

**COUNTY OF SANTA BARBARA**

**AGREEMENT FOR SPECIAL COUNSEL SERVICES  
2024 CERTIFICATES OF PARTICIPATION (MULTIPLE CAPITAL PROJECTS)**

**THIS AGREEMENT** is effective as of September 25, 2023, by and between the **COUNTY OF SANTA BARBARA**, a county duly organized under the laws of the State (the “County”), and **ORRICK, HERRINGTON & SUTCLIFFE LLP**, San Francisco, California (“Counsel”).

**RECITALS**

**WHEREAS**, the County desires to employ Counsel to perform legal services as special counsel incident to the execution and delivery of 2024 Certificates of Participation (Multiple Capital Projects) (the “COPs”); and

**WHEREAS**, Counsel is prepared and able to provide all legal services required and necessary as special counsel incident to the execution and delivery of the COPs;

**COVENANTS**

**NOW, THEREFORE**, it is mutually agreed by the parties hereto as follows:

**Section 1. AGREEMENT FOR SERVICES.** The County employs Counsel to render and Counsel agrees to render legal services as special counsel incident to the execution and delivery of the COPs as follows:

- (a) Preparation of all resolutions, agreements (other than the official statement and continuing disclosure agreement), certificates, form of COPs and other papers and documents required in the relevant proceedings.
- (b) Assistance with the competitive sale of the COPs and advice related to the COPs.
- (c) The preparation of documents for the delivery of the COPs and coordination of the closing.
- (d) The rendering of Counsel's usual and customary legal opinion with respect to the COPs and the tax-exempt status thereof.
- (e) Preparation of a transcript of the legal proceedings for the use of the County.

The services of Counsel under this agreement shall not include the following:

- (a) Legal services in connection with litigation.
- (b) Services relating to compliance with environmental laws.

- (c) Rendering a 10b-5 opinion with respect to the official statement.
- (d) Services relating to continuing disclosure and rebate.

Barring any conflict not otherwise waived or waivable, Counsel would be willing to perform such excluded services on such terms as might be mutually agreed to at the time. The performance by Counsel of services excluded by this paragraph, if required by the County, shall be under separate written agreement.

**Section 2. LEGAL FEES AND EXPENSES.** The County agrees to pay Counsel the amount of \$95,000 for Counsel's fees and expenses with respect to the delivery of the COPs. The foregoing fees and expenses shall be paid as soon as practicable on or after the date of delivery of the COPs. If the COPs are not delivered to the purchaser, no amount shall be paid by the County to Counsel.

**Section 3. ENTIRE AGREEMENT.** This Agreement is the entire agreement between the parties relating to the matters covered herein.

**Section 4. AMENDMENT.** Any amendment to this Agreement shall be of no force and effect unless in writing and signed by both parties hereto.

**Section 5. CONFLICT OF INTEREST.** The County understands that Counsel regularly performs legal services for many private and public entities in connection with a wide variety of matters. Some of these clients may have some direct or indirect relationship with the County or the County's other consultants or agents, as, for example, underwriters, financial advisors, fiscal agents, paying agents, trustees, insurers, suppliers, lenders, bankers, landlords, developers or owners of property within the jurisdiction of the County. Counsel may now or in the future represent or may have in the past represented the underwriter, fiscal agent or other participants in the financing on other matters. With such varied client representation, there is always the possibility of other transactions between clients or disputes among them. It is agreed that the County does not object to Counsel performing such services now or in the future; provided, that Counsel does not represent any participant other than the County in connection with the financing which is the subject of this agreement and the County waives any actual or potential conflict which may be posed by such representation.

**Section 6. INDEPENDENT CONTRACTOR.** Counsel shall perform all of its services hereunder as an independent contractor and not as an employee of the County. Counsel understands it shall not be entitled to any of the benefits of a County employee. It is understood and agreed that Counsel has the professional skills and expertise necessary to perform the work agreed to be performed hereunder and that the County relies upon the expertise of Counsel to do and perform its work in a skillful and professional manner, and Counsel agrees to so perform its work hereunder.

**Section 7. ASSIGNMENT.** This Agreement shall not be assigned by any party without the prior written approval of the other parties.

**Section 8. NONDISCRIMINATION.** The County hereby notifies Counsel that the Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement.

