

Agreement # County Contract #993

Legistar # 21-1428

AGREEMENT CONTRACT ROUTING SHEET

Date Prepared: 08/25/2021

Need Date: 09/02/2021

PROCESSING DEPARTMENT:

Department: Agriculture
Dept. Contact: Myrna Tow
Phone: (530) 621-6647 (Myrna)
Department Head Signature: Charlene Carveth
Digitally signed by Charlene Carveth
Date: 2021.08.25 09:51:44 -0700'

CONTRACTOR:

Name: Placer County Agriculture Department
Address: 311 Fair Lane
Placerville, CA 95667
Phone: (530) 621-5520
Org Code: 3100000
Project #
(if applicable): _____

Funding Source: Device Registration/General Fund

CONTRACTING DEPARTMENT: El Dorado County Ag Department 311 Fair Lane Placerville

Service Requested: Review of Weight Truck use for FY21/22 Original Legistar Item # 09-0283 3/10/2009

Description: Annual review of anticipated joint weight truck use from Placer County

Contract Term: Original 3/10/2009 through 3/09/2024 Contract Value: \$ 0.00

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: Disapproved: Date: 08/26/2021 By: Daniel Vandekoolwyk
Approved: Disapproved: Date: _____ By: _____
Digitally signed by Daniel Vandekoolwyk
Date: 2021.08.26 07:05:37 -0700'

HR APPROVAL: WILL BE REVIEWED THROUGH WORKFLOW

RISK MANAGEMENT: WILL BE REVIEWED THROUGH WORKFLOW

PLEASE EMAIL SIGNED DOCUMENT TO: myrna.tow@edcgov.us

Thank you!

AGREEMENT FOR LEASE OF WEIGHT TRUCK, WEIGHT STANDARDS, AND LPG PROVERS

This LEASE AGREEMENT ("Agreement") made and entered into this ___ day of _____, 2021, by and between the County of Placer (hereinafter referred to as "Placer"), the County of El Dorado (hereinafter referred to as "El Dorado") and the County of Amador (hereinafter referred to as "Lessee"), all political subdivisions of the State of California. Placer, El Dorado and Lessee are sometimes hereinafter referred to individually as a "party" and collectively as the "parties."

WITNESSETH

WHEREAS, Placer, El Dorado and Lessee each have responsibilities under the Business and Professions Code to inspect, try, and test all weighing and measuring devices used for commercial purposes, and each jurisdiction has the need for the use of a weight truck, weight standards and liquid propane gas (LPG) provers from time to time to fulfill said responsibilities; and

WHEREAS, in 2009, Placer and El Dorado entered into an agreement to share the use of a weight truck, weight standards and weight cart ("2009 Agreement"); and

WHEREAS, in furtherance of that 2009 agreement, Placer purchased a 26,000 LB GVWR, 2WD flatbed weight truck, including crane and tool boxes ("Weight Truck"), and El Dorado owns fourteen (14) 1,000 pound certified weight standards and a motorized weight cart ("Weight Standards and Cart"). Pursuant to the terms of the 2009 agreement, El Dorado, while retaining ownership of the Weight Standards and Cart, granted Placer the right to keep, store and use the Weight Standards and Cart in conjunction with the Weight Truck; and

WHEREAS, in the 2009 agreement, Placer and El Dorado acknowledged and agreed that to reduce the costs to each jurisdiction of the use and maintenance of the Weight Truck and Weight Standards and Cart, both jurisdictions would jointly pursue lease opportunities with other local counties or cities ("Third-Party Jurisdictions") for the same; and

WHEREAS, Placer and El Dorado have identified Lessee as a Third-Party Jurisdiction and desires to lease the Weight Truck and Weight Standards and Cart based on the terms and conditions of this Lease Agreement; and

WHEREAS, Placer also owns two LPG provers that Placer is willing to lease to Lessee, and Lessee desires to lease the same from Placer; and

WHEREAS, the parties wish to pursue this Agreement in order to most efficiently utilize limited economic resources.

NOW, THEREFORE, Placer, El Dorado and Lessee, in consideration of the mutual covenants set forth herein, agree as follows:

1. Lease of Weight Truck by Lessee. Placer and El Dorado agree to lease to Lessee, on the terms herein specified, a 26,000 LB GVWR, 2WD flatbed weight truck, including crane and tool boxes (the "Weight Truck"), suitable for use by Lessee's Sealer of Weights and Measures in order to

Agreement for Lease of Weight Truck, Weight Standards, and LPG Provers

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allow Lessee to undertake its responsibilities to test and inspect commercial vehicle, winery, livestock and other large capacity shipping and receiving scales within the boundaries of Lessee's jurisdiction. In exchange for payment as set forth in Section 7 below, Lessee shall be entitled to use the Weight Truck, including the Weight Standards and Cart as defined in Section 6 below (hereinafter sometimes collectively referred to as "Weight Equipment"), for a total of no more than thirty (30) days per each twelve (12) month period during the term of this Agreement on dates mutually agreed upon in advance by Placer and Lessee. Each twelve month period shall commence on July 1 and end on June 30.

2. Priority Use of Weight Truck. Lessee understands that El Dorado is entitled to utilize the Weight Truck upon reasonable prior notice to Placer, that the Weight Truck is garaged by Placer and that El Dorado takes possession from and returns possession to Placer at the location designated by Placer. Lessee understands that Placer and El Dorado have first priority of usage, and agrees to request usage in writing in advance and to schedule usage in coordination with El Dorado to the greatest extent possible such that Lessee retrieves the Weight Equipment from El Dorado or delivers it to El Dorado, thereby reducing extra mileage from Placer County to Amador County. Lessee agrees to take possession of the Weight Truck and return it to the location specified by Placer.
3. Lease of LPG Provers by Lessee. Placer agrees to lease to Lessee, on the terms herein specified, one 100-gallon LPG Prover, consisting of a trailer with permanent-mounted LPG prover for testing LPG delivery truck meters, and one 25-gallon LPG Prover, consisting of a trailer with permanent-mounted LPG prover for testing stationary LPG meters.
4. Priority Use of LPG Provers. Placer hereby grants to Lessee use of said LPG Provers for up to thirty (30) days per each twelve (12) month period, excluding the months of September and October, during the term of this Agreement, on dates mutually agreed upon in advance by Placer and Lessee. Each twelve month period shall commence on July 1 and end on June 30. Lessee shall retrieve the LPG Provers and return them to Placer at 11477 E Avenue, Auburn, California. The LPG Provers shall be transported and operated by an Amador employee/driver who possesses a "Class C" California Driver's License.
5. Costs of Repair. Lessee shall be responsible for paying its own regular and normal operational costs, such as fuel and oil, during its time of possession and for ensuring that the Weight Truck is filled with fuel after use. Lessee shall be responsible for ensuring that only properly licensed and trained employees are allowed to operate the Weight Truck. As a condition of leasing the Weight Truck, Lessee shall bear the responsibility for any damage to the Weight Truck and shall bear the costs of any non-routine major repairs necessitated while the Weight Truck is in the custody of Lessee, whether caused by third-party accident or operator negligence, excepting the costs of major mechanical repairs necessitated by failure as a result of ordinary wear and tear, and not due to the negligence or willful act of the operator. Lessee shall also bear the costs of any non-routine repairs necessitated while the LPG provers are in its custody, whether caused by third-party accident or operator negligence.
6. Use of Weight Standards and Cart with Weight Truck. El Dorado currently owns fourteen (14) 1,000 pound certified weight standards and a motorized weight cart (the "Weight Standards and Cart") which are kept with and utilized in conjunction with the Weight Truck. While El Dorado retains ownership of this equipment, the Weight Standards and Cart are kept for use with the Weight Truck pursuant to the terms of the 2009 agreement between Placer and El Dorado. As a condition of leasing the Weight Truck, Lessee shall bear the responsibility for any damage to

