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Contract Number

21-895

SAP Number

N/A

Board of Supervisors

Department Contract Representative

Telephone Number

Contractor

Telephone Number

Contract Term

Original Contract Amount

Amendment Amount

Total Contract Amount

Cost Center

Chairman's Office

909-387-4866

Thomas Bunton

619-315-3961

January 1, 2022 through

December 31, 2025

THIS CONTRACT, is entered into in the State of California by and between San Bernardino County, hereinafter called the COUNTY and Thomas Bunton, hereinafter called the CONTRACTOR.

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, County desires to obtain services of the Contractor on the terms and conditions set forth in this Contract, and

WHEREAS, Contractor has the skills and knowledge necessary to provide the services for the County,

NOW, THEREFORE, in consideration of mutual covenants and conditions, the parties agree as follows:

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I. TERM

This Contract shall be effective January 1, 2022 (Pay Period 2/2022) and shall continue in effect for a period of four (4) years unless earlier termination pursuant to Government Code section 27641 or as hereinafter provided.

This Contract may be terminated at any time by Contractor by the giving of fourteen (14) days written notice of termination to the County.

In addition to the provisions of Government Code section 27641, the County may by three fifths (3/5) vote of the Board of Supervisors terminate this Contract at any time without cause by the giving of fourteen (14) days written notice of termination to Contractor. If Contractor is terminated without cause, Contractor shall receive severance compensation in an amount equal to twelve (12) months of compensation and shall be payable proportionately over a twelve-month period. Severance compensation shall be calculated based on the pay and benefits of the Contractor at the time of notice and shall include all economic benefits as are received by employees in Exempt Group B. During the period that Contractor is entitled to receive severance compensation, Contractor may elect to receive any balance of such severance compensation in a lump sum.

Government Code section 53243.2 requires the following provision be included in this Contract: If this Contract is terminated, any cash settlement related to the termination that Contractor may receive from the County shall be fully reimbursed to the County if Contractor is convicted of a crime involving an abuse of his or her office or position, as defined in Section 53243.4.

II. DUTIES AND RESPONSIBILITIES OF CONTRACTOR

Contractor shall be employed as the County Counsel for San Bernardino County. Working under the direction of the Board of Supervisors, it shall be the duty and responsibility of Contractor to provide legal advice, assistance and representation to the Board of Supervisors and the department heads of the County as set forth in County Code section 12 0901 et seq. Contractor shall also perform such other functions and duties specified by state law, including but not limited to Government Code section 27640 et seq or local rules and policies, as well as such other legally permissible duties as the Board of Supervisors may direct from time to time including, but not limited to, the following:

- A. Directs the activities of a staff of attorneys and administrative support staff through subordinate managers; reviews and approves personnel actions; evaluates subordinate management and supervisory staff.
- B. Plans, organizes, coordinates, and manages the operations of the County Counsel's Office to ensure that service needs are met; formulates policies and procedures and directs implementation.
- C. Directs the preparation and administration of the department budget; presents and justifies the budget to the Board of Supervisors; determines service, staffing, and equipment needs.
- D. Serves as principal legal advisor to the Board of Supervisors and the County's Chief Executive Officer. Attends meetings of the Board of Supervisors and participates in policy and planning sessions.
- E. Reviews and performs legal research, and provides oral or written opinions on a variety of complex legal problems; prepares or directs the preparation of opinions, ordinances, resolutions and other legal documents; assists subordinate staff regarding questions of law.
- F. Maintains liaison with County officials, other governmental agencies, and the legal community.
- G. Analyzes and interprets statutes, ordinances, legislation, court decisions and legal opinions.

- H. May appear in court and administrative proceedings to represent the County and its officers.
- I. Other duties as may be assigned.

The Board of Supervisors shall review and evaluate the performance of Contractor at least once annually. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Board of Supervisors and Contractor. Said criteria may be added to or deleted from as the Board of Supervisors may from time to time determine, in consultation with Contractor.

