

AGREEMENT FOR LEGAL SERVICES BETWEEN
ELDORADO COUNTY AND DOWNEY BRAND LLP
AGREEMENT NUMBER 471-S1611

This Agreement is made and entered into between EL DORADO COUNTY ("County"), a governmental entity organized and existing under the laws of the State of California, and DOWNEY BRAND LLP ("Law Firm"), a professional law partnership, duly authorized to do business in the State of California, whose address for the Sacramento office is 621 Capitol Mall, 18th Floor, Sacramento, California 95814 and whose address for the Reno, Nevada office is 100 West Liberty Street, Suite 900, Reno, Nevada 89501, for the performance of specific legal services for County.

1. Scope of Services. The County retains the Law Firm as special legal counsel to represent the County's interests with respect to those legal services requested by the County and specifically to provide all customary and usual legal services to represent the County in any legal actions or litigation deemed necessary by the County Counsel to protect the interests of the County or to defend the County in any actions related to the provision of EMS services in CSA3. Such services shall include all such services normally provided by the Law Firm which are reasonably related to the representation and defense of the County in any litigation or to other resolutions approved by the County.

Services may include, but are not necessarily limited to, providing advice to County boards, commissions, officers and staff, preparing and/or reviewing such documents as may be requested by the County, attending meetings as may be required by County, the retention of and providing direction to other consultants or experts which may be needed in the litigation; preparing any and all necessary pleadings to be filed in the action and making all necessary appearances.

The Law Firm may also provide such additional services as may be mutually agreed by the parties; provided, that such additional services must be authorized in writing by the County and may require an amendment to this Agreement.

2. Compensation. In consideration of the services set forth in paragraph 1, scope of services, the County shall pay the Law Firm on an hourly rate in accordance with the billing rates set forth on Exhibit A, "Downey Brand Rate Schedule." Law Firm will not bill for mileage or non-working attorney travel time from its Sacramento office to Placerville or to its Nevada office and vice-versa. Law Firm shall keep proper records to enable County to verify the services rendered, and such records shall be made reasonably available to County or its agents for inspection and audit. Sallie Armstrong will be the attorney primarily responsible for the services to be provided under this agreement. The Law Firm may utilize

the services of other attorneys or staff as deemed appropriate and efficient; provided, that such other persons shall be under the supervision of Sallie Armstrong. The County and Law Firm acknowledge that there are a wide range of factors that will influence the total compensation for work performed pursuant to this Agreement. Funds budgeted for the purposes of this Agreement are made available on a fiscal year basis, and budgeting is subject to change at any time.

3. **Costs.** The Law Firm will also be reimbursed for customary costs and disbursements incurred in the course of representation, including but not limited to, long-distance telephone, travel (in accordance with the County's Travel Policy) except as otherwise set forth in this agreement, facsimile, messenger services, on-line legal research (such as Westlaw and/or Lexis/Nexis) and photocopying under the terms set forth on Exhibit A. The Law Firm will also be reimbursed for any subcontracted consultant services approved in advance in writing by the County Counsel. Such costs shall be detailed in billings submitted.

4. **Billings.** The Law Firm shall submit to County itemized statements of services rendered and costs incurred monthly. Such statements shall identify the services rendered, and specify the time expended in rendering such services, calculated in no larger than one-tenth (.10) hour increments. County agrees to pay the Law Firm within thirty (30) days of such bill or statement.

5. **Termination.** This Agreement shall be terminable by the County at any time and for any reason, or without cause. Funds budgeted for the purposes of this Agreement are made available on a fiscal year basis, and budgeting is subject to change at any time. Should funding not be made available, this Agreement shall be automatically terminated in its entirety. The Law Firm may terminate this Agreement upon sufficient written notice to County, made in such a manner so that the County shall not be prejudiced, but in no event less than thirty (30) day's written notice. Upon termination of this Agreement for any reason, attorney shall immediately cease all work, except as may be reasonably required to avoid prejudice to County which shall be immediately reported to County and within ten (10) days shall provide a final bill to County for all services rendered. The Law Firm shall take all steps necessary to ensure smooth transition to any other counsel which may be retained by County. The obligation of confidentiality shall continue and shall not terminate when this Agreement ends.

6. **Independent Contractor.** The Law Firm and all persons who perform services for or through the Law Firm pursuant to this Agreement shall be independent contractors and shall not be deemed to be employees of the County for any purpose. The Law Firm's services shall be under the general direction of the County Counsel, who shall also be responsible for administering this Agreement on behalf of the County.

