

Legal Services Agreement

This Legal Services Agreement is made between the El Camino Irrigation District ("ECID") and COUNTY OF TEHAMA ("COUNTY"). This contract shall be effective once executed by both parties.

Whereas, Government Code sections 26520, 26529, and 53060 authorize the Tehama County Office of County Counsel ("County Counsel") to render legal services to ECID upon request. These sections further authorize County to charge ECID a fee, not to exceed the total cost to the county, for the legal services rendered;

Whereas, ECID is a local public entity organized and existing under the Division 11 (commencing with Section 20500) of the Water Code. ECID's territory is located entirely within the unincorporated area of Tehama County;

Whereas, ECID desires to retain and employ the Office of County Counsel to provide general legal advice upon request and to pay County for the total actual costs of these services;

Whereas, COUNTY desires to have the Office of County Counsel provide these services to ECID and to receive the aforementioned payment from ECID; and

Whereas, pursuant to the Business and Professions Code, the waiver of potential conflicts of interest must be explicit.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions set forth herein, and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. DURATION OF CONTRACT.

This contract shall be for a term of five years, Terminating on December 31, 2030 unless sooner terminated as specified in paragraph 7. Unless either party gives the other party written notice within not less than ninety (90) days of the expiration of any term of the agreement, the contract shall automatically renew for successive one-year periods (August 1 - July 31) upon the same terms and conditions.

2. SCOPE OF SERVICES.

The COUNTY, for the ECID's benefit shall provide legal services through the Office of the County Counsel as requested by the ECID, including legal research, preparation of legal documents such as contracts, representation in administrative hearings, arbitrations, court proceedings, negotiations and attendance at public meetings. ECID intends to make limited use of the Office of County Counsel for legal services. Such services will be provided only upon written or oral request made by the ECID Board. Any Director on the ECID's Board of Directors is also authorized to request legal services on behalf of District under this agreement. Although any opinion or work so authorized by the Directors or other authorized ECID staff, or by less than the majority of the Board shall be privileged under the attorney-client privilege, it shall be

made available to any Director of the ECID Board of Directors on request either orally or in writing.

3. COMPENSATION FOR SERVICES AND REIMBURSEMENT OF COSTS.

(a) In consideration for the COUNTY's performance, the ECID shall pay the following compensation to the COUNTY:

- ☐ a total lump sum payment of \$ _____, or
- ☐ a total sum not to exceed \$ _____, or
- ☒ consideration determined specifically as follows:

The ECID shall pay to the COUNTY an hourly rate for services rendered pursuant to the terms and conditions of this contract. The hourly rate is based on the actual cost of providing services and shall not exceed the highest allowable hourly rate pursuant to the United States Office of Management and Budget Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments). The County shall notify ECID of the up to date calculation for its attorneys based on the A-87 calculation annually by the start of the second quarter of the fiscal year, those rates being effective for the First Quarter billing of that same year.

(b) ECID agrees to reimburse COUNTY for any costs actually incurred on ECID's behalf, provided that COUNTY obtains written or oral approval of any individual costs over \$ 500.00 and any aggregate costs in the course of a fiscal year over \$ 1,000.00.

4. BILLING.

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- ☐ One month in arrears.
- ☐ Upon the complete performance of the services specified in paragraph 2.
- ☒ The following basis: quarterly in arrears

5. PAYMENT.

Payment shall be made by the ECID to the COUNTY at the address specified in paragraph 9 of this contract, net thirty (30) days from the invoice date.

6. LIABILITY.

COUNTY shall not be liable to ECID or its agents, employees or to third persons or any cost, expense, including attorney's fees, damage or liability whatsoever arising out of, or in any way related to the County's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by ECID in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees.

7. TERMINATION.

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give 30 days advance written notice to the other party. The termination notice shall be made as specified in paragraph 10, below. In the event of termination, the ECID shall pay the COUNTY for all work satisfactorily performed prior to the effective date of the termination.

8. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

9. INFORMATION ABOUT CONTRACT ADMINISTRATORS.

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for the ECID:

Name: Kris Lamkin

Title: President of the Board

Address: _____

Email Address: lamkinranch@gmail.com

Telephone No.: _____

Fax _____

Contract Administrator for the COUNTY:

Name: Rachael Milton

Title: Office of County Counsel, Office Manager

Address: 727 Oak Street

Red Bluff, California 96080

Email Address RMilton@tehama.gov

Telephone No.: 530-527-9252

Fax No.: 530-527-9255

10. NOTICES.

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, email, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

(a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or

(b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or

(c) On the day that the notice is transmitted by facsimile or email to a party's facsimile number or Contract Administrator's email address as specified in paragraph 9 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

11. RECORDS TO BE MAINTAINED.

The COUNTY shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract. The COUNTY shall contractually require that all of the COUNTY's subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by the COUNTY or any subcontractor, shall be made available to the ECID or its authorized representative, or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by the ECID, its authorized representative, or officials of the State of California.

