

FOR CALTRANS USE:

I hereby certify upon my own personal knowledge that budgeted funds are available for this encumbrance.

<i>VM Monzales</i> Accounting Officer						Date: 10/27/99	\$ 500,000.00	
Chapter	Statutes	Item	Fiscal Year	Program	BC	Category	Fund Source	\$
50	1999	2660-101-042	99/00	2030 2078/1	S	262042	102-183-T	

Note to LPA, check Exhibit A - Part III for payment to escrow account.

APPLICANT-STATE AGREEMENT NO. 9-99-32
ENVIRONMENTAL ENHANCEMENT AND MITIGATION (EEM) PROGRAM

PROJECT NUMBER: EEM-0099(096)
1999/2000 FISCAL YEAR ALLOCATION

EA # 09-955036

THIS AGREEMENT, made effective this 29th day of September, 1999, by and between Mono County, hereinafter referred to as "APPLICANT", and the State of California, acting by and through the California Department of Transportation (Caltrans), hereinafter referred to as "STATE."

WITNESSETH

WHEREAS, as provided by Streets and Highways Code Section 164.56, enacted as part of Assembly Bill 471 (Katz) in 1989, funds have been allocated to APPLICANT by the California Transportation Commission (CTC) after the project submitted by APPLICANT had been recommended for funding by the Resources Agency; and as described in the application;

WHEREAS, STATE and APPLICANT now desire to enter into an Agreement relative to fund transfers and cost sharing on the described project.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I - Project Administration

1. The EEM project application (the "Application") submitted by APPLICANT, together with all conditions and assurances contained therein, are made an express part of this Agreement. Should any conflict exist between the Application and the Agreement, the Agreement shall prevail.

2. APPLICANT shall perform project, or projects, described in Exhibit A of this Agreement, hereinafter referred to as "PROJECT", which shall be acquired, developed, designed and constructed as provided in this Agreement.

3. If PROJECT is located on STATE-owned right-of-way, STATE design and construction standards and practices shall be followed. If PROJECT is not on STATE-owned right-of-way, the applicable design and construction standards and practices of the local government having jurisdiction over the PROJECT location shall apply.

4. In cases where the approved fund transfer amount is less than the amount for which APPLICANT originally applied, APPLICANT is obligated to complete PROJECT without downscoping it, unless specifically authorized to do so, in writing, by the State Resources Agency. This will be accomplished by APPLICANT supplementing PROJECT costs with another funding source or by finding a less costly way to complete the PROJECT.

5. The estimated cost of PROJECT is as shown in Exhibit A. While APPLICANT may, with STATE approval, award a contract in an amount in excess of said estimate, it is understood that the allocation of STATE funds for PROJECT will not exceed that limit set by Exhibit A.

6. In the event the estimated cost of PROJECT decreases by reason of low bids or otherwise, the allocation of STATE funds will be decreased proportionately with any decrease in APPLICANT's participating contributions.

7. Minor non-substantive changes may be made to the PROJECT, as described in Exhibit A, upon prior written notice to STATE and STATE's written acknowledgment of that proposed action. No major change, however, may be made in said PROJECT except pursuant to an amendment to this Agreement duly executed by STATE and APPLICANT. STATE will determine what constitutes a minor change by accepting or rejecting the written notice by APPLICANT of the intent to implement a specific minor change.

8. After completion and acceptance of PROJECT by both APPLICANT and STATE, STATE shall pay STATE's share of the cost of PROJECT to APPLICANT, within sixty (60) days after receipt of a signed invoice for payment submitted by APPLICANT. At the option of APPLICANT, monthly or quarterly pro rata progress payments in arrears may be made on a reimbursement basis upon submittal of invoices by APPLICANT and approval by STATE of the PROJECT costs incurred. Pro rata payments will be based on the amount of the STATE fund transfer authorized herein in proportion to the total cost of PROJECT, including APPLICANT contributions. An invoice format document is included as Exhibit C.

9. If PROJECT involves work anywhere on the State highway system, a separate standard form of encroachment permit between STATE and APPLICANT must be prepared and executed before PROJECT work may commence.

10. APPLICANT shall comply with the requirements of the FAIR EMPLOYMENT PRACTICES ADDENDUM (Exhibit B) and further agrees that any agreement or service contract entered into by APPLICANT with a third party for performance of work connected with the PROJECT shall incorporate Exhibit B as a part of such agreement.

