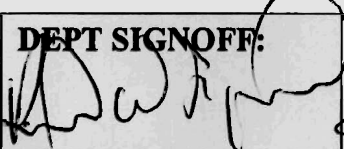
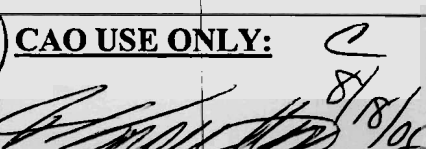


**EL DORADO COUNTY BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL
Meeting of August 29, 2006**

AGENDA TITLE: C.L.P. Investors – Amendment 1 to Facility Use Agreement # 05-836 for Non-Exclusive Use of County Right-of-Way.

DEPARTMENT: Transportation	DEPT SIGNOFF: 	CAO USE ONLY: 
CONTACT: Liz Diamond / Mike Pavlick		
DATE: 8/15/2006	PHONE: x5982 /5963	8/18/06

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:
 The Department of Transportation recommends that the Board of Supervisors:
 Approve and authorize the Chairman to sign Amendment 1 to Facility Use Agreement #05-836 with C.L.P. Investors, extending the expiration date to February 27, 2007, and changing the title of the County's Contract Administrator.

CAO RECOMMENDATIONS: *Recommend approval. Laura A. Gill 8/18/06*

Financial impact? Yes () No Funding Source: () Gen Fund (X) Other

BUDGET SUMMARY:

Total Est. Cost	_____
Funding	
Budgeted	_____
New Funding	_____ \$300.00
Savings	_____
Other	_____
Total Funding	_____ \$300.00
Change in Net Road Fund	_____ (\$300.00)

Other: Road Fund

CAO Office Use Only:

4/5's Vote Required () Yes (X) No
 Change in Policy () Yes (X) No
 New Personnel () Yes (X) No

CONCURRENCES:

Risk Management	_____
County Counsel	_____
Other	_____

*Explain Included in budget

BOARD ACTIONS:

Vote: Unanimous _____ Or _____
 Ayes: _____
 Noes: _____
 Abstentions: _____
 Absent: _____

Rev. 04/05

I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors

Date: _____

Attest: Cindy Keck, Board of Supervisors Clerk

By: _____

RECEIVED
 BOARD OF SUPERVISORS
 2006 AUG 22 PM 12:25

COUNTY OF EL DORADO

DEPARTMENT OF TRANSPORTATION



MAINTENANCE DIVISION:
2441 Headington Road
Placerville CA 95667
Phone: (530) 642-4909
Fax: (530) 642-9238

Richard W. Shepard, P.E.
Director of Transportation

Internet Web Site:
<http://co.el-dorado.ca.us/dot>

MAIN OFFICE:
2850 Fairlane Court
Placerville CA 95667
Phone: (530) 621-5900
Fax: (530) 626-0387

August 15, 2006

Board of Supervisors
330 Fair Lane
Placerville, California 95667

Title: C.L.P. Investors – Amendment 1 to Facility Use Agreement #05-836 for Non-Exclusive Use of County Right-of-Way

Meeting Date: August 29, 2006

District/Supervisor: District 1, Supervisor Rusty Dupray

Dear Members of the Board:

Recommendation:

The Department of Transportation recommends that the Board of Supervisors:

Approve and authorize the Chairman to sign Amendment 1 to Facility Use Agreement #05-836 with C.L.P. Investors, extending the expiration date to February 27, 2007, and changing the title of the County's Contract Administrator.

Reasons for Recommendation:

Since 1988, C.L.P. Investors formally Cameron Park Investors have been leasing a portion of County property located at the southwest corner of the intersection of Country Club Drive and Cameron Park Drive in Cameron Park. The lessee has non-exclusive use of the property for overflow parking for their office buildings located on the adjacent property.

Your Board approved the most current Agreement with C.L.P. Investors in August 2005. The subject Amendment 1 will extend the expiration date to February 27, 2007, and changes the title of the County's Contract Administrator from Interim Director of Transportation to Deputy Director, West Slope Engineering & Project Delivery, Department of Transportation.

The Department anticipates that it will require the property for right-of-way and construction staging for the FY 2006/2007 construction season for planned improvements to the Cameron Park Drive interchange and intersection improvements at Cameron Park Drive and Country Club Drive.

The Department is not required to notify an employees' association regarding this Agreement.

Fiscal Impact:

Revenue to the Road Fund, should the Agreement remain in force for its full six-month term, would be \$300. There is minimal cost associated with this Agreement.