12. RETENTION OF RECORDS.

The COUNTY shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. The COUNTY shall also contractually require the maintenance of such records in the possession of any third-party performing work related to this contract for the same period. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to ensure the maintenance of the records beyond the initial three-year period shall arise only if the ECID notifies the COUNTY of the commencement of an audit prior to the expiration of the three-year period.

13. TITLE TO DOCUMENTS; COPYRIGHT.

All reports and other materials collected or produced by the COUNTY or any subcontractor of the COUNTY shall, after completion and acceptance of the contract, become the property of the ECID, and shall not be subject to any copyright claimed by the COUNTY, subcontractor, or their agents or employees. The COUNTY may retain copies of all such materials exclusively for administrative purposes. Any use of completed or uncompleted documents for other projects by the COUNTY, any subcontractor, or any of their agents or employees, without the prior written consent of the ECID is prohibited.

14. CONFLICT OF INTEREST.

(a) The COUNTY and ECID agree that from time to time they may contract with each other. The COUNTY and ECID hereby waive any actual, apparent, or potential conflict of interest that may arise from this ongoing relationship. This waiver may be withdrawn at any time if the COUNTY OR ECID are notified in writing through the contacts in paragraph 10 of this Agreement.

(b) COUNTY and ECID certify that each has disclosed to the other any actual, apparent, or potential conflicts of interest that each knows exist relative to the services provided pursuant to this AGREEMENT. COUNTY and ECID agree to notify the other in writing through the contacts in Paragraph 9 of any actual, apparent, or potential conflicts of interest that is discovered subsequent to the effective date of this AGREEMENT. The County and ECID hereby waive any actual, apparent, or potential conflict of interest that may be discovered until notification is provided and the legislative body of the respective Party has had an opportunity to review the circumstances of the actual, apparent, or potential conflict and consider

withdrawing the waiver. If at that time ECID or the COUNTY decide to withdraw the waiver, that withdrawal shall be effective when notice is delivered in writing as described in paragraph 10. Nevertheless, the COUNTY covenants that, in the performance of this contract, the COUNTY will not knowingly contract with or hire a subcontractor or person having any actual, apparent, or potential conflict of interest without first obtaining written authorization from ECID.

(c) The COUNTY shall also list current clients who may have a financial interest in the outcome of services arising from this AGREEMENT and shall obtain the consent of ECID before contracting with any future clients who may have a financial interest in the outcome of services arising from this AGREEMENT.

(d) The COUNTY hereby certifies that the COUNTY has established necessary controls to identify when an actual, apparent, or potential conflict of interest exists.

(e) The COUNTY and ECID hereby certifies that no one who has or will have any financial interest under this contract is an officer or employee of the other Party.

15. COMPLIANCE WITH APPLICABLE LAWS.

The COUNTY shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

16. NONDISCRIMINATION.

The COUNTY shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

17. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by the COUNTY without the prior written consent of the ECID, and any attempted assignment or delegation without such consent shall be void.

18. NEGOTIATED CONTRACT.

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

19. SEVERABILITY.

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall

remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

20. ENTIRE CONTRACT.

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference. This contract supercedes and terminates any prior agreement between the parties.

21. TIME IS OF THE ESSENCE.

Time is of the essence in the performance of this contract.

22. MATERIALITY.

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

23. WAIVER.

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. The ECID's receipt of consideration with knowledge of the COUNTY's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

24. AUTHORITY AND CAPACITY.

The COUNTY and the ECID's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

25. CUMULATION OF REMEDIES.

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and none of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

26. INDEPENDENT DECISION MAKING.

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other.

27. NO RELIANCE ON REPRESENTATIONS.

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant, to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

28. COUNTERPARTS.

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

APPROVED BY THE ECID:

Kris Lamkin, Chair
ECID Board of Directors
Date:_____

APPROVED BY THE COUNTY:

Matt Hansen, Chairman
Tehama County Board of Supervisors
Date:_____

APPROVED AS TO LEGAL FORM:

Margaret Long
Tehama County Counsel
By: Senior Deputy County Counsel Daniel B. Klausner_____
Date:_____