

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS
County of Placer

TO: BOARD OF SUPERVISORS DATE: July 27, 2010

FROM: KEN GREHM / PETER KRAATZ

SUBJECT: **STANDARD CALTRANS AGREEMENT FOR LANDSCAPE MAINTENANCE WITHIN THE STATE RIGHT OF WAY ALONG HIGHWAYS 28 AND 89 FOR BUS SHELTERS AT VARIOUS LOCATIONS**

ACTION REQUESTED / RECOMMENDATION

Adopt a Resolution authorizing the Director of Public Works, with County Counsel and Risk Management review and approval, to execute a landscape maintenance agreement to construct and maintain bus shelters in various locations within the State Right of Way along Highways 28 and 89, in the North Lake Tahoe Area for TART operations; and authorize the Director of Public Works or his designee to execute the agreement and future amendments adding transit facilities.

BACKGROUND / SUMMARY

The Department's Tahoe Area Regional Transit (TART) public bus systems serve the Tahoe area. Many of the existing bus stops are unpaved, open waiting areas. Public Works continues to apply for and obtain funding from various sources to support bus stop improvements including shelters.

The agreement will allow for construction and operation of the bus shelter to occur under the responsibility and management of the County and is a Caltrans requirement before encroachment permits are issued.

As new shelters are added and approved through a Caltrans Encroachment process the original agreement will be modified to include those shelters by updating Exhibit A of the agreement.

ENVIRONMENTAL

All shelter locations will be exhaustively investigated pursuant to the provisions of CEQA as part of design process for each site, however, this maintenance agreement is exempt from CEQA.

FISCAL IMPACT

This agreement allows the County under the direction and management of the Department of Public Works to construct and operate bus shelters in the State right of way in the North Lake Tahoe Area. There is no fiscal impact to the County for this agreement.

Attachments:

Resolution

Location Map

Final Copy of Agreement

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of: A RESOLUTION APPROVING AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE A LANDSCAPE MAINTENANCE AGREEMENT TO CONSTRUCT AND MAINTAIN BUS SHELTERS IN VARIOUS LOCATIONS WITHIN THE STATE RIGHT OF WAY ALONG HIGHWAYS 28 AND 89; AND AUTHORIZE THE DIRECTOR OF PUBLIC WORKS OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND FUTURE AMENDMENTS ADDING TRANSIT FACILITIES.

Resol. No:.....

Ord. No:.....

First Reading:.....

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board Of Supervisors

Attest:
Clerk of said Board

BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Placer, State of California, that this Board approves and approving and authorizing the Director of Public Works, with County Counsel and Risk Management review and approval, to execute a landscape maintenance agreement to construct and maintain bus shelters in various locations within the state right of way along Highways 28 and 89; and authorize the Director of Public Works or his designee to execute the agreement and future amendments adding transit facilities.

214

AGREEMENT FOR LANDSCAPE MAINTENANCE
WITHIN STATE HIGHWAY RIGHT OF WAY
ON ROUTES 89 AND 28 WITHIN THE COUNTY OF PLACER

This agreement is made and executed effective _____ day of _____, 2010 by and between the State of California, acting through its Department of Transportation, hereinafter referred to as STATE, and the County of Placer, hereinafter referred to as COUNTY, together referred to as PARTIES.

WITNESSETH

1. PARTIES desire to work together to place and maintain certain improvements within STATE's right of way.
2. This agreement addresses COUNTY's responsibility for the bus shelters; sidewalks; walls; drainage; landscaping, and litter, weed, and graffiti removal (hereinafter collectively referred to as LANDSCAPING) placed within the STATE right of way on State Routes 28 and 89, as show on Exhibit A, attached to and made part of this agreement.