III. CONFLICT OF INTEREST

As a condition of employment, Contractor does hereby agree to follow and uphold the Conflict of Interest policy of the County's Personnel Rules as follows:

No official or employee shall engage in any business or transaction or shall have a financial or other personal interest or association, direct or indirect, which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. Personal, as distinguished from financial interest, includes an interest arising from blood or marriage relationships, or close business, personal or political associations. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active County employment, providing such acts do not constitute a conflict of interest as defined herein. Contractor is also subject to applicable provisions of California Government Code, including but not limited to Sections 1090, 1126, 87100, and/or any other conflict of interest code, policy or rule applicable to County employment.

IV. COMPENSATION OF CONTRACTOR

Upon the effective date of this Contract, Contractor shall be considered a contract employee in the County's Unclassified Service. Contractor shall receive only the benefits and compensation specifically set forth in this Contract. This Contract provides for the full compensation to Contractor for the services required hereunder. This Contract supersedes any prior employment Contract of Contractor.

A. SALARY

Contractor shall be compensated for services at a rate of **\$135.11 per hour, which is equivalent to Step 13 of Range 105B** of the salary schedule for employees in the Exempt Compensation Plan. Payment for such services shall be made on a bi-weekly basis on the same reporting system and payroll schedule as County exempt employees. Contractor shall receive any across-the-board salary adjustments as may be granted to, and at the same time as, positions in the San Bernardino Exempt Group Working Conditions Ordinance.

Contractor shall receive the same economic benefits, leave accruals and contributions as are provided to employees in Exempt Group B.

B. OVERTIME

Contractor is in a position not covered by the Fair Labor Standards Act (FLSA) and is not eligible to receive overtime compensation under the FLSA.

C. LEAVE PROVISIONS

Contractor will receive and utilize all leaves pursuant to the terms and conditions set forth in the San Bernardino County Exempt Working Conditions Ordinance.

Contractor is eligible to receive credit for previous work experience in determining Contractor's vacation accrual rate. To be eligible, Contractor must have been previously employed by a public jurisdiction or in the private sector in a comparable position or a position which has prepared Contractor for the position of County Counsel. Such determination as to the comparability of previous experience and amount of credit to be granted rests solely with the Director of Human

Resources. Requests for prior service credit should be made at the time of hire or as soon as possible thereafter but in no event later than one (1) year from the Contractor's hire date. Any determination regarding comparability of previous experience or amount of credit to be granted shall be made pursuant to the terms and conditions as set forth in the San Bernardino County Exempt Group Working Conditions Ordinance.

D. BENEFIT PLAN

Except as provided herein, medical and dental benefits will be provided in the same manner as offered by the County to employees in the San Bernardino County Exempt Group B Working Conditions Ordinance.

E. VISION CARE INSURANCE

Subject to carrier requirements, the County shall pay the premiums for vision care insurance for Contractor (employee + dependents) if Contractor is in a paid status and is scheduled at least forty-one (41) hours per pay period as employees in Exempt Group.

F. LIFE INSURANCE

The County shall pay premiums for a term life insurance policy for Contractor in the same manner and amount as employees in Exempt Group.

County-paid life insurance will become effective the first pay period in which the Contractor is in a paid status and continue for each pay period Contractor is in a paid status. For pay periods in which Contractor does not meet the paid hours requirement, Contractor shall have the option of continuing life insurance coverage at Contractor's expense.

G. ACCIDENTAL DEATH AND DISMEMBERMENT

Contractor shall be eligible to purchase Accidental Death and Dismemberment Insurance coverage and additional supplemental term life insurance in the same manner and amount as offered by the County to employees in Exempt Group.

H. EXPENSE REIMBURSEMENT

Contractor shall be eligible for expense reimbursement in the same manner and amount as employees in Exempt Group.

I. RETIREMENT PLAN

Contractor shall participate in the County's general employee retirement system during the term of this Contract. Contractor shall pay the required employee contribution for the term of the Contract. Contractor's participation in the general retirement system shall be in accordance with the applicable terms of the County Employee's Retirement Law of 1937, the California Public Employees' Pension Reform Act of 2013 (Gov't Code section 7522 et seq.), and the By-Laws and other requirements of the San Bernardino County Employees' Retirement Association.

