

**AGREEMENT #021-A-06/07-BOS FOR LEGAL SERVICES BETWEEN
EL DORADO COUNTY AND THE LAW OFFICES OF THOMAS M. BRUEN**

This Agreement #021-A-06/07-BOS is made and entered into between EL DORADO COUNTY, a political subdivision of the State of California (hereinafter referred to as "County"), acting by and through County Service Area No. 10, a lawfully established county service area as defined by Government Code Section 25210 et seq., and THE LAW OFFICES OF THOMAS M. BRUEN (hereinafter referred to as the "Firm"), a California Professional Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 1990 North California Boulevard, Suite 940, Walnut Creek, California 94596, effective on the date services were first performed for the County in the matters described below, for the performance of specified legal services for County.

1. The County shall have the right in its sole discretion to determine the particular services to be provided by the Firm from time to time under this Agreement. These services may include the following:

(a) Review and drafting of waste flow control legislation; research and examination of applicable law, and preparing memoranda and rendering opinions in connection therewith;

(b) Preparation, drafting and review of memoranda, contracts, resolutions, municipal service agreements, construction and operation contracts, grant agreements, trust indentures, rate setting policies and procedures and other documents necessary in

connection with structuring the program and financing the facilities;

(c) Review, analysis and application of environmental law as it applies to environmental and waste management;

(d) Review and drafting of solid and hazardous waste ordinances; research and examination of applicable law, and preparing memoranda and rendering opinions in connection therewith;

(e) Participation in meetings, personal conferences, telephone conferences, discussions and other communications and proceedings held in furtherance of County requirements, and

(f) Assisting as counsel in litigation matters as directed by County Counsel.

2. The Firm and all persons who perform services for or through Firm pursuant to this Agreement shall be an independent contractor and shall not be deemed to be an employee of the County for any purpose. The Firm's services shall be under the general direction of County Counsel's Office, which shall also be responsible for administering this Agreement.

3. The Firm and every employee thereof shall provide their services, advice and any reports in full compliance with all applicable law and professional standards. The 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,

the 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.

4. 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 Exhibit A attached hereto and incorporated herein. Firm specifically represents that it maintains errors and omissions insurance applicable to the services to be rendered under this Agreement.

5. The County agrees to pay the Firm for services rendered hereunder at the rate of \$225.00 per attorney hour for partners, and such lesser amount as the parties agree is fair and appropriate for associates. The Firm will use the minimum number of attorneys for this engagement consistent with good professional practice after consulting with the County.

The Firm will keep the County currently advised as to the level of attorney hours and client services performed. Firm travel time not devoted to the performance of client services under this retainer agreement shall not be charged to the County.

The 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.

The Firm recognizes that this Agreement has been legislatively authorized for an amount not to exceed \$100,000.00.

6. In addition to the above, County shall reimburse Firm for the actual, reasonable and necessary expense of travel in accordance with the El Dorado County Board of Supervisors policy No. D-1 as set forth in Exhibit B attached hereto and incorporated herein. County shall reimburse Firm for the reasonable costs of long distance telephone calls, mailing, legal research on electronic database, and, upon prior approval, for extraordinary photocopying and extraordinary facsimile transmissions. Other reasonable, customary and necessary expenses, including but not limited to statutory fees, witness fees, reporters per diem and transcription fees, jury fees, and expenses of serving process, may be advanced by Firm and reimbursed by County. Expert consultants and witnesses may be retained by Firm on terms acceptable to County. Such expert consultants and witnesses may invoice Firm. Prior to incurring expenses in excess of Five Hundred Dollars and No/100 (\$500.00) Firm shall consult with County and obtain approval.

7. The Firm shall submit to County Counsel for review and approval an itemized statement of services rendered at periodic intervals of not less than one and not more than three months. Such statement shall identify the nature of the services rendered, and specify the time expended in rendering such services, calculated in one-tenth (.10) hour segments. Simultaneously, Firm shall submit a summary statement to County for payment processing.

8. The 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. The Firm is engaged by County for its unique qualifications and skills. The 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 in Firm without consent of County. It is specifically agreed that a partner attorney of the Firm will be primarily involved in the conduct of the work, and that a partner will be available to attend meetings of the County Board of Supervisors as directed.