Section I

In consideration of the mutual covenants and promises herein contained, COUNTY and STATE agree as follows:

- A. PARTIES have agreed to an allocation of maintenance responsibilities that include, but are not limited to, inspection, providing emergency repair, replacement, and maintenance (hereinafter collectively referred to as MAINTAIN/MAINTENANCE) of LANDSCAPING as shown on Exhibit A.
- B. When a planned future improvement is constructed and/or a minor revision has been effected with STATE's consent or initiation within the limits of STATE's right of way, hereinafter described which affects PARTIES' division of maintenance's responsibility as described herein, PARTIES will agree upon and execute a new dated and revised exhibit which will be made a part hereof and will thereafter supersede the attached original Exhibit A to thereafter become a part of this agreement. The new exhibit can be executed only upon written consent of PARTIES hereto acting by and through their authorized representatives. No formal amendment to this agreement will be required.

Section II

COUNTY agrees, at COUNTY expense, to do the following:

- A. COUNTY may install, or enter into a contract authorizing a licensed contractor with the appropriate class of license in the State of California to install, and thereafter MAINTAIN

LANDSCAPING conforming to those plans and specifications (PS&E) pre-approved by STATE.

- B. COUNTY will submit the final form of the PS&E, prepared, stamped, and signed for LANDSCAPING to STATE's district permit engineer for review and approval and will obtain and have in place a valid necessary encroachment permit prior to the start of any work within STATE's right of way. All proposed LANDSCAPING must meet STATE's applicable standards.
- C. COUNTY shall ensure that LANDSCAPED areas designated on Exhibit A are provided with adequate scheduled routine MAINTENANCE necessary to MAINTAIN a neat and attractive appearance.
- D. An encroachment permit rider may be required for any changes to the scope of work allowed by this agreement prior to the start of work within STATE's right of way.
- E. COUNTY contractors will be required to obtain an encroachment permit prior to the start of any work within STATE's right of way.
- F. To control weeds at a level acceptable to STATE. Any weed control performed by chemical weed sprays (herbicides) shall comply with all laws, rules, and regulations established by the California Department of Food and Agriculture.
- G. To expeditiously repair any STATE facility damage caused by COUNTY's LANDSCAPE presence and activities and to reimburse STATE should STATE be required to cure a COUNTY fault.
- H. To remove LANDSCAPING and appurtenances and restore STATE owned areas to a safe and attractive condition acceptable to STATE in the event this agreement is terminated as set forth herein.
- I. To expeditiously MAINTAIN, replace, repair, or remove from service any LANDSCAPING system component that has become unsafe or unsightly.
- J. To inspect LANDSCAPING on a regular monthly basis to ensure the safe operation and condition of LANDSCAPING.
- K. To MAINTAIN all sidewalks within the agreement limits of the STATE highway right of way, as shown on Exhibit A, at COUNTY expense. MAINTENANCE includes, but is not limited to, concrete repair, replacement and to grind or patch vertical variations in elevation of sidewalks for an acceptable walking and riding surface, and the removal of dirt, debris, graffiti, weeds, and any deleterious item or material on or about sidewalks or the LANDSCAPING in an expeditious manner.
- L. To allow random inspection of LANDSCAPING by STATE representatives.

- M. To keep the entire landscaped area policed and free of litter and deleterious materials and empty the trash receptacle on a regular basis to ensure that it does not get overfilled.
- N. All work by or on behalf of COUNTY will be done at no cost to STATE.

Section III

STATE agrees to do the following:

- A. May provide COUNTY with timely written notice of unsatisfactory conditions that require correction by the COUNTY. However, the non-receipt of notice does not excuse COUNTY from maintenance responsibilities assumed under this agreement.
- B. Issue encroachment permits to COUNTY and COUNTY contractors at no cost.