If Contractor regularly works less than forty (40) hours per pay period, or otherwise does not meet the definition of a member of the retirement system, and is not a participant in the County's 401(k) plan, Contractor shall instead participate in the County's PST Deferred Compensation Retirement Plan. Contractor shall contribute 7.5% of the contractor's biweekly gross earnings, and the Contractor's contributions to PST Deferred Compensation shall be automatically deducted from Contractor's earnings. Maximum total contributions shall be 7.5% of the Contractor's maximum covered wages for Social Security purposes. Contractor shall enroll in the Plan on forms approved by Employee Benefits & Services Division.

If Contractor is first hired at age 60 or over, Contractor may choose not to become a member of the San Bernardino County Employees' Retirement Association (SBCERA) at the time of hire, pursuant to the terms and conditions of the San Bernardino County Exempt Group Working Conditions

Ordinance. If Contractor chooses not to become a member of SBCERA, Contractor shall be enrolled in the County's 401(k) plan pursuant to the terms and conditions of the San Bernardino County Exempt Group Working Conditions Ordinance.

J. SALARY SAVINGS PLAN

Contractor shall be eligible to participate in the County's 401(k) and 457(b) Salary Savings Plans as per the Plan documents and pursuant to the terms and conditions set forth in the San Bernardino County Exempt Group Working Conditions Ordinance.

K. DEPENDANT CARE ASSISTANCE PLAN (DCAP) AND FLEXIBLE SPENDING ACCOUNT (FSA) PLAN FOR MEDICAL EXPENSE REIMBURSEMENT

Contractor shall be eligible to participate in the County's DCAP and FSA Plans in the same manner as employees in Exempt Group.

L. LEGALLY REQUIRED BENEFITS

Contractor shall receive all benefits as required by law (e.g. FMLA, Military Leave, Time off for Voting and use of Medicare). Where the County provides a greater benefit than is required by law, Contractor shall only receive the minimum benefit in accordance with the law, unless the greater benefit is specifically provided for in another provision of this Contract.

M. SHORT-TERM DISABILITY

Contractor shall be eligible to receive the same Short-Term Disability insurance benefits as offered to employees in Exempt Group.

N. RETIREMENT MEDICAL TRUST ("Trust")

Upon meeting eligibility requirements, Contractor shall participate in the Trust during the term of this Contract pursuant to the terms and conditions set forth in the San Bernardino County Exempt Group Working Conditions Ordinance.

O. LONG-TERM DISABILITY

Contractor shall be eligible to receive Long-Term Disability insurance benefits as per the Plan documents and pursuant to the terms and conditions set forth in the San Bernardino County Exempt Group Working Conditions Ordinance.

OTHER BENEFITS

Contractor shall be eligible for the following additional benefits, based on the San Bernardino County Exempt Group Working Conditions Ordinance at a level for employees in Exempt Group B.

- Automobile Allowance
- Cell Phone Allowance
- Tuition Reimbursement
- Employee Wellness/Fitness Center Membership

P. BENEFITS UPON TERMINATION OF CONTRACT

Contractor Separated from County Service

Upon separation from County employment, Contractor shall be compensated for any unused Vacation and Holiday Leave at the then base rate of pay. Unused Sick Leave shall be forfeited.

Contractor to Regular County Employment

In the event this Contract is terminated because Contractor is appointed to a regular position without a separation from County employment, type and level of benefits including, but not limited to, retirement system contributions (if applicable) and health benefits shall be based upon the provisions of the MOU or ordinance in effect at the time Contractor is appointed to a regular position.

Hours worked as a County contract employee shall count towards service hours for leave accrual rates.

At the sole discretion of the appointing authority of the County department or office in which appointment to the regular position is made, unused leave balances may be maintained and carried over. Employees may only carry over leave balances that they would otherwise be eligible for in accordance with the applicable MOU or ordinance for the bargaining unit associated with the position hired into. Any leave balances not authorized to be carried over will be distributed as outlined in "Contractor Separated from County Service," above.

Contractor to New Contract Position

In the event the Contractor accepts another contract position with the County without a break in service, at the sole discretion of the appointing authority of the County department or office in which appointment to the new contract position is made, unused leave balances may be maintained and carried over. Contractor may only carry over leave balances that they would otherwise be eligible for in accordance with the applicable MOU or ordinance for the bargaining unit associated with the position hired into. Any leave balances not authorized to be carried over will be distributed as outlined in "Contractor Separated from County Service," above.

