

**AGREEMENT FOR LEGAL SERVICES BETWEEN
EL DORADO COUNTY AND
DOWNEY BRAND, LLP**

This Agreement is made and entered into between EL DORADO COUNTY (“County”), a political subdivision of the State of California, and DOWNEY BRAND, LLP (“Attorney”), duly authorized to do business in the State of California, whose address is 555 Capitol Mall, Tenth Floor, Sacramento, California, 95814, and whose address of the Reno, Nevada office is 427 West Plumb Lane, Reno, Nevada 89509, for the performance of specified legal services for County.

1. **Scope of Services.** County hereby retains Attorney to advise, assist, and represent County in the claim and litigation from MV Transportation, Inc. v. South Tahoe Area Transit Authority, et al, in the State of Nevada, County of Douglas, Case No 10-CV-0240 concerning County’s participation in South Tahoe Area Transit Authority (“STATA”), and any bankruptcy filing by STATA, and all additional, necessary or related court or other proceedings inclusive of mediation, and arbitration. Attorney may also provide such additional services as may be mutually agreed upon by the parties, provided that such additional services are agreed to in writing.

2. **Independent Contractor.** Attorney, and all persons who perform services for or through Attorney pursuant to this Agreement, shall be independent contractors and shall not be deemed to be employees of County for any purpose. Attorney’s services shall be under the general direction of County Counsel’s Office, which shall also be responsible for administering this Agreement.

3. **Standards of Performance.** Attorney and every employee thereof shall provide their services, advice and any reports in full compliance with all applicable law and professional standards. Attorney 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 Nevada or California. Attorney certifies that it will not accept representation in any matters under this Agreement if it or any employee thereof has any personal or financial interest therein. Attorney certifies that it accepts this retention because it has the time, skill, 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 are time-critical and must be provided in a timely fashion. Attorney is engaged by County for its unique qualifications and skills. Attorney 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 in Attorney’s firm without prior written consent of County. It is specifically agreed that Sallie Armstrong will act as a partner-in-charge of the work and Craig Denney and Andrew Collier will be primarily involved in the litigation and trial work.

4. **Compensation and Billings.** Compensation for all professional services to be rendered under this Agreement shall be billed at an hourly rate as follows:

Sallie Armstrong, partner	\$400.00
Craig Denney, counsel	\$325.00
Andrew Collier, partner	\$340.00
Michelle Kazmar, associate	\$265.00
Carrier Parker, associate	\$235.00

Mileage will be billed at the IRS reimbursable rate; however, Attorney shall not bill for travel time or mileage from its Sacramento office to Nevada and vice-versa. County shall reimburse Attorney for the reasonable costs of long distance telephone calls, mailing, photocopying, legal research on electronic databases, and, upon prior approval, for extraordinary photocopying and extraordinary facsimile transmissions. Other reasonable, customary and necessary expenses, including but not limited to statutory fees, witness fees, reporters' per diem and transcription fees, jury fees, and expenses of serving process, shall be advanced by Attorney and reimbursed by County. Expert consultants and witnesses may be retained by Attorney with the County's prior approval.

Attorney shall submit to County for County Counsel's review and approval a confidential itemized statement of services rendered and costs incurred under this Agreement monthly. Such statement shall describe the nature of the services rendered, and specify the time expended in rendering such services, calculated in one-quarter (.25) hour segments or smaller. Provided, however, that in Attorney's discretion, such statements need not be submitted until the total amount due exceeds Five Hundred Dollars (\$500.00). Attorney shall keep time records for a minimum period of three (3) years and make them available for review and internal audit by the County, and its authorized auditors.

5. **Insurance.** Attorney shall maintain insurance meeting the following requirements set forth herein in full force and effect from the first day of the term of this Agreement, and shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager of same:

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

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 is not required for purposes of this Agreement.

D. Professional liability (for example, malpractice insurance) covering services provided under this Agreement is required with a limit of liability not less than \$1,000,000 per occurrence.

