation to inform anyone else affiliated with County regarding the Client Matter including communications to or from Law Firm.

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

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

7. **Standards of Performance.** The Law Firm and every employee thereof shall provide their services, advice, and any reports in full compliance with all applicable laws and professional standards. Law Firm represents that it is specially trained, experienced, expert, and

competent to perform the services required under this Agreement and that each individual providing legal services is a member in good standing of the State Bar and is licensed to practice in California. Further, Law Firm certifies that it will not accept representation in any matters, including litigation, under this Agreement if it or any employee thereof has any personal or financial interest therein,

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

9. **Insurance & Disclosure.** Law Firm shall maintain insurance in a form acceptable to County to be in full force and effect from the first day of the term of this Agreement, as set forth in paragraph 15. Pursuant to the requirements of California Business & Professions Code Section 6148, Law Firm specifically represents that it maintains current errors and omissions insurance applicable to the services to be rendered under this Agreement.

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

11. **Ownership of Documents.** Upon written request, County is entitled to any files in Law Firm's possession relating to the legal services performed by Law Firm for County, excluding Law Firm's internal accounting records and other documents not reasonably necessary to County's representation, subject to Law Firm's right to make copies of any files withdrawn by County and other limitations set forth herein. Once a matter is concluded, Law Firm will notify County and its physical files may be sent to storage offsite if County does not request them promptly. There may be an administrative cost for retrieving the files from offsite storage. Thus, it is recommended that County request the return of a file at the conclusion of a matter. Under Law Firm's document retention policy, Law Firm will destroy files five (5) years after a matter is concluded, unless other arrangements are made with County or Law Firm wishes to retain them.

All documents and other writings prepared by or for the Law Firm in the course of implementing this Agreement shall become the property of the County immediately and the County shall have the right to use such materials in its discretion without compensation to the Law Firm or any other party other than the compensation provided under this Agreement.

12. Conflict of Interest. Before accepting representation of County, Law Firm has undertaken reasonable and customary efforts to determine whether there are any conflicts, potential conflicts of interest or adversity of positions between County and any other person or entity that would bar Law Firm from representing County in general or in the Client Matter. Law Firm has reviewed this issue in accordance with the Rules of Professional Conduct adopted in California ("California Rules"). The parties agree that the California Rules, rather than the rules of any other jurisdiction, are applicable to County's representation. In this engagement, Law Firm will represent only County and not any officers, directors, or employees of the County, or any commonly – owned corporations, limited liability companies, partnerships, or other entities (collectively, "Affiliates"). Therefore, County agrees that for conflict of interest purposes Law Firm may represent another client with interests adverse to any Affiliate without obtaining County's consent, so long as such representation is not substantially related to Law Firm's work for County.

Law Firm shall immediately notify County if any services to be performed under this Agreement involve an actual or potential conflict of interest under the California Rules, or under the provisions of Government Code section 1090 or the California Political Reform Act. Law Firm shall not engage in any activity under this Agreement that involves any actual or potential conflict of interest unless Law Firm first makes a full and complete disclosure of all relevant facts and obtains a written waiver of such conflict in advance from County.

13. Indemnity. To the fullest extent allowed by law, the Law Firm shall defend, indemnify, and hold harmless the County against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind and description, including reasonable attorneys' fees and costs incurred, which are claimed to or in any way arise out of, directly or indirectly, or are connected with: (1) any negligent act, whether passive or active, error or omission, or willful misconduct, of the Law Firm, its subcontractor(s), agents or employee(s) or any of these; or (2) any breach of any statutory, regulatory, contractual or legal duty of any kind related, directly or indirectly, to the services, responsibilities or duties required of Law Firm by this Agreement. This duty of Law Firm to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778.

14. State Filing. All independent consultants providing services to the County must file a State of California Form 590 certifying their California residency or, in the case of a corporation, certifying that it has a permanent place of business in California.