7. **Standards of Performance.** The Law Firm and every employee thereof shall provide their services, advice and any reports in full compliance with all applicable laws and professional standards. Law Firm represents that it is specially trained, experienced, expert and competent to perform the services required under this Agreement and that each individual providing legal services is a member in good standing of the State Bar and is licensed to practice in California. Further, Law Firm certifies that it will not accept representation in any matters, including litigation, under this Agreement if it or any employee thereof has any personal or financial interest therein,

8. **Qualifications.** Law Firm certifies that it accepts this retention because it has the time, energy, skills and ability necessary to perform the duties required in an efficient, trustworthy, professional and businesslike manner. It is understood that the services under this Agreement must be provided immediately, and that they are time critical. Law Firm is engaged by County for its unique qualifications and skills. Law Firm shall not subcontract, delegate or assign the services to be provided under this Agreement, in whole or in part, to any other person or entity not employed by Law Firm without consent of County.

9. **Insurance.** Law Firm shall maintain insurance in a form acceptable to County to be in full force and effect from the first day of the term of this Agreement, as set forth in paragraph 15. Law Firm specifically represents that it maintains current errors and omissions insurance applicable to the services to be rendered under this Agreement.

10. **Attorney-Client Relationship.** Law Firm agrees that it will comply with all ethical duties, will maintain the integrity of the lawyer-client relationship, and will take all steps available to preserve all applicable legal privileges, confidences, and records from disclosure. All documents and information obtained by or generated by Law Firm pursuant to this contract, all opinions and conclusions of Law Firm, any reports, information, data, statistics, forms, procedures, systems, studies and all communications with County, are confidential. Law Firm agrees to take all steps reasonably necessary to maintain this confidentiality. Law Firm is responsible for ensuring that it and all of its employees faithfully adhere to the confidentiality requirements of law and this Agreement.

11. Ownership of Documents. All documents and other writings prepared by or for the Law Firm in the course of implementing this Agreement shall become the property of the County immediately and the County shall have the right to use such materials in its discretion without compensation to the Law Firm or any other party other than the compensation provided under this Agreement.

12. Notification of Conflict. Law Firm shall immediately notify County if any services to be performed under this Agreement involve an actual or potential conflict of interest, financial or otherwise. Law Firm shall not engage in any activity under this Agreement that involves any actual or potential conflict of interest unless Law Firm first makes a full and complete disclosure of all relevant facts and obtains a written waiver of such conflict in advance from County.

13. Indemnity. To the fullest extent allowed by law, the Law Firm shall defend, indemnify, and hold harmless the County against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind and description, including reasonable attorneys' fees and costs incurred, which are claimed to or in any way arise out of, directly or indirectly, or are connected with: (1) any negligent act, whether passive or active, error or omission, or willful misconduct, of the Law Firm, its agents or employee(s), or (2) any breach of any statutory, regulatory, contractual or legal duty of any kind, in either event, however, only insofar as such negligent act, error or omission, or willful misconduct, is directly related to the services, responsibilities or duties required of Law Firm by this Agreement. This duty of Law Firm to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778. This clause is not intended to deprive the Law Firm the benefit of the application of the doctrine of comparative fault as it would otherwise be applicable to reduce its liability as a result of the negligence or willful misconduct, of the County and any of its officials, officers, employees, or agents, as determined by a court of law having jurisdiction.

14. State Filing. All independent consultants providing services to the County must file a State of California Form 590 certifying their California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. Law Firm will be required to submit a Form 590 prior to execution of this Agreement or County shall withhold seven (7) percent of each payment to be made to Law Firm during the term of this Agreement. This requirement applies to any Agreement exceeding \$1,500.00.

15. **Proof of Insurance.** Law Firm shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Law Firm maintains insurance that meets the following requirements:

A. Full workers' Compensation and Employer's Liability Insurance covering all employees of Law Firm as required by law in the State of California.

B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

C. Automobile liability insurance of not less than \$1,000,000 is required in the event motor vehicles are used by the Law Firm in the performance of the contract.

D. In the event Law Firm or any of its personnel are licensed professionals, and are performing professional services under this contract, professional liability (for example, malpractice insurance) covering such services is required with a limit of liability not less than \$1,000,000 per occurrence.

E. Law Firm shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.

F. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.

G. Law Firm agrees that the insurance required above shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, Law Firm will endeavor to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one year. New certificates of insurance are subject to the approval of the Risk Management Division and Law Firm agrees that no work or services shall be performed prior to the giving of such approval. In the event the Law Firm fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this contract upon the occurrence of such event.

H. The certificate of insurance must include the following provisions stating that:

1. The Law Firm will not cancel the insured's coverage without thirty (30) day prior written notice to the County; and

2. The County, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this contract are concerned. This provision shall apply to all liability policies except workers' compensation and professional liability insurance policies.

I. The Law Firm's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Law Firm's insurance and shall not contribute with it.

J. Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees, and volunteers; or the Law Firm shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expense.

K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.

L. The insurance companies shall have no recourse against the County, its officers and employees or any of them for payment of any premiums or assessments under any policy issues by any insurance company.

