

## **COUNTY OF EL DORADO**

### **COOPERATIVE AGREEMENT**

THIS AGREEMENT ENTERED INTO ON 1st of July, 2006, is between the State of California, acting by and through its Department of Transportation, referred to herein as CALTRANS, and the COUNTY of El Dorado, hereinafter referred to as COUNTY.

#### **RECITALS**

1. CALTRANS and COUNTY, pursuant to Streets and Highways Code Section 130, are authorized to enter into a Cooperative Agreement for improvements to or maintenance of State Highways.
2. CALTRANS has requested that COUNTY assign COUNTY employees to perform solid waste and litter abatement along the shoulders of Highways 49 and 193, and in the median of Highway 50 from El Dorado Hills Boulevard East, to the east-side of Missouri Flat exit within the County of El Dorado. COUNTY has agreed to assign COUNTY employees and to provide supervision and direction for those COUNTY employees subject to the terms and conditions of this Agreement.
3. All services performed by COUNTY employees pursuant to this Agreement shall be performed in accordance with all applicable federal, state, county municipal laws, ordinances, regulations, titles and COUNTY procedures.

#### **SECTION I**

##### **COUNTY AGREES:**

1. To furnish all labor, tools, and equipment to perform solid waste and litter abatement along the shoulders of Highway 49 and 193, and in the median of Highway 50 from El Dorado Hills Boulevard East, to the east-side of Missouri Flat exit within the County of El Dorado.

2. To provide supervision and direction of all COUNTY employees.
3. To haul and properly dispose of retrieved solid waste and litter.
4. To notify the CALTRANS Contract Manager or his/her designee twenty-four (24) hours prior to beginning work in an area.
5. When on State right of way, COUNTY shall comply with traffic and safety issues related to vehicle use on the roadways in the area and Chapter 8 of the CALTRANS safety manual.
6. To take all necessary precautions for safe operations of its equipment and the protection of the public from injury and damage.

## SECTION II

### **CALTRANS AGREES:**

1. To provide traffic barrier equipment when needed.
2. To provide trash bags to the COUNTY.
3. To notify the COUNTY Contract Manager to request services when needed.

## SECTION III

### **IT IS MUTUALLY AGREED:**

In consideration of the foregoing and the mutual promises of the parties hereto, the COUNTY and CALTRANS agree as follows:

#### **1. Notification of Parties**

The County officer or employee responsible for administering this Agreement is Jeff Rusert, Supervising Environmental Health Specialist, or his successor.

COUNTY Contract Manager is Jeff Rusert  
Supervising Environmental Health Specialist  
Phone (530) 621-6654

CALTRANS Contract Manager is John Stenzel  
Phone (916) 322-9607

All notices herein provided to be given, or which may be given, by either party to the other, shall be deemed to have been fully given when made in writing and deposited with the United State Postal Service registered or certified, postage prepaid, and addressed as follows:

**COUNTY OF EL DORADO**  
Environmental Management Department  
2850 Fairlane Court, Bldg. C  
Placerville, Ca 95667

Attention: Jeff Rusert, Contract Manager

**CALIFORNIA DEPARTMENT OF TRANSPORTATION**  
District 03 - Division of Maintenance  
3165 Gold Valley Drive, Room 111  
Rancho Cordova, Ca 95742-6588

Attention: John Stenzel Contract Manager

**2. Period of Performance**

This Agreement shall begin July 1, 2006, contingent upon full execution and approval by CALTRANS, and shall expire on June 30, 2009, unless extended by amendment.

**3. Changes in Terms/Amendment**

The Agreement may only be amended or modified by mutual written agreement of the parties.

Requests for renewals or extensions of the current agreement must be submitted in writing to the Caltrans Contract Manager 60 days prior to the expiration of this agreement. A new agreement or amendment must be signed and approved prior to any work occurring after the expiration date.

**4. Termination**

This Agreement may be terminated by either party for any reason by giving written notice to the other party at least thirty (30) days in advance of the effective date of such termination.