15. **Proof of Insurance.** During the term of this Agreement, Law Firm shall maintain in effect at their expense the following policies of insurance at minimum limits to be specified by County or by statute: Workers Compensation; Comprehensive General Liability, including endorsements for completed operations, contractual, independent contractors, broad form property damage and personal injury liability, \$500,000 each occurrence, \$1,000,000 aggregate for Bodily Injury/\$250,000 each occurrence for property damage/\$500,000 each occurrence, \$1,000,000 aggregate for personal injury; Automobile liability insurance is not required for the purposes of this agreement; Professional Liability (errors and omissions), \$500,000 per occurrence/\$1,000,000 aggregate. Law Firm will provide a listing of the above coverages, limits of liability and proof of coverage at the County's request.

16. **Contract Administrator.** For the purpose of administering this Agreement, the County shall be represented by its County Counsel, David Livingston, or successor or designee. Notices provided pursuant to this Agreement shall be effective immediately upon receipt and shall be directed as follows:

For County: David Livingston
County Counsel, EI Dorado County
330 Fair Lane
Placerville, California 95667

For Law Firm: John Welsh
Burke, Williams & Sorensen, LLP
444 S. Flower Street, Suite 2400
Los Angeles, California 90071

17. **Entire Agreement.** This Agreement and any exhibits thereto are the entire agreement between the parties and they supersede all prior written or oral agreements or understandings between the parties. This Agreement may only be modified by mutual consent of the parties in writing fully executed by duly authorized officers of the parties.

Any dispute resolution action arising out of this Agreement, including, but not limited to litigation, mediation, or arbitration, shall be brought in EI Dorado County, California, and shall be resolved in accordance with the laws of the State of California. Law Firm waives any removal rights it may have under Code of Civil Procedure section 394.

18. **Term.** This Agreement shall be effective on the date fully executed by all parties, and shall cover services rendered starting June 6, 2022, or the date that services are rendered as described in Paragraph 1, and shall remain in effect until terminated by any party or until all work contemplated hereunder shall be completed as determined by County Counsel.

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

--COUNTY OF EL DORADO--

Dated: 6.28.22

By: Lori Parlin
Lori Parlin, Chair
Board of Supervisors
"County"

ATTEST:
Kim Dawson,
Clerk of the Board of Supervisors

By: Kyle Dawson
Deputy Clerk

Dated: 6.28.22

--BURKE, WILLIAMS AND SORENSON--

Dated: 06/07/2022

By: John J. Welsh
John J. Welsh, Managing Partner
California State Bar Number 152744
Burke, Williams & Sorensen, LLP.
"Law Firm"

Exhibit A, Burke, Williams & Sorensen Rate Schedule

Rates for Attorneys and other timekeepers through December 31, 2022.

\$450	Brenda Aguilar-Guerrero and other Senior Partners
\$400	Junior Partners and Of Counsel
\$375	Senior Associates
\$350	Junior Associates
\$175	Law Clerks
\$175	Paralegals

Effective each January 1, the foregoing base rates shall be increased based on the U.S. Department of Labor Bureau of Labor Statistics Los Angeles-Riverside-Orange County Consumer Price Index-All Urban Consumers ("CPI-U"), using the CPI-U for each prior October as the base and the value to escalate the hourly rates in the ratio of the most recent October CPI-U value, rounded up to the nearest \$5 increment.

The U.S. Dept. of Labor Bureau of Labor Statistics (BLS) website will be the source of the data utilized (if the URL is changed, the parties shall agree on the replacement web page to be as close as reasonably possible to the page detailed herein):
http://data.bls.gov/PDO/servlet/SurveyOutputServlet?data_tool=dropmap&series_id=CUURA421SA0,CUUSA421SA0

Retainer for Burke, Williams & Sorensen, LLP

Final Audit Report

2022-06-07

Created:	2022-06-07
By:	Lisa Blake (lisa.blake@edcgov.us)
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"Retainer for Burke, Williams & Sorensen, LLP" History

-  Document created by Lisa Blake (lisa.blake@edcgov.us)
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