11. Upon completion of all work under this Agreement and prior to the expiration of this Agreement, APPLICANT shall prepare and file with STATE one (1) original Final Project Expenditure Report. The Final Project Expenditure Report must be submitted with the final invoice on the PROJECT.

ARTICLE II - Rights-of-Way

1. The acquisition, clearance, and improvement of rights of way necessary for the development of PROJECT shall be the responsibility of APPLICANT. Right-of-way acquisition and clearance costs may be included as a participating item of total PROJECT costs if included as part of the PROJECT scope of work.

2. APPLICANT shall perform all PROJECT right-of-way activities in accordance with applicable State laws and regulations unless the STATE determines, in writing, that the State Uniform Relocation Assistance and Real Property Acquisition Policies Act (Government Code Secs. 7260-7277) do not apply to PROJECT.

3. APPLICANT, as part of its PROJECT design responsibility, shall identify and locate all utility facilities within the PROJECT area. All utility facilities, including those not relocated or removed in advance of construction, shall be identified on PROJECT plans and specifications.

4. If any existing public and/or private utilities conflict with the construction of PROJECT, APPLICANT will make all necessary arrangements with the owners of such utilities for their protection, relocation, or removal. If utility relocation is required within STATE right-of-way, APPLICANT shall conform to STATE standards, policies and procedures. If utility relocation is outside of STATE right-of-way, APPLICANT shall conform with local government policies.

5. APPLICANT shall certify as to legal and physical control of that PROJECT right-of-way once it is ready for construction and that the PROJECT right-of-way was acquired in accordance with applicable State laws and regulations, subject to review and concurrence by STATE, prior to the advertisement for bids for construction/development of PROJECT.

6. If right-of-way acquisition and clearance costs are included as a participating item of PROJECT costs, STATE shall provide funds only for purchase of the actual right-of-way required for PROJECT. If APPLICANT acquires right-of-way which includes excess land, STATE will not participate in the cost of the excess portion. In the event land initially acquired as part of PROJECT is declared excess at a later date, APPLICANT shall reimburse STATE, no later than one hundred twenty (120) days after PROJECT completion or upon the subsequent sale of that excess land, for either the pro rata fair market value of that excess at the time of disposal or, if that property is retained by APPLICANT, the pro rata fair market value of the excess land at that time. The pro rata fair market value shall be based on the total of the STATE fund transfer amount applied toward purchase of the property in proportion to the total purchase price of the property.

ARTICLE III - Safety

1. APPLICANT shall comply with OSHA regulations regarding necessary safety equipment and procedures. If PROJECT work is to be performed within STATE right of way, APPLICANT shall also comply with safety instructions issued by the District Safety Officer and other STATE representatives. APPLICANT's and APPLICANT's personnel shall see that all individuals wear white hard hats and orange safety vests at all times while working within STATE right of way.

2. Pursuant to the authority contained in Section 591 of the Vehicle Code, STATE has determined that within such areas as are within the limits of the PROJECT and are open to public traffic, APPLICANT shall comply with all the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. APPLICANT shall take all reasonably necessary precautions for safe operation of its and its agent's or APPLICANT's vehicles and the protection of the traveling public from injury and damage from such vehicles when performing work within STATE right of way.

ARTICLE IV - Inspection of Work

1. APPLICANT and any of its PROJECT subcontractors shall permit STATE to review and inspect PROJECT activities at all reasonable times during the performance period of this Agreement, including review and inspection on a daily basis.

ARTICLE V - Equipment Purchase

1. Prior authorization in writing by STATE shall be required before APPLICANT enters into any non-budgeted purchase order or subcontract exceeding \$500 for supplies, equipment, or consultant services. APPLICANT shall provide an evaluation of the necessity or desirability of incurring such costs.

2. For purchase of any item, service or consulting work not identified in APPLICANT's Cost Proposal and exceeding \$500, with written prior authorization by STATE, three (3) competitive quotations must be submitted with that request or the absence of bidding must be adequately justified.

3. Any equipment purchased as a result of this Agreement is subject to paragraph 3 of this Article V. APPLICANT shall maintain an inventory of all nonexpendable property, defined as property having a useful life of at least two years and an acquisition cost of \$500 or more. If purchased equipment needs replacement and is sold or traded in, STATE shall receive a proper refund or credit. Upon the expiration date of this Agreement, or if this Agreement is terminated, APPLICANT may either keep the equipment and credit STATE in an amount equal to its fair market value or sell such equipment at the best price obtainable, at a public or private sale, in accordance with established STATE procedures, and credit STATE in an amount equal to the sales price. If APPLICANT elects to keep that equipment, fair market value shall be determined, at APPLICANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to STATE and APPLICANT. If it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by STATE.