M. Law Firm's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

N. In the event Law Firm cannot provide an occurrence policy, the Law Firm shall provide insurance covering claims made as a result of performance of this contact for not less than three years following completion of performance of this Agreement.

O. The certificate of insurance shall meet such additional standards as may be determined by the contracting County either independently or in consultation with the Risk Management Division, as essential for protection of the County.

16. **Contract Administrator.** For the purpose of administering this Agreement, the County shall be represented by its County Counsel, Michael Ciccozzi, or successor. Notices provided pursuant to this Agreement shall be effective immediately upon receipt and shall be directed as follows:

For County: Michael Ciccozzi
County Counsel, El Dorado County
330 Fair Lane
Placerville, California 95667

For Attorney: Sallie B. Armstrong
Downey Brand, LLP
100 W. Liberty Street, Suite 900
Reno, NV 89501

17. **Venue:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

18. **Entire Agreement.** This Agreement and any exhibits thereto are the entire agreement between the parties and they supersede all prior written or oral agreements or understandings between the parties. This Agreement may only be modified by mutual consent of the parties in writing fully executed by duly authorized officers of the parties. Any dispute resolution action arising out of this Agreement, including, but not limited to litigation, mediation or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. Law Firm waives any removal rights it may have under Code of Civil Procedure section 394.

19. **Term.** This Agreement shall be effective on the date fully executed by all parties and shall cover the period starting April 5, 2016 and shall remain in effect until terminated by any party or until all work contemplated hereunder shall be completed.


IN WITNESS WHEREOF, the parties have executed this Agreement the day and year set forth below.

Department Concurrence:

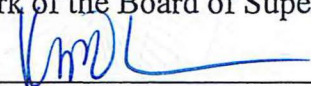

Michael Ciccozzi, County Counsel

-- COUNTY OF ELDORADO--

Dated: 6/7/16

By: 
Ronald Miculaco, Chair
Board of Supervisors
"County"

ATTEST:
Jim Mitrisin,
Clerk of the Board of Supervisors

By: 
Deputy Clerk

Dated: 6/7/14

By: See Attached 7A
Sallie B. Armstrong, Partner
Downey Brand LLP
"Law Firm"

Legal Services Agreement
Downey Brand
471-S1611

17. **Venue:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

18. **Entire Agreement.** This Agreement and any exhibits thereto are the entire agreement between the parties and they supersede all prior written or oral agreements or understandings between the parties. This Agreement may only be modified by mutual consent of the parties in writing fully executed by duly authorized officers of the parties. Any dispute resolution action arising out of this Agreement, including, but not limited to litigation, mediation or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. Law Firm waives any removal rights it may have under Code of Civil Procedure section 394.

19. **Term.** This Agreement shall be effective on the date fully executed by all parties and shall cover the period starting April 5, 2016 and shall remain in effect until terminated by any party or until all work contemplated hereunder shall be completed.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year set forth below.

Department Concurrence:

Michael Ciccozzi, County Counsel

-- COUNTY OF ELDORADO--

Dated: _____

By: _____
Ronald Miculaco, Chair
Board of Supervisors
"County"

ATTEST:
Jim Mitrisin,
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

By: 
Sallie B. Armstrong, Partner
Downey Brand LLP
"Law Firm"

Exhibit A

DOWNEY BRAND LLP

RATE SCHEDULE

PARTNERS

| | | |
|------------------|----------|--|
| Sallie Armstrong | \$450.00 | (\$405.00 w/ 10% professional courtesy discount) |
| Mike Thomas | \$440.00 | (\$396.00 w/ 10% professional courtesy discount) |
| Rick Campbell | \$440.00 | (\$396.00 w/ 10% professional courtesy discount) |
| Jamie Dreher | \$420.00 | (\$378.00 w/ 10% professional courtesy discount) |

ASSOCIATES

| | | |
|------------|----------|--|
| Mike Knox | \$350.00 | (\$315.00 w/ 10% professional courtesy discount) |
| Bret Meich | \$325.00 | (\$292.50 w/ 10% professional courtesy discount) |

PARALEGAL

| | | |
|-------------|----------|--|
| Donna Ellis | \$165.00 | (\$148.50 w/ 10% professional courtesy discount) |
|-------------|----------|--|

Law Firm will not bill for mileage or non-working attorney travel time from its Sacramento office to Placerville or to its Nevada office and vice-versa.

Costs: Law Firm will be reimbursed for reasonable costs of long distance telephone calls, mailing, ordinary photocopying, legal research on electronic databases (i.e. Westlaw and/or Lexis Nexis), and, upon prior approval of County Counsel, for extraordinary photocopying and extraordinary facsimile transmissions. Other reasonable, customary and necessary expenses, including, but not limited to, statutory fees, witness fees, reporter's per diem and transcription fees, jury fees, expenses of serving process, and expert consultants and witnesses (previously approved by County Counsel) shall be advanced by Law Firm and reimbursed by County.