9. Firm agrees that it will comply with all ethical duties, will maintain the integrity of the attorney-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 Firm pursuant to this Agreement, all opinions and conclusions of Firm any reports, information, data, statistics, forms, procedures, systems, studies and all communications with County, are confidential. Firm agrees to take all steps reasonably necessary to maintain this confidentiality. Firm is responsible for insuring that it and all of its employees faithfully adhere to the confidentiality requirements of law and this Agreement.

10. Firm shall immediately notify County if any service to be

performed under this Agreement involves an actual or potential conflict of interest, financial or otherwise. Firm shall not engage in any activity under this Agreement that involves any actual or potential conflict of interest unless Firm first makes a full and complete disclosure of all relevant facts and obtains a written waiver of such conflict in advance from County.

11. Firm shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner, and shall be liable for its own negligence and the negligent acts of its employees. The Firm shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Firms services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Firm, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prohibited by statute. This duty of the Firms to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

12. This Agreement shall be terminable by the County at any time for any reason upon a 10-day notice to Firm. 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. Firm may terminate this Agreement upon sufficient written notice to County, made in such a manner so that the County shall not be prejudiced. Upon termination of this Agreement for any reason, The Firm shall immediately cease all work, and within ten (10) days shall provide a final bill to County for all services rendered. The obligation of confidentiality shall continue and shall not terminate when this Agreement ends.

13. 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. The Firm will be required to submit a Form 590 prior to execution of this Agreement or County shall withhold seven (7) percent of each payment to be made to Firm during the term of this Agreement. This requirement applies to any Agreement exceeding \$1,500.00.

14. All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

15. In accordance with changes in Internal Revenue Law, (Form 730) OASDI (Old Age, Survivors, & Disability Insurance) and income taxes may be withheld from any payments made under terms of this Agreement if Firm falls under "Contract-Employee" category as determined by County prior to execution of Agreement.

16. For the purpose of administering this Agreement, the County shall be represented by its County Counsel. The Firm shall designate in writing the person associated with Firm who has the responsibility to administer this Agreement on his or her behalf. This Agreement and the 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 El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. The Firm waives any removal rights it may have under Code of Civil Procedure section 394.

IN WITNESS WHEREOF, COUNTY and FIRM have executed this Agreement #021-A-06/07-BOS the day and year first below written.

- - C O U N T Y O F E L D O R A D O - -

Dated: _____

By: _____

Chair,

Board of Supervisors

ATTEST:

Cindy Keck, Clerk

Board of Supervisors

Dated: _____

By: _____

- - F I R M -

Dated: _____

By: _____

Thomas M. Bruen, President

State Bar Number 63324

Law Offices of Thomas M. Bruen,

A California Professional Corporation

ATTEST:

Dated: _____

By: _____

Secretary

Law Offices of Thomas M. Bruen,

A California Professional Corporation

EXHIBIT "A"
EL DORADO COUNTY INSURANCE REQUIREMENTS

EL DORADO COUNTY INSURANCE REQUIREMENTS

Firm shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that the Firm maintains insurance that meets the following requirements:

A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of the Firm as required by law in the State of California.

B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

C. Automobile liability insurance of not less than \$1,000,000 is required in the event motor vehicles are used by the Firm in the performance of the Agreement.

D. In the event, Firm or any of its personnel are licensed professionals, and are performing professional services under this Agreement, professional liability (for example, malpractice insurance) covering such services is required with a limit of liability not less than \$1,000,000 per occurrence. For the purposes of this agreement, professional liability is required.

E. Firm shall furnish a certificate of insurance

satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.

F. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.

G. Firm agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Firm agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Risk Management Division and Firm agrees that no work or services shall be performed prior to the giving of such approval. In the event the Firm fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such events.

H. The certificate of insurance must include the following provisions stating that:

a. The insurer will not cancel the insured's coverage without thirty (30) day prior written notice to the County; and

b. The County, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except worker's compensation and professional liability insurance policies.

I. The Firm'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 the Firm's insurance and shall not contribute with it.

J. Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and volunteers; or the Firm shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expense.

K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, or volunteers.

L. The insurance companies shall have no recourse against the County, its officers and employees or any of them for payment of

any premiums or assessments under any policy issued by any insurance company.

M. Firm's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

N. In the event, Firm cannot provide an occurrence policy, Firm shall provide insurance covering claims made as a result of performance of this Agreement for not less than three years following completion of performance of this agreement.

O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County either independently or in consultation with the Risk Management Division, as essential for protection of the County.

EXHIBIT "B"
EL DORADO COUNTY
BOARD OF SUPERVISORS TRAVEL POLICY NO. D-1