



**Funding Agreement
No. 019E-F-11/12-BOS
Between the County of El Dorado
and The Clean Tahoe Program**

THIS FUNDING AGREEMENT, (hereinafter referred to as "Agreement") made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and The Clean Tahoe Program, a non-profit corporation, duly qualified to conduct business in the State of California, whose principal place of business is 921 Eloise Avenue, Unit #B, South Lake Tahoe, CA 95610 (hereinafter referred to as "Clean Tahoe");

R E C I T A L S

WHEREAS, the specific purpose of The Clean Tahoe Program is to enhance the visual quality of the Lake Tahoe environment through community education, citizen involvement, and litter and nuisance abatement;

WHEREAS, Clean Tahoe has represented to County that it is specially trained, experienced, expert and competent to perform the specialized services required hereunder and County has determined to rely upon such representations;

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws;

WHEREAS, the County Board of Supervisors has passed an annual Resolution establishing waste management fees for the County of El Dorado portion of the Lake Tahoe Basin, in part, to fund programs within County Service Area 10, Zone "C", to comply with the state mandated statutory requirements, and the "Tahoe Clean Community Program";

WHEREAS, it is the intent of the County to fund the specialized services to be performed by Clean Tahoe in accordance with said resolution, on a fiscal year basis.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, County and Clean Tahoe mutually agree as follows:

1. Scope of Services

A. Clean Tahoe shall serve the County of El Dorado portion of the Tahoe Basin by providing the following services to the County:

- Tour all Tahoe Basin County neighborhoods and Meyers Business Area each week, except west shore line area, to clean up roadside litter and debris. Clean Tahoe is expected to provide an average of eighteen (18) hours of service to County areas per week between April 1 and

September 30, and eight (8) hours of service to County areas per week between October 1 and March 31.

- Clean west shoreline area once in the spring and once in the fall.
- Respond to requests from residents to clean up litter and/or contact property owners to clean up litter. Whenever possible, Clean Tahoe will respond to resident requests within 24 hours.
- Issue/post courtesy notices and shelter enclosure specification sheets to property owners where litter and debris are found. Properties will be re-inspected within 10 days. If the problem still exists after 20 days, Clean Tahoe will refer the property to the County of El Dorado Sheriff's Department.
- Provide at least one "County Dump Day" per year where citizens pay a maximum of \$5 per truck or trailer load, up to one ton. Loads above one ton shall be charged on a per ton basis.
- Assist in sponsoring "Clean-up Day" in Tahoma once per year.
- Maintain and service trash containers in Meyers at least once per week. Clean Tahoe may request additional cans, and they may be incorporated into this Agreement upon written consent of the County. At the time of this Agreement, the trash containers located in Meyers that are approved to be serviced are:
 - One can placed on the path between Roadrunner and Pioneer Trail
 - Two cans placed near the road by the Chevron Gas Station
 - Three cans placed near the street by Lira's Grocery Store
- For senior citizens who request this service, provide physical assistance and/or pay the dump fee, if a financial need exists, to dump unwanted materials.

B. Clean Tahoe will strive to perform services in a manner consistent with that level of care and skill ordinarily exercised by other members of the Clean Tahoe's profession currently practicing in the same locality and under similar conditions. No other representation, express or implied, is included or intended in this agreement, or in any report, opinion, document, or other instrument of service.

2. Period of Performance

Clean Tahoe shall commence performance of work and produce all work products in accordance with the Scope of Work, unless this Agreement is terminated sooner as provided for elsewhere in the Agreement.

3. Term

This Agreement shall become effective when fully executed by both parties hereto and shall expire three (3) years from the date of execution thereof.

4. Compensation

For services provided herein, County agrees to compensate Clean Tahoe equal to current year parcel fees and interest actually collected pursuant to a Board of Supervisors annual Resolution that establishes said fees. The total fees collected by the County under said authority varies each fiscal year, and is not determined until the close of the fiscal year. Therefore, so long as the services of Clean Tahoe are

satisfactorily rendered and no breach of this Agreement exists, Clean Tahoe shall be compensated in the amount equal to the amount of parcel fees actually collected for the County Service Area #10, Zone "C", plus annual interest earned.

