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April 30, 2024

**VIA E-MAIL**

[iramirez@ccta.net](mailto:iramirez@ccta.net)  
[dmermelstein@ccta.net](mailto:dmermelstein@ccta.net)

Ivan Ramirez  
Daniel Mermelstein  
Contra Costa Transportation Authority  
2999 Oak Road, Suite 100  
Walnut Creek, CA 94597

Re: Engagement Letter

Dear Mr. Ramirez and Mr. Mermelstein:

Thank you for selecting Theodora Oringher PC (the "Firm") to provide Contra Costa Transportation Authority ("CCTA" or "Client") with contract drafting and procurement legal services for CCTA's future design-bid-build ("DBB") construction programs. The Firm's work will include the drafting of a set of DBB contract documents, construction forms, and procurement materials to be used by CCTA on its future DBB public works projects. The Firm may also provide additional contract drafting and legal advisory services from time to time at the express request and direction of CCTA. (the "Project"). We very much look forward to working with you and furthering your interests. This Engagement Letter sets forth the terms upon which we will represent you. This Engagement Letter is intended to be a binding legal contract and replaces any prior discussions or agreements we have had regarding the scope, cost and nature of our representation of you. If you agree to these terms, please sign the letter and return it to us.

1. Scope of Representation. Client has retained the Firm provide CCTA with contract drafting and procurement legal services for CCTA's future DBB construction programs. The Firm's work will include the drafting of a set of DBB contract documents, construction forms, and procurement materials to be used by CCTA on its future DBB public works projects. The Firm may also provide additional contract drafting and legal advisory services from time to time at the express request and direction of CCTA. The Firm is **not** being retained to provide advice on any tax matters.
2. Clarification of "Client". The Firm is representing Client and Client alone in this matter. The Firm is **not** being retained to represent or protect the interests of any

- individual or entity other than Client, including any affiliates, investors, partners, parents, shareholders, or subsidiaries of Client or any other person or entity related to or claiming any relationship with Client (collectively, “Associated Parties”). In connection with *this* engagement, the Firm does not and will not represent any Associated Party unless such additional representation is agreed to in writing between the Firm and Client. Therefore, unless the Firm and Client have agreed within this Engagement Letter that the Firm will not now or in the future represent interests either allied with or adverse to those of an identified Associated Party, the Firm may freely do so.
3. Client’s Duties. Client agrees to be truthful and cooperative with the Firm, to keep the Firm informed of any information or developments which may come to Client’s attention which are relevant to the scope of the Firm’s representation, to abide by this Engagement Letter, to pay the Firm’s bills on time, to attend meetings when reasonably requested by the Firm, and to keep Firm advised of Client’s address and telephone number.
  4. Engagement Deposit. While the Firm typically requires a deposit for services and costs with any new engagement, we will waive that requirement in light of Client’s past professional relationship with Firm. Firm reserves the right to require an Engagement Deposit if, in the Firm’s sole discretion, the circumstances so warrant. In particular, Client agrees that before Firm begins work on any major activity in the matter such as a closing, mediation, arbitration, or trial, that Firm is entitled to receive an Engagement Deposit sufficient to cover the reasonably estimated fees and costs of any such activity. At the conclusion of the matter and after all fees and costs have been paid by Client, the Client is entitled to a refund of any unused portion of the Engagement Deposit.
  5. Fees and Expenses.
    - 5.1 Fee Estimate. Because the course of a project can sometimes be unpredictable, we cannot estimate with any reasonable accuracy the nature, extent and ultimate cost of the legal services to be performed. Therefore, we have not made any commitment as to the maximum fee or as to the outcome of this matter.
    - 5.2. Hourly Rates. Client will pay the Firm the following hourly rates for services: \$535 for Senior Attorneys (note: the Firm does not use the designation “Partner” to describe its more experienced attorneys, but rather “Senior Attorney”), \$435 for Associates, and \$295 for Paralegals. Firm shall record time to the nearest one-tenth hour invested in providing services to Client, including telephone calls, meetings and conferences, and time traveling to and from meetings and hearings on behalf of Client.

