

**BST Services, Inc.  
doing business as  
Blain Stumpf Trucking**

**As-Needed Road Materials Truck Hauling Services**

**AGREEMENT FOR SERVICES #6314**

**THIS AGREEMENT**, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and BST Services, Inc., a corporation duly qualified to conduct business in the State of California, doing business as Blain Stumpf Trucking, whose principal place of business is 5561 Davidson Road, Placerville, California 95667, and whose mailing address is Post Office Box 231, Shingle Springs, California 95682 (hereinafter referred to as "Contractor");

**RECITALS**

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to provide as-needed road materials trucking hauling services for various Department of Transportation (hereinafter referred to as "Department") maintenance projects;

**WHEREAS**, Contractor has represented to County that it is specially trained, experienced, expert, and competent to perform the special services described in ARTICLE I Scope of Work; that it is an independent and bona fide business operations, advertises and holds itself as such, is in possession of a valid business license, and is customarily engaged in an independently established business that provides similar services to others; and County relies upon those representations;

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

**WHEREAS**, County has determined that the provision of such services provided by Contractor are in the public's best interest and that due to the limited time frame, temporary or occasional nature, or schedule for the project or scope of work, the ongoing aggregate of work to be performed is not sufficient to warrant addition of permanent staff in accordance with El Dorado County Ordinance Code, Section 3.13.030(c), by El Dorado County Charter, Section 210(b)(6) and/or Government Code Section 31000;

**NOW, THEREFORE**, County and Contractor mutually agree as follows:

**ARTICLE I**

**Scope of Work:** Contractor is engaged in the business of doing the services and tasks required under this Agreement, including those services and tasks that are identified in individual Work Orders issued pursuant to this Agreement, Exhibit A, marked "Trucking

Requirements," incorporated herein and made by reference a part hereof, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Work.

Contractor agrees to furnish, at Contractor's own cost and expense, all personnel, equipment, tools, materials, and services necessary to provide as-needed road materials truck hauling services, including those services and tasks that are identified in Exhibit A, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Work.

For each as-needed hauling assignment, the specific services for each assignment shall be determined at a meeting, by email, or telephone conference between County and Contractor. For each hauling assignment, County's Contract Administrator will issue a separate written Work Order to Contractor identifying the specific road materials, transport assignment, number of trucking vehicles needed, a specific date by which the work shall be completed, and not-to-exceed cost based on the number of trucking vehicles authorized to complete the work. Contractor shall not commence work until receiving the written and fully executed Work Order. No payment will be made for any work performed prior to approval and full execution of the Work Order or beyond the earlier of the expiration date of the Work Order or expiration of the underlying Agreement, and no payment will be made for amounts in excess of the not-to-exceed amount of the Work Order.

The period of performance for Work Orders shall be in accordance with dates specified in each Work Order. No payment will be made for any work performed before or after the period of performance in the Work Order, unless County's Contract Administrator and Contractor amend the Work Order. No Work Order will be written which exceeds the cumulative total of the not-to-exceed dollar amount of this Agreement. No Work Order will be written which extends beyond the expiration date of this Agreement.

Contractor shall provide County's Contract Administrator with the names and titles of Contractor's representatives that are authorized to bind Contractor by signing Work Orders and Work Order Amendments on Contractor's behalf, and shall be communicated to County in accordance with the provision of ARTICLE XIII, Notice to Parties, of this Agreement.

Contractor shall perform the services and tasks required under this Agreement in a safe, professional, skillful, and workmanlike manner. Contractor is responsible for ensuring that its employees, as well as any subcontractor if applicable, perform the services and tasks required under this Agreement accordingly. All of the services included in the Scope of Work, or in the individual Work Orders issued pursuant to this Agreement, are the responsibility of Contractor unless specifically described as a task or item of work to be provided by County.

Contractor acknowledges that the work performed must meet the approval of County, and therefore County reserves the right to monitor the work to ensure its satisfactory completion.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years thereafter.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, including any deliverables that may be identified in the individual Work Orders issued pursuant to this agreement, County agrees to pay Contractor upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit B, marked "Fee Schedule," incorporated herein and made by reference a part hereof.

The total amount of this Agreement shall not exceed \$1,050,000, inclusive of all Work Orders and amended Work Orders, costs, taxes, and expenses. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Agreement through Work Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number and the County-supplied Work Order number on their faces and on any enclosures or backup documentation. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Contractor shall bill County for only one (1) Work Order per invoice. Invoices shall be mailed to County at the following address:

Invoices shall be mailed to County at the following address:

County of El Dorado  
Department of Transportation  
2441 Headington Road  
Placerville, California 95667  
Attn.: Ashley Johnson  
Administrative Analyst

or to such other location as County directs.