ARTICLE VI - Management and Maintenance of Property

1. APPLICANT will operate, manage and maintain into the future all property acquired, developed, rehabilitated, or restored with funds transferred through this Agreement. With STATE's prior approval, APPLICANT or its successors in interest may transfer management and maintenance responsibilities over the property. If the property is not managed and maintained consistent with the PROJECT application, APPLICANT or its successors in interest, at the discretion of STATE and within 45 days after receiving notice to APPLICANT by STATE, shall reimburse STATE an amount at least equal to the amount of STATE's funding participation in PROJECT together with all accrued interest at State Treasurer's pooled money investment account.

2. All real property acquired with these funds shall be subject to an appropriate form of Title covenant approved by STATE. If the PROJECT property is sold, leased or otherwise put to any use other than that use as approved in the Allocation for STATE funds, the State Highway Account, at the discretion of STATE and within 45 days notice to APPLICANT by STATE, shall be reimbursed an amount at least equal to the amount of STATE's funding participation in PROJECT or the pro rata fair market value of the property, including improvements, at the time of sale, whichever is higher. The pro rata fair market value shall be based on the proportions of the fund transfer amount applied toward the purchase of the property and the design and construction of improvements in proportion to the total purchase price of the property and the cost of all improvements made prior to the time of sale.

ARTICLE VII - Retention of Records/Audit Review Procedures

1. For the purpose of determining compliance with Public Contract Code 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 10532, APPLICANT, its contractors and their subcontractors and STATE shall each maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement, including but not limited to, the allowable costs (Exhibit D) of administering this Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for four (4) years from the date of final payment under this Agreement. STATE, the State auditor, the Federal Highway Administration (FHWA), or any duly authorized representative of the Federal government shall have access to any books, records, and documents of APPLICANT that are pertinent to this Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished by APPLICANT or its contractors, if requested.

2. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not satisfactorily disposed of by agreement shall be reviewed by the Chairperson of the STATE Audit Review Committee (ARC). The ARC will consist of the Assistant Director, Audits & Security (Chairperson); Deputy Director of Transportation Engineering; the Chief Counsel, Legal Division, or their designated alternates; and two representatives appointment by the Director of Transportation from private industry whose role will be advisory in nature only and without voting rights.

3. Not later than 30 days after issuance of the final audit report, APPLICANT may request a review by the ARC of unresolved audit issues. The request for review will be submitted in writing to the Chairperson of the ARC. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the ARC will be scheduled if the Chairperson concurs that further review is warranted. After the meeting, the ARC will make recommendations to the Chief Deputy Director. The Chief Deputy Director will make the final decision for STATE within one (1) month following the receipt of the notification of dispute or following the ARC meeting recommendation date, whichever is later in time.

4. Neither the pendency of a dispute nor its consideration by STATE will excuse APPLICANT from full and timely performance of its obligations in accordance with the terms of this Agreement.

5. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this Article VII.

ARTICLE VIII – Allowable Costs and Payments

1. The method of reimbursement authorized by STATE for PROJECT expenditures made by APPLICANT under this Agreement will be based on actual costs incurred. STATE will reimburse the STATE's proportionate share of actual costs (based on Exhibit A and including labor costs, employee benefits, travel, equipment rental costs, and other direct costs) incurred by APPLICANT in performance of the work. APPLICANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, fringe benefit rates, and other estimated costs set forth in APPLICANT's cost proposal (Exhibit A1) unless additional reimbursement is provided for by Agreement amendment. In the event that STATE determines additional work beyond that specified in APPLICANT's cost proposal and this Agreement is required to produce a satisfactory PROJECT, the actual costs reimbursable by STATE may be increased by Agreement amendment to accommodate that additional work. The maximum total costs as specified in this Article VIII, paragraph 7, shall not be exceeded unless authorized by Agreement amendment.

2. Reimbursement for transportation and subsistence costs shall not exceed the rates to be paid nonrepresented/excluded State employees under then current State Department of Personnel Administration rules detailed in the Caltrans Travel And Expense Guide.

3. General and administrative PROJECT overhead is unallowable under the Resources Agency's Environmental Enhancement and Mitigation Program Procedures and Criteria guidelines.

