

## Enterprise Risk Consultant Services Agreement

This AGREEMENT is entered into between CSAC Excess Insurance Authority (hereafter "EIA") and the County of El Dorado ("Participating Member") for Enterprise Risk Consultant services. This Agreement is effective for the term as outlined in Exhibit A, pursuant to the termination provisions set forth under paragraph 8 of this Agreement.

**1. Scope of Services:** EIA shall provide the services outlined in Exhibit A under the EIA's "Enterprise Risk Consultant" program. A consultant retained by EIA will provide services specified under this Agreement, pursuant to the terms of a separate agreement between such consultant and EIA. This service provides the Participating Member with the ability to access various consultant services from EIA as specified in Exhibit A herein, Scope of Services and Fees. If mutually agreed upon by the Participating Member and the EIA, additional projects may be added to the Agreement as Addendums to the Scope of Services. Each Addendum will include a description of the work to be completed and terms setting forth fees and payment. Each Addendum to the Agreement will constitute a separate and distinct project under this Agreement. The EIA will select an appropriate qualified consultant who will provide the services outlined in the Scope of Services on a per-project basis. The Participating Member shall have the right to reject a consultant chosen by EIA and request that EIA select an alternative consultant for that project. If the EIA is unable to provide a consultant for a project, then the Addendum for that project will be deleted from the Agreement and the EIA's inability to provide a consultant will not constitute a breach of the Agreement in any way.

**2. Fees:** EIA shall submit to Participating Member an invoice for fees, costs, or expenses connected with services provided under the Agreement on or about the tenth day of each month for the total cost of services accessed by member under this Program during the preceding month. The fee shall be due and payable to EIA within 30 days of the date of the invoice. EIA shall be responsible for direct payment of the monthly fees to each consultant pursuant to the separate agreement between EIA and the consultant providing services under this Agreement. The EIA shall not issue an invoice that brings the total invoiced amounts under the Agreement to an amount over \$100,000 without prior written approval from the Participating Member.

**3. Supplemental Engagement(s):** Should Participating Member elect to retain a consultant performing services under this Agreement separately for services that are supplemental to those provided under the Agreement, Participating Member and the Consultant shall establish a separate engagement with scope of work and deliverables to be determined at the time of said engagement. Fees and/or costs for any supplemental services shall be determined at the time of engagement. These services will not be subject to oversight or administration by the EIA under the "Enterprise Risk Consultant" Program.

**4. Independent Contractor:** While performing services, each consultant performing services under this Agreement will be acting as an independent contractor and not an employee of EIA or any Participating member.

**5. Insurance and Indemnity:** EIA shall hold harmless, defend and indemnify the Participating Member from any and all liability, loss, damage, expense, costs, including reasonable attorney's fees, in connection with the negligence, recklessness or willful misconduct of the EIA or of any consultant selected by EIA and performing services under this Agreement. EIA may seek indemnification from any of its retained consultants pursuant to the separate agreements between such consultants and EIA, and may impose insurance requirements upon those consultants.

**6. Materials:** All materials accessed and provided to Participating Member under this Program shall be specifically for use by the Participating Member. No other use of these materials, except for use under this Agreement, is expressly or impliedly given.

**7. Data and Confidentiality:** Participating Member shall be the owner of all information or data collected for services rendered by each consultant performing services under this Agreement, including information or data that relates to the Participating Member's access to services of each consultant, except any data that EIA deems necessary for compensating the consultants, audits or other purposes reasonably deemed necessary by EIA. No consultant performing services under this Agreement shall release any materials under this section except after prior approval of the accessing member or as required by this Agreement or by law. EIA and each consultant selected by EIA to perform services under this Agreement will treat all information received in the course of performance of this Agreement as confidential. Neither EIA nor any consultant selected by EIA to perform services under this Agreement shall disclose or appropriate for its own use, or to the use of any third party, at any time during or subsequent to the term of this Agreement, any confidential information of the Participating Member, whether or not developed by EIA or a selected consultant, including, but not limited to, information pertaining to, services, methods, processes, contract terms or operating procedures, except as required in connection with EIA or a selected consultant's performance of this Agreement, or as required by a government authority or California law. Should any confidential information be disclosed; EIA will immediately notify Participating Member of the nature and extent of such disclosure.

## **8. Term and Termination.**

**8.1. Term:** The term of this Agreement shall commence on the Effective Date, and will remain in full force and effect until terminated by either party in accordance with paragraphs 8.2. and 8.3.

**8.2. Cancellation with Cause.** This Agreement may be terminated by either party (the "Terminating Party") with fifteen (15) days prior written notice in the event that the other party (the "Breaching Party") breaches any material term or condition of the Agreement; provided, however, that such notice must have first identified the nature and scope of the claimed breach, affording an opportunity to the Breaching Party to cure the breach, and the Breaching Party must have failed to cure the breach within thirty (30) days of receiving such notice.

**8.3. Cancellation without Cause.** This Agreement may be terminated by either party, in advance of expiration, for no reason or for any reason, other than for material breach of its terms or conditions, (collectively, "without cause"), by the Terminating Party giving the other party at least sixty (60) days written notice prior to the effective date of cancellation.

**8.4.** Should Participating Member accessing services under this Program be dissatisfied with the Consultant, member shall immediately notify EIA. EIA and member shall discuss any deficiencies or other concerns regarding the services provided by the Consultant and EIA shall provide the Consultant with sufficient counselling to insure continuity of services under this Agreement, unless Participating member advises EIA that Participating member wishes to have EIA assign a different consultant to the work. In such case, EIA will exercise reasonable diligence in identifying a new consultant to perform the work.