- Q. Contractor shall receive only the benefits and compensation specifically set forth in this Contract. This Contract provides for the full compensation to Contractor for the services required hereunder.

V. GENERAL PROVISIONS RELATING TO CONTRACTOR

A. TOUR OF DUTY

The parties agree that submission of hours worked shall be eighty (80) hours per pay period for payroll purposes on the County's time and labor report during the full term of this Contract.

B. CLASSIFICATION

Contractor will not attain regular status in this position, and as an unclassified Contract employee, will not be provided those rights under the San Bernardino County Personnel Rules afforded only to employees who have attained regular status. This Contract does not expand or alter any jurisdiction established by the Personnel Rules or ordinance. Contractor shall adhere to the County's and Department's standards of employee conduct, including all applicable rules, policies, and regulations. Violation of applicable standards may result in Contract termination or lesser penalties.

C. WORKERS' COMPENSATION AND LIABILITY COVERAGES

Contractor shall be covered by the County's Workers' Compensation insurance coverage during the hours actually worked under this Contract. Contractor shall be covered by the County's Public Liability. Insurance only while performing services under this Contract. Contractor shall only receive those benefits as required by law.

D. USE OF PRIVATE VEHICLE

If the services to be performed under this Contract require Contractor to drive a vehicle, Contractor must possess a valid California driver's license at all times during the performance of duties under this Contract.

Contractor agrees to allow the County to obtain a Department of Motor Vehicles report of Contractor's driving record.

In order for Contractor to be able to use a private vehicle during the performance of duties under this Contract, Contractor shall be covered by vehicle liability insurance at least equal to the minimum requirements of the California Vehicle Code. Such requirements currently are:

1. Fifteen thousand dollars (\$15,000) for single injury or death;
2. Thirty thousand dollars (\$30,000) for multiple injury or death;
3. Five thousand dollars (\$5,000) for property damage.

Failure to comply with the requirements of this Paragraph shall be deemed cause for termination of this Contract, pursuant to Section I above.

E. EVIDENCE AND ELIGIBILITY TO WORK

Contractor shall submit evidence of eligibility to work in the United States and verification of identity within three (3) working days of the effective date of this Contract. Contractor shall submit to and successfully complete a pre-employment background check, including a medical examination through the County's Center for Employee Health and Wellness.

F. DIRECT DEPOSIT

Contractor must plan for the direct deposit of paychecks into the financial institution of their choice via electronic fund transfer. Inability or failure by Contractor to make such arrangements will result in the County paying Contractor via pay card.

G. RESIDENCE REQUIREMENTS

The Board of Supervisors finds that the best interests of the County are served by waiving the residence qualifications as set forth in Government Code section 27641.1, and hereby waives those requirements.

H. MISCELLANEOUS

Each party agrees and acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein and that any agreement, statement of promise not contained in this Contract shall not be valid or binding on either party.

If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

This Contract shall be construed as a whole, according to its fair meaning, and not in favor or against any party. By way of example and not in limitation, this Contract shall not be construed in favor of the party receiving a benefit not against the party responsible for any language in this Contract.

Contractor acknowledges that he has had an opportunity to consult with legal counsel regarding the Contract, that he has read and understands this Contract, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representation or promise other than those contained in this Contract.

VI. CONCLUSION

- A. This Contract, consisting of nine (9) pages, is the full and complete document describing services regarding the Contractors rights and obligations of the parties, including all covenants, conditions, and benefits.
- B. This Contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Contract. The parties shall be entitled to sign and transmit an electronic signature of this Contract (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Contract upon request.

SAN BERNARDINO COUNTY

►

Curt Hagman, Chairman, Board of Supervisors

Dated: **DEC 07 2021**

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell
Clerk for the Board of Supervisors
of San Bernardino County

By

Deputy

By

(Authorized signature - sign in blue ink)

Name

Thomas Bunton

(Print or type name of person signing contract)

Title

County Counsel

(Print or Type)

Dated:

Address

Address on file

Approved as to Legal Form

►

Date

Reviewed for Contract Compliance

►

Date

Presented to BOS for Signature

►

Date