4. Progress payments will be allowed and may be made no less than monthly in arrears based on PROJECT work performed and allowable incurred cost authorized as part of the PROJECT.

5. APPLICANT may not commence any reimbursable PROJECT development work or services or PROJECT capital outlay work before both program adoption and funding allocation by the California Transportation Commission and execution of this PROJECT agreement by both APPLICANT and STATE. Reimbursement is subject to annual appropriation by the Legislature in the State Budget for the Environmental Enhancement and Mitigation Program Demonstration Fund.

6. APPLICANT will be reimbursed as promptly as fiscal procedures will permit upon receipt by STATE's Local Program Accounting office in the Accounting Service Center of signed itemized invoices in triplicate. One original and two copies of the invoice (in the format shown in Exhibit C) shall be submitted no later than 45 calendar days after the performance of work for which APPLICANT is billing. Invoices shall detail the work performed on each milestone, on each construction project title. The final invoice must contain the final cost and all credits due STATE, including credits or reimbursements due STATE for any equipment purchased under the provisions of Article V of this Agreement. The final invoice shall be mailed to the Caltrans District Director, ATTN: District Local Assistance Engineer, for project completion and final invoice approval. Progress invoices shall be mailed directly to STATE at the following address:

DEPARTMENT OF TRANSPORTATION
Accounting Service Center, MS 33
Local Program Accounting Branch
P. O. Box 942874
Sacramento, CA 94274-0001

7. The project financing is determined as follows:

State Funding Participation:	\$500,000	(100%) of total project cost
Applicant Funding Participation:	\$0.0	(0%) of total project cost
Total Project Cost	\$500,000	100.00%

8. The total PROJECT amount payable by STATE, shall not exceed \$500,000.

ARTICLE IX – Cost Principles

1. APPLICANT agrees to comply with: 1) Resources Agency's Environmental Enhancement and Mitigation Program Procedures and Criteria, and 2) California Transportation Commission Guidelines for Allocating, Monitoring, and Auditing of Local Assistance Projects.

2. APPLICANT agrees to comply with the following, as applicable:

A) The Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., which shall be followed to determine the allowability of individual items of cost for which reimbursement is sought.

B) 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments..

C) Office of Management and Budget Circular A-122, Cost Principles for Nonprofit Organizations, which shall be used to determine costs of grants, contracts and other agreements with nonprofit organizations (excluding colleges, universities and hospitals).

D) Office of Management and Budget Circular A-21, Cost Principles for Educational Institution establishing principles for determining costs applicable to grants, contracts, and other agreements with educational institutions.

E) Office of Management and Budget Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations.

3. Any costs for which payment has been made to APPLICANT that are determined by subsequent audit to be unallowable under Paragraphs 1 and 2 of this Article IX are subject to repayment by APPLICANT to STATE.

4. Should any conflict exist between the STATE guidelines described in Paragraph 1 and 2 of this Article IX, the following order will prevail and be applied as follows: 1) Resources Agency's Environmental Enhancement and Mitigation Program Procedures and Criteria; 2) California Transportation Commission Guidelines for Allocating, Monitoring, and Auditing of Local Assistance Projects, 3) 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq.; 49 CFR, Federal Acquisition Regulations System, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government; OMB A-21, Cost Principles for Educational Institutions; OMB A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations; OMB A-122, Cost Principles for Nonprofit Organizations; and OMB A-87, Cost Principles for State and Local Government.

5. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this Article IX.

6. Should APPLICANT fail to reimburse moneys due STATE within thirty (30) days of demand, or within such other period as may be agreed between the parties hereto, STATE is authorized to withhold future payments due APPLICANT from any source, including but not limited to, the State Treasurer, the State Controller and the California Transportation Commission.

ARTICLE X - Subcontracting

1. APPLICANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by STATE, except that which is expressly identified in APPLICANT's Cost Proposal (Exhibit A1).

2. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement and shall be applicable to all subcontractors.

3. Any substitution of subcontractors must be approved in writing by STATE.

4. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this Article X.

ARTICLE XI - Insurance

1. If the scope of APPLICANT services will not require APPLICANT or a subcontractor to enter upon STATE highway right of way, then the APPLICANT is not required to show evidence of general comprehensive liability insurance.

2. In the event that APPLICANT or an agent, contractor or subcontractor of APPLICANT will be present or working on STATE right of way, prior to commencement of the work described herein, the APPLICANT shall furnish to STATE a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for APPLICANT and its agents, contractors, and subcontractors with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.