Net County Cost:

There is no cost to the County General Fund.

Action to be Taken Following Approval:

1. The Board Chairman will sign two originals of Amendment 1 to Facility Use Agreement # 05-836, with C.L.P. Investors; and
2. The Board Clerk will forward one original of the fully executed Agreement to the Department for further processing.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Shepard". The signature is written in a cursive style with a large initial "R" and a long, sweeping underline.

Richard W. Shepard, P.E.
Director of Transportation

RWS:mdp
Attachments

EXPEDITED REVIEW REQUESTED

Contract #: **AGMT 06-1204**
Amend I to AGMT 05-836
Agenda Log #2129

Amendment I to Facility Use Agreement

CONTRACT ROUTING SHEET

106 AUG -7
DORADO COUNTY COURSE
Amend Renewed

PROCESSING DEPARTMENT:

Department: Transportation
Dept. Contact: Tim Prudhel
Phone: x5974
Department Head
Signature: *T. Prudhel* 08-07-06
Tim C. Prudhel
Contract Services Officer

CONTRACTOR:

Name: C.L.P. Investors
Address: P.O. Box 1686
Cameron Park, CA 95682
Phone: (530) 677-4564

CONTRACTING DEPARTMENT: Transportation

Compliance with Human Resources requirements? Yes: N/A No:
Compliance verified by: N/A - Facility Use Agreement

COUNTY COUNSEL: (must approve all contracts and MOUs)

Approved: Disapproved: Date: 8/14/06 By: *Josh Beck*
Approved: Disapproved: Date: By:

ASSIGNMENT
08/10/06
DA
ATTY
RNEY
DE
/INDEX NO.
BY

Please forward to Risk Management upon approval.

Index Code: <u>306500</u>	User Code: <u>25000A</u>
---------------------------	--------------------------

RISK MANAGEMENT: (All contracts and MOUs except boilerplate grant funding agreements)

Approved: Disapproved: Date: 8-15-06 By: *[Signature]*
Approved: Disapproved: Date: By:

AUG 15 2006

2006 AUG 15 PM 4:00
RECEIVED
DOT

OTHER APPROVAL (Specify department(s) participating or directly affected by this contract).

Department(s):
Approved: Disapproved: Date: By:
Approved: Disapproved: Date: By:

C.L.P. Investors

FACILITY USE AGREEMENT #AGMT 05-836
Amendment I

THIS AMENDMENT I to that Facility Use Agreement # AGMT 05-836 made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and C.L.P. Investors, a general partnership duly qualified to conduct business in the State of California, whose mailing address is P.O. Box 1686, Cameron Park, California 95682 (hereinafter referred to as "USER");

RECITALS

WHEREAS, COUNTY has agreed to USER's nonexclusive use of certain County-owned PROPERTY pursuant to Facility Use Agreement # AGMT 05-836, incorporated herein and made by reference a part hereof; and

WHEREAS, the parties hereto desire to amend Facility Use Agreement # AGMT 05-836 to extend the expiration date of August 31, 2006 for six (6) additional months, amending **Section #6**; and


WHEREAS, the parties hereto desire to amend Facility Use Agreement # AGMT 05-836 to change the title of COUNTY's contract administrator, amending **Section #18**;

NOW, THEREFORE, COUNTY and USER mutually agree to amend the terms of the Agreement in this Amendment I to Facility Use Agreement # AGMT 05-836, to read as follows:

- 6. This Agreement shall expire on February 27, 2007.
- 18. The County Officer or employee with responsibility for administering this Agreement is Elizabeth B. Diamond, P.E., Deputy Director, West Slope Engineering & Project Delivery, Department of Transportation, or successor.

Except as herein amended, all other parts and sections of Facility Use Agreement #AGMT 05-836 shall remain unchanged and in full force and effect.

Requesting Department Concurrence:

By: 
Richard W. Shepard, P.E.
Director of Transportation

Dated: 8/17/06

IN WITNESS WHEREOF, the parties hereto have executed this Amendment I to Facility Use Agreement# AGMT 05-836 on the dates indicated below, the latest of which shall be deemed to be the effective date of this Amendment.