**9. Governing Law.** This Agreement shall be governed by, and enforced in accordance with, the laws of the state of California. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought in the courts of record of the State of California.

**10. Arbitration.** If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties endeavor to resolve the dispute by cooperative mutual agreement. Any controversy, claim or dispute arising out of or relating to this Agreement, that cannot be resolved by the parties shall be settled solely and exclusively by binding arbitration in Sacramento, California. Such arbitration shall be conducted in accordance with the then prevailing commercial arbitration rules of JAMS/Endispute ("JAMS"), with the following exceptions if in conflict: (a) one arbitrator shall be chosen by JAMS; (b) each party to the arbitration will equally share the expenses and fees of the arbitrator, together with other expenses of the arbitration incurred or approved by the arbitrator; and (c) arbitration may proceed in the absence of any party if written notice (pursuant to the JAMS' rules and regulations) of the proceedings has been given to such party.

Each party shall bear its own attorney's fees and expenses. The parties agree to abide by all decisions and awards rendered in such proceedings. Such decisions and awards rendered by the arbitrator shall be final and conclusive. All such controversies, claims or disputes shall be settled in this manner in lieu of any action at law or equity. The arbitrator shall not have the right to award punitive damages or speculative damages to either party and shall not have the power to amend this Agreement. The arbitrator shall be required to follow applicable law.

**11. No Waiver.** No waiver, amendment or modification of this Agreement shall be effective unless in writing and signed by both parties.

**12. Severability.** If any provision of this Agreement is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect.

**13. County Contract Administrator.** The County Officer or employee with responsibility for administering this Agreement is Tameka Usher, Director of Human Resources, County of El Dorado, or successor.

**14. Entire Agreement.** This Agreement and its exhibits and addenda represent the entire understanding and agreement between the Participating Member and EIA, and supersede all other negotiations, proposals, understandings and representations (written or oral) made by and between the Participating Member and EIA regarding the ERC Program.

AGREEMENT FOR SERVICES #3668

County of El Dorado

CSAC Excess Insurance Authority

\_\_\_\_\_  
Name: Michele Weimer, Purchasing Agent

\_\_\_\_\_  
Name: Rick Brush

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A. Scope of Services and Fees**

**Effective Date:** This Agreement is effective upon execution by both parties.

**Start Date:** Upon Execution by both parties.

**End Date:** 31 December 2019

Termination is subject to the provisions of paragraph 8 of the Agreement.

**Fee Schedule:** The Participating Member shall pay EIA at the rate of \$125 per hour for services performed under this Agreement and payments shall not exceed \$100,000 without prior written approval from the Participating member. Payment will be made monthly.

**Services Provided:** This is a service that will provide Participating members with the ability to contract for Consultant services through the EIA's "Enterprise Risk Consultant" Program. Requests for specific project work will be submitted through work orders and the specific scope of work will be set forth therein. The Consultant will provide the specific services contracted for by Participating member, which may include any of the following:

Accident Investigation	Disaster Recovery	Program Implementation
Actuarial Services	Employment Practices Liability	Project Management
Budgets	Ergonomics Emerging Risks	Records Management
Business Continuity	Facilities Management	Return – to - Work
Cal/OSHA Rules & Regulations	Finance	Risk Assessment
Claims Management	Group Administration	Risk Financing
Compliance	Health and Benefits	Risk Mgmt. Princ. & Practices
Conflict Resolution	Hedging	Risk Mitigation Risk Reporting
Construction Management	Human Resources	Safety, Loss Control/Prevention
Contingency Planning	Information Technology	Safety Training
Contracts/Negotiations	Insurance Policy Coverage/Review	Strategic Planning
Crisis Management	Insurance Requirements	Team Meetings
Cyber Risk	Litigation Management	Technology Risk
Data Loss Prevention	Program Governance	Underwriting

**Projects shall be described in separate work orders that will be attached as addendums to the contract between the Participating Member and the EIA.**

**Personnel and Supervision:** This Program for Participating members shall be administered and supervised directly by EIA in accordance with the terms of the Agreement.

**Exhibit B**

**Pool Service Providers' Bill of Rights**

The CSAC Excess Insurance Authority (Authority) recognizes its place as one of the premier organizations in the public entity pooling industry. We are constantly striving to achieve the goals of excellence in governance and management by conducting our official business with social responsibility that will encourage public trust.

The Authority has established standards that our business partners – pool service providers (PSPs) – should expect in serving the Authority and its members. The basic rights that PSPs should expect while providing services to the Authority, include the following:

1. PSPs should expect to be treated consistently with dignity, respect, and professionalism.
2. PSPs should not be expected to provide gifts, perks or other benefits to members of the Board of Directors or Committees, or staff members (or any person or organization associated with them) as a condition of doing business with the pool.
3. PSPs should expect fair and equitable treatment in the procurement process. Every competitive bidding process should be open, well defined and transparent. The Authority recognizes that there is a direct cost to the PSP in preparing every service proposal.
4. PSPs should expect to have a written service agreement with the Authority specifying all terms and conditions of the contractual relationship.
5. PSPs should only be expected to provide services contained within the scope of the service agreement.
6. PSPs should be paid in a timely manner for services rendered in accordance with the provisions of the service agreement.