Section IV

Legal Relations and Responsibilities:

- A. Nothing within the provisions of this agreement is intended to create duties or obligations to or rights in third parties not parties to this agreement or affect the legal liability of either PARTY to this agreement by imposing any standard of care respecting the design, construction, and maintenance of these STATE highway improvements or COUNTY facilities different from the standard of care imposed by law.
- B. If during the term of this agreement, COUNTY should cease to MAINTAIN the LANDSCAPING to the satisfaction of STATE as provided by this agreement, STATE may either undertake to perform that MAINTENANCE on behalf of COUNTY at COUNTY's expense or direct COUNTY to remove or itself remove LANDSCAPING at COUNTY's sole expense and restore STATE's right of way to its prior or a safe operable condition. COUNTY hereby agrees to pay said STATE expenses within thirty (30) days of receipt of billing by STATE. However, prior to STATE performing any MAINTENANCE or removing LANDSCAPING, STATE will provide written notice to COUNTY to cure the default, and COUNTY will have thirty (30) days within which to effect that cure.
- C. Neither COUNTY nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by STATE under, or in connection with any work, authority or jurisdiction arising under this agreement. It is understood and agreed that STATE shall fully defend, indemnify, and save harmless COUNTY and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation, and other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this agreement with the exception of those actions of STATE necessary to cure a noticed default on the part of COUNTY.

- D. Neither STATE, nor any officer or employee thereof, is responsible for any injury, 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 arising under this agreement. It is understood and agreed that COUNTY shall fully defend, indemnify, and save harmless STATE and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, including but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by COUNTY under this agreement.
- E. Prevailing Wage Requirements: Labor Code Compliance If the work performed on MAINTENANCE is done under contract and falls within the Labor Code section 1720(a)(1) definition of a public work in that it is construction, alteration, demolition, installation, or repair COUNTY must conform to the provisions of Labor Code sections 1720 through 1815, all applicable regulations and coverage determinations issued by the Director of Industrial Relations. COUNTY agrees to include prevailing wage requirements in its contracts for public work. Work performed by COUNTY's own forces is exempt from the Labor Code's Prevailing Wage requirements.
- F. Prevailing Wage Requirements in Subcontracts COUNTY shall require its contractors to include prevailing wage requirements in all subcontracts funded by this agreement when the work to be performed by the subcontractor is a public work as defined in Labor Code Section 1720(a)(1). Subcontracts shall include all prevailing wage requirements set forth in COUNTY's contracts.
- G. Insurance COUNTY and their contractors shall maintain in force, during the term of this agreement, a policy of general liability insurance or self-insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents, and employees as the additional insured in an amount of \$1 million per person and \$2 million in aggregate. Coverage shall be evidenced by a certificate of Insurance in a form satisfactory to STATE.
- H. Termination This agreement may be terminated by timely mutual written consent by PARTIES, and COUNTY's failure to comply with the provisions of this agreement may be grounds for a notice of termination by STATE.
- I. Term of Agreement This agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated at any time upon mutual consent of the PARTIES or until terminated by STATE for cause.

PARTIES are empowered by Streets and Highways Code Sections 114 and 130 to enter into this agreement and have delegated to the undersigned the authority to execute this agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this agreement.

IN WITNESS WHEREOF, the PARTIES hereto have set their hands and seals the day and year first above written.

STATE OF CALIFORNIA
Department of Transportation

COUNTY OF PLACER

Cindy McKim
Director of Transportation

By: _____
Jody Jones, District Director

By: _____
Ken Grehm, Director

Approved as to form and procedure:

APPROVED AS TO FORM

Attorney
Department of Transportation*

County Counsel

* Approval by STATE's attorney is not required unless changes are made to this form, in which case, the draft will be submitted to headquarters for review and approval by STATE's attorney as to form and procedures.

219

EXHIBIT A

The following is the list of locations where the COUNTY has been delegated the maintenance responsibility and liability for bus shelters on State Routes 28 and 89 in Placer County.

Route	Location
28	PM2.51 - at Lake Forest (West Bound)
28	PM2.97 - at Dollar Drive (West Bound)
89	PM6.37 - at Sunnyside (North Bound)
89	PM6.37 - at Sunnyside (South Bound)

220