3. The Certificate of Insurance must provide:

A. That the insurer will not cancel the insured's coverage without 30 days prior written notice to the STATE.

B. That the STATE, its officers, agents, employees, and servants are also included as additional named insureds, but only insofar as PROJECT operations under this Agreement are concerned.

C. That STATE will not be responsible for any premiums or assessments on the policy.

4. APPLICANT agrees that all bodily injury liability insurance or self-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, APPLICANT agrees to provide, at least thirty (30) days prior to said expiration date, a new Certificate of Insurance or Certificate of Self-Insurance evidencing coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New Certificates are subject to the approval of STATE and Department of General Services. In the event APPLICANT fails to keep coverage as herein provided in effect at all times, STATE may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

5. If APPLICANT is self-insured, the EEM project APPLICANT shall submit a Certificate of Self-Insurance asserting that APPLICANT is covered for all purposes of liability for all work performed hereunder. STATE and APPLICANT acknowledge that only one Certificate of Self-Insurance will be required and that APPLICANT must maintain that level of Self-Insurance [not less than one million dollars (\$1,000,000)]. It is also understood that STATE, its officer, agents, employees, and servants, are included as covered for all purposes insofar as the operations of APPLICANT under this Agreement are concerned.

ARTICLE XII - Miscellaneous Provisions

1. Neither STATE nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by APPLICANT under or in connection with any work, authority or jurisdiction delegated to APPLICANT under this Agreement. It is understood and agreed that, pursuant to Government Code Section 895.4, APPLICANT shall fully defend, indemnify and save harmless STATE and its 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 APPLICANT under or in connection with any work, authority or jurisdiction delegated to APPLICANT under this Agreement. STATE reserves the right to represent itself in any litigation in which STATE's interest are at stake.

2. APPLICANT, and the agents and employees of APPLICANT, in performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of STATE.

3. STATE may terminate this Agreement with APPLICANT should APPLICANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, STATE may proceed with the PROJECT work in any manner deemed proper by STATE. If STATE terminates this Agreement with APPLICANT, STATE shall pay APPLICANT the sum of allowable costs due APPLICANT under this Agreement prior to termination, provided, however, that the cost of PROJECT completion to STATE shall first be deducted from any sum due APPLICANT under this Agreement, and the balance, if any, shall then be paid APPLICANT upon demand.

4. Without the written consent of STATE, this Agreement is not assignable by APPLICANT, either in whole or in part.

5. Time is of the essence in this Agreement.

6. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

7. The consideration to be paid APPLICANT, as provided herein, shall constitute full compensation for all of APPLICANT's allowable approved costs and expenses incurred in the performance hereof, unless otherwise expressly so provided.

8. APPLICANT warrants, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by APPLICANT for the purpose of securing business. For breach or violation of this warranty, STATE has the right to annul this Agreement without liability, pay only for the value of the work actually performed, or in its discretion, to deduct from the price of consideration, or otherwise recover from APPLICANT, the full amount of such commission, percentage, brokerage, or contingent fee.

9. In accordance with Public Contract Code Section 10296, APPLICANT hereby states under penalty or perjury that no more than one final unappealable finding of contempt of court by a Federal court has been issued against APPLICANT within the immediate preceding two-year period because of APPLICANT's failure to comply with an order of a Federal court that orders APPLICANT to comply with an order of the National Labor Relations Board.

10. APPLICANT shall disclose any financial, business, or other relationship with STATE, the Resources Agency, or the California Transportation Commission (CTC) that may have an impact upon the outcome of this Agreement. APPLICANT shall also list current associates or clients who may have a financial interest in the outcome of this Agreement.

11. APPLICANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of this Agreement.

12. APPLICANT warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any STATE or Resources Agency employee. For breach or violation of this warranty, STATE shall have the right, in its sole discretion, to terminate the Agreement without liability, to pay only for the work actually performed, or to deduct from the Agreement price or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

13. This Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the State Legislature or the Federal Government that may affect the provisions, terms, or funding of this Agreement in any manner.

14. This Agreement shall terminate on June 30, 2002, or upon the earlier completion of PROJECT, whichever is first earlier in time, except that APPLICANT duties regarding the continuing operations and maintenance of PROJECT property, credits due STATE, and indemnification of STATE shall survive.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers.