In no event shall the amount due to Clean Tahoe under this Agreement exceed the amount of the funds actually collected annually as parcel fees for the Tahoe Clean Community Program for said zone, plus annual interest earned. The total compensation under this Agreement to Clean Tahoe shall not exceed the current year parcel fee assessment and interest.

Clean Tahoe is expected to provide an average of eighteen (18) hours of service to County areas per week between April 1 and September 30, and eight (8) hours of service to County areas per week between October 1 and March 31, at a rate of \$36.06 per hour.

A. Payments:

An itemized invoice and cost report will be required as proper documentation and verification that Clean Tahoe has satisfactorily completed the work for which compensation is sought. Payment shall be made within forty-five (45) days following County's receipt of itemized invoice and cost report, whichever is later.

B. Deliverables Schedule:

Invoices shall be issued twice per year for services performed for the prior six (6) months. The invoice for the period of July through December is due by January 31 of the following year. The invoice for the period of January through June shall be due by July 15.

Invoices shall be accompanied by a cost report detailing the accomplishment of the activities and outcomes described in the Scope of Services. The cost report shall be submitted to the County Contract Administrator within thirty (30) days of the end of the time period covered by the corresponding invoice. Invoices will not be paid until County has received the cost report for the same period. Cost reports should be supported by time accounting records, records of service calls, records of tours performed, events sponsored, and other documentation of activities at Clean Tahoe offices.

A cost report summarizing the full prior fiscal year of activities shall accompany the invoice for the period of January through June.

Invoices shall be mailed to the County at the following address:

County of El Dorado
Environmental Management Department
2850 Fairlane Court, Building "C"
Placerville, CA 95667
Attn: Administration Division – Accounts Payable

Or to such other location as County directs

5. Independent Contractor Liability

Clean Tahoe is, and shall be at all times, deemed independent and shall be wholly responsible for the acts of Clean Tahoe's employees, associates, and subcontractors, in connection with this Agreement.

6. Termination

The terms of this Agreement and the services to be provided thereunder are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified or this Agreement terminated at any time by giving Clean Tahoe thirty (30) days prior written notice.

Either party may terminate this Agreement upon thirty (30) days written notice which indicates that the County does not intend to continue to levy and appropriate necessary funds, or that Clean Tahoe intends to terminate providing services pursuant to this Agreement.

7. Ownership of Data

Ownership and title to all reports, documents, plans (including digitized plans), specifications and estimates produced as part of this Agreement automatically vests in the County and no further Agreement will be necessary to transfer ownership to the County. Clean Tahoe shall furnish the County all necessary copies of data needed to complete the review and approval process, and Clean Tahoe does not retain any license or right to continue any usage of such data without the express written permission of County. Any reuse of such materials shall be done at the sole risk of the County.

8. Changes to Agreement

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 fully executed by duly authorized officers of the parties hereto.

9. Prior Agreement / Assignment of Agreement:

Neither this Agreement, nor any part thereof, nor any monies due or to become due hereunder, may be assigned by Clean Tahoe without the express written approval of the County.

This instrument constitutes the sole and only Agreement between the County and Clean Tahoe regarding the Clean Tahoe Program and costs for said program, and correctly sets forth the obligations of County and Clean Tahoe to each other as of its effective date. This Agreement incorporates or supersedes all prior written or oral agreements or understandings. Any agreements or representations involving Clean Tahoe or the Agreement not expressly set forth in this Agreement are null and void.

10. Indemnification

Clean Tahoe shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's 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 Clean Tahoe's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, Clean Tahoe, and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prohibited by statute. This duty of Clean Tahoe to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

11. Attorney's Fees

The prevailing party in any dispute shall be entitled to its attorney's fees and costs.

12. Insurance

Consultant shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than One Million Dollars (\$1,000,000) combined a single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than One Million Dollars (\$1,000,000) is required in the event motor vehicles are used by the Consultant in the performance of the Agreement.
- D. In the event Consultant is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than One Million Dollars (\$1,000,000) per occurrence. For the purpose of this Agreement, professional liability coverage is not required.
- E. Consultant shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to the Risk

Management Division, or be provided through a partial or total self-insurance likewise acceptable to Risk Management.