Agreement for Lease of Weight Truck, Weight Standards, and LPG Provers

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the Weight Standards and Cart sustained when using the standards and shall bear the costs of any non-routine repairs necessitated while the Weight Standards and Cart are in the custody of Lessee, whether caused by third-party accident or operator negligence, excepting the costs of major mechanical repairs necessitated by failure as a result of ordinary wear and tear, and not due to the negligence or willful act of the operator.

7. Lease Payments. Lessee agrees to pay Placer Three Thousand Dollars (\$3,000.00) per year as compensation for the use of the Weight Equipment. Commencing July 1, 2021, Lessee shall pay Placer One Thousand Dollars (\$1,000.00) per year for use of the LPG provers. Except as stated herein, all yearly lease payments shall be made on or before October 15 of each year.
8. Term of Lease Agreement. This Agreement shall commence on the date of the last party signature below and continue in full force and effect through June 30, 2022.
9. Termination. The parties may terminate this Agreement upon sixty (60) days prior written notice. In the event of termination during the fiscal year, Lessee shall owe a percentage of its \$4,000 lease payment based on the number of days Lessee has actually used the Weight Equipment and LPG provers out of the allowable 30-day maximum usage. Depending on whether the lease payment has already been made, either Placer shall reimburse Lessee or Lessee shall submit payment to Placer based on Lessee's proportional usage. Said payment shall be made by the date of termination.
10. Hold Harmless and Indemnification. Lessee hereby agrees to protect, defend, indemnify, and hold Placer and El Dorado free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by Placer or El Dorado arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of Placer or El Dorado) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. Lessee agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Lessee. Lessee also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against Lessee, El Dorado or Placer or to enlarge in any way the Lessee's liability but is intended solely to provide for indemnification of Placer and El Dorado from liability for damages or injuries to third persons or property arising from Lessee's performance pursuant to this contract or agreement.

As used above, the term Placer means Placer County or its officers, agents, employees, and volunteers and the term El Dorado means El Dorado County or its officers, agents, employees, and volunteers.

11. Insurance. Lessee may provide proof of full self-insurance with the following coverage, but if not so fully self-insured, then shall keep in full force and effect concurrently herewith, for the benefit of Placer, the following insurance coverage in companies with a Best's Rating of no less than A:VII:

WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Agreement for Lease of Weight Truck, Weight Standards, and LPG Provers

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Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to Lessee's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer and the County of El Dorado."

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against Placer, El Dorado, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the Lessee.

Lessee shall require all subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation insurance shall be filed forthwith with Placer and El Dorado upon demand.

GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of Lessee, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- (1) Contractual liability insuring the obligations assumed by Lessee in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If Lessee carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If Lessee carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than:

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→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) for Products-Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

(2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

Lessee shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of Placer, which consent, if given, shall be subject to the following conditions:

(1) The limits of liability shall not be less than:

→One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

→One million dollars (\$1,000,000) aggregate for Products Completed Operations

→Two million dollars (\$2,000,000) General Aggregate

(2) The insurance coverage provided by Lessee shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by Placer as noted above. In no cases shall the types of policies be different.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

A. "The County of Placer and County of El Dorado, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."

B. "The insurance provided by the Lessee, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer and County of El Dorado with respect to any insurance or self-insurance programs maintained by the County of Placer or County of El Dorado and no insurance held or owned by the County of Placer or the County of El Dorado shall be called upon to contribute to a loss."

C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer and the County of El Dorado."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against Placer County, El Dorado County and funding agencies, their officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - Lessee shall be responsible for all deductibles in all of the Lessee's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

Lessee's Obligations - Lessee's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - Lessee shall furnish Placer and El Dorado with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by Placer and El Dorado before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. Placer and El Dorado reserve the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the Lessee to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

12. Notice. All notices, approvals, payments, or demands of any kind required or desired to be given by one jurisdiction to the other shall be in writing and shall be deemed served or given upon delivery if personally delivered, or if mailed, forty-eight (48) hours after depositing the same in the United States mail, certified or registered, postage prepaid to the addresses shown below. Notice given by any other means that is actually received shall also be effective with respect to the receiving party. Changes in contact person or address information shall be made by notice, in writing, to the other party.

Placer County:
Agricultural Commissioner
11477 E Avenue
Auburn, California 95603

Agreement for Lease of Weight Truck, Weight Standards, and LPG Provers
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El Dorado County:
Agricultural Commissioner
311 Fair Lane
Placerville, CA 95667

Lessee:
Agricultural Commissioner
12200 B Airport Road
Jackson, CA 95642

13. Entire Agreement. This Agreement and any attachments hereto constitute the sole, final, complete, exclusive and integrated expression and statement of the terms and conditions of the agreement among the parties concerning the subject matter addressed herein, and supersede all prior negotiations, representations or agreements, oral or written, that may be related to the subject matter of this Agreement.
14. Amendments. No revision or amendment to this Agreement shall be valid unless made in writing and signed by duly authorized representatives of all parties.
15. Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.
16. Successors and Assigns. Neither party shall assign the obligations or benefits of this Agreement in whole or in part to any other public entity, individual, firm or corporation without the prior written consent of the other party. Subject to compliance with the preceding sentence, if assigned, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the parties hereto.
17. Status of Employees. All persons performing services for Lessee shall be solely employees or contractors of Lessee and not employees of Placer or El Dorado, except those persons expressly and directly employed by Placer or El Dorado. Furthermore, Lessee is not an agent of Placer or El Dorado.
18. Construction and Interpretation. It is agreed and acknowledged by the parties that the provisions of this Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.
19. Captions. The captions in this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section or paragraph of this Agreement. All references to section numbers refer to sections in this Agreement.
20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when affixed together shall constitute but one and the same instrument.