-- COUNTY OF EL DORADO --

By: _____

Dated: _____


Board of Supervisors
"COUNTY"

Attest:
Cindy Keck
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

-- C.L.P. INVESTORS --

By: 
John J. Pearson Jr.
Managing Partner
"USER"

Dated: 8/17/2006



COUNTY OF EL DORADO

ORIGINAL

FACILITY USE AGREEMENT #05-836

C.L.P. INVESTORS

THIS AGREEMENT, made and entered into by and between the COUNTY OF EL DORADO, a political subdivision of the State of California (hereinafter referred to as "COUNTY") and C.L.P. Investors, a general partnership duly qualified to conduct business in the State of California, whose mailing address is P.O. Box 1686, Cameron Park, California 95682 (hereinafter referred to as "USER");

WITNESSETH

WHEREAS, COUNTY is the owner of that certain real property located in El Dorado County, California, commonly known as approximately 3,700 square feet of right-of-way property located on the southwest corner of the intersection of Cameron Park Drive and Country Club Drive as indicated on the map attached hereto as Exhibit A, marked "Subject Property," incorporated herein and made by reference a part hereof, in Cameron Park, California (hereinafter referred to as the "PROPERTY"); and

WHEREAS, USER acknowledges that COUNTY intends to exclusively utilize the PROPERTY for road improvements in the near future. Prior to such exclusive use, COUNTY may need to survey the PROPERTY, perform environmental or other studies, stake the PROPERTY, or make other use of the PROPERTY in preparation of said road improvements. USER desires to use the PROPERTY in the interim for the purposes of parking, signage and landscaping. COUNTY will consent to and allow such nonexclusive use provided such use does not interfere with any of COUNTY'S activities; and

WHEREAS, it is the intent of the parties hereto that USER'S nonexclusive use shall be in conformity with all applicable state and local laws;

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, COUNTY and USER mutually agree as follows:

1. COUNTY hereby grants to USER and USER hereby agrees to accept from COUNTY authorization for nonexclusive use of the PROPERTY described herein for the purposes of parking, signage and landscaping.
2. The PROPERTY shall be utilized by USER only for the purposes of parking, signage and landscaping. The nonexclusive use of the PROPERTY for parking purposes shall not affect any off street vehicle parking requirements that may be imposed on any adjacent properties, and any parking spaces on the PROPERTY shall not be included in meeting any minimum parking requirements.
3. The use granted herein is personal to USER. It is non-assignable and any attempt to assign this Agreement shall terminate it.

4. This Agreement may be terminated by either party at any time for any reason by serving a thirty (30) day written notice to the other party.
5. USER shall be authorized to proceed with use of the PROPERTY on the effective date of this Agreement, provided that this Agreement has been fully executed by the parties hereto.
6. This Agreement shall expire on August 31, 2006.
7. **INSURANCE REQUIREMENTS:**

USER shall maintain at its own expense during the term hereof, insurance with respect to USER'S business activities, the PROPERTY and all activities on or about or in connection with the PROPERTY of the types and in the minimum amounts described generally as follows:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of USER 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. USER shall furnish a certificate of insurance satisfactory to County's Risk Manager as evidence that the insurance required above is in full force and effect.
- D. The insurance shall be issued by insurance company acceptable to County's Risk Manager, or be provided through partial or total self-insurance likewise acceptable to COUNTY'S Risk Manager.
- E. The certificate of insurance must include the following provisions stating that:

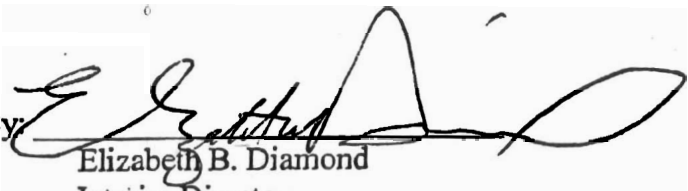
The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured, but only insofar as operations under this Agreement are concerned. This provision shall apply to all liability policies except workers' compensation.
- F. USER'S insurance coverage shall be primary as respects the COUNTY, its officers, officials, and employees. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, or employees shall be excess of USER'S insurance and shall not contribute with it.
- G. USER agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, USER shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event USER 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 Agreement upon the occurrence of such event. New certificates of insurance are subject to the approval of the Risk Manager.