The Firm's hourly rates are subject to periodic adjustment. Normally, they are adjusted no more than once each year and this adjustment, if it occurs, usually takes place in the first quarter of each year. Client's notification of any such adjustment in rates will appear in the monthly invoice for services generated by the Firm. There will be no other notice of such an adjustment.

- 5.3 Lead Attorney. Unless we each later agree, I will be the lead attorney for this engagement. My hourly rate is \$535. As needed for reasons such as expediency, expertise and efficiency, I will involve other attorneys in the Firm on this engagement at the billing rates set forth in Paragraph 5.2 above. While Firm takes all prudent steps to minimize the number of attorneys who perform services on Clients' behalf, Firm will charge for attorney conferences and supervision where appropriate to ensure that the work is done properly and thoroughly.
- 5.4 Reserved.
- 5.5 Expenses. Client will pay directly or reimburse Firm for all out-of-pocket expenses reasonably incurred in connection with this engagement. Such expenses include, without limitation, filing fees, database research, reporter fees, witness fees, bond fees, court costs, long distance telephone, electronic discovery or due diligence vendor fees, delivery, copying, travel, and secretarial or staff overtime if needed. When evening or weekend work is required, we may incur actual costs in using our office space, including after-hours HVAC charges, which will be reimbursed by the client. Client agrees that Firm may require Client to sign separate engagement agreements with vendors including but not limited to expert witnesses or court reporters wherein vendors will directly invoice and be paid by Client. In cases where the Firm may retain the services of outside vendors (e.g., expert witnesses, court reporters, etc.) on Client's behalf, Client agrees that it is solely responsible for payment of their fees and expenses, and that Firm may require Client to advance money to the Firm to engage and pay such vendors.
6. Periodic Invoicing and Payment. Approximately once a month, Firm will submit to Client an invoice for fees for services and expenses. Invoices shall set forth the date, time and brief itemized description of the services rendered and the initials of the professional rendering the service, as well as the billing professional's hourly rate. Costs and expenses will be summarized by category. Invoice amounts shall be paid by Client within 15 days of the date of the invoice ("due date"). After the date due, a late payment charge will be added to any unpaid balance at the rate of 18 percent per year (1.5 percent per month). If

Firm fails to initially demand the late payment charge, this shall not waive the Firm's right to demand such a charge at a later date. It is explicitly understood by Client that Firm is authorized by Client to halt work on all matters for Client if any invoice has not been paid by the due date. If Client has any billing questions or concerns, Stacy Scott is the head of the billing department and can be reached directly at (310) 788-3612.

7. Termination, Limitations, Assignment, and Amendment. Client may terminate this Engagement Letter at any time by giving the Firm reasonable advance written notice. Firm may terminate this Engagement Letter (i) for cause, (ii) for any reason permitted under California law, or (iii) if Client fails to make any payment to Firm when due. Upon termination of the engagement, Firm will (i) where required, take such steps as it deems appropriate to formally withdraw from pending proceedings, if any, in which it may be counsel of record, (ii) provide reasonable transitional assistance to new counsel, if any, designated by Client, and (iii) thereafter, at Client's direction, refund any remaining balance of Client's Engagement Deposit. Firm may, at its discretion, bill Client for the cost of duplicating any or all documents from the Client's file.

Firm may assign this Engagement Letter and all rights and obligations under it to any entity that succeeds in whole or in part to the professional activities now conducted by Firm.

This Engagement Letter reflects the standard terms upon which Firm currently makes its services available to clients. In the event that such standard terms are modified at any future date, Firm may amend this Engagement Letter to reflect such modified standard terms in accordance with the following procedures. First, Firm must give Client at least 30 days' advance written notice by certified or registered mail, return receipt requested ("30-day notice period") of its intent to amend this Engagement Letter, including with such written notice a copy of the proposed amended terms of engagement (the "Amended Engagement Letter"). Second, if Client agrees and desires to receive services from Firm under the Amended Engagement Letter following the 30-day notice period, no further action evidencing agreement need be taken by either party and the Amended Engagement Letter shall automatically become effective at the end of the 30-day notice period. Third, if Client does not agree to or desire to receive services from Firm following the 30-day notice period pursuant to the terms of the Amended Engagement Letter, Client may at any time prior to the end of the 30-day notice period exercise Client's existing right to unilaterally terminate this engagement by written notice to the Firm pursuant to the first paragraph of this section and Firm shall thereby discharge its termination responsibilities.

8. Retention of Files for Five Years. The Firm's document retention policy is guided by Formal Opinion No. 475 of the Los Angeles County Bar Association. Under these guidelines, client files may be destroyed five years after a matter is closed unless the client makes other arrangements. Therefore, unless Client informs the Firm in writing to the contrary, the Firm may destroy Client's files five years after this engagement ends.

9. Arbitration.

- 9.1 We appreciate the opportunity to serve as Client's attorneys and look forward to having a productive and mutually rewarding relationship. If Client becomes dissatisfied with our charges or services, we encourage Client to bring it to our attention immediately. We believe that most problems of this nature can be resolved through good faith discussion.
- 9.2 Arbitration of All Disputes. In the event that we cannot resolve a dispute through discussion, we believe that binding arbitration offers a more expeditious and less expensive alternative than court action. Therefore, any dispute between Client and the Firm related in any way to the Firm's work or this Engagement Letter, including but not limited to Firm's demand for payment of its fees under this Engagement Letter, shall be submitted to final and binding arbitration on written request of either Client or the Firm after service of that request on the other party. The arbitration shall be conducted pursuant to California Code of Civil Procedure section 1280 et seq. The place of the arbitration shall be Orange County or Los Angeles County, California. The arbitration shall be before a retired judge or justice affiliated with the Judicial Arbitration and Mediation Service (JAMS), pursuant to California Code of Civil Procedure section 1280 et seq. If Client and the Firm are unable to agree on a retired judge or justice affiliated with JAMS, each party will name one retired judge or justice and the two named persons will select a neutral judge or justice affiliated with JAMS, who will act as the sole arbitrator. Each party is entitled to appear at the arbitration hearing and may be represented by counsel.

Each party will bear their own attorneys' fees and costs in any dispute, arbitration or litigation.

- 9.3 Special Provisions for Arbitration of Fee Disputes. In the case of disputes regarding payment of the Firm's fees and/or costs, the dispute shall proceed to final and binding arbitration as set forth in Paragraph 9.2, but only after non-binding arbitration has been conducted pursuant to the

provisions of California Business & Professions Code section 6200 et seq., unless those provisions are not timely and properly invoked.

The final and binding arbitration of a fee and/or cost dispute shall proceed as set forth in Paragraph 9.2, except that the matter shall be heard by the arbitrator within 30 days of a party's initiation of the arbitration with JAMS, and the arbitration will be presented via letter briefing and argument and/or live testimony at a one-day, in-person hearing. If Client refuses to participate in arbitration, then Client agrees and consents that arbitration may proceed against Client by default prove-up hearing without prior court order. Said arbitration may occur through any Southern California arbitration company in front of any competent arbitrator selected by Firm. If the arbitrator finds in favor of Firm and against the Client regarding the payment of fees, the Client shall pay Firm the fees awarded pursuant to the arbitration within ten days of the arbitrator's ruling. If Client refuses to pay all attorney's fees awarded within ten days, Client agrees to stipulate to Firm's withdrawal from representation of the Client, and Client agrees that it shall remain bound by the arbitrator's award.

- 9.4 Client understands that, by signing this Engagement Letter, Client is agreeing to binding arbitration of any dispute, claim or controversy regarding any of our past, present or future services as described in this letter, and is waiving any right it may have to a trial by jury and possibly other substantial rights.**
10. Governing Law. This Engagement Letter shall in all respects be interpreted, enforced and governed by the laws of the State of California.
11. Marketing. The Firm includes in its marketing materials references to some of our clients and some of the publicly disclosed transactions and other legal matters that we have handled for them. These references may appear on our website (tocounsel.com), in our printed marketing materials, and in advertising in industry and news publications. With respect to industry and news publications, prior to publication, we notify those clients that may be referenced in a printed advertisement. We would like to be able to include your company in these materials, and may include your company name and logo(s), and non-confidential information concerning transactions and other legal matters we have handled for you, on our website and in our marketing, advertising and informational materials. By signing this letter, you agree to these terms, although you may withdraw this consent at any time by informing us with an email sent to Kevin A. Dorse, Managing Partner ([kdorse@tocounsel.com](mailto:kdorse@tocounsel.com)).



12. Allowed Adverse Representation. Firm is a general service law firm that Client recognizes has represented, now represents, and will continue to represent numerous clients (including without limitation Client's or its affiliates' debtors, creditors, and direct competitors), nationally and internationally, over a wide range of industries and businesses and in a wide variety of matters. Given this, without a binding conflicts waiver, conflicts of interest might arise that could deprive Client or other clients of the right to select Firm as their counsel.

Thus, as an integral part of the engagement, Client agrees that Firm may, now or in the future, represent other entities or persons, including in litigation, adversely to Client or any affiliate on matters that are not substantially related to (a) the legal services that Firm has rendered, is rendering, or in the future will render to Client under the engagement and (b) other legal services that Firm has rendered, is rendering, or in the future will render to Client or any affiliate (an "Allowed Adverse Representation").

Client also agrees that it will not, for itself or any other entity or person, assert that either (a) the Firm's representation of Client or of one or more Associated Parties in any past, present, or future matter or (b) the Firm's actual, or possible, possession of confidential information belonging to Client or any Associated Party is a basis to disqualify the Firm from representing another entity or person in any Allowed Adverse Representation. Client further agrees that any Allowed Adverse Representation does not breach any duty that the Firm owes to Client.

13. Email Communications. The Firm routinely uses internet electronic mail to communicate with its clients. While electronic mail is generally considered to be confidential and reliable, using it creates some risk that such communications may be intercepted by, or otherwise disclosed to, third parties. Client assumes all risks associated with using internet electronic mail to communicate with Firm. If Client considers certain communications to be of such a nature that this risk is unacceptable, Client must advise Firm in writing and request not to communicate by electronic mail or to request the use of data encryption for such communications. In such cases, Client will be responsible for all additional costs associated with using alternative means of communication. Should the need for encryption be identified, Firm will coordinate with Client's Information Technology personnel to implement the required protocol.
14. Audit Letter Issues. In response to your possible requests to provide information to your auditors, our policy is to comply with the American Bar Association Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information regarding the scope and content of such responses, except when that policy is clearly inapplicable. Audit responses are prepared as a

professional service to the Client for which Client will compensate Firm based on the hourly rates set forth in this engagement agreement.

15. HIPAA Compliance. It is the policy of the Firm to comply with the Health Insurance Portability and Accountability Act (HIPAA). In compliance with the HIPAA Security Rule, the Firm has put in place appropriate administrative, technical and physical safeguards to protect the integrity, confidentiality and availability of both paper and electronic protected health information (PHI) that is created, received or managed from the Firm's clients and handled by the Firm's employees and covered entities. The Firm maintains a security program that addresses the domains of commonly accepted security frameworks. If Client requires additional safeguards for protected health information, Client must advise Firm in writing. Firm will coordinate with Client's information technology personnel to implement the required protocol at Client's expense.

By signing below, Client agrees to the above terms and acknowledges receipt of a copy of this Engagement Letter.

Dated:

Client: CONTRA COSTA  
TRANSPORTATION AUTHORITY

Dated:

THEODORA ORINGHER PC

\_\_\_\_\_  
TIMOTHY HAILE

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THEODORA ORINGHER PC

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of