**Section 9. INDEMNIFICATION AND INSURANCE.** Counsel agrees to defend, indemnify and save harmless the County and to procure and maintain insurance in accordance with the provisions of Exhibit A attached hereto and incorporated herein by reference.

**Section 10. NOTICES.** All notices and other communications hereunder shall be sufficiently given and shall be deemed given (i) if hand delivered, when delivered to the appropriate notice address, (ii) if mailed by first class mail, postage prepaid, three business days after deposit in the United States mail addressed to the appropriate notice address or (iii) if delivered by courier providing receipt of delivery, when delivered to the appropriate notice address. The parties listed below may, by notice given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent. Any notice required or permitted hereunder shall be directed to the following notice address:

As to the County:

County of Santa Barbara  
105 East Anapamu Street  
Santa Barbara, California 93101  
Attention: Treasurer-Tax Collector

with a copy to:

Attention: County Counsel

As to Counsel:

Orrick, Herrington & Sutcliffe LLP  
The Orrick Building  
405 Howard Street  
San Francisco, CA 94105  
Attention: Philip C. Morgan

**Section 11. RECORDS, AUDIT, AND REVIEW.** Counsel shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Counsel's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. The County shall have the right to audit and review all such documents and records at any time during Counsel's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00)

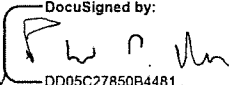
Counsel shall be subject to the examination and audit of the State Auditor General for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). Counsel shall participate in any audits and review, whether by the County or the State, at no charge to the County.

**Section 12. CALIFORNIA LAW AND JURISDICTION.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to the County of Santa Barbara, if in federal court.

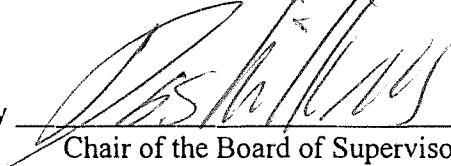
**Section 13. EXECUTION IN SEVERAL COUNTERPARTS.** This Agreement may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the County and Counsel shall preserve undestroyed, shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereof have executed this Agreement as of the date and year first above written.

**ORRICK, HERRINGTON & SUTCLIFFE LLP**


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By DD05C27850B4481...  
Philip C. Morgan

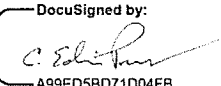
**COUNTY OF SANTA BARBARA**

By   
Chair of the Board of Supervisors

**ATTEST:**  
Mona Miyasato,  
Clerk of the Board

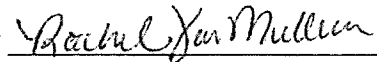
**APPROVED AS TO ACCOUNTING  
FORM:**  
Betsy M. Schaffer, CPA  
Auditor-Controller

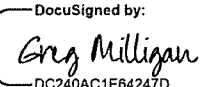
By   
Deputy

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By A99ED5BD71D04FB...  
Deputy

**RECOMMENDED FOR APPROVAL  
AND APPROVED AS TO FORM:**  
Rachel Van Mullem  
County Counsel

**APPROVED AS TO FORM:**  
Greg Milligan, ARM  
Risk Manager

By   
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By DC240AC1E64247D...  
Risk Management

## EXHIBIT A

### Indemnification and Insurance Requirements (For This Orrick Contract Only)

Counsel shall be referred to as CONTRACTOR throughout this Exhibit A. The County of Santa Barbara shall be referred to as COUNTY.

#### INDEMNIFICATION

CONTRACTOR agrees to indemnify and hold harmless COUNTY and COUNTY's officers, employees and agents from and, if requested, defend against, any claim, demand, liability, action, proceeding, losses, damages and costs (including without limitation reimbursing all the COUNTY's costs of defense thereof) arising from the negligence or malpractice of CONTRACTOR in connection with the performance of this Agreement, or any supplement hereto. Notwithstanding the foregoing, nothing herein shall (i) serve to expand CONTRACTOR's scope of professional responsibilities as set forth in the laws and canons of ethics, (ii) extend any statute of limitations governing any claim arising from CONTRACTOR's acts or omissions, or (iii) waive any claims or defenses that CONTRACTOR may have against the COUNTY or any other party.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

4. **Professional Liability (Errors and Omissions) Insurance** appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
2. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
3. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
4. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
5. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
6. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage

or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

7. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
8. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of contract work.
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of three (3) years after completion of contract work.
9. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.