

PROFESSIONAL SERVICES RETENTION AGREEMENT

THIS AGREEMENT by and between the COUNTY OF SISKIYOU (hereinafter referred to as "County"), and G. Scott Emblidge and the firm of Moscone Emblidge & Rubens LLP, a firm engaged in the practice of law in the State of California, at (address), 220 Montgomery Street, Suite 2100, San Francisco, CA 94104 (hereinafter referred to as "Attorney").

WHEREAS, the County requires specialized legal consulting and representation services with regard to issues and matters arising related to the 2024 Siskiyou County Weed Airport development project, and,

WHEREAS, the County desires to retain outside counsel to represent the County in this matter; and,

WHEREAS, it has been determined that Attorney has the expertise to render the necessary representation of the County; and,

WHEREAS, Attorney is qualified by education, training, and experience and is competent to perform such services.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Services. Pursuant to this Agreement, Attorney, shall represent the County and all County departments in the matter referenced herein.

Services and work provided by Attorney at County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. Term. This Agreement is entered into on the date signed by all parties to it, and shall terminate upon completion of the case, unless terminated earlier pursuant to Paragraph 16.

3. Legal Fees. Attorney shall be compensated for such services in a sum not to exceed Fifty Thousand Dollars (\$50,000.00), with the County Counsel to review and audit the billings. Said amount shall not be exceeded without prior approval of the Board of Supervisors. See Exhibit "A" attached hereto for hourly rate(s).

When it appears that the maximum amount payable under this contract may be exceeded, Attorney shall give County Counsel thirty (30) days' notice of such, together with reasons supporting the need for additional funds. The purpose of this notice is intended to avoid the interruption of necessary legal services while allowing the Board of Supervisors to exercise its discretion in advance of the expenditure of such funds.

4. Costs and Expenses. County shall reimburse Attorney for all costs and expenses incurred by Attorney, including, but not limited to, fees fixed by law or assessed by public agencies, long distance telephone calls, messenger and other delivery fees, postage, and for travel expenses and per diem which Attorney reasonably incurs in providing services and work requested by County pursuant to this Agreement.

Except as expressly provided in this Agreement, Attorney shall not be entitled to, nor receive, from County any additional consideration, compensation, salary, wages, or other type of remuneration for services

rendered under this Agreement. Specifically, Attorney shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leave of absence of any type or kind whatsoever.

5. Statement Billing and Payment.

(A) Billing and Payment. Attorney shall submit to County, once a month, an itemized statement of all hours spent by Attorney in performing services and work described in Exhibit "B", which were done at County's request. This statement will be submitted to County as expeditiously as possible. The statement to be submitted will cover the period from the first day of the preceding month through and including the last day of the preceding month. This statement will identify the date of which the hours were worked and describe the nature of the work which was performed on each day. Attorney's statement to County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by the Attorney during that period. The itemized statement for travel expenses and per diem will include copies of receipts for lodging, meals, and other incidental expenses in accordance with County's accounting procedures and rules. Contractor shall be paid within 30 days of County Auditor's receipt of said statement and claim form completed by the department.

(B) Federal and State Taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Attorney under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Attorney under this Agreement will exceed One Thousand Four Hundred Ninety Nine and no/100 Dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Attorney under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Attorney. County has no responsibility or liability for payment of Attorney's taxes or assessments.

(4) The total amounts paid by County to Attorney, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board.

6. Work Schedule. Attorney's obligation is to perform, in a timely manner, those services which are requested by County. It is understood by Attorney that the performance of these services and work will require a varied schedule. Attorney will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

7. Required Licenses, Certificates and Permits. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Attorney to provide the services must be procured by Attorney and be valid at the time Attorney enters into this Agreement. Further, during the term of this Agreement, Attorney must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Attorney at no expense to County. Attorney will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services. Where there is a dispute between Attorney and County as to what licenses, certificates, and permits are required to perform the services, County reserves the right to make such determinations for purposes of this Agreement.