STATE OF CALIFORNIA DEPARTMENT OF APPLICANT
TRANSPORTATION

By [Signature], Chief
Program Management, Office of Local Programs

1120 "N" Street
Sacramento, California 95814

(916) 653-3581

By [Signature] ¹⁰⁻¹⁸⁻⁹⁹
Dan Lypte

GRANTS ADMINISTRATOR
APPLICANT Representative Name and Title

MONO COUNTY
Agency

P.O. BOX 347
Address

MAMMOTH LAKES, CA 93546
City, State, ZIP

(760) 924-5452
Telephone No.

EXHIBIT A - PROJECT DESCRIPTION

APPLICANT: Mono County
PROJECT NAME: Conway Ranch
COUNTY: Mono

I. Project Location and Description of Work Proposed:

Location: Highway 395 and route 167 near Mono Lake

Description of Work: Acquire approximately 175 acres of the Conway Ranch property.

II. Proposed Project Funding:

TOTAL PROJECT COST: \$500,000

Financing:

Federal Funds (if any): \$0

APPLICANT Funds (if any): \$0

State Funds (amount approved by CTC): \$500,000

III. Remarks and Covenants

(On EEM projects involving acquisition of real property, or rights thereto, if the Applicant requests that State funds be deposited directly into an escrow account, insert the following)

Pursuant to the terms of Applicant-State Agreement No. 9-99-32, dated 9-29-99

and effective immediately, the COUNTY OF MONO
(Name of Applicant)

requests and authorizes that the EEM fund warrants be made out in the name of the

INYO-MONO TITLE COMPANY and mailed to
(Name of Title Company)
P.O. BOX 1030 MAMMOTH LAKES, CA 93546
(Address of Title Company)

Phone No. (760) 934-3302 Attention: JUDY MARKHAM
(Name of Escrow Agent)

for Escrow No. _____

EXHIBIT A1 - COST PROPOS

(This must be completed by APPLICANT for all projects, except for acquisition-only projects, and returned with Applicant-State Agreement to the STATE.)

APPLICANT:
PROJECT NAME:
COUNTY:

Direct Labor:
(labor rates must be calculated as actual dollar earned per hour and cannot include overhead costs)

<u>Classification</u>	<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Project Manager			@	
			@	
			@	
			@	

Total Direct Labor Costs

Fringe Benefits:
(Benefits, such as vacation, medical, and retirement, etc., must be calculated as rates earned per hour)

Other Costs: *(itemize with description, quantity, unit price, and total cost; estimates acceptable)*

Travel Costs
Equipment and Supplies
Other Direct Costs

Subcontractor Costs:
(attach scope of work and detailed cost estimate for each subcontractor)

Volunteer Services:

<u>Classification</u>	<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Volunteer			@	
			@	
			@	

Total Volunteer Labor Costs

Donations:
(itemize with description, quantity, unit price, and total cost; estimates acceptable)

Materials
Other

Total Project Cost:

EXHIBIT B

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, APPLICANT will not discriminate against any employee for employment because of race, sex, color, religion, ancestry, or national origin. APPLICANT will take affirmative action to ensure that employees are treated during employment, without regard to their race, sex, color, religion, ancestry, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. APPLICANT shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. APPLICANT will permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment and Housing Commission, or any other agency of the State of California designated by the awarding authority, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

3. Remedies for Willful Violation:

- a) The State may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which APPLICANT was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that the APPLICANT has violated the Fair Employment Practices Act and had issued an order, under Labor Code Section 1426, which has become final, or obtained an injunction under Labor Code Section 1429.
- b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services hereunder shall be borne and paid for by APPLICANT and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or the thereafter may become due to APPLICANT, the difference between the price named in the Agreement and the actual cost thereof to STATE.

EXHIBIT C - INVOICE FORM
(Letterhead of APPLICANT)

<i>For Progress Invoice:</i>	<i>For Final Invoice:</i>	<i>Date of Invoice</i>
Department of Transportation	Name , District Director	Billing No.: <i>1, 2, or Final Invoice</i>
Accounting Service Center, MS 33	Department of Transportation	Invoice No: <i>Local Agency's Invoice Number</i>
Local Programs Accounting Branch	<i>Street or P.O. Box Number</i>	Project Completion Date: <i>Final Date or "Ongoing"</i> (if not final)
P.O. Box 942874	<i>City, CA Zip Code</i>	County: <i>County Name</i>
Sacramento, CA 94274-0001	Attn.: Name , District Local Assistance Engineer	Caltrans Expenditure Authorization (EA) No.: <i>Project EA No.</i>

Reimbursement for Environmental Enhancement and Mitigation (EEM) funds is claimed pursuant to Project No. _____, Applicant-State Agreement No. _____, Agreement date _____.