In the event that Contractor fails to deliver, in the format specified, the deliverables required by this Agreement or in the individual Work Orders issued pursuant to this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the required deliverables are received, or

proceed as set forth below in ARTICLE XII, Default, Termination, and Cancellation, herein.

#### **ARTICLE IV**

**Taxes:** Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE VI**

**Contractor to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further understood that this Agreement does not create an exclusive relationship between County and Contractor, and Contractor may perform similar work or services for others. However, Contractor shall not enter into any agreement with any other party, or provide any information in any manner to any other party, that would conflict with Contractor's responsibilities or hinder Contractor's performance of services hereunder, unless County's Contract Administrator, in writing, authorizes that agreement or sharing of information.

#### **ARTICLE VII**

**Confidentiality:** Contractor shall maintain the confidentiality and privileged nature of all records, including billing records, together with any knowledge therein acquired, in accordance with all applicable state and federal laws and regulations, as they may now exist or may hereafter be amended or changed. Contractor, and all Contractor's staff, employees, and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to County's Department of Transportation, Maintenance and Operations Division for the purpose of, and in the performance of, this Agreement. This confidentiality provision shall survive after the expiration or earlier termination of this Agreement.

#### **ARTICLE VIII**

**Assignment and Delegation:** Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate, or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

#### **ARTICLE IX**

**Independent Contractor:** The parties intend that an independent contractor relationship will be created by this contract. Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Contractor exclusively

assumes responsibility for acts of its employees, agents, affiliates, and subcontractors, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Contractor. Those persons will be entirely and exclusively under the direction, supervision, and control of Contractor.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Contractor performs the work or services for accomplishing the results. Contractor understands and agrees that Contractor lacks the authority to bind County or incur any obligations on behalf of County.

Contractor, including any subcontractor or employees of Contractor, shall not receive, nor be eligible for, any benefits County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Contractor shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Contractor. Contractor shall not be subject to the work schedules or vacation periods that apply to County employees.

Contractor shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Contractor provides for its employees.

Contractor acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter, and shall not make any agreements or representations on the County's behalf.

## **ARTICLE X**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment, or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein.

Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce or order a reduction in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement and any Work Orders issued pursuant to this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

#### **ARTICLE XI**

**Audit by California State Auditor:** Contractor acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code § 8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records, and documentation necessary to demonstrate performance under the Agreement.

#### **ARTICLE XII**

##### **Default, Termination, and Cancellation:**

- A. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default that shall state the following:
1. The alleged default and the applicable Agreement provision.
  2. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Agreement by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

If County terminates this Agreement, in whole or in part, for default:

1. County reserves the right to procure the goods or services, or both, similar to those terminated, from other sources and Contractor shall be liable to County

for any excess costs for those goods or services. County may deduct from any payment due, or that may thereafter become due to Contractor, the excess costs to procure from an alternate source.

2. County shall pay Contractor the sum due to Contractor under this Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Agreement. In which case the overage shall be deducted from any sum due Contractor under this Agreement and the balance, if any, shall be paid to Contractor upon demand.
3. County may require Contractor to transfer title and deliver to County any completed work under the Agreement.

The following shall be events of default under this Agreement:

1. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.
  2. A representation or warranty made by Contractor in this Agreement proves to have been false or misleading in any respect.
  3. Contractor fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, unless County agrees, in writing, to an extension of the time to perform before that time period expires.
  4. A violation of ARTICLE XIX, Conflict of Interest.
- B. Bankruptcy: County may terminate this Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Agreement immediately in the event Contractor ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement or any Work Order issued pursuant to this Agreement, in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to Contractor, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Work Order or the total amount of the Agreement, as applicable. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

**ARTICLE XIII**

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

To County:

With a copy to:

County of El Dorado  
Department of Transportation  
2441 Headington Road  
Placerville, California 95667

County of El Dorado  
Chief Administrative Office  
330 Fair Lane  
Placerville, California 95667

Attn.: Brian Mullens  
Deputy Director  
Maintenance and Operations  
Division

Attn.: Michele Weimer  
Procurement and Contracts Manager

or to such other location as County directs.

Notices to Contractor shall be addressed as follows:

Blain Stumpf Trucking  
Post Office Box 231  
Shingle Springs, California 95682

Attn.: Blain Stumpf, President

or to such other location as Contractor directs.

**ARTICLE XIV**

**Change of Address:** In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing as provided in ARTICLE XIII, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

**ARTICLE XV**

**Indemnity:** To the fullest extent permitted by law, Contractor shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses 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 the acts or omissions of Contractor or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the sole negligence or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

#### **ARTICLE XVI**

**Insurance:** Contractor shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000 is required in the event motor vehicles are used by Contractor in performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional contractor and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than \$1,000,000.
- E. Contractor shall furnish a certificate of insurance satisfactory to County's Risk Management Division as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to County's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Contractor agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of 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 Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

- H. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County; and
  2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Contractor's insurance coverage shall be primary insurance in respect to County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions in respect to County, its officers, officials, employees, and volunteers; or Contractor 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 County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the 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. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor 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. The certificate of insurance shall meet such additional standards as may be determined by the contracting County department, either independently or in consultation with County's Risk Management Division as essential for protection of County.

## **ARTICLE XVII**

**Force Majeure:** Neither party will be liable for any delay, failure to perform, or omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

## **ARTICLE XVIII**

**Waiver:** No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

## **ARTICLE XIX**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Contractor and performing work for County and who are considered to be contractor within the meaning of Title 2, California Code of Regulations, Section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are contractors within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Contractor covenants that during the term of this Agreement neither it, or any officer or employee of Contractor, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.

2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Contractor becomes aware of a conflict of interest related to this Agreement, Contractor shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in ARTICLE XII, Default, Termination, or Cancellation.

## **ARTICLE XX**

### **Nondiscrimination:**

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 11000 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Subchapter 5 of Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature executing this Agreement shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Sections 12990 and Title 2, California Code of Regulations, Section 11102.

## **ARTICLE XXI**

**California Residency (Form 590):** If Contractor is a California resident, Contractor must file a State of California Form 590, certifying its California residency or, in the case of a limited liability company or corporation, certifying that it has a permanent place of business in California. Contractor will be required to submit a Form 590 prior to

execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Contractor during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

#### **ARTICLE XXII**

**County Payee Data Record Form:** All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

#### **ARTICLE XXIII**

**Business License:** County's Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Ordinance Code Section 5.08.070. Contractor warrants and represents that it shall comply with all of the requirements of County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

#### **ARTICLE XXIV**

**Licenses:** Contractor hereby represents and warrants that Contractor maintains a valid Motor Carrier Permit issued by the California Department of Motor Vehicles. Contractor's Motor Carrier Permit number is CA 0304273. Each driver performing hauling services under this Agreement must possess a Class "A" commercial California driver's license, in accordance with the California Vehicle Code and in compliance with all state and federal regulations.

#### **ARTICLE XXV**

**Drug and Alcohol Testing:** Contractor warrants that it is in compliance with the Federal Motor Carrier Safety Administration's alcohol and drug testing rules for drivers who possess commercial driver's licenses.

#### **ARTICLE XXVI**

**California Forum and Law:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

#### **ARTICLE XXVII**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Brian Mullens, Deputy Director, Maintenance and Operations Division, Department of Transportation, or successor.

#### **ARTICLE XXVIII**

**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 the obligations set forth herein.

#### **ARTICLE XXIX**

**Partial Invalidity:** If any provision, sentence, or phrase of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, sentences, and phrases will continue in full force and effect without being impaired or invalidated in any way.

#### **ARTICLE XXX**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

#### **ARTICLE XXXI**

**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

#### **ARTICLE XXXII**

**Electronic Signatures:** Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

#### **ARTICLE XXXIII**

**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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

By: *Roni Paulin*

Dated: 3/8/22

Board of Supervisors  
"County"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By: *Kyle Thompson*  
Deputy Clerk

Dated: 3/8/22

-- BST SERVICES, INC.  
doing business as  
BLAIN STUMPF TRUCKING --

By: *Blain Stumpf*  
Blain Stumpf (Feb 8, 2022 09:14 /ST)

Blain E. Stumpf  
President and  
Chief Executive Officer  
"Contractor"

Dated: 02/08/2022

By: *Blain Stumpf*  
Blain Stumpf (Feb 8, 2022 09:14 /ST)

Blain E. Stumpf  
Chief Financial Officer

Dated: 02/08/2022

**BST Services, Inc.  
doing business as  
Blain Stumpf Trucking**

**Exhibit A**

**Trucking Requirements**

Contractor shall perform all work and services under this Agreement in accordance with the following requirements:

**Drivers**

Drivers shall be experienced in driving five (5) axle transfer trucks, five (5) axle end dump trucks, three (3) axle dump trucks, and materials hauling and materials transfer operations. Drivers shall be experienced in the operation of their trucks and equipment and in all procedures related to operating trucks and equipment with a paving machine. Drivers shall obtain proper directions to job location in order to arrive promptly at the designated delivery location.

**Equipment**

Equipment shall be safe and in good working order. Truck and trailer boxes shall be cleaned daily before loading at the asphalt plant. Trucks shall be equipped with a full set of tools and equipment required for the performance of the work, including, but not limited to, shovels and asphalt release agent sprayers. Truck and trailer boxes shall be in good working order with latches that are secure. Transfer rails and any equipment aiding the transfer of boxes shall be in good working order. Truck brakes shall be adjusted equally daily to prevent wheel lockup. Trucks and trailers shall be equipped with tarps and components necessary to tarp materials during transport.

**Asphalt Plant Procedures**

Drivers Shall:

- arrive at the plant with clean boxes;
- load at the pre-determined time established by the Highway Superintendent, or designee; and
- proceed to the weight scales immediately after loading, receive a weight tag, and proceed to the designated job site without delay.



## **Transfer Location Procedures**

Drivers shall:

- disconnect and transfer trailers at the pre-determined transfer location and proceed to the job site immediately;
- park trucks off of the roadway whenever possible and place cones around any truck or trailer remaining in the roadway;
- return to the transfer location after emptying both boxes, secure boxes and trailers, and return to the asphalt plant if instructed to do so by the Highway Superintendent, or designee, or sign out to end the shift; and
- leave the transfer location free of asphalt, trash, or any other debris left by trucks or drivers.

## **Job Site Procedures**

Drivers Shall:

- drive safely and professionally in and around job site;
- follow instructions given by the Highway Superintendent, or designee;
- not turn around at any private driveway or private road;
- not track dirt or other debris over freshly oiled tack surface unless directed to do so by the Highway Superintendent, or designee;
- do not drive on freshly laid asphalt unless directed to do so by the Highway Superintendent, or designee;
- remain in the truck at all times while on the job site except as required to repair the truck, or other equipment, or as directed by the Highway Superintendent, or designee; and
- proceed to the transfer location without delay after emptying boxes at the job site.

**BST Services, Inc.  
doing business as  
Blain Stumpf Trucking**

**Exhibit B  
Fee Schedule**

Services shall be billed at the base billing rate indicated below plus or minus the fuel surcharge percentage based upon the Weekly Retail On-Highway Diesel Prices for California posted at the website for the Energy Information Administration (EIA), Official Energy Statistics at: <https://www.eia.gov/petroleum/gasdiesel/>. The EIA Weekly Retail On-Highway Diesel Prices are updated each Monday. The surcharge shall be calculated based upon the diesel price for the week the services are performed.

Should the EIA cease publication of the Weekly Retail On-Highway Diesel Prices for California, Contractor and County's Contract Administrator shall agree in writing to a new index to be used for determining a mutually acceptable fuel surcharge. Should Contractor and County fail to agree on a mutually acceptable index within thirty (30) days from the date the EIA ceases publication of the Weekly Retail On-Highway Diesel Prices for California, County may terminate this Agreement without prejudice.

**Base Billing Rate**

Transfer Dump Truck – Five (5) Axle .....	\$139.50 per hour
Ten (10) Wheel Dump Truck – Three (3) Axle .....	\$120.00 per hour
End Dump Truck .....	\$139.50 per hour

Rates shall be billed to the nearest one-tenth (1/10<sup>th</sup>) of an hour, calculated on a round trip basis.

**Fuel Surcharge**

A cost of \$4.53 per gallon of diesel fuel shall be considered the baseline price per gallon, or a zero percent (0%) surcharge.

Any increase over or decrease under the baseline fuel price per gallon of \$4.53 will result in a one percent (1%) fuel surcharge or fuel surcharge credit for every ten cent (\$.10) increase or decrease in the price per gallon of diesel based upon the EIA Weekly Retail On- Highway Diesel Prices for California. **No allowance will be made, nor will the results be rounded, for differences of less than ten cents (\$.10) per gallon.**

The increase over, or decrease under, the baseline cost per gallon of \$4.53 will be determined as follows:

1. EIA Weekly Retail On-Highway Diesel Prices for California for the week the service is performed (updated each Monday);
2. Less baseline rate of \$4.53;
3. Equals increase or decrease in the EIA Weekly Retail On-Highway Diesel Prices for California compared to baseline rate; and
4. One percent (1%) fuel surcharge or fuel surcharge credit for every ten cent (\$.10) increase calculated in number three (3) above.

**Sample Fuel Surcharge Calculation:**

EIA Weekly Retail On-Highway Diesel Prices for California	\$4.800
Less baseline price per gallon	<u>\$4.530</u>
Increase in diesel fuel price per gallon	\$.0270
Rounding <b>down</b> to twenty cents (\$.20) (one percent [1%] for every <b>full</b> ten cent [\$.10] increase)	
One percent (1%) surcharge for every ten percent (10%) increase results in two percent (2%) surcharge.	

**Sample Billing Rate Calculation:**

Base Billing Rate for Transfer Dump Truck	\$139.50 per hour*
One percent (1%) Calculation	<u>X two percent (2%)</u>
One percent (1%) Fuel Surcharge Amount	\$2.79
Base Billing Rate	\$139.50 per hour
Add fuel surcharge amount (above)	<u>+ \$2.79 per hour</u>
Adjusted Billing Rate	\$142.29 per hour

\* Base Billing Rate is used for calculation purposes only and does not reflect actual or suggested pricing.

