

# **Professional Services Agreement**

**by and between  
County of Humboldt and Hanson Bridgett LLP**

This Professional Services Agreement ("Agreement") is made and entered into by and between the **County of Humboldt**, a political subdivision of the State of California ("County") and **Hanson Bridgett LLP** ("Contractor/Attorney"), a law firm duly authorized to do business in California, whose business address is 500 Capitol Mall, Suite 1500, Sacramento, CA 95814.

## **RECITALS**

- A. County desires to retain the specialized services of Contractor/Attorney and specifically the services of Frank J. DeMarco, an employee of the law firm to provide independent legal services to County and the Humboldt County Counsel's Office as the present County Counsel is retiring and more specifically to help advise the Humboldt County Board of Supervisors (the "Board") and provide services to Board and during Board meetings and in preparing for Board meetings and rendering advice to County and County Counsel's Office for the term provided herein pending and during the retirement of the present County Counsel and to assist in the recruitment process for a successor County Counsel and as may be requested by County and agreed to by the contractor;
- B. County and Contractor deserve to set forth in this Agreement the terms, conditions and benefits of such retention;
- C. Contractor is willing to provide such specialized services to County under the terms and conditions set forth herein; and,

## **AGREEMENT**

**1. Scope of Services.** As a result of the retirement of the Humboldt County Counsel, County retains Contractor and specifically the services of Frank J. DeMarco, who is an employee of Contractor, to provide those services of advising County and its Board of Supervisors, the County Counsel's Office and more specifically as set forth in Exhibit A attached herewith and made a part hereof for the Term provided herein and for the compensation provided herein which Term and compensation may be extended and augmented.

Frank J. DeMarco will be the primary attorney in charge of the work for Contractor. However, since Frank J. DeMarco, as a result of the commitments may not be available for the handling of all services be provided herein and for all Board meetings for the Term of the Agreement, other experienced members of Contractor's firm may be called upon to provide services to County as needed and at the direction of Frank J. DeMarco. Contractor agrees to keep County reasonably informed in a timely manner of the work and of his advice.

**2. Terms.** This Agreement shall be effective and commence as of January 24, 2015, and shall continue for one hundred twenty (120) days unless sooner terminated by the parties or as provided herein or as may be extended by mutual agreement of the parties.

**3. Compensation.** Compensation shall be as set forth in Exhibit B at the hourly rates or other rates as set forth in Exhibit B. Compensation at the designated hourly rate includes time spent traveling to and from County or to and from where necessary to conduct the services provided herein, but generally not to exceed one (1) hours each way per trip.



The amount of compensation under this Agreement shall not to exceed \$50,000 without further action of County. Contractor shall not be required to perform services once the \$50,000 limit has been expended unless there is further action to increase the compensation limit.

a. **Cost Reimbursement.** In addition to the above, Client shall reimburse Attorney for the actual, reasonable and necessary expense of travel in accordance with the policies of County of Humboldt set forth in Exhibit B, attached hereto and incorporated herein by this reference. Client shall reimburse Attorney for the reasonable costs of long distance telephone calls, mailing, photocopying, and legal research on electronic databases. 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 Client. Expert consultants, expert witnesses, and appraisers may be retained by Attorney on terms acceptable to Client. Such expert consultants, expert witnesses, and appraisers shall invoice Attorney. Attorney may submit approved invoices in excess of \$750.00 to Client in special billings for expedited payment, to be deposited in Attorney's trust account for payment from Attorney to said expert consultants, expert witnesses, and appraisers.

4. **Billing.** Contractor will bill the County on approximately a monthly basis. Statements shall include a brief description of the work performed, the billing rate for each service, and the amount of fees charged for the services performed. In addition to such compensation, County shall reimburse Contractor for their direct out-of-pocket and related legal expenses, such as travel expenses, copying costs, telephone and fax charges, overnight courier services, messenger charges, postage expenses, court reporter's fees and similar items, all of which shall be described on Contractor's monthly statements. Monthly statements will be reviewed by the County Administrative Office, and then forwarded to the County Counsel's Office for payment.

Monthly statements will be mailed to:

County Administrative Office  
Attn: Phillip Smith-Hanes  
825 Fifth Street, Room 112  
Eureka, CA 95501

5. **Independent Contractor.** Contractor shall perform this Agreement as an independent contractor. Contractor and the officers, agents and employees of Contractor are not, and shall not be deemed, County employees for any purpose, including workers' compensation and employee benefits. Contractor shall, at Contractor's own risk and expense, determine the method and manner by which duties imposed on Contractor by this Agreement shall be performed; provided, however, that County may monitor the work performed by Contractor. County shall not deduct or withhold any amounts whatsoever from the compensation paid to Contractor, including, but not limited to amounts required to be withheld for state and federal taxes. As between the parties to this Agreement, Contractor shall be solely responsible for all such payments.