**5. Cost Limitation**

- a. The total amount payable by CALTRANS shall not exceed \$300,000.00.
- b. It is agreed and understood that this is only an estimate and that CALTRANS will pay only for services actually rendered by the COUNTY employees as authorized by the CALTRANS Contract Manager.
- c. It is further agreed that should the COUNTY not be able to meet their commitment during the workday, the billing shall only be for the nearest hour of work performed.

<u>FISCAL YEAR*</u>	<u>AGREEMENT ALLOTMENT</u>
2006/2007	\$ 100,000.00
2007/2008	\$ 100,000.00
2008/2009	\$ 100,000.00

\*Fiscal Year begins July 1 and ends on June 30.

**6. Rates and Payments**

- a. CALTRANS shall reimburse the COUNTY monthly, in arrears as promptly as CALTRANS fiscal procedures permit upon receipt of itemized invoices in triplicate. Invoices shall reference the CALTRANS District Agreement No. and shall be submitted to the CALTRANS Contract Manager at the following address:

California Department of Transportation  
District 03, Division Maintenance  
3165 Gold Valley Drive, Room 111  
Rancho Cordova, CA 95742-6588

Attention: John Stenzel, Contract Manager

- b. Invoices shall include the following information:
  - 1. Caltrans Agreement Number
  - 2. Number of hours worked per day
  - 3. Number of workers
  - 4. Dates worked
  - 5. Work location and count (trash bag) per area of disposed items
  - 6. Non trash bagged items and large items will be counted by cubic yards

7. Written receipts from the County's chosen disposal site
- c. Rates shall be paid at a rate of \$70.00 per hour for each COUNTY employee from July 1, 2006, through December 31, 2006. Beginning January 1, 2007 and each January 1<sup>st</sup> thereafter we will add a CPI of 2.5% to the hourly rate.

## 7. Insurance

COUNTY shall provide CALTRANS proof of Worker's Compensation Insurance or self-insurance pursuant to Section 3700 of the Labor Code. A copy of the certificate indicating this Agreement number shall be returned with the resolution/approval by the Board of Supervisors along with the five signed copies of the Agreement. **Final signature will not occur until the COUNTY provides this information.**

COUNTY shall notify CALTRANS contract Manager of any injuries occurring on the worksite within 24 hours. Within 48 hours of the occurrence of the injury COUNTY will file with the CALTRANS Contract Manager a copy of the State Compensation Insurance Employer's Report of Occupational Injury or Illness, for the file.

## 8. Mutual Hold Harmless Clause

- a. Nothing in the provisions of the Agreement is intended to create duties or obligations to or rights in third parties to the Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the maintenance of State highways different from the standard of care imposed by the law.
- b. Neither CALTRANS nor officer or employee thereof is responsible for any damage or liability occurring by reason, of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, COUNTY shall fully defend, indemnify and save harmless the State of California, all officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under this Agreement.

## 9. Non-Discrimination

During the performance of this agreement, COUNTY and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave. COUNTY and subcontractors shall insure that the evaluation and

treatment of their employees and applicants for employment are free from such discrimination and harassment. COUNTY and sub-contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this agreement by reference and made a part hereof as if set forth in full. COUNTY and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

**10. Funding Requirements**

- a. It is mutually understood between the parties that this agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the agreement were executed after that determination was made.
- b. This agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this agreement in any manner.
- c. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, this agreement shall be amended to reflect any reduction in funds.
- d. The State has the option to void the agreement under the 30-day termination clause or to amend the agreement to reflect any reduction of funds.

**11. Records Retention**

For the purpose of determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et. seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the COUNTY, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of

final payment under the Agreement. CALTRANS, the State Auditor, FHWA, or any duly authorized representative of the Federal government shall have access to any books, records, and documents of the COUNTY that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

**12. Cost Principles**

- a. The COUNTY agrees to comply with Federal procedures in accordance with Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments.
- b. The COUNTY also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- c. Any costs for which payment has been made to COUNTY that are determined by subsequent audit to be unallowable under Office of Management and Budget Circular A-87 or CFR 49, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by COUNTY to State.
- d. Any subagreement entered into as a result of this agreement shall contain all of the provisions of this article.

**13. Drug-Free Workplace Certification**

By signing this agreement, the COUNTY hereby certifies under penalty of perjury under the laws of the State of California that the COUNTY will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- b. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
  - (1) the dangers of drug abuse in the workplace,
  - (2) the person's or organization's policy of maintaining a drug-free workplace,
  - (3) any available counseling, rehabilitation and employee assistance programs, and

- (4) penalties that may be imposed upon employees for drug abuse violations.
- c. Provide as required by Government Code Section 8355(c) that every employee who works on the proposed agreement or grant:
  - (1) will receive a copy of the COUNTY's drug-free policy statement, and
  - (2) will agree to abide by the terms of the COUNTY's statement as a condition of employment on the agreement or grant.

Failure to comply with these requirements may result in suspension of payments under the agreement or termination of the agreement or both and the COUNTY through its Department of Environmental Management may be ineligible for award of any future state agreements if the Department determines that any of the following has occurred: (1) the COUNTY has made a false certification or, (2) violates the certification by failing to carry out the requirements as noted above.

**14. Subcontractors**

- a. The County shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the State's Contract Manager.
- b. Any substitution of subcontractors must be approved in writing by the State's Contract Manager in advance of assigning work to a substitute subcontractor.

**15. Disputes**

- a. Any dispute concerning a question of fact arising under this agreement that is not disposed of by agreement shall be decided by the CALTRANS Department' Contract Officer, who shall consider any written or verbal evidence submitted by the COUNTY. The decision of the Contract Officer, issued in writing, shall be conclusive and binding on both parties to the agreement on all questions of fact considered and determined by the CALTRANS Contract Officer.
- b. Neither the pendency of a dispute nor its consideration by the CALTRANS Contract Officer will excuse the COUNTY from full and timely performance in accordance with the terms of the agreement.

**16. Relationship of Parties**

It is expressly understood that this is an Agreement by and between two independent parties and that this is not intended to, and shall not be construed to, create the



relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

**17. Interfacing with Pedestrian and Vehicle Traffic**

Pursuant to the authority contained in Section 591 of the Vehicle Code, the department has determined that within such areas as are within the limits of the project and are open to public traffic, the COUNTY shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code. The COUNTY shall take all necessary precautions for safe operations of the COUNTY'S equipment and the protection of the public from injury and damage from such property.

**18. Discovery of Asbestos, Lead-Based Paint, or Other Hazardous Substances/Materials**

- a. If the COUNTY discovers or suspects asbestos, lead-based paint, or other known hazardous substances/materials in the area affected by the agreement, the COUNTY shall **STOP WORK IMMEDIATELY**. The COUNTY shall verbally notify the CALTRANS Contract Manager of these findings immediately and confirm verbal notification in writing within 24 hours.
- b. Once notified, the CALTRANS Contract Manager will immediately request a site investigation and lab analysis report to determine the location(s) and percentage of asbestos material, lead-based paint or other hazardous substances/materials that are discovered or suspected to be present .
- c. Continuation of work shall not commence in that same area until the COUNTY has been authorized to do so in writing, by the CALTRANS Contract Manager.
- d. Should it become necessary to cancel the work request, COUNTY shall be compensated only for work in progress or actually completed to the CALTRANS Contract Manager's satisfaction. No payment shall be made for delay or lost profits anticipated for uncompleted work.
- e. Failure to notify the CALTRANS Contract Manager of the discovery of asbestos, lead-based paint or other hazardous substances/materials may result in immediate cancellation of the agreement and legal liability to the COUNTY for all actual damages resulting.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first herein above written:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
MICHELE NEWMARCH, CONTRACT OFFICER

EL DORADO COUNTY

By: *Joanne Oles* \_\_\_\_\_  
Contract Officer Date

BY: *James R Sweeney* 6/27/06  
Chair Board of Supervisors, Date

Attest: *Cindy Keck* 6/27/06  
Clerk, Board of Supervisors Date

By: *Kathryn Taylor*  
Deputy Clerk

Approved as to form and procedure:

Department of Transportation

*John Ranta* 7/14/06  
Attorney Date

Department of Transportation  
Certified as to Funds:

\_\_\_\_\_  
District Resource Manager Date