8. Office Space, Supplies, Equipment, Etc. Attorney shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Attorney to provide the services under this Agreement. County is not obligated to reimburse or pay Attorney, for any expense or cost incurred by Attorney in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Attorney in providing and maintaining such items is the sole responsibility and obligation of Attorney.

9. County Property.

(A) Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc., provided to Attorney by County pursuant to this Agreement are, and at the termination of this Agreement, remain the sole and exclusive property of County. Attorney will use reasonable care to protect, safeguard and maintain such items while they are in Attorney's possession. Attorney will be financially responsible for any loss or damage to such items, partial or total, which is the result of Attorney's negligence.

(B) Products of Attorney's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Attorney's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. At the termination of the Agreement, Attorney will convey possession and title to all such properties to County.

10. Workers' Compensation. Attorney shall provide workers' compensation insurance coverage, in the legally required amount, for all Attorney's employees utilized in providing work and services pursuant to this Agreement. By executing a copy of this Agreement, Attorney acknowledges its obligations and responsibilities to its employees under the California Labor Code, and warrants that Attorney has complied and will comply during the term of this Agreement with all provisions of the California Labor Code with regard to its employees. Attorney, at the time of execution of this Agreement, will provide County with evidence of the required workers' compensation insurance coverage.

11. Insurance.

(A) General Liability. Attorney shall procure and maintain during the entire term of this Agreement, a policy of general liability insurance which covers all the work and services to be performed by Attorney under this Agreement. Such insurance policy will have a per occurrence combined single limit coverage of not less than \$100,000.00. Such policy will not exclude or except from coverage any of the services and work required to be performed by Attorney under this Agreement. The required policy of insurance will be issued by an insurer authorized to sell such insurance by the State of California, and have at least a "Best's" policyholder's rating of "A" or "A+". County will be named as "an additional named insureds" on this policy. Attorney will provide County a copy of the policy and a certificate of insurance showing County as "additional named insured" and indicating that the policy will not be terminated, canceled, or modified without thirty (30) days written notice to County.

(B) Business Auto. If Attorney utilizes a motor vehicle in performing any of the work or services hereunder, Attorney shall procure and maintain in force throughout the duration of this Agreement, a business auto liability insurance policy with minimum coverage levels of \$300,000.00 per occurrence, combined single limit for bodily injury liability and property damage liability. The coverage shall include all Attorney owned vehicles and all hired and non-owned vehicles used in performing under this Agreement.

A certificate of insurance shall be provided to County at least ten (10) days prior to the start of services to be performed by Attorney. The policy shall contain a provision prohibiting the cancellation or modification of said policy except upon thirty (30) days prior written notice to County.

(C) Professional Liability. If Attorney is required to be professionally licensed or certified by any agency of the State of California in order to perform any of the work or services hereunder, Attorney shall procure and maintain in force throughout the duration of this Agreement a professional liability insurance policy with a minimum coverage level of \$1,000,000.00. Proof of such insurance shall be provided to county at least ten (10) days prior to the start of any work by Attorney.

12. Status of Attorney. All acts of Attorney, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Attorney, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Attorney has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Attorney. It is understood by both Attorney and County that this Agreement shall not under any circumstances be construed or considered to create an employer--employee relationship or a joint venture. As an independent contractor:

(A) Attorney shall determine the method, details, and means of performing the work and services to be provided by Attorney under this Agreement.

(B) Attorney shall be responsible to County only for the requirements and results specified in this Agreement and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Attorney in fulfillment of this Agreement.

(C) Attorney, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

13. Records and Audits.

(A) Records. Attorney shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Attorney shall maintain these records for a minimum of five (5) years from the termination or completion of this Agreement. Attorney may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

(B) Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Attorney, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Attorney. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

14. Nondiscrimination. During the performance of this Agreement, Attorney, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Attorney and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Attorney shall also abide by the Federal Civil

Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.

15. Cancellation. This Agreement may be canceled by County without cause, and at will, for any reason by giving to Attorney thirty (30) days written notice of such intent to cancel. Attorney may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

16. Assignment. This is an agreement for services of Attorney. County has relied upon the skills, knowledge, experience, and training of Attorney as an inducement to enter into this Agreement. Attorney shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Attorney shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

17. Default. If the Attorney abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Attorney in default and terminate this Agreement upon five (5) days written notice to Attorney. Upon such termination by default, County will pay to Attorney all amounts owing to Attorney for services and work satisfactorily performed to the date of termination.

18. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph 27 below.

19. Confidentiality. Attorney agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Attorney in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Attorney agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Attorney only with the express written consent of County.

20. Conflicts. Attorney agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

21. Post Agreement Covenant. Attorney agrees not to use any confidential, protected, or privileged information which is gained from County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Attorney agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with County, or who has been an adverse party in litigation with the County, and concerning such, Attorney by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

22. Severability. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in

contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

23. Funding Limitation. The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Attorney of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph 26 (Amendment).

24. Attorneys' Fees. If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorneys' fees and costs incurred in connection therewith.

25. Amendment. This Agreement may be modified, amended, changed, added to, or subtracted from by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

26. Notice. Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Attorney, County shall be required, or may desire, to make, shall be in writing and may be personally serviced, or sent by prepaid first class mail to, the respective parties as follows:

TO COUNTY: County of Siskiyou
County Counsel
Natalie Reed
PO Box 659
Yreka, CA 96097

TO ATTORNEY: Moscone Emblidge & Rubens, LLP
220 Montgomery Street, Suite 2100
San Francisco, CA 94104

27. Conditions. This Agreement shall not take effect, and Attorney will have no obligation to provide legal services, and shall not be paid for any legal services, except for services provided from and after the execution of this Agreement.

28. Entire Agreement. This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below, each signatory represents that he/she has the authority to execute this agreement and to bind the Party on whose behalf his/her execution is made.

Date: 7/18/2024

Moscone-Emblidge & Rubens, LLP
G. Scott Emblidge
0795B21E8530478
 G. Scott Emblidge, Managing Partner

License No.: 121613
 (Licensed in accordance with an act providing for the registration of contractors)

Note to Contractor: For corporations, the contract must be signed by two officers. The first signature must be that of the chairman of the board, president or vice-president; the second signature must be that of the secretary, assistant secretary, chief financial officer or assistant treasurer. (Civ. Code, Sec. 1189 & 1190 and Corps. Code, Sec. 313.)

TAXPAYER I.D. on file

COUNTY OF SISKIYOU
Angela Davis 7/18/2024
F2688FA8968C43D
 Angela Davis, County Administrator (Date)

APPROVED AS TO LEGAL FORM:
Dana Barton 7/18/2024
8D75D7D4E9C1484
 Natalie Reed, County Counsel (Date)

APPROVED AS TO ACCOUNTING FORM:
 Fund Org Account Activity Code (if applicable)
 5230 302060 723000

Encumbrance number (if applicable): _____

If not to exceed, include amount not to exceed: \$50,000.00
Diane Olson 7/18/2024
3EB54D72668C410
 Diane Olson, Auditor-Controller (Date)

APPROVED AS TO INSURANCE REQUIREMENTS:
Hayley Hudson 7/18/2024
A89B0EE7AE3749F
 Hayley Hudson, Risk Management (Date)

EXHIBIT "A

SCHEDULE OF FEES

Attorney shall submit to County periodically, and not less frequently than monthly, a detailed statement of account which clearly sets forth by date the items of work performed, the amount of time (to the nearest 1/10 (0.10) of an hour) spent on each item by each attorney or paralegal who performed the work, and identification of the attorney or paralegal who performed such work and their hourly billing rate under this contract.

Attorney shall be compensated by at the following hourly rates:

- (a) G. Scott Emblidge, Managing Partner: \$450.00 per hour
- (b) Kris Cox, Partner: \$410.00 per hour
- (c) Gianna Geil, Associate Attorney: \$340.00 per hour
- (d) Legal Assistant: \$160.00 per hour

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EXHIBIT "B"

SERVICES TO BE PERFORMED

Upon request of County, as set forth herein, to provide specialized legal consulting services with regard to issues and matters arising from or related to the 2024 Siskiyou County Weed Airport development project.

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