Description of work covered by this Invoice: _____

	Preliminary Engineering	Construction Engineering	Acquisition and Incidentals	Construction Contract
Total Costs **	_____	_____	_____	_____
Less: Non-Participating Costs	_____	_____	_____	_____
Participating Costs to Date	_____	_____	_____	_____
Reimbursement Ratio	_____	_____	_____	_____
Participating Costs Subtotal	_____	_____	_____	_____
Less: Amount Previously Claimed	=====	=====	=====	=====
Total Amount This Invoice	_____	_____	_____	_____

**** Note:** State will make the payment(s) in arrears on a reimbursement basis of its proportionate share of actual costs incurred to date; timesheets, volunteer labor, mileage logs, donated materials, receipts, and other documents may be required by state as supporting documentation prior to reimbursement.

(For EEM projects involving acquisition of real property rights, or rights thereto, if the Applicant requests that State funds be deposited directly into an Escrow Account, insert the following)

Pursuant to Exhibit A of above referenced Applicant-State Agreement, (Name of Applicant)
Requests and authorizes that the Environmental Enhancement and Mitigation (EEM) fund warrants be
made out in the name of the _____ Title Company and
mailed to (Title Company Address), Attention: _____
For Escrow No. _____.

I certify that the work covered by this Invoice has been completed in accordance with approved plans and specifications; the costs shown in this Invoice are true and correct; and the amount claimed is due and payable within the terms of the Agreement.

I further certify, if applicable, that acquisition of real property, or rights thereto, (has been) (will be) acquired in accordance with applicable State laws and regulations.

APPLICANT REPRESENTATIVE NAME & TITLE

Approved For Payment:

DISTRICT RIGHT-OF-WAY LOCAL PROGRAMS
COORDINATOR *(if applicable)*

EXHIBIT D
COUNTING & AUDIT GUIDELIN FOR
CONTRACTS WITH CALTRANS

INTRODUCTION

The purpose of this brochure is to outline for you, a potential contractor with the California State Department of Transportation (Caltrans), the basic elements of an adequate accounting system, and the types and objectives of audits that will be performed in relation to your contract. In order to successfully compete for a contract and meet the audit requirements, a contractor (whether prime or subcontractor) must have a system of record keeping and internal control. Although a specific cost accounting system is not required, a contractor needs a system which will assure compliance with the terms of the agreement.

Caltrans reimburses, through your overhead rate, the costs attributable to establishing and maintaining a cost accounting system.

Staff time and other costs related to an audit performed of your contract are also normally reimbursed through your overhead rate.

ACCOUNTING SYSTEM

Contractors (whether a prime or subcontractor) planning to contract with Caltrans must have an accounting system which meets the following objectives:

1. The ability to record and report financial data in accordance with generally accepted accounting principles.
2. A system of record keeping to ensure that costs billed to Caltrans are:
 - a. Supported by adequate documentation
 - b. In compliance with the terms of the contract and applicable Federal and State regulations specified in the contract
3. A system of record keeping ideally includes the following:
 - a. A general ledger
 - b. Job cost ledger
 - c. Labor distributions
 - d. Time records
 - e. Subsidiary journals
 - f. Chart of accounts
 - g. Financial statements

4. The ability to accumulate and segregate reasonable, allocable (incurred solely for a project) and allowable (per terms of the contract) costs through the use of a cost accounting system. The following are some of the attributes which would ideally be found in such a system:

- a. A chart of accounts which includes indirect and direct general ledger accounts. Indirect costs are not specifically identified to a project, for example, rent and/or utilities. Direct costs are specifically identified with a project, for example, drafting hours and /or design hours.
- b. Segregation of costs by contract, category of cost and milestones (if applicable).
- c. Proper recording of direct and indirect costs. For example, recording of labor costs should provide that non-project indirect hours be recorded on a timesheet and in the accounting records to an administration, vacation, sick leave or other indirect cost account/code. Direct project hours should be recorded on a timesheet and in the accounting records to a direct project cost account/code.
- d. Consistent accounting treatment of costs in recording and reporting. For example, if travel expense is charged directly to a project, all travel expