

## AGREEMENT FOR SPECIALIZED ATTORNEY SERVICES

**THIS AGREEMENT FOR SPECIALIZED ATTORNEY SERVICES** ("Agreement") is made and entered by and between the **COUNTY OF MONTEREY** ("COUNTY"), on behalf of Natividad Medical Center ("Natividad"), COUNTY's owned and operated acute care facility, and **LAW OFFICES OF KELLY S. WACHS**, a California professional corporation, ("ATTORNEY").

### RECITALS

This Agreement is made with respect to the following facts:

- A. The COUNTY Board of Supervisors may contract for legal services for the COUNTY when it is necessary and appropriate that special legal services be performed for the COUNTY and its officers and employees.
- B. COUNTY desires to retain ATTORNEY to provide legal services to the COUNTY with respect to the provision of employment-based immigration legal services.
- C. ATTORNEY is specially trained, experienced, expert, and competent to perform the legal services required.

NOW, THEREFORE, the parties agree as follows:

#### **1. EFFECTIVE DATE AND TERM**

1.01 This Agreement shall be effective as of April 10, 2021, and shall terminate on June 30, 2024, unless earlier terminated as set forth below. This Agreement may be amended from time-to-time upon the written mutual agreement of the parties.

#### **2. SERVICES TO BE PERFORMED**

2.01. Services to be Performed by ATTORNEY. COUNTY hereby hires ATTORNEY to render independent legal services to COUNTY, subject to the terms of this Agreement. The primary attorney providing services hereunder shall be Kelly S. Wachs, although other attorneys in the firm may be utilized on an as-needed basis. ATTORNEY shall perform said services faithfully and well, when needed by and as requested by COUNTY. The services to be performed under this Agreement shall consist of providing advice to COUNTY regarding employment-based immigration legal services. A specific scope of work is enclosed as Exhibit A and incorporated herein by reference. ATTORNEY shall perform only such services as are within the expertise of the individual attorneys on ATTORNEY's staff, and ATTORNEY shall notify COUNTY promptly if any work requested is beyond such expertise. ATTORNEY shall diligently provide such legal services as are necessary and approved by COUNTY in a professional, timely manner. ATTORNEY shall perform all of its services with due regard to ethical guidelines and the client's interests.

2.02. No Conflicts of Interest. ATTORNEY does not have an actual or potential interest adverse to COUNTY nor does ATTORNEY presently represent a person or firm with an interest adverse to COUNTY with respect to the matter accepted.

2.03. Direction from and Consultation with County Counsel. ATTORNEY shall coordinate and consult with, and receive direction from County Counsel in providing services under this Agreement. The primary attorneys from the County Counsel's Office working with ATTORNEY with respect to this agreement shall be Stacy L. Saetta, although other deputies in the County Counsel's Office may be designated from time-to-time to work on the matter. Unless otherwise directed by County Counsel, if ATTORNEY prepares any court pleadings or COUNTY documents in the performance of services under this Agreement, including but not limited to COUNTY resolutions, staff reports, and memoranda to the Board of Supervisors, Natividad Board of Trustees, or other County legislative or advisory bodies, ATTORNEY shall provide such drafts to County Counsel for review and consultation prior to finalizing any such drafts.

2.04. Reporting Requirements. ATTORNEY shall provide COUNTY with such reports as may be requested by COUNTY in connection with the performance of services hereunder.

2.05. Closing Report. If this Agreement is terminated as set forth herein, or if for any reason ATTORNEY is no longer retained by COUNTY with respect to this matter, ATTORNEY shall submit a Closing Report describing the status of the matter, setting forth any information needed by another attorney to handle the matter. The Closing Report will be expeditiously submitted, together with necessary executed Substitutions of Attorneys, to County Counsel.

2.06. Oral Reports. ATTORNEY shall immediately report orally to County Counsel, in person or by telephone, any event or discovery which is of an urgent nature or requires the immediate attention of COUNTY. ATTORNEY shall promptly follow up such oral report with a Status Report or Status Update reiterating such event or discovery. ATTORNEY shall immediately advise County Counsel in writing if an actual or potential conflict of interest arises or is discovered.

### 3. COMPENSATION

3.01. Compensation to Attorney. As consideration for ATTORNEY's performance of services under this Agreement, COUNTY shall pay to ATTORNEY the fees and necessary expenses calculated in accordance with, as applicable, the fixed fees or hourly rate and expense method of billing. Fees and expenses are to be charged in accordance with the terms of this agreement and, where applicable, in accordance with the hourly rates for partners, associates, and paralegals, if any, of ATTORNEY and any other terms governing fees set forth in Exhibit B, attached hereto and incorporated herein by reference. COUNTY will not pay ATTORNEY for travel time.

3.02. Budget. ATTORNEY and COUNTY agree that the initial budget for services pursuant to this Agreement shall not exceed the sum of \$100,000.00. ATTORNEY and COUNTY shall revise the budget as necessary to reflect additional fees and expenses required for services, and this Agreement shall be amended accordingly to provide for such budget increases. Proposed budget increases must be approved by COUNTY before increased charges or expenditures are accrued. ATTORNEY shall notify the County Counsel in writing when fifty percent (50%) and seventy-five percent (75%) of the Budget has been spent. If COUNTY does not approve additional fees and expenses required by the project beyond the initial and revised budget, COUNTY hereby consents to ATTORNEY's withdrawal as co-counsel in any cases.

3.03. Maximum Liability. The maximum amount of COUNTY's liability over the full term of this Agreement (including all items paid under paragraph 3.04) shall include the initial budget amount and any revised budget amount as provided in paragraph 3.02.

3.04. Reimbursement for Expenses.

(a) COUNTY shall reimburse ATTORNEY for all actual and necessary expenses for the following items:

- (1) Deposition and transcript fees;
- (2) Filing fees;
- (3) Postage;
- (4) Consultant and expert witness fees;
- (5) Photocopying;
- (6) Computerized legal research; and
- (7) Other expenses when approved in advance.

(b) COUNTY will not reimburse ATTORNEY for any non-attorney staff time or overtime for secretarial, clerical, or word processing costs connected with preparing required status reports. COUNTY will not pay ATTORNEY for time spent to provide information in response to COUNTY audits or audits by COUNTY's external auditors, for ATTORNEY's travel time; or for work not authorized by COUNTY.

3.05. Monthly Claims by Attorney. Not later than ten days after the last day of each month, ATTORNEY shall submit to COUNTY a claim, on a form or in a format approved by COUNTY, setting forth in detail any fixed fees, hourly time, and expense items incurred by ATTORNEY during the previous month, for which payment is sought, and setting forth such other information pertinent to the claim as COUNTY may require. The fees charges shall be calculated correctly, contain no charges previously billed, and be consistent with the approved fee and expense schedule set forth in Exhibit B. The following information, to the extent applicable to the services performed, shall be set forth accurately in or attached to the billing invoice:

(a) Case name, court number, County Counsel file number or other identification of subject matter for which ATTORNEY rendered services;

(b) Staffing level, hourly rate, and detailed time and activity descriptions for each attorney, paralegal, and/or planner, including but not limited to time spent with respect to conferences, correspondence, telephone calls, hearings, meetings, research, project review, depositions, document filing, and trials; and

(c) Invoices supporting all outside costs.

3.06. Payment of Monthly Claims by COUNTY. COUNTY, through the Office of the County Counsel, shall review ATTORNEY's claim and approve such claim either in the requested amount or in such other amount as County Counsel approves in conformity with this Agreement. County Counsel shall promptly submit such claim to Natividad. Natividad shall certify ATTORNEY's claim, either in the requested amount or in such other amount as Natividad approves in conformity with this Agreement, and thereafter County Auditor-Controller shall pay the balance of the certified claim not later than 30 days after County Auditor-Controller's receipt from Natividad of the certified claim.

3.07. Disputed Payment Amount. If for any claim COUNTY certifies a lesser amount than the amount requested, and if ATTORNEY desires to dispute the amount so certified, ATTORNEY must submit a written notice of protest to COUNTY within 20 days after ATTORNEY's receipt of the certification. The parties shall then promptly meet to review the dispute and resolve it on a mutually acceptable basis. No court action may be taken on such dispute until the parties have met and attempted to resolve the dispute in person.

3.08. Conflicting Payment Provisions. The provisions regarding payment set forth in this portion of the Agreement prevail over any conflicting provisions that may be found in any of the exhibits to this Agreement.

#### 4. INDEMNIFICATION AND INSURANCE

4.01. Indemnification. ATTORNEY shall indemnify, defend, and hold harmless the County of Monterey and the COUNTY, and their officers, agents, and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, ATTORNEY'S and/or its agents', employees' or subcontractors' negligent acts or omissions in the performance of this Agreement, excepting only loss, injury or damage caused by the gross negligence or willful misconduct of COUNTY or the County of Monterey and their officers or employees. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the COUNTY and the County of Monterey. The ATTORNEY shall reimburse the COUNTY and the County of Monterey for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the ATTORNEY is obligated to indemnify, defend and hold harmless the COUNTY and the County of Monterey under this Agreement.

4.02. Evidence of Coverage. Prior to commencement of this Agreement, ATTORNEY shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the

certificate. In addition, ATTORNEY upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the COUNTY, unless otherwise directed. This approval of insurance shall neither relieve nor decrease the liability of ATTORNEY.

4.03. Qualifying Insurers. All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by COUNTY.

4.04. Insurance Coverage Requirements. Without limiting ATTORNEY's duty to indemnify, ATTORNEY shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

(a) Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached as Exhibit C; subject to approval).

(b) Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence..

Modification (Justification attached as Exhibit C; subject to approval).

(c) Workers' Compensation Insurance, if ATTORNEY employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Modification (Justification attached as Exhibit C; subject to approval).

(d) Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the ATTORNEY shall, upon the expiration or earlier termination of the Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Modification (Justification attached as Exhibit C; subject to approval).

(e) Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to COUNTY and issued and executed by an admitted insurer

authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date ATTORNEY completes its performance of services under this Agreement.

Each liability policy shall provide that COUNTY shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for ATTORNEY and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the COUNTY and its officers, agents, and employees as Additional Insureds with respect to liability arising out of the ATTORNEY's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the COUNTY and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the ATTORNEY's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by COUNTY, ATTORNEY shall file certificates of insurance with the COUNTY showing that the ATTORNEY has in effect the insurance required by this Agreement. The ATTORNEY shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

ATTORNEY shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by COUNTY, annual certificates to COUNTY. If the certificate is not received by the expiration date, COUNTY shall notify ATTORNEY and ATTORNEY shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by ATTORNEY to maintain such insurance is a default of this Agreement which entitles COUNTY, at its sole discretion, to terminate this Agreement immediately.

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5. **TERMINATION**

5.01. **Termination by COUNTY.** COUNTY may terminate this Agreement at any time for its convenience and without cause. Upon such termination, ATTORNEY shall promptly comply with the provisions of paragraph 2.05. COUNTY shall pay to ATTORNEY all sums then due and owing for services performed through the effective date of the termination, subject to all other provisions of this Agreement.

5.02. **Termination by ATTORNEY.** ATTORNEY may terminate this agreement at any time upon giving thirty (30) days written notice to COUNTY. Upon such termination, and unless COUNTY notifies ATTORNEY in writing that it will not need a substitute co-counsel, ATTORNEY shall continue to provide such services as COUNTY may require until such time as COUNTY is able to identify a substitute co-counsel to render necessary services. COUNTY shall not unreasonably delay in identifying such substitute co-counsel or in providing written notice that it will not require a substitute co-counsel. ATTORNEY shall also immediately comply with the provisions of paragraph 2.05. COUNTY shall pay to ATTORNEY all sums due and owing for services performed through the effective date of the termination, subject to all other provisions of this Agreement.

6. **GENERAL PROVISIONS**

6.01. **Nonassignment.** ATTORNEY shall not assign or transfer this Agreement, or any part thereof, without the written consent of COUNTY, nor shall ATTORNEY assign any monies due or to become due to ATTORNEY hereunder without the previous written consent of COUNTY.

6.02. **Independent Contractor.** Nothing in this Agreement shall be construed or interpreted to make ATTORNEY anything but an independent contractor and in all ATTORNEY's activities and operations pursuant to this Agreement, ATTORNEY shall for no purposes be considered an employee or agent of COUNTY.

6.03. **Authority to Bind COUNTY.** It is understood that ATTORNEY, in the performance of any and all duties under this Agreement, has no authority to bind COUNTY to any agreements or undertakings with respect to any and all persons or entities with whom ATTORNEY deals in the course of business.

6.04. **Nondisclosure of Information.** ATTORNEY shall not disclose, without express written consent of COUNTY, any information relating to COUNTY business which has been submitted by COUNTY to ATTORNEY pursuant to the services to be rendered pursuant to this Agreement. In the event that this Agreement is terminated, ATTORNEY shall immediately return to COUNTY all papers, documents and the like belonging to COUNTY.

6.05. Notices.

(a) Notices permitted or required to be given to the respective parties under this Agreement shall be deemed given (1) when personally delivered to COUNTY care of the Office of the County Counsel or to ATTORNEY's principal partner contact; (2) when personally delivered to the party's principal place of business during normal business hours (i.e., to the office of the Monterey County Counsel in Salinas, California, or to ATTORNEY's office), by leaving the notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by fax machine to the other party, to the fax number indicated below; or (4) 3 days after the notice is deposited in the U.S. mail (by first class, certified, registered, or express mail), with postage fully prepaid, addressed to the party as indicated below.

(b) Notices mailed to the parties shall be addressed as follows:

To COUNTY:

Stacy L. Saetta  
Deputy County Counsel  
Office of the County Counsel  
County of Monterey  
168 West Alisal Street, Third Floor  
Salinas, California 93901  
Phone Number: (831) 755-5045  
Fax Number: (831) 755-5283

To ATTORNEY:

Kelly S. Wachs  
Law Office of Kelly S. Wachs, P.C.  
870 Soquel Drive, Suite130  
Aptos, CA 95003  
Phone Number: (831) 661-5210  
Fax Number: (831) 661-5211

(c) The mailing addresses and fax numbers specified in paragraph (b) may be changed by either party, by giving notice to the other in the manner provided herein.

6.06. Subcontracting. ATTORNEY shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without prior written approval of COUNTY. Any and all subcontracts shall be subject to the provisions contained in this Agreement.

6.07. Modifications. This Agreement may be modified or amended only by written agreement of the parties. No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the parties hereto.

6.08. Nonwaiver. No covenant or condition of this Agreement can be waived except by the written consent of COUNTY. Forbearance or indulgence by COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by ATTORNEY. COUNTY shall be entitled to invoke any remedy available to COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.



6.09. Sole Agreement. This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent modification in writing, signed by the parties hereto.

6.10. Venue. If any party herein initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that venue thereof shall be the County of Monterey, State of California.

6.11. Construed Pursuant to California Law. The parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California.

6.12. Exhibits. The following exhibits are attached hereto:

Exhibit A - Scope of Services


Exhibit B - Fees and Expenses

Exhibit C – Justification for Insurance Modification

IN WITNESS WHEREOF, COUNTY and ATTORNEY have caused this Agreement to be executed:

DATED: 5/13/21

COUNTY

By   
Leslie J. Girard, Esq.  
County Counsel-Risk Manager  
County of Monterey

DATED: 4/29/2021

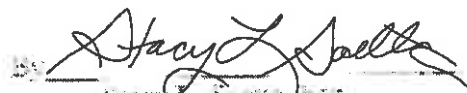
LAW OFFICE OF KELLY S. WACHS

By   
Kelly S. Wachs, Esq.

APPROVED AS TO FORM AND LEGALITY

LESLIE J. GIRARD  
County Counsel-Risk Manager

DATED: 4/29/2021

By   
Stacy L. Sacca, Esq.  
Deputy County Counsel

## EXHIBIT A

### SCOPE OF SERVICES

#### I. RECITALS

ATTORNEY shall provide independent legal services to the COUNTY consisting of providing advice to COUNTY with respect to employment-based immigration legal services, as more fully described below.

1. Preparation of H-1B Petitions (including new H-1Bs and extension of H-1Bs);
2. J-1 Waivers and Associated H-1B petitions for Physicians, as outlined in Section III.A. to be filed with an appropriate and eligible Interested Government Agency (IGA) including the California Dept. of Health) and processed through US Department of State (DOS) and the USCIS;
3. J-1 Waivers and Physician National Interest Waivers and Adjustment of Status;
4. TN-1 Visas for nurses;
5. O-1 visas for Aliens of Extraordinary Ability in the Sciences;
6. Schedule A PERMs for Nurses and Physical Therapists and Adjustment of Status;
7. Preparation of PERM cases (green card) including I-140 and Adjustment of Status.

#### II. SCOPE OF WORK

##### A. NEW H-1B PETITIONS

- a. ATTORNEY shall work with COUNTY to obtain a prevailing wage determination. Prior to the filing of an H-1B petition, it is required that a determination of the prevailing wage be made, either through a request of the Department of Labor's National Processing Center (NPC) or through an alternative source, such as an independent, published, authoritative wage survey. COUNTY understands that the decision to rely on the NPC wage or independent wage survey rests with COUNTY, and ATTORNEY agrees to work with COUNTY on this matter.
- b. Once the prevailing wage determination is received and approved by COUNTY, ATTORNEY shall immediately file the LCA with the Department of Labor (DOL).
- c. Once the LCA has been certified by the DOL, ATTORNEY agrees to immediately file the H-1B with the USCIS.
- d. Preparing and filing an H-1B Visa Petition with the USCIS. This fee includes only one such petition and application. If the H-1B is denied, there shall be additional fees and expenses involved in challenging the denial. Additional fees and expenses shall be agreed upon by ATTORNEY and COUNTY before ATTORNEY engages in further work beyond the first adjudication of the petition.
- e. ATTORNEY shall follow-up with the USCIS to ensure adjudication of the H-1B visa petition at the earliest possible time.

**B. H-1B STATUS RENEWALS (H-1B EXTENSIONS)**

- a. ATTORNEY shall initiate the H-1B extension process at least six (6) months prior to the expiration of the H-1B status, (application renewal process must begin to renew the H-1B status for one to three years), upon approval of COUNTY.
- b. Three (3) months prior to the expiration of an H-1B visa, the application process must begin to submit petition to USCIS for an H-1B sponsored candidate.

**C. J-1 WAIVERS AND H-1B PETITIONS-PHYSICIANS ONLY**

- a. ATTORNEY shall work with COUNTY to apply for a J-1 waiver on behalf of a J-1 clinical physician for the COUNTY.
- b. For each identified clinical physician, ATTORNEY shall prepare and file one J-1 waiver application with California (CA) Dept. of Health. COUNTY understands the CA Dept. of Health decides whether a J-1 waiver will be issued and ATTORNEY agrees to work with COUNTY on this matter. This fee, as outlined in the Schedule of Immigration Fees "J-1 Waiver Application + H-1B Petition" includes only one such application. If the waiver application is not one of the thirty (30) available slots ATTORNEY shall prepare and file a PNIW (I-140 petition) and an application for Adjustment of Status to obtain an employment authorization as outlined in Section III.D.b. If waiver application is denied, there shall be additional fees and expenses involved in challenging the denial. The additional fees and expenses shall be considered outside the scope of this contract and shall require a written amendment of this Agreement. Additional fees and expenses shall be agreed upon by ATTORNEY and COUNTY before ATTORNEY engages in further work beyond the first adjudication of the J-1 waiver petition.
- c. Once the J-1 waiver application is approved by the CA Dept. of Health, the J-1 waiver recommendation will be sent to the U.S. Department of State ("DOS")(1-2 months).
- d. ATTORNEY shall monitor and follow-up with DOS for its recommendation (1-2 months).
- e. Once the waiver is approved by the DOS, ATTORNEY agrees to follow-up with the USCIS to ensure adjudication of the J-1 Waiver at the earliest possible time (1-2 months).
- f. Upon receipt of the Waiver, ATTORNEY shall proceed with the H-1B petition as outlined in Section III.A. above.

**D. PHYSICIAN NATIONAL INTEREST WAIVER ("PNIW") I-140 AND ADJUSTMENT OF STATUS (AOS)**

- a. ATTORNEY shall work with COUNTY to apply for PNIW (I-140) petition on behalf of a J-1 clinical physician for COUNTY.
- b. ATTORNEY, upon approval by COUNTY, shall prepare and file a PNIW (I-140 petition) and Adjustment of Status to obtain work authorization (EAD) if no J-1 Waivers are available from the batch of 30 slots that are issued every October.
- c. ATTORNEY shall prepare and file an application for permanent residence (I-485/I-765/I-131) with USCIS with approval by COUNTY.
- d. COUNTY understands that an approval for a J-1 Waiver relies on the CA Dept. of Health's support and at least a five (5)-year commitment and employment contract from the COUNTY.
- e. This fee includes only one such application for each COUNTY J-1 physician. If the PNIW (I-140) petition is denied, there shall be additional fees and expenses involved in challenging the

denial. Additional fees shall be agreed upon by ATTORNEY and COUNTY before ATTORNEY engages in further work beyond the first adjudication of the petition.

- f. ATTORNEY shall monitor and follow up with the USCIS for I-140 petition status and ATTORNEY agrees to follow-up with the USCIS to ensure adjudication of I-140 (10-12 months) and work permit (5-6 months) at the earliest possible time.

**G. TN VISAS FOR NURSES**

- a. ATTORNEY shall work with COUNTY to secure a TN visa for nurses who are nationals of either Mexico or Canada.
- b. COUNTY understands that the Applicants must first meet all Visa Screen and California State licensing requirements prior to applying for a TN Visa.
- c. COUNTY understands that a TN visa can be filed as a change of status in the US or at a border port-of-entry.
- d. This fee includes only one such application for each TN Applicant. If the TN is denied, there shall be additional fees and expenses involved in challenging the denial. Additional fees shall be agreed upon by ATTORNEY and COUNTY before ATTORNEY engages in further work beyond the first adjudication of the petition.

**F. SCHEDULE A GREEN CARDS FOR REGISTERED NURSES AND PHYSICAL THERAPISTS**

- a. ATTORNEY shall work with COUNTY to file an I-140 visa petition for an RN or a Physical Therapist who qualifies under the applicable regulations.
- b. ATTORNEY shall work with COUNTY to obtain a prevailing wage determination. Prior to the filing of a Schedule A case, it is required that a determination of the prevailing wage be made, either through a request of the Department of Labor's National Processing Center (NPC) or through an alternative source, such as an independent, published, authoritative wage survey. COUNTY understands that the decision to rely on the NPC wage or independent wage survey rests with COUNTY, and ATTORNEY agrees to work with COUNTY on this matter. COUNTY agrees to provide the Collective Bargaining Agreement (CBA) for any unionized positions so that this can be used to determine the prevailing wage. Once the prevailing wage determination is received and approved by COUNTY, ATTORNEY shall immediately file the I-140 with the USCIS.
- c. At the time of filing the I-140 ATTORNEY and COUNTY will evaluate the case to determine if the employee is eligible to concurrently file for adjustment of status (This will be based on country of birth and visa availability).
- d. This fee includes only one such application for each RN or Physical Therapist. If the(I-140) petition is denied, there shall be additional fees and expenses involved in challenging the denial. Additional fees shall be agreed upon by ATTORNEY and COUNTY before ATTORNEY engages in further work beyond the first adjudication of the petition.
- e. ATTORNEY shall monitor and follow up with the USCIS for I-140 petition status and ATTORNEY agrees to follow-up with the USCIS to ensure adjudication of I-140 (10-12 months) and work permit (5-6 months) at the earliest possible time.

**G. O-1 VISA**

- a. ATTORNEY will work with COUNTY to file an O-1 visa for an Alien of Extraordinary Ability in the Sciences. If the O-1 Visa is denied, additional fees shall be agreed upon by ATTORNEY and COUNTY before ATTORNEY engages in further work beyond the first adjudication of the petition.

**H. PERM CASE (Green Card for those not falling under the Physician NIW or Schedule A)**

- a. ATTORNEY shall work with COUNTY to obtain a prevailing wage determination prior to the filing of a PERM case. It is required that a determination of the prevailing wage be made, either through a request of the Department of Labor's National Processing Center (NPC) or through an alternative source, such as an independent, published, authoritative wage survey. COUNTY understands that the decision to rely on the NPC wage or independent wage survey rests with COUNTY, and ATTORNEY agrees to work with COUNTY on this matter. COUNTY agrees to provide the Collective Bargaining Agreement (CBA) for any unionized positions so that this can be used to determine the prevailing wage. Once the prevailing wage determination is received and approved by COUNTY, ATTORNEY shall immediately help COUNTY to start recruitment (30 days of recruitment and a 30-day quiet period are required prior to submitting the PERM application to the Dept. of Labor).
- b. ATTORNEY shall work with COUNTY to establish a good recruitment plan. COUNTY is responsible for registering for Cal-jobs and PERM On-line. ATTORNEY will provide links to both of these sites. ATTORNEY utilizes an ad agency for all recruitment. ATTORNEY will pay for recruitment which will be reimbursed by COUNTY according to their payment and reimbursement guidelines. COUNTY must monitor all recruitment and invite for an interview any applicant who meets the minimum qualifications. COUNTY is responsible for tracking applicants and keeping a recruitment report. ATTORNEY is not allowed to have any influence over the recruitment process.
- c. Once recruitment has been completed, ATTORNEY will work with COUNTY to file the PERM application (6-8 months processing time).
- d. Once the PERM case is approved, ATTORNEY will work with COUNTY to file the I-140 (Visa petition) on behalf of the employee/applicant. At this time, ATTORNEY and COUNTY will evaluate whether or not the applicant is eligible to concurrently file for Adjustment of Status. This will be based on the level of education required for the position and the applicant/employee's country of birth and the availability of visas.
- e. This fee includes only one such application for PERM/Adjustment of Status. If the PNIW (I-140) petition or the Adjustment of Status is denied, there shall be additional fees and expenses involved in challenging the denial. Additional fees shall be agreed upon by ATTORNEY and COUNTY before ATTORNEY engages in further work beyond the first adjudication of the petition.
- f. ATTORNEY shall monitor and follow up with the USCIS for I-140 petition status and ATTORNEY agrees to follow-up with the USCIS to ensure adjudication of I-140 /AOS (10-12 months) and work permit/permission to travel (5-6 months) at the earliest possible time.

## **EXHIBIT B**

### **FEEES AND EXPENSES**

COUNTY shall pay ATTORNEY the fees and necessary expenses for services performed under this Agreement. Negotiations for changes in attorney fees and non-USCIS filing fee expenses shall commence at least ninety (90) days before the end of the calendar year. Changes in attorney fees and non-USCIS filing fee expenses are not binding unless mutually agreed upon in a writing signed by the parties. Changes in USCIS filing fees specified below may change at any time, and ATTORNEY shall give actual notice to COUNTY of any changes in USCIS filing fees by notifying Natividad Human Resources and the Office of the County Counsel.

#### **2021 MONTEREY COUNTY ONLY—OVERVIEW OF ESTIMATED FEES EMPLOYMENT-BASED IMMIGRANT & NONIMMIGRANT VISA PETITIONS**

All fees are due and payable, in accordance with the fee agreement, to: Law Office of Kelly S. Wachs

#### **IMMIGRANT PETITIONS**

##### **PERM Labor Certification Including I-140 but not Including Adjustment of Status**

**Legal Fee:**

Legal fee: \$5500.00

Administrative fee: \$350.00

Total Estimated Fee: \$5850.00

**The fees below will become due following the completion of each phase (please note this also applies to Schedule A Nurses and Special Handling Cases as mentioned below).**

**Phase I Finalize PERM Job Description: \$2000.00**

Includes initial consultation, review the job description, pick SOC-Codes, trouble-shoot issues, review beneficiary's education, and prior employment experience.

**Phase II Finalize Employment Verification Letters: \$500.00**

Draft a prior employment verification template for the beneficiary. Review the completed letter to make sure that it meets all the USCIS requirements.

**Phase III Submit Prevailing Wage: \$500.00**

Draft and submit prevailing wage request.

**Phase IV Recruitment: \$1000.00**

Draft, submit and monitor recruitment. Once recruitment is complete, review applicants, and determine if we can move forward with the PERM.

**Phase V Draft and Submit PERM: \$1,500.00**

Draft PERM and get beneficiary and employer approval and submit

**Additional legal fees that may apply:**

Recruitment and Advertising fee: \$1000.00-\$2500.00

Educational evaluation issues: \$250.00-\$500.00

Additional prevailing wage determination requests: \$350.00

Education Evaluation: \$350.00 including evaluator fee

**I-140:**

Legal Fee: \$2000.00

Filing Fee: \$700.00

Premium Processing Fee: \$2500.00

Premium Processing Fee if Processing after I-140: \$250.00+\$2500.00

Additional Fees that might apply if Complex Ability to Pay Issues: \$750-\$1500.00

**EB-1(A) Extraordinary Ability Visa not Including Adjustment of Status**

**Legal Fee:**

Legal fee: \$7500.00

Administrative fee: \$350.00

Total Estimated Fee: \$7850.00

**Additional legal fees that may apply:**

Educational evaluation issues: \$250.00-\$500.00

Education Evaluation: \$350 including evaluator fee

**Filing Fees:**

I-140, Immigrant Petition for Alien Workers: \$700

Premium Processing if Necessary: \$2500.00

Premium Processing Processing Fee if filed after \$140: \$250.00+\$2500.00

**EB-1(B) Visa for Outstanding Professors or Researchers not Including Adjustment of Status**

**Legal Fee:**

Legal fee: \$7500.00

Filing Fee: \$700

Premium Processing Fee: \$2500.00



Premium Processing Fee if Processing after I-140: \$250.00+\$2500.00

**National Interest Waiver not Including Adjustment of Status (including PNIW's for Physicians)**

**Legal Fee:**

Legal fee: \$8500.00

Total Estimated Fee: \$8500.00

**Filing Fees:**

I-140, Immigrant Petition for Alien Workers: \$700

Premium Processing Fee: \$2500.00

Premium Processing Fee if Processing after I-140: \$250.00+\$2500.00

**Special Handling PERM not Including Adjustment of Status**

**Legal Fee:**

Legal fee: \$5500.00

Total Estimated Fee: \$5500.00

**Filing Fees:**

I-140, Immigrant Petition for Alien Workers: \$700

Premium Processing Fee: \$2500.00

Premium Processing Fee if Processing after I-140: \$250.00+\$2500.00

**Schedule A (Nurses and Physical Therapists) not Including Adjustment of Status**

**Legal Fee (includes prevailing wage, Form ETA 9089 and I-140)**

Legal fee: \$5500.00

Total Estimated Fee: \$5550.00

**Filing Fees:**

I-140, Immigrant Petition for Alien Workers: \$700

Premium Processing Fee: \$2500.00

Premium Processing Fee if Processing after I-140: \$250.00+\$2500.00

**J-1 Waivers**

J-1 waiver and H-1B petition for the same employee (includes initial consultations, case preparation, trouble-shooting, expedited processing, evidence, and most visa issuance)

applications. Excludes the cost of incidental expense such as the cost of photocopies, translations, post etc, which may vary and are not including in the maximum liability amount of this contract)

Legal Fee: \$10,000  
DOS DS-3035 Processing Fee: \$120.00  
H-1b (I-129) Filing Fee: \$460.00  
ACWIA (Training Fee)-May be exempt: \$1500.00  
Fraud Prevention Fee (for initial filing only). \$500.00  
Total Estimated J-1 Waiver + New H-1b petition \$13,805.00

#### Adjustment of Status

**Filing Fees:**

Adjustment of Status (Principal Alien): \$2750.00  
Adjustment of Status (Spouse): \$2500.00  
Adjustment of Status (Children): \$2000.00

**Filing Fees:**

\$1225.00 over 14  
\$750.00 under 14

#### Interview with the USCIS for Employment -Based cases

Interview in San Jose: \$1500.00 (includes mileage and parking)  
Interview in San Francisco: \$2000.00 (includes mileage and parking)  
Interview in Fresno: \$2500.00 (includes mileage and parking)  
All other Interviews will be charged based on place of interview and will range from \$2500 to \$3000.00 plus costs  
Supplement J: \$250 (charge only if employee facts necessitate filing)

#### NONIMMIGRANT PETITIONS

##### H-1B Nonimmigrant Petitions Legal Fees (all legal fees must be paid by employer)

**Legal Fee:**

Legal fee \$3000.00 (\$2800.00 for Extensions)\*  
Total Estimated Fee: \$3,000.00\*\*

**Additional legal fees that may apply:**

H-1B Amendment: \$2800.00

Position classification issues: \$600.00 – \$1,100.00  
Withdrawing and Refiling LCA: \$350.00  
Education evaluation issues: \$600  
Prevailing wage issues (additional fees payable to outside salary survey may also apply): \$350-1,200  
Beneficiary and/or dependents have gap(s) in maintenance of prior nonimmigrant status: \$400 – \$1,000  
Cap-Exempt filing (first time only): \$1000.00  
Off-site, third-party and/or contract-based employment: \$600 – 1,200  
Expedited processing: 20% surcharge  
Withdrawal of LCA and H-1b after termination or new status for foreign national: \$500

Premium Processing Conversion (when case already filed by our office, and pending at USCIS): \$350  
I-765 filing for eligible H-4 dependent(s), when filed with H-1B/H-4 Extension: \$750.00 (may be paid by employee)  
I-765 filing for eligible H-4 dependent(s), when filed outside the normal H-1B/H-4 Extension process: \$750.00 (may be paid by employee)  
DS 160: \$500.00

**Filing Fees:**

Form I-129 Petition for Non-Immigrant Worker: \$460.00  
Education & Training fee: \$1,500.00 if employer has 25 or more employees (including affiliates and subsidiaries)  
Education & Training fee: \$750.00 if employer has 24 or fewer employees (including affiliates and subsidiaries)\*\*\*  
Anti-Fraud fee: \$500.00 (not applicable to amendments or extension of status with the same employer)  
If employer has 50 or more employees in the US and 50% of those employees are in H or L status \$4000.00  
Premium Processing: \$2500.00 (if applicable)\*\*\*\*  
Form I-539 H-4 dependents: \$370.00, if applicable (fee covers all dependents, may be paid by employee)+ \$85.00 biometrics fee  
Form I-765 EAD work authorization: \$410.00 (may be eligible if H-1B employee in 6th year with approved I-140, may be paid by employee)  
Biometric Service Fee: \$85.00

**TN Nonimmigrant Petitions**

**Legal Fees:**

Legal Fee: \$2800.00  
Extension if original case filed by our offices: \$2500.00

**Filing Fees:**

Form I-129 TN Petition for Non-Immigrant Worker: \$460.00

Form I-539 TD dependents, if applicable (fee covers all dependents): \$370.00+\$85.00 biometrics fee

Premium Processing: \$2500.00 (if applicable)\*\*\*\*

(Note: TN visas applied for by Canadians at border do not require filing fees, as they are not filed with USCIS)

**E-3 Nonimmigrant Petitions (For Australian nationals only)**

**Legal Fees:**

Legal Fees (all legal fees must be paid by employer): \$3000.00; (\$2,800.00 for Extensions)\*

Total estimated fee: \$3000.00\*\*

**Additional legal fees that may apply:**

(refer to “Additional legal fees that may apply” in H-1B section above)

**Filing Fees (if filed from within U.S., must be paid by employer):**

Form I-129 Petition for Non-Immigrant Worker: \$460.00

Premium Processing: \$2500.00 (if applicable)\*\*\*\*

Form I-539 E-3 dependents: \$ 370.00 – if applicable (fee covers all dependents, may be paid by employee)

Biometrics Fee for dependents: \$85 per person

(Note: E-3 visas applied for by Australians at U.S. consulates do not require petition filing fees, as they are not filed with USCIS; E-3 application fee of \$205 to be paid during overseas visa application process, may be paid by employee)

**O and P Nonimmigrant Petitions**

**Legal Fees:**

Legal fee: \$5000.00 (\$3,000.00 for Extensions if our office prepared the case initially )\*

Total estimated fee: \$5000.00

**Filing Fees:**

Form I-129 Petition for Non-Immigrant Worker: \$460.00

Form I-539 dependents: \$370.00, if applicable (fee covers all dependents)

Biometrics Fee: \$85.00 per person filing I-539

Premium Processing: \$2500.00 (if applicable)\*\*\*\*

**B-1/B-2 Nonimmigrant Petition**

**Legal Fees:**

Legal Fee: \$750.00 – 1,100.00; (\$600.00 - \$1,100.00 for Extensions)\*

Administrative fee: \$350 (admin fee covers all B-1/B-2 Extensions for the same employee)

Total estimated fee: \$\*\*

**Filing Fees:**

Form I-539 Application to Extend/Change Nonimmigrant Status: \$370.00

Biometrics fee per person: \$85.00

The reduced extension fees are applicable only when Law Office of Kelly Wachs has handled the employee's most recent, approved petition.

\*\* Legal fees assume a normal office processing time of 20 working days (approx. one calendar month) after receiving all of the requested items. Expedited processing is available with a 20% surcharge.

\*\*\* Exempt from the Education and Training fee are 1) Institutions of higher learning, non-profit research institutions or government research institutions, 2) second (and beyond) extensions by the same employer.

\*\*\*\* Premium processing guarantees that a senior USCIS examiner will review the petition within 15 calendar days. Paying the premium processing fee is recommended if the case is a Change of Status or Change of Employer case and the employee needs a work permit. Paying this fee is also recommended if the employee or any dependents will be traveling out of the country, or if the employee or any dependents have driver's licenses due to expire, before an approval can be expected. Please note: the Department of Motor Vehicles now ties the expiration date of a driver's license to the validity of a person's I-94, the document authorizing their stay in the U.S.

**Please note:**

Legal fee schedule is reviewed at the end of each calendar year and is subject to change.

Hourly rates are \$350/hour - \$450/hour for Senior Attorney, \$250 - \$350/hour for Attorney and \$150/hour - \$250/hour for legal support staff.

All Requests for Evidence ("RFE's") will be billed at hourly rate of \$350.00 - \$450.00.

**EXHIBIT C**  
**JUSTIFICATION FOR INSURANCE MODIFICATION**

(b) Personal automobile liability insurance, covering owned vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Justification: ATTORNEY has never needed vehicle to perform services for COUNTY

(e) Other Insurance Requirements. \*\*\*\*\*

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Commercial general liability policy shall provide an endorsement naming the COUNTY and its officers, agents, and employees as Additional Insureds with respect to liability arising out of the ATTORNEY's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the COUNTY and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the ATTORNEY's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

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Justification: ATTORNEY has never needed vehicle to perform services for COUNTY