21. Severability. The invalidity of any term or provision of this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof. Each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
22. Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any right or remedy that said party may have, and shall not be deemed a waiver of said party's right to require strict performance of all terms, covenants, and conditions thereafter, nor a waiver of any remedy for the subsequent breach of any of the terms, covenants or conditions.
23. Force Majeure. If any party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.
24. Legal Jurisdiction. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under and construed and enforced in accordance with the laws of the State of California. Venue for any disputes shall be the Superior Court for the State of California, in Placer County. The parties hereby waive any federal court removal rights and/or original jurisdiction rights that they may have.
25. Authority to Execute Agreement. Each party represents that it has the legal authority to enter into this Agreement and to perform its obligations hereunder.
26. Prior Agreement Superseded. As of its effective date, this Agreement shall supersede the prior agreement entered into between the parties on September 11, 2018, regarding the lease of the Weight Truck and Weight Standards. However, said prior agreement shall govern and remain in effect with respect to the parties' actions prior to the effective date of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands the year and date written below.

COUNTY OF PLACER

COUNTY OF AMADOR

By: _____
Josh Huntsinger
Agricultural Commissioner

By: _____
Chair, Board of Supervisors

Dated: _____

Dated: _____

ATTEST:

ATTEST:

BY: _____

BY: _____

Clerk of the Board

APPROVED AS TO FORM:

APPROVED AS TO FORM:

BY: _____
Eric Brumfield
County Counsel

BY: _____
County Counsel

COUNTY OF EL DORADO

By: _____
John Hidahl
Chair, Board of Supervisors

Dated: _____

ATTEST:

BY: _____
Kim Dawson
Clerk of the Board

APPROVED AS TO FORM:

BY: _____
Daniel Vandekoolwyk
County Counsel



County of El Dorado

330 Fair Lane, Building A
Placerville, California
530 621-5390
FAX 622-3645
www.edcgov.us/bos/

Master Report

File Number: 09-0283

*File ID #: 09-0283	Agenda Agreement Type:	Status: Approved
Version: 1	Reference:	Gov Body: Board of Supervisors
Department: Agriculture Department		Created: 02/27/2009
Agenda Title: Agriculture 03/10/09 Weight Truck Contribution		Final Action: 03/10/2009

Title: Agriculture, Weights and Measures Department recommending Chairman be authorized to sign an Agreement with the County of Placer in the amount of \$20,000 to participate in making a one time contribution for the joint purchase of a new weight truck to be used by the Counties of Placer, El Dorado and Amador; and recommending Budget Transfer 29088 for same.
RECOMMENDED ACTION: Approve.

FUNDING: General Fund included in Fiscal Year 200820-09 budget.

Notes:

Agenda Date: 03/10/2009

Agenda Number:

Sponsors:

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Attachments: 09-0283 ATTACH.A BLUE ROUTE.pdf, 09-0283 ATTACH B AGREEMENT.pdf, 09-0283 ATTACH.C BT 29088.pdf, 09-0283 ATTACH.D LTR.pdf

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Contact: Myrna Tow x6647

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Related Files:

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	3/2/2009	Bill Stephans	Approved	3/5/2009
1	2	3/2/2009	Agenda Coordinator	Delegated	3/5/2009
1	3	3/3/2009	Laura Schwartz	Delegated	3/5/2009
1	4	3/3/2009	Mike Applegarth	Approved	3/6/2009
Notes: Consent					
1	5	3/3/2009	Gayle Erbe-Hamlin	Approved	3/6/2009

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Board of Supervisors	03/10/2009	Approved				Pass
Action Text: This matter was Approved on the consent calendar							
Yes: 5 - Supervisor Knight, Supervisor Sweeney, Supervisor Nutting, Briggs and Santiago							

Text of Legislative File 09-0283

Agriculture, Weights and Measures Department recommending Chairman be authorized to sign an Agreement with the County of Placer in the amount of \$20,000 to participate in making a one time contribution for the joint purchase of a new weight truck to be used by the Counties of Placer, El Dorado and Amador; and recommending Budget Transfer 29088 for same.

RECOMMENDED ACTION: Approve.

FUNDING: General Fund included in Fiscal Year 200820-09 budget.

Fiscal Impact/Change to Net County Cost: No change to net County cost. Funding is included in the Departments budget for repairs to exiting weight truck to retrofit the Diesel Particulate Trap.

Background: The Department currently uses a 1990 International Medium Capacity Weight Truck that is mandated by California Air Resources Board Regulations to be retrofitted with a Diesel Particulate Trap prior to December 2009. Preliminary estimates for the kit with installation by A to Z Services (Contracted through Department of Transportation) will cost the Department \$21,488 (\$20,000 has been budgeted). The age, rapid decline in value and high cost of maintenance each year coupled with the additional cost of the mandated particulate trap makes it extremely difficult to justify the overall expenditure by the Department on a vehicle that will require replacement in the very near future. The total amount of inspections we are mandated to perform does not justify the purchase of a new Medium Capacity Weight Truck solely for our use.

Reason for Recommendation: The Department currently has rental agreements with Placer County and Amador County which allows both counties to use our medium capacity weight truck, equipped with hoist, motorized weight cart, and (10) 1,000 pound certified weights. Each county currently uses the weight truck an average of four to six weeks per year for the specialized testing/inspecting of commercially used vehicle, winery, livestock and large capacity shipping and receiving scales.

Placer County's Board of Supervisors has approved partial funding for the purchase of a new weight truck by their Department of Agriculture, Weights and Measures. Enough funding for the new weight truck will be available with the additional El Dorado County

contribution of \$20,000. To complete the functionality of the new truck without additional expense, the use of our (14) 1000 lb certified weights and motorized weight cart will be included in the agreement. The participating counties will enter into a Memorandum of Understanding to allow the use of the new weight truck whenever necessary each year.

Action to be taken following Board approval:

1. Chairman to sign two (2) Agreements and return to Department.
2. Department will distribute Agreement to Placer County for signatures and upon completion
will return one fully executed Agreement to the Board Clerks office.
3. Board Chairman will sign Budget Transfer to reallocate Appropriations in Contributions to
Non-Governmental Agencies from Maintenance Vehicle and forwarded to the Auditor
Controllers Office for posting to FY 08/09 Budget.

Contact: Myrna Tow x6647

Concurrences: County Counsel, Chief Administrative Office & Risk Management .

