

**Contractor's Name**

**Materials Hauling Services for Road Maintenance Projects**

**AGREEMENT FOR SERVICES # AGMT XX-XXXX**

**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 \_\_\_\_\_, a \_\_\_\_\_ duly qualified to conduct business in the State of California, whose principal place of business is \_\_\_\_\_ (hereinafter referred to as "Contractor");

**RECITALS**

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to provide on-call trucking services to transport road materials for various Community Development Agency, Transportation Division (Transportation Division) maintenance projects;

**WHEREAS**, Contractor has represented to County that it is specially trained, experienced, expert, and competent to perform the special 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 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 authorized 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 Services:** Contractor agrees to furnish personnel, services, trucks and equipment necessary to transport road materials from various points of purchase to designated stockpile locations or work sites and from various work sites to designated stockpile locations, on an on-call basis for the Transportation Division. All work and services provided under this Agreement shall be performed in accordance with the terms and conditions identified in Exhibit A, marked "Trucking Requirements," incorporated herein and made by reference a part hereof.

For each on-call trucking 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 a not-to-exceed cost based on the number of trucking

County of El Dorado  
Community Development Agency  
Transportation Division  
2441 Headington Road  
Placerville, California 95667  
Attn.: Don Spear, Deputy Director  
Maintenance and Operations Unit

or to such other location as County directs.

In the event that Contractor fails to deliver the deliverables required by individual Work Orders issued pursuant to this Agreement, County at its sole option may delay the monthly 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 XIV, 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 agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during the term hereof.

#### **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 Community Development Agency 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.

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 may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

### **ARTICLE XIII**

**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 XIV**

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

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended at the discretion of the party giving notice. 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.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired.

- B. **Bankruptcy:** This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. **Ceasing Performance:** County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.

## **ARTICLE XVI**

**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 XV, 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 XVII**

**Indemnity:** Contractor shall defend, indemnify, and hold County and its officers, agents, employees and representatives harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorneys' fees and costs incurred, brought for, or on account of, injuries to, or death of, any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to, or in any way arise out of, or are connected with Contractor's services, operations or performance hereunder, regardless of the existence or degree of fault or negligence on the part of County, Contractor, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of County, its officers, agents, employees and representatives, or as expressly provided 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 XVIII**

**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 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.

- 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 XIX**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or the interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XX**

**Interest of Contractor:** Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree, in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

#### **ARTICLE XXI**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this Agreement and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in ARTICLE XIV, Default, Termination, and Cancellation, herein.

**ARTICLE XXVIX**

**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 XXX**

**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 XXXI**

**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 have executed this Agreement on the dates indicated below.

--COUNTY OF EL DORADO--

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Board of Supervisors  
"County"

Attest:  
James S. Mitrison  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

Dated: \_\_\_\_\_

--CONTRACTOR'S NAME--

By: \_\_\_\_\_  
Contract Signer  
Title  
"Contractor"

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name  
Corporate Secretary

Dated: \_\_\_\_\_

- 
- 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 his 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 his designee;
- not drive on freshly laid asphalt unless directed to do so by the Highway Superintendent, or his 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 his designee;
- proceed to the transfer location without delay after emptying boxes at the job site.



3. Equals increase or decrease in the EIA Weekly Retail On-Highway Diesel Prices for California compared to baseline rate;
4. 1% fuel surcharge or fuel surcharge credit for every ten cent (\$.10) increase calculated in number 3 above.

**Sample Fuel Surcharge Calculation:**

EIA Weekly Retail On-Highway Diesel Prices for California as of _____	\$ 3.141
Less baseline price per gallon	<u>\$ 2.870</u>
Increase in diesel fuel price per gallon	\$ 0.271
Rounding <b>down</b> to 30 cents (1% for every <b>full</b> 10 cent increase)	
1% surcharge for every 10% increase results in 3% surcharge.	

**Sample Billing Rate Calculation:**

Base Billing Rate for Transfer Dump Truck	\$ 60.00 per hour *
1% Calculation	<u>        x 2%</u>
1% Fuel Surcharge Amount	\$ 1.20
Base Billing Rate	\$ 60.00 per hour
Add fuel surcharge amount (above)	<u>    \$ 1.20 per hour</u>
Adjusted Billing Rate	\$ 61.20 per hour

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

Evaluation criteria – Request for Bids for Hauling Services

Bids will be pro-rated based on anticipated usage of each truck type as follows:

Truck Usage Pro-Ration for each Truck Type:

Transfer Truck (5 Axle)	95%
10 Wheel Dump Truck (3 Axle)	5%

The evaluation methodology is as follows:

Total Anticipated Hours (1,500) multiplied by Truck Usage Pro-Ration = Truck Type Pro-Rated Hours

Truck Type Pro-Rated Hours multiplied by Truck Type Bid Price = Truck Type Bid

Truck Type Bid (Transfer Truck) PLUS Truck Type Bid (Dump Truck) = Total Bid for Evaluation.

The evaluation sample provided is for illustrative purposes only. Prices do not reflect actual or suggested pricing.

Anticipated Hours`	Truck Type	Truck Usage Pro-Ration	Truck Type Pro-Rated Hours	Truck Bid Price	Total Bid for Evaluation
3,750	Transfer Truck	95%	3,562.50	\$60	\$213,750
3,750	Dump Truck	5%	187.50	\$58	\$ 10,875
Total for Evaluation					\$224,625