E. Attorney 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. Attorney 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, Attorney agrees 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 (1) year. New certificates of insurance are subject to the approval of the Risk Management Division, and Attorney agrees that no work or services shall be performed prior to the giving of such approval. In the event Attorney 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 insurer will not cancel the insured's coverage without thirty (30) days 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 worker's compensation and professional liability insurance policies.

I. Attorney's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of Attorney'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 Attorney 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. Attorney's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

M. In the event Attorney cannot provide an occurrence policy, Attorney shall provide insurance covering claims made as a result of performance of this contract for not less than three (3) years following completion of performance of this agreement.

N. 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.

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

7. **Ownership of Documents.** All documents and writings prepared by or for Attorney in the course of performing this Agreement shall become County's property immediately and County shall have the right to use such materials in its discretion without notice or compensation to Attorney or anyone else other than compensation provided under this Agreement.

8. **Conflict of Interest.** County has entered into a Waiver of Potential Conflicts attached hereto. Attorney shall immediately notify County if any services to be performed under this Agreement involve an actual or potential conflict of interest, financial or otherwise, under the California and Nevada Rules of Professional Conduct. Attorney shall not engage in any activity under this Agreement that involves any actual or potential conflict of interest under such Rules unless Attorney first makes a full and complete disclosure of all relevant facts and obtains a written waiver of such conflict in advance from County.

9. **Indemnity.** To the fullest extent permitted by law, the Attorney shall defend, indemnify and hold the County harmless from all claims for bodily injury and property damage, that may arise from Attorney's performance of services under this Agreement, but only to the extent of the negligent acts or omissions of Attorney or anyone employed directly or indirectly by it or by anyone for whose acts it may be liable. This duty of Attorney to indemnify and save County harmless includes the duties to defend set forth in California Civil Code section 2778. Nothing herein is intended to deprive Attorney of the benefit of the application of the doctrine of comparative fault as it would otherwise be applicable to reduce Attorney's liability as a result of the negligence or other misconduct of the County and any of its officers, employees, or agents, as determined by a court of law having jurisdiction.

10. **Term of Agreement.** The term of this Agreement shall begin on the date last written below, and shall remain in effect until terminated by any party or until all work contemplated hereunder shall be completed. However, this Agreement shall be terminable by 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. Attorney 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) days 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, shall immediately transfer all files relating to County's matters either to County or any other lawyer hired by County, at County's direction, and within ten (10) days shall provide a final bill to County for all services rendered. The obligation of confidentiality shall continue and shall not terminate when this Agreement ends. Attorney shall take all steps necessary to ensure smooth transition to any other counsel which may be designated by County.

11. **State Filing.** All independent consultants providing services to 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. Attorney will be required to submit a Form 590 to the County or the County shall instruct the paying agent to withhold seven percent (7%) of any payment to be made to Attorney related to this Agreement.

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

For County: Louis B. Green, County Counsel
El Dorado County
330 Fair Lane
Placerville, California 95667
Attention: Patricia E. Beck, Principal Assistant County Counsel

For Attorney: Sallie B. Armstrong
Downey Brand, LLP
427 West Plumb Lane
Reno, NV 89509

13. **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. Where allowed by law, Attorney waives any removal rights it may have under Code of Civil Procedure section 394.

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14. **Entire Agreement.** This Agreement and the 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.

Department Concurrence:

Louis B. Green, County Counsel

-- COUNTY OF EL DORADO --

Dated: _____

By: _____
Norma Santiago, Chair
Board of Supervisors
"County"

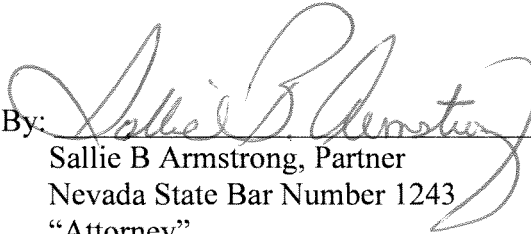
ATTEST:

Suzanne Allen de Sanchez, Clerk
of the Board of Supervisors

By: _____
Deputy Clerk

-- DOWNEY BRAND, LLP --

Dated: 8/19/2010

By: 
Sallie B Armstrong, Partner
Nevada State Bar Number 1243
"Attorney"