- H. USER'S insurance coverage shall not be cancelled without thirty (30) days prior written notice to COUNTY.
- I. Any deductibles or self-insured retention must be declared to and approved by COUNTY. At the option of COUNTY, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the COUNTY, its officers, officials and employees; or USER shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- J. 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.
- K. The insurance companies shall have no recourse against the County of El Dorado, its officers, officials or employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- L. USER'S indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- M. In the event USER cannot provide an occurrence policy, USER shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of this Agreement.
- N. The Certificate of insurance shall meet additional standards as may be determined by COUNTY'S Risk Manager as essential for protection of the COUNTY.
- O. Failure of USER to maintain the insurance required by this Section or to comply with the insurance requirements herein shall constitute a material breach of the entire Agreement.
8. COUNTY shall not be liable to USER for any damages or injuries to the property or persons of USER, its agents, employees, guests, business visitors or employees as a result of conduct by USER of any operations on or use of PROPERTY or on any property adjacent thereto.
9. USER shall defend, indemnify, and hold COUNTY harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to, or death of, any person, including but not limited to workers, COUNTY employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to, or in any way arise out of, or are connected with USER'S activities, operations or use of the PROPERTY hereunder, regardless of the existence or degree of fault or negligence on the part of COUNTY, USER, subcontractors and employees of any of these, except for the sole, or active negligence of County, its officers and employees, or as expressly provided by statute. This duty of USER to indemnify and save COUNTY harmless includes the duties to defend set forth in California Civil Code Section 2778.
10. USER agrees to maintain and keep the PROPERTY free of trash, debris and litter which is generated as a result of USER'S use of the PROPERTY.

11. USER agrees that at any time in the future, COUNTY may determine to use PROPERTY for exclusive COUNTY purposes and may, in its sole discretion, revoke the permitted use of the PROPERTY by giving USER thirty (30) days notice to terminate this Agreement and to vacate the premises.
12. USER shall not make any alterations to the PROPERTY without COUNTY'S prior written consent. At COUNTY'S option, any alterations consented to shall remain on and be surrendered with the PROPERTY upon the expiration or earlier termination of this Agreement, or COUNTY may elect by giving thirty (30) days written notification to USER to require USER to remove any alterations that have been made to PROPERTY, including, but not limited to, existing signage, utilities, paving and/or landscaping. **Should COUNTY so elect**, all costs of removing the whether alterations existing prior to the effective date of this Agreement, or alterations made subsequent to the effective date of this Agreement, shall be borne by USER.
13. USER agrees to pay COUNTY the sum of Fifty Dollars (\$50.00) per month for each month this Agreement remains in effect. Payment shall be made to the Department of Transportation at 2850 Fairlane Court, Placerville, California 95667 and shall be paid in advance. Payments shall be due on the first day of each calendar month and shall be delinquent if not received by the Department of Transportation by the tenth day of each month. Delinquent payments shall be subject to a late charge equal to five percent (5%) of the unpaid payment.
14. It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made in writing between the parties hereto shall be binding on either of the parties hereto.
15. This instrument constitutes the sole and only agreement between COUNTY and USER respecting the PROPERTY or the granting of this Facility Use Agreement to USER by COUNTY, and correctly sets forth the obligations of COUNTY and USER to each other as of its effective date. Any agreements or representations respecting the PROPERTY or the Agreement not expressly set forth in this instrument are null and void.
16. This Agreement is to be governed by and construed in accordance with the laws of the State of California.
17. Time is of the essence of this Agreement and the performance of each and every provision hereof.
18. The County Officer or employee with responsibility for administering this Agreement is Elizabeth B. Diamond, Interim Director of Transportation, or successor.

This document, including the exhibit referred to herein, constitutes the entire Agreement between the parties and incorporates or supersedes all prior written or oral agreements or understandings.

Requesting Department Concurrence:

By: 
Elizabeth B. Diamond
Interim Director
Department of Transportation

Dated: 8-16-05

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

By: Charlie Paine
CHARLIE PAINE, CHAIRMAN
Board of Supervisors
" COUNTY "

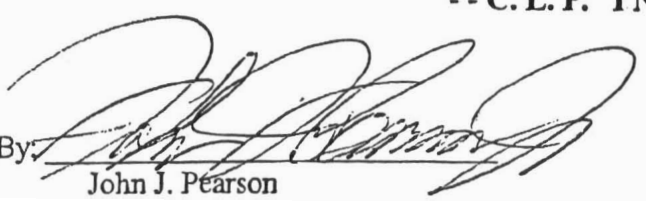
Dated: 8/30/05

Attest:
Cindy Keck
Clerk of the Board of Supervisors

By: Cathryn Tyler
Deputy Clerk

Dated: 8/30/05

-- C.L.P. INVESTORS --

By: 
John J. Pearson
Managing Partner
"USER"

Dated: 6/28/2005

C.L.P. INVESTORS

Exhibit A

Subject Property