- G. Consultant agrees that the insurance required above 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, Consultant agrees to provide at least thirty (30) days prior to a said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of a term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Risk Management Division and Consultant agrees that no Work or services shall be performed prior to the giving of such approval. In the event the Consultant 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 events.
- H. The certificate of insurance must include the following provisions stating that:
The insurer will not cancel the insurance coverage without thirty (30) days prior written notice to County, and;
- The County of El Dorado, its officers, officials, employees, and volunteers are included as additionally insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except workers' compensation and professional liability insurance policies.
- I. The Consultant's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retention must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the County, its officers, officials, employees, and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against County of El Dorado, its officers and employees or any of them, for payment of any premiums or assessments under any policy issued by any insurance company.

- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificates of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with the Risk Management Division, as essential for protection of the County.

13. Notices to Parties

All notices to be given by the parties hereto shall be in writing and served by depositing it in the United States Post Office, postage prepaid, and return receipt requested. Notices to the County shall be in duplicate and addressed as follows:

County of El Dorado
Environmental Management Department
Attn: Kerri Williams
2850 Fairlane Ct.
Placerville, CA 95667

or to such other location as the County directs.

Notices to Clean Tahoe shall be addressed as follows:

The Clean Tahoe Program
Attn: Ellen Flynn, Program Manager
921 Eloise Avenue, Unit #B
South Lake Tahoe, CA 95610

or to such other location as Clean Tahoe directs.

14. Audits and Inspections

Clean Tahoe shall maintain complete financial records for a minimum of five (5) fiscal years after the termination of this Agreement that clearly reflect the costs of services for which compensation is received under this Agreement. Any apportionment of costs shall be made in accordance with generally accepted accounting principles and shall evidence proper audit trails reflecting the true cost of services.

Clean Tahoe shall at any time during regular business hours, and as often as County may deem necessary, make available to County for examination all of Clean Tahoe's records and data with respect to the matters covered by this Agreement. Clean Tahoe

shall, and upon request by County, permit County to audit and inspect all of such records and data necessary to ensure Clean Tahoe's compliance with the terms of this Agreement. Clean Tahoe shall be subject to an audit by County or its authorized representative to determine if the funds received by Clean Tahoe were utilized as provided by this Agreement. If, after audit, County makes a determination that funds provided to Clean Tahoe pursuant to this Agreement were not spent in conformance with the Agreement or any other applicable provisions of law, Clean Tahoe agrees to immediately reimburse County all funds determined to have been expended not in conformance with said provisions.

15. No Third-Party Beneficiaries

The terms and conditions of this Agreement, expressed or implied, exist only for the benefit of the parties to this Agreement and their respective successors and assignments. This Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than Clean Tahoe and County. No other person or entity shall have any rights, interests, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

16. Venue

This Agreement is to be governed by and construed in accordance with the laws of the State of California. Any dispute resolution arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in the County of El Dorado, California. Clean Tahoe waives any removal rights as it might have under Code of Civil Procedure Section 394.

17. Entire Agreement

This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

18. Agreement Administrator

The County officer or employee with the responsibility of administering this Agreement is Kerri Williams, Chief Fiscal Officer, or successor. The Clean Tahoe Officer or employee with responsibility for administration of this Agreement is Ellen Flynn, Program Manager, or her successor.

19. Authorized Signatures

The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

20. Partial Invalidity

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect with being impaired or invalidated in any way.

Contract Administrator Concurrence:

By: _____ Dated: _____
Kerri Williams
Chief Fiscal Officer
Central Administration Unit
Environmental Management Department

Requesting Department Concurrence:

By: _____ Dated: _____
Gerri Silva, M.S., REHS
Director
Environmental Management Department

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first below written.

- - COUNTY OF EL DORADO - -

By: _____ Dated: _____
John R. Knight, Chair
Board of Supervisors
County of El Dorado

--CLEAN TAHOE PROGRAM--

By: _____ Dated: _____
Jim Beattie, President
Board of Directors
The Clean Tahoe Program

By: _____ Dated: _____
Secretary
The Clean Tahoe Program