Contract #: 563-00910

CONTRACT ROUTING SHEET

Date Prepared: 02/24/2009

Need Date: 03/11/2009 *earliest date possible*

PROCESSING DEPARTMENT:

Department: Agriculture
Dept. Contact: Myrna Tow
Phone #: 6647
Department
Head Signature: *William J. Stephans*
William J. Stephans

CONTRACTOR:

Name: EDC Dept of Agriculture
Address: 311 Fair Lane
Placerville, CA 95667
Phone: (530) 621-6647

RECEIVED COUNTY COUNSEL
FEB 25 10 25 AM '09

CONTRACTING DEPARTMENT: Placer County Department of Agriculture

Service Requested: Agreement/share Weight Truck/one time contribution of \$20,000/use of EDC 15-1,000lb weights and gasoline mover

Contract Term: Year to Year 180 months Contract/Amendment Value: \$20,000.00

Compliance with Human Resources requirements? Yes: No:

Compliance verified by: n/a

COUNTY COUNSEL: (Must approve all contracts and MOU's)

Approved: Disapproved: Date: 2/25/09 By: *PJO*
Approved: Disapproved: Date: _____ By: _____

see notes

RISK MANAGEMENT: (All contracts and MOU's except boilerplate grant funding agreements)

Approved: Disapproved: Date: _____ By: _____
Approved: Disapproved: Date: 2/27/09 By: *Tom*

RECEIVED
HUMAN RESOURCES DEPT
FEB 25 PM 3:53

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

Departments:
Approved: Disapproved: Date: _____ By: _____
Approved: Disapproved: Date: _____ By: _____

Please note - New agreement with changes 2/24/09. Book up includes original mark up and changes tracked. Thanks AA

2/27/2009

09-0283 ATTACH.A1 of 1

AGREEMENT FOR USE OF WEIGHT TRUCK AND WEIGHT STANDARDS

THIS AGREEMENT made and entered into this 10th day of March, 2009, by and between the County of Placer, hereinafter referred to as "Placer", and the County of El Dorado, hereinafter referred to as "El Dorado", both political subdivisions of the State of California.

WITNESSETH

WHEREAS, Placer and El Dorado each have responsibilities under the Business and Professions Code to inspect, try, and test all weighing and measuring devices used for commercial purposes, and each jurisdiction has the need for the use of a heavy weight truck and weight standards from time-to-time to fulfill said responsibilities, and

WHEREAS, in order to most efficiently utilize their limited economic resources, Placer and El Dorado desire to jointly share the use of a heavy weight truck, weight standards and weight cart, and

WHEREAS, El Dorado currently owns weight standards and a weight cart, and Placer is willing to purchase a weight truck ,

NOW, THEREFORE, Placer and El Dorado, in consideration of the mutual covenants herein set forth herein, agree as follows:

1. Purchase of Weight Truck by Placer. Placer agrees to purchase a 26,000 LB GVWR, 2wd flatbed weight truck, including crane and tool boxes, (the "Weight Truck") suitable for use by the Sealer of Weights and Measures of each jurisdiction in undertaking each party's respective responsibilities to test and inspect commercial vehicle, winery, livestock and other large capacity shipping and receiving scales in their counties. El Dorado agrees to provide to Placer the sum of Twenty-Thousand Dollars (\$20,000) to be utilized by Placer solely towards the purchase price of the Weight Truck, which is estimated to have a total cost of One Hundred-Thousand Dollars (\$100,000). El Dorado shall provide the funds upon request of Placer, and Placer shall provide El Dorado with such reasonable assurances as El Dorado may require to substantiate the use of the funds towards the purchase of the Weight Truck.
2. Joint Use of Weight Truck. Placer shall take possession of and hold title to the Weight Truck. Placer agrees that El Dorado shall be entitled to utilize the Weight Truck upon reasonable prior notice to Placer at no additional cost to El Dorado, except as set forth herein for maintenance and repair. The jurisdictions agree to communicate on a regular basis to coordinate usage of the Weight Truck. The Weight Truck shall be garaged by Placer and El Dorado shall take possession from and return possession to Placer at the location designated by Placer. Each jurisdiction shall be responsible for ensuring that the Weight Truck is filled with fuel after use, and that only properly licensed and trained employees of each jurisdiction shall be allowed to operate the Weight Truck. Placer shall be responsible for performing the State required weight truck calibration each year. Placer and El Dorado acknowledge that it will reduce the costs to each jurisdiction if the Weight Truck were to be leased to other jurisdictions and agree to jointly pursue such third-jurisdiction leasing opportunities based upon terms and conditions similar to those set forth herein. Any revenues derived from

leasing the Weight Truck shall be paid to Placer County and placed into a fund to be used solely for costs associated with the Weight Truck. This fund shall be established and maintained by Placer County.

3. Joint Use of Weight Standards and Weight Cart. El Dorado currently owns fourteen (14) 1,000 pound certified weight standards and a motorized weight cart, which equipment is utilized in conjunction with the Weight Truck. El Dorado shall retain ownership of this equipment, but Placer shall be granted possession of them to be kept for use with the Weight Truck. Each jurisdiction that uses or leases the Weight Truck shall bear the responsibility for any damage to the certified weight standards sustained when using the standards. Each jurisdiction that uses or leases the Weight Truck shall bear the costs of any non-routine repairs necessitated while the Weight Cart is in the custody of that jurisdiction, whether caused by third-party accident or operator negligence; provided, however, the costs of major mechanical repairs necessitated by failure as a result of ordinary wear and tear, and not due to the negligence or willful act of the operator, shall be borne by each jurisdiction in accordance with their agreed-upon allocation of routine maintenance and service.
4. Responsibility for Costs of Maintenance and Repair. Each jurisdiction shall be responsible for paying their own regular and normal operational costs during their own time of possession and usage of the Weight Truck, such as fuel and oil. Placer shall be responsible for performing routine maintenance and service of the Weight Truck and weight cart; provided, however, no later than February 1st of each year, the parties shall meet and agree upon a proposed allocation of the anticipated costs therefore based upon their estimated proportional usage of the Weight Truck in the upcoming twelve months based upon a per-mile or other basis as determined equitable by the jurisdictions, and at the same time shall review and resolve the responsibility for any discrepancy from the estimate for the previous twelve month period, if any. El Dorado shall pay Placer its agreed-upon share of the estimated maintenance costs upon request of Placer within Forty-Five (45) days of receipt of written invoice. Each jurisdiction that uses or leases the Weight Truck shall bear the costs of any non-routine major repairs necessitated while the Weight Truck is in the custody of that jurisdiction, whether caused by third-party accident or operator negligence; provided, however, the costs of major mechanical repairs necessitated by failure as a result of ordinary wear and tear, and not due to the negligence or willful act of the operator, shall be borne by each jurisdiction in accordance with their agreed-upon allocation of routine maintenance and service.
5. Term of Agreement. It is the intent of the jurisdictions to continue to jointly utilize the Weight Truck for the full extent of its useful working term, which is estimated to be One Hundred and Eighty (180) months. This Agreement shall continue in force and effect from year to year; provided, however, either party may terminate this Agreement upon twelve (12) months prior written notice. Within sixty (60) days of receipt of any such notice, the jurisdictions shall meet to discuss the cause of the termination and if the jurisdiction seeking termination does not rescind its notice, to allocate responsibility for the costs, if any, which may result from the termination. Upon termination, Placer shall retain ownership and possession of the Weight Truck and El Dorado shall be entitled to full possession of the weight standards and weight cart, as well as a portion of the original Twenty-Thousand Dollar (\$20,000) contribution, which shall be adjusted for depreciation on a quarterly basis throughout the useful working term of the Weight Truck.

6. Hold Harmless and Indemnification. Each jurisdiction shall hold harmless, defend, and indemnify the other jurisdiction from any and all claims, damages, losses or expenses of any nature, whether to person or property, and including attorney fees, arising out of that jurisdiction's possession or usage of the Weight Truck, weight standards and/or weight cart, caused in whole or in part by any negligent or willful act or omission of that jurisdiction, or anyone directly or indirectly employed by that jurisdiction.
7. Insurance. Each jurisdiction (Placer or El Dorado, as the case may be) shall be fully self-insured with the following coverage, and if not so fully self-insured, then shall keep in full force and effect concurrently herewith, for the benefit of the other jurisdiction (El Dorado or Placer, as the case may be), insurance coverage in companies with a Best's Rating of no less than A:VII:

WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to Placer/El Dorado."

Each jurisdiction shall require all contractors to maintain adequate Workers' Compensation insurance.

GENERAL LIABILITY INSURANCE:

- A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of Placer/El Dorado, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
 - (1) Products and completed operations;
 - (2) Contractual liability insuring the obligations assumed by Placer/El Dorado under this Agreement; and
 - (3) Broad form property damage (including completed operations)

Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limits, where applicable, shall apply separately to Placer/El Dorado's work under this Agreement.

- B. One of the following forms is required:
- (1) Comprehensive General Liability;
 - (2) Commercial General Liability (Occurrence); or
 - (3) Commercial General Liability (Claims Made).
- C. If Placer/EI Dorado carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:
- One million dollars (\$1,000,000) each occurrence
 - One million dollars (\$1,000,000) aggregate
- D. If Placer/EI Dorado carries a Commercial General Liability (Occurrence) policy:
- (1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) for Products Completed Operations
 - One million dollars (\$1,000,000) General Aggregate
 - (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).
- E. Special Claims Made Policy Form Provisions:

Neither jurisdiction shall provide a Commercial General Liability (Claims Made) policy without the express prior written consent of the other, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) aggregate for Products Completed Operations
 - One million dollars (\$1,000,000) General Aggregate

- (2) The insurance coverage provided by each jurisdiction shall contain language providing coverage up to six (6) months following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "Placer/El Dorado, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided, including any excess liability or umbrella form coverage, is primary coverage with respect to any insurance or self-insurance programs maintained by the jurisdiction and no insurance held or owned by the jurisdiction shall be called upon to contribute to a loss."
- C. "This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the other jurisdiction."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence. Covered vehicles should include owned, non-owned, and hired automobiles/trucks.

8. Notice. All notices, and approvals or demands of any kind required or desired to be given by one jurisdiction to the other shall be in writing and shall be deemed served or given upon delivery if personally delivered or faxed, or, if mailed, forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid to the addresses shown below.

Placer County: Agricultural Commissioner, Sealer of Weights & Measures
11477 E Avenue
Auburn, California 95603
Fax: (530) 823-1698

El Dorado County: Agricultural Commissioner, Sealer of Weights & Measures
311 Fair Lane
Placerville, CA 95667-4197
Fax: (530) 626-4756

9. Entire Agreement. This Agreement and any attachments hereto constitute the sole, final, complete, exclusive and integrated expression and statement of the terms and conditions of this Agreement among the parties concerning the subject matter

addressed herein, and supersedes all prior negotiations, representations or agreements, oral or written, that may be related to the subject matter of this Agreement.

10. Construction and Interpretation. It is agreed and acknowledged by the parties that the provisions of this Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.
11. Successors and Assigns. Neither party shall assign the obligations of this Agreement in whole or in part to any other public entity, individual, firm or corporation without the prior written consent of the other party. Subject to the provisions of the preceding sentence, if assigned, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the parties hereto.
12. Authority to Execute Agreement. Each party represents that it has the legal authority to enter into this Agreement and to perform its obligations hereunder.

IN WITNESS WHEREOF, the parties have hereunto set their hands the year and date written below.

EL DORADO COUNTY

PLACER COUNTY

BY: 

Ron Briggs
Chairman, Board of Supervisors

By: 

Christine Turner
Agricultural Commissioner,
Sealer of Weights & Measures

Dated: 3/10/09

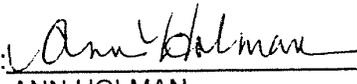
Dated: March 13, 2009

ATTEST:

ATTEST:

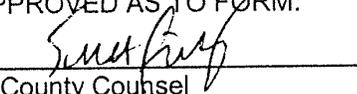
BY: 

Suzanne Allen de Sanchez
Clerk of the Board

BY: 

ANN HOLMAN
Clerk of the Board

APPROVED AS TO FORM:

BY: 

County Counsel

AUDITOR / CONTROLLER'S USE	
TRANSFER #	29088
DATE	
CODE BY	

EL DORADO COUNTY APPROPRIATION TRANSFER (29130 GOV. CODE)
BUDGET TRANSFER REQUEST #1
 AGRICULTURE, WEIGHTS & MEASURES
DEPARTMENT OR AGENCY NAME

TO BE COMPLETED BY THE DEPARTMENT	
DOCUMENT TOTAL	40,000 ✓
NUMBER OF LINES	2 ✓
TRANSACTION CODE TOTAL*	02923 ✓

DATE: 2/26/2009
 DEPARTMENT AUTHORIZATION SIGNATURE AND PHONE NUMBER: *Bill Stephans* Bill Stephans x5522
 PAGE 1 OF 1

COMPLETE THE INFORMATION BELOW WITH JUSTIFICATION NARRATIVE OR ATTACH A MEMO.
 REMOVE THE GOLD COPY AND SUBMIT COMPLETE REQUEST TO THE AUDITOR / CONTROLLER'S OFFICE. *BOS 3/10/09*
 A BUDGET TRANSFER MUST BE AT LEAST TWO LINES, NOT EXCEED TWENTY-SIX LINES AND USE AN "ODD AND EVEN" NUMBERED TRANSACTION CODE*
 * 002 = INCREASE ESTIMATED REVENUE * 011 = INCREASE IN APPROPRIATION / BOS APPROVED
 * 003 = DECREASE ESTIMATED REVENUE * 012 = DECREASE IN APPROPRIATION / BOS APPROVED

S F X	TRANS CODE NO. *	INDEX CODE NUMBER	SUB OBJECT NUMBER	USER CODE NUMBER	AMOUNT	DESCRIPTION (50 CHARACTERS MAX.)
1	01101	263100 ✓	4162 ✓		20,000 ✓	<i>FY 08/09 Bud Rev</i> BUDGET REALLOCATION TO INCREASE APPROPRIATIONS IN
2	01101	263100 ✓	5240 ✓		20,000 ✓	CONTRIBUTIONS TO NON-COUNTY GOVERNMENTAL AGENCIES FROM MAINTENANCE VEHICLES AND HEAVY EQUIPMENT FOR WEIGHT TRUCK
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						<i>Legislative # 09-0283 3/10/09</i>
13						

REVIEWED FOR FORMAT BY

Joe Harn
 JOE HARN, C.P.A. AUDITOR / CONTROLLER
 DATE: 2/27/09

APPROVED AND SO ORDERED THAT THE ABOVE TRANSFERS BE MADE (AS REQUESTED OR AMENDED) AND INCORPORATED IN THE MINUTES OF THIS MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

CHIEF ADMINISTRATIVE OFFICE - ANALYST _____ DATE _____ SIGNATURE: CHAIRMAN, BOARD OF SUPERVISORS _____ DATE _____

CHIEF ADMINISTRATIVE OFFICE _____ DATE _____ ATTEST: CLERK, BOARD OF SUPERVISORS _____

3-APPROPRIATION TRANSFER 1 NLS

DISTRIBUTION: WHITE - BOS / YELLOW - AUDITOR / PINK - CHIEF ADMINISTRATIVE OFFICE / GOLD - DEPARTMENT



The County of El Dorado

Agriculture, Weights & Measures

311 Fair Lane
Placerville, CA 95667-4197

William J. Stephans
Agricultural Commissioner,
Sealer of Weights & Measures

Phone (530) 621-5520
Fax (530) 626-4756
eldcag@co.el-dorado.ca.us

December 4, 2008

Christine Turner,
Agricultural Commissioner/
Sealer of Weights & Measures
Placer County Department of Agriculture,
Weights & Measures
11477 E. Avenue
Auburn, CA 95603-2799

Dear Christine,

The County of El Dorado Department of Agriculture, Weights & Measures is participating with the County of Placer Department of Agriculture, Weights & Measures by making a one time contribution in the amount of \$20,000 to jointly purchase a new weight truck that will be used by the counties of Placer, El Dorado and Amador. This Letter does not create a binding agreement between Placer County and El Dorado County for the use and maintenance of the new weight truck. A Memorandum of Understanding to establish the basic terms, percent of usage, and cost for maintenance will be established by Placer County and forwarded to El Dorado County Counsel for review, concurrence and adoption by the El Dorado County Board of Supervisors.

BACKGROUND:

- A. The Department currently uses a 1990 International Medium Capacity Weight Truck that is mandated by California Air Resources Board Regulations to be retrofitted with a Diesel Particulate Trap prior to December 2009. Preliminary estimates for the kit with installation by A to Z Services (Contracted through Department of Transportation) will cost the Department \$21,488 (\$20,000 has been budgeted). The age, rapid decline in value and high cost of maintenance each year coupled with the additional cost of the mandated particulate trap makes it extremely difficult to justify the overall expenditure by the Department on a vehicle that will require replacement in the very near future.

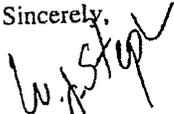
Protecting Agriculture, People and the Environment

20081204

NO. 0283 ATTACH D I TR 1 of 2

- B. The Department currently has rental agreements with Placer County and Amador County which allows both counties to use our medium capacity weight truck, equipped with hoist, motorized weight cart, and (10) 1,000 pound certified weights. Each county currently uses the weight truck an average of four to six weeks per year for the specialized testing/inspecting of commercially used vehicle, winery, livestock and large capacity shipping and receiving scales.
- C. Placer County's Board of Supervisors has approved partial funding for the purchase of a new weight truck by their Department of Agriculture, Weights and Measures. Enough funding for the new weight truck will be available with the additional El Dorado County contribution of \$20,000. To complete the functionality of the new truck without additional expense, the use of our (10) 1000 lb certified weights and motorized weight cart will be included in the agreement. The participating counties will enter into a Memorandum of Understanding to allow the use of the new weight truck whenever necessary each year.

Sincerely,



William J. Stephans

cc: CAO/Budget Transfer document



The County of El Dorado

Agriculture, Weights & Measures

311 Fair Lane
Placerville, CA 95667-4197

William J. Stephans
Agricultural Commissioner,
Sealer of Weights & Measures

Phone (530) 621-5520
Fax (530) 626-4756
eldcag@co.el-dorado.ca.us

December 4, 2008

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Agricultural Commissioner/
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Placer County Department of Agriculture,
Weights & Measures
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Auburn, CA 95603-2799

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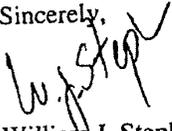
Protecting Agriculture, People and the Environment

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00-0283 ATTACH D I TR1 of 2

- B. The Department currently has rental agreements with Placer County and Amador County which allows both counties to use our medium capacity weight truck, equipped with hoist, motorized weight cart, and (10) 1,000 pound certified weights. Each county currently uses the weight truck an average of four to six weeks per year for the specialized testing/inspecting of commercially used vehicle, winery, livestock and large capacity shipping and receiving scales.
- C. Placer County's Board of Supervisors has approved partial funding for the purchase of a new weight truck by their Department of Agriculture, Weights and Measures. Enough funding for the new weight truck will be available with the additional El Dorado County contribution of \$20,000. To complete the functionality of the new truck without additional expense, the use of our (10) 1000 lb certified weights and motorized weight cart will be included in the agreement. The participating counties will enter into a Memorandum of Understanding to allow the use of the new weight truck whenever necessary each year.

Sincerely,



William J. Stephans

cc: CAO/Budget Transfer document

AGREEMENT FOR LEASE OF WEIGHT TRUCK, WEIGHT STANDARDS, AND LPG PROVERS

This LEASE AGREEMENT ("Agreement") made and entered into this 28th day of September, 2021, by and between the County of Placer (hereinafter referred to as "Placer"), the County of El Dorado (hereinafter referred to as "El Dorado") and the County of Amador (hereinafter referred to as "Lessee"), all political subdivisions of the State of California. Placer, El Dorado and Lessee are sometimes hereinafter referred to individually as a "party" and collectively as the "parties."

WITNESSETH

WHEREAS, Placer, El Dorado and Lessee each have responsibilities under the Business and Professions Code to inspect, try, and test all weighing and measuring devices used for commercial purposes, and each jurisdiction has the need for the use of a weight truck, weight standards and liquid propane gas (LPG) provers from time to time to fulfill said responsibilities; and

WHEREAS, in 2009, Placer and El Dorado entered into an agreement to share the use of a weight truck, weight standards and weight cart ("2009 Agreement"); and

WHEREAS, in furtherance of that 2009 agreement, Placer purchased a 26,000 LB GVWR, 2WD flatbed weight truck, including crane and tool boxes ("Weight Truck"), and El Dorado owns fourteen (14) 1,000 pound certified weight standards and a motorized weight cart ("Weight Standards and Cart"). Pursuant to the terms of the 2009 agreement, El Dorado, while retaining ownership of the Weight Standards and Cart, granted Placer the right to keep, store and use the Weight Standards and Cart in conjunction with the Weight Truck; and

WHEREAS, in the 2009 agreement, Placer and El Dorado acknowledged and agreed that to reduce the costs to each jurisdiction of the use and maintenance of the Weight Truck and Weight Standards and Cart, both jurisdictions would jointly pursue lease opportunities with other local counties or cities ("Third-Party Jurisdictions") for the same; and

WHEREAS, Placer and El Dorado have identified Lessee as a Third-Party Jurisdiction and desires to lease the Weight Truck and Weight Standards and Cart based on the terms and conditions of this Lease Agreement; and

WHEREAS, Placer also owns two LPG provers that Placer is willing to lease to Lessee, and Lessee desires to lease the same from Placer; and

WHEREAS, the parties wish to pursue this Agreement in order to most efficiently utilize limited economic resources.

NOW, THEREFORE, Placer, El Dorado and Lessee, in consideration of the mutual covenants set forth herein, agree as follows:

1. Lease of Weight Truck by Lessee. Placer and El Dorado agree to lease to Lessee, on the terms herein specified, a 26,000 LB GVWR, 2WD flatbed weight truck, including crane and tool boxes (the "Weight Truck"), suitable for use by Lessee's Sealer of Weights and Measures in order to

allow Lessee to undertake its responsibilities to test and inspect commercial vehicle, winery, livestock and other large capacity shipping and receiving scales within the boundaries of Lessee's jurisdiction. In exchange for payment as set forth in Section 7 below, Lessee shall be entitled to use the Weight Truck, including the Weight Standards and Cart as defined in Section 6 below (hereinafter sometimes collectively referred to as "Weight Equipment"), for a total of no more than thirty (30) days per each twelve (12) month period during the term of this Agreement on dates mutually agreed upon in advance by Placer and Lessee. Each twelve month period shall commence on July 1 and end on June 30.

2. Priority Use of Weight Truck. Lessee understands that El Dorado is entitled to utilize the Weight Truck upon reasonable prior notice to Placer, that the Weight Truck is garaged by Placer and that El Dorado takes possession from and returns possession to Placer at the location designated by Placer. Lessee understands that Placer and El Dorado have first priority of usage, and agrees to request usage in writing in advance and to schedule usage in coordination with El Dorado to the greatest extent possible such that Lessee retrieves the Weight Equipment from El Dorado or delivers it to El Dorado, thereby reducing extra mileage from Placer County to Amador County. Lessee agrees to take possession of the Weight Truck and return it to the location specified by Placer.
3. Lease of LPG Provers by Lessee. Placer agrees to lease to Lessee, on the terms herein specified, one 100-gallon LPG Prover, consisting of a trailer with permanent-mounted LPG prover for testing LPG delivery truck meters, and one 25-gallon LPG Prover, consisting of a trailer with permanent-mounted LPG prover for testing stationary LPG meters.
4. Priority Use of LPG Provers. Placer hereby grants to Lessee use of said LPG Provers for up to thirty (30) days per each twelve (12) month period, excluding the months of September and October, during the term of this Agreement, on dates mutually agreed upon in advance by Placer and Lessee. Each twelve month period shall commence on July 1 and end on June 30. Lessee shall retrieve the LPG Provers and return them to Placer at 11477 E Avenue, Auburn, California. The LPG Provers shall be transported and operated by an Amador employee/driver who possesses a "Class C" California Driver's License.
5. Costs of Repair. Lessee shall be responsible for paying its own regular and normal operational costs, such as fuel and oil, during its time of possession and for ensuring that the Weight Truck is filled with fuel after use. Lessee shall be responsible for ensuring that only properly licensed and trained employees are allowed to operate the Weight Truck. As a condition of leasing the Weight Truck, Lessee shall bear the responsibility for any damage to the Weight Truck and shall bear the costs of any non-routine major repairs necessitated while the Weight Truck is in the custody of Lessee, whether caused by third-party accident or operator negligence, excepting the costs of major mechanical repairs necessitated by failure as a result of ordinary wear and tear, and not due to the negligence or willful act of the operator. Lessee shall also bear the costs of any non-routine repairs necessitated while the LPG provers are in its custody, whether caused by third-party accident or operator negligence.
6. Use of Weight Standards and Cart with Weight Truck. El Dorado currently owns fourteen (14) 1,000 pound certified weight standards and a motorized weight cart (the "Weight Standards and Cart") which are kept with and utilized in conjunction with the Weight Truck. While El Dorado retains ownership of this equipment, the Weight Standards and Cart are kept for use with the Weight Truck pursuant to the terms of the 2009 agreement between Placer and El Dorado. As a condition of leasing the Weight Truck, Lessee shall bear the responsibility for any damage to

the Weight Standards and Cart sustained when using the standards and shall bear the costs of any non-routine repairs necessitated while the Weight Standards and Cart are in the custody of Lessee, whether caused by third-party accident or operator negligence, excepting the costs of major mechanical repairs necessitated by failure as a result of ordinary wear and tear, and not due to the negligence or willful act of the operator.

7. Lease Payments. Lessee agrees to pay Placer Three Thousand Dollars (\$3,000.00) per year as compensation for the use of the Weight Equipment. Commencing July 1, 2021, Lessee shall pay Placer One Thousand Dollars (\$1,000.00) per year for use of the LPG provers. Except as stated herein, all yearly lease payments shall be made on or before October 15 of each year.
8. Term of Lease Agreement. This Agreement shall commence on the date of the last party signature below and continue in full force and effect through June 30, 2022.
9. Termination. The parties may terminate this Agreement upon sixty (60) days prior written notice. In the event of termination during the fiscal year, Lessee shall owe a percentage of its \$4,000 lease payment based on the number of days Lessee has actually used the Weight Equipment and LPG provers out of the allowable 30-day maximum usage. Depending on whether the lease payment has already been made, either Placer shall reimburse Lessee or Lessee shall submit payment to Placer based on Lessee's proportional usage. Said payment shall be made by the date of termination.
10. Hold Harmless and Indemnification. Lessee hereby agrees to protect, defend, indemnify, and hold Placer and El Dorado free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by Placer or El Dorado arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of Placer or El Dorado) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. Lessee agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Lessee. Lessee also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against Lessee, El Dorado or Placer or to enlarge in any way the Lessee's liability but is intended solely to provide for indemnification of Placer and El Dorado from liability for damages or injuries to third persons or property arising from Lessee's performance pursuant to this contract or agreement.

As used above, the term Placer means Placer County or its officers, agents, employees, and volunteers and the term El Dorado means El Dorado County or its officers, agents, employees, and volunteers.

11. Insurance. Lessee may provide proof of full self-insurance with the following coverage, but if not so fully self-insured, then shall keep in full force and effect concurrently herewith, for the benefit of Placer, the following insurance coverage in companies with a Best's Rating of no less than A:VII:

WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Agreement for Lease of Weight Truck, Weight Standards, and LPG Provers

Page 3 of 10

B Placer-Amador Shared Equipment MOU Page 3 of 10

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to Lessee's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer and the County of El Dorado."

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against Placer, El Dorado, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the Lessee.

Lessee shall require all subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation insurance shall be filed forthwith with Placer and El Dorado upon demand.

GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of Lessee, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- (1) Contractual liability insuring the obligations assumed by Lessee in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If Lessee carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If Lessee carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than:

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- One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
- One million dollars (\$1,000,000) for Products-Completed Operations
- Two million dollars (\$2,000,000) General Aggregate

(2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

Lessee shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of Placer, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) aggregate for Products Completed Operations
 - Two million dollars (\$2,000,000) General Aggregate
- (2) The insurance coverage provided by Lessee shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by Placer as noted above. In no cases shall the types of policies be different.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer and County of El Dorado, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the Lessee, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer and County of El Dorado with respect to any insurance or self-insurance programs maintained by the County of Placer or County of El Dorado and no insurance held or owned by the County of Placer or the County of El Dorado shall be called upon to contribute to a loss."

C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer and the County of El Dorado."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against Placer County, El Dorado County and funding agencies, their officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - Lessee shall be responsible for all deductibles in all of the Lessee's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

Lessee's Obligations - Lessee's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - Lessee shall furnish Placer and El Dorado with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by Placer and El Dorado before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Lessee's obligation to provide them. Placer and El Dorado reserve the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the Lessee to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

12. Notice. All notices, approvals, payments, or demands of any kind required or desired to be given by one jurisdiction to the other shall be in writing and shall be deemed served or given upon delivery if personally delivered, or if mailed, forty-eight (48) hours after depositing the same in the United States mail, certified or registered, postage prepaid to the addresses shown below. Notice given by any other means that is actually received shall also be effective with respect to the receiving party. Changes in contact person or address information shall be made by notice, in writing, to the other party.

Placer County:
Agricultural Commissioner
11477 E Avenue
Auburn, California 95603

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El Dorado County:
Agricultural Commissioner
311 Fair Lane
Placerville, CA 95667

Lessee:
Agricultural Commissioner
12200 B Airport Road
Jackson, CA 95642

13. Entire Agreement. This Agreement and any attachments hereto constitute the sole, final, complete, exclusive and integrated expression and statement of the terms and conditions of the agreement among the parties concerning the subject matter addressed herein, and supersede all prior negotiations, representations or agreements, oral or written, that may be related to the subject matter of this Agreement.
14. Amendments. No revision or amendment to this Agreement shall be valid unless made in writing and signed by duly authorized representatives of all parties.
15. Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.
16. Successors and Assigns. Neither party shall assign the obligations or benefits of this Agreement in whole or in part to any other public entity, individual, firm or corporation without the prior written consent of the other party. Subject to compliance with the preceding sentence, if assigned, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the parties hereto.
17. Status of Employees. All persons performing services for Lessee shall be solely employees or contractors of Lessee and not employees of Placer or El Dorado, except those persons expressly and directly employed by Placer or El Dorado. Furthermore, Lessee is not an agent of Placer or El Dorado.
18. Construction and Interpretation. It is agreed and acknowledged by the parties that the provisions of this Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.
19. Captions. The captions in this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section or paragraph of this Agreement. All references to section numbers refer to sections in this Agreement.
20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when affixed together shall constitute but one and the same instrument.

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21. Severability. The invalidity of any term or provision of this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof. Each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
22. Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any right or remedy that said party may have, and shall not be deemed a waiver of said party's right to require strict performance of all terms, covenants, and conditions thereafter, nor a waiver of any remedy for the subsequent breach of any of the terms, covenants or conditions.
23. Force Majeure. If any party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, or other cause without fault and beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.
24. Legal Jurisdiction. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under and construed and enforced in accordance with the laws of the State of California. Venue for any disputes shall be the Superior Court for the State of California, in Placer County. The parties hereby waive any federal court removal rights and/or original jurisdiction rights that they may have.
25. Authority to Execute Agreement. Each party represents that it has the legal authority to enter into this Agreement and to perform its obligations hereunder.
26. Prior Agreement Superseded. As of its effective date, this Agreement shall supersede the prior agreement entered into between the parties on September 11, 2018, regarding the lease of the Weight Truck and Weight Standards. However, said prior agreement shall govern and remain in effect with respect to the parties' actions prior to the effective date of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands the year and date written below.

COUNTY OF PLACER

COUNTY OF AMADOR

By: _____
Josh Huntsinger
Agricultural Commissioner

By: _____
Chair, Board of Supervisors

Dated: _____

Dated: _____

ATTEST:

ATTEST:

BY: _____

BY: _____

Clerk of the Board

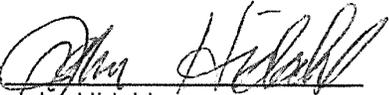
APPROVED AS TO FORM:

APPROVED AS TO FORM:

BY: _____
Eric Brumfield
County Counsel

BY: _____
County Counsel

COUNTY OF EL DORADO

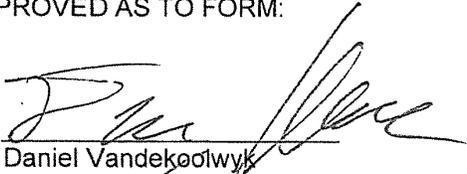
By: 
John Hidahl
Chair, Board of Supervisors

Dated: 9/28/21

ATTEST:

BY: 
Kim Dawson
Clerk of the Board

APPROVED AS TO FORM:

BY: 
Deputy Daniel Vandekooiwyk
County Counsel