6. **Confidentiality and Absence of Conflicts.** An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege. To also assure mutuality of trust, Contractor maintains a conflict of interest index. The California Rules of Professional Conduct define whether a past or present relationship with any party prevents Contractor from representing County. Similarly, County will be included in Contractor's list of clients to ensure it complies with the Rules of Professional Conduct. Contractor warrants that no conflict exists with its current representation of other public entities and private clients. Based on that check, Contractor has determined that it can provide legal services for the County of Humboldt.



**7. Termination.** This Agreement may be terminated by County at any time subject to a 10-day written notice. Contractor may withdraw from representation at any time as permitted under the Rules of Professional Conduct of the State Bar of California with 30-day written notice to County. Upon termination, Contractor shall transfer to County or its designee all files, written material, and documents relating to the scope of representation, except whatever work product is the exclusive property of Contractor such as internal communications among attorneys and staff of a non-substantive nature. Contractor may at its own expense retain copies of any or all of the files, documents or other materials transferred upon termination. Contractor will be available on a task basis to consult with County or its designee about the scope of representation in accordance with the terms of this Agreement for a reasonable time following any termination of this Agreement.

**8. Records.** Except for original timesheets, Contractor will retain all records relating to their representation of County for a period of ten years from the date this Agreement is concluded. Such records will be made available to County upon request for audit purposes. Contractor will maintain both invoices of costs and primary records in order that such auditing may occur.

**9. Expert Consultants.** Contractor will not engage any expert consultants without having first received the consent of County through its Board of Supervisors.

**10. Professional Skill.** Contractor represents that Frank J. DeMarco is skilled in local government law as necessary to perform the work agreed to under this Agreement. County relies upon the skill of Frank J. DeMarco to perform the work in a competent and professional manner, and Contractor agrees to perform the work in accordance with this standard. Acceptance of the work by County shall not release Contractor from its obligations under this paragraph.

**11. Contractor's Employees.** No employee of Contractor shall by virtue of this Agreement acquire any rights or status in County services. Contractor shall be solely responsible for payment of Contractor's employees, including all fringe benefits.

**12. Entire Agreement; Modification.** This Agreement contains the entire agreement between Contractor and County relating to the scope of services described above. The Agreement may be modified or amended only by a written modification to this Agreement executed by Contractor and by County.

**13. Non-Discrimination Compliance.** In connection with the execution of this Agreement, Contractor shall not discriminate in the provision of professional services or against any employee or applicant for employment because of race, religion or religious creed, color, age (over 40 years of age), sex (including gender identity and expression, pregnancy, childbirth and related medical conditions), sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, marital status, medical condition (including cancer and genetic characteristics), mental or physical disability (including HIV status and AIDS), political affiliation, military service, or any other classifications protected by local, state and federal laws and regulations. Nothing herein shall be construed to require employment of unqualified persons. Contractor further assures that it will abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, California Welfare and Institutions Code Section 10000, CDSS MPP Division 21, United States Executive Order 11246, as amended, and any other applicable local, state and federal laws and regulations. Practices in hiring, compensation, benefits and firing are among the employment practices subject to this requirement.

**14. Conflicting Positions.** No officer, member, or employee of County and no member of its governing bodies shall have any pecuniary interest, direct or indirect, in this Agreement or in any amounts paid under this Agreement. No principal of Contractor or any of Contractor's employees shall serve on a County board, committee or other position which by rule, practice or



action nominates or recommends attorneys to represent County, supervises such attorneys' representation of County, or authorizes funding to County's attorneys.

**15. General Liability Insurance.** During the term of this Agreement, Contractor shall maintain comprehensive general liability coverage with aggregate limits in an amount not less than \$2 million, and automobile coverage with combined single limits in an amount not less than \$1 million. Upon County's request, Contractor shall provide County a certificate evidencing this insurance. Contractor's coverage shall be primary to any insurance maintained by County. Unless the policy is simultaneously replaced with a new policy providing the same coverage, Contractor shall immediately forward to County any notice of the cancellation or non-renewal of any such coverages, or any other policy changes that materially affect coverage.

**16. Professional Liability Insurance.** During the term of this Agreement, Contractor also shall maintain professional liability insurance coverage with primary limits in an amount not less than required by the State Bar of California, to the extent such coverage can be obtained by Contractor from reasonably available commercial sources. Such insurance shall insure Contractor's work to be performed for County under this Agreement. Upon County's request, Contractor shall provide County a certificate evidencing this insurance. Contractor's professional liability coverage shall be primary to any insurance maintained by County. Unless the policy is simultaneously replaced with a new policy providing the same coverage, Contractor shall immediately forward to County any notice of the cancellation or non-renewal of Contractor's professional liability coverage, or any other policy changes that materially affect such coverage.

**17. Workers' Compensation Insurance.** During the term of this Agreement, Contractor also shall maintain workers' compensation insurance. At County's request, Contractor shall provide County a certificate evidencing this insurance. Contractor's workers' compensation insurance shall be primary to any insurance maintained by County. Unless the policy is simultaneously replaced with a new policy providing the same coverage, Contractor shall immediately forward to County any notice of the cancellation or non-renewal of Contractor's workers' compensation coverage, or any other policy changes that materially affect such coverage.

**18. Automobile Liability Insurance.** During the term of this Agreement, Contractor also shall maintain automobile/motor liability insurance with a limit of liability of not less than one million dollars (\$1,000,000) combined single limit coverage. Such insurance shall include coverage of all "owned", "hired", and "non-owned" vehicles or coverage for "any auto". At County's request, Contractor shall provide County a certificate evidencing this insurance. Contractor's automobile liability insurance shall be primary to any insurance maintained by County. Unless the policy is simultaneously replaced with a new policy providing the same coverage, Contractor shall immediately forward to County any notice of the cancellation or non-renewal of Contractor's automobile liability coverage, or any other policy changes that materially affect such coverage.

**19. Nuclear Free Humboldt County Ordinance Compliance.** Contractor certifies by its signature below that Contractor is not a nuclear weapons contractor, in that it is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. Contractor agrees to notify County immediately if it becomes a nuclear weapons contractor, as defined above. County may immediately terminate this agreement if it determines that the foregoing certification is false or if Contractor becomes a nuclear weapons contractor.

**20. Jurisdiction and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.



**21. Advertising and Media Release.** All informational material related to this Agreement shall receive approval from County prior to being used as advertising or released to the media (television, radio, newspapers and internet). Contractor shall inform County of all requests for interviews by media related to this Agreement before such interviews take place; and County is entitled to have a representative present at such interviews. All notices required by this provision shall be given to the County Administrative Officer.

**22. Authority to Execute.** Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such party's obligations hereunder have been duly authorized.

**23. Notices.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

**COUNTY:**

County of Humboldt  
Attn: Phillip Smith-Hanes  
Administrative Officer  
825 Fifth Street  
Eureka, CA 95501

**CONTRACTOR:**

Frank J. DeMarco  
Hanson Bridgett LLP  
500 Capitol Mall, Suite 1500  
Sacramento, CA 95814

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below:

**HANSON BRIDGETT LLP**

By: William D. Taylor  
William D. Taylor, Partner

Date: January 22, 2015

By: Frank J. DeMarco  
Frank J. DeMarco, Counsel

Date: January 22, 2015

**COUNTY OF HUMBOLDT**

By: Phillip Smith-Hanes  
Phillip Smith-Hanes, County Purchasing Agent

Date: 1/27/15

**INSURANCE REQUIREMENTS APPROVED:**

By: Dominic J. Felt  
Risk Manager

## **EXHIBIT A**

### **SCOPE OF SERVICE**

In addition to those services set forth in Paragraph 1 of this Agreement, contractor, as a result of the impending retirement of the Humboldt County Counsel is being retained by County and, specifically, the services of Frank J. DeMarco, employee of the Contractor to provide those services of advising County, its Board of Supervisors, the County Counsel's Office, and more specifically, to advise in a manner akin to general counsel services and even more specifically, to be part of those person's working to help the county select an array of candidates for consideration by the Board of Supervisors in the selection and appointment of a successor county counsel and to provide services which the County may request and Contractor agrees to render.

To avoid any conflicts which may be found to exist, Contractor will seek appropriate written waiver(s) and will take appropriate steps to screen from any contact where a conflict may exist.



## EXHIBIT B

### COMPENSATION, REIMBURSEMENT & EXPENSES

Frank J. DeMarco ..... \$400/hr.  
Partner..... \$400/hr.  
Other Attorneys..... \$350/hr.

Allowable Expenses include reimbursement for meals, lodging, mileage, copying, and supplies. Meals, lodging and mileage will be reimbursed at the current applicable IRS rate. Other expenses are reimbursable as provided herein. Expenses shall be paid as of January 1, 2015.

The amount of compensation under this Agreement shall not exceed \$50,000 without further action of County. Contractor shall not be required to perform services once the \$50,000 limit has been expended unless there is further action to increase the compensation limit.

Thereafter, compensation shall be as provided herein; *i.e.*, \$400/hr times hours worked except that compensation for board meeting days shall be \$2,500/day or part thereof. If a board meeting were to require attendance/providing of services past 5:30PM compensation shall be \$400/hr times the hours or part thereof worked in addition to the \$2,500/day.

In addition, services by members of the Contractor, other than by Frank J. DeMarco, beyond one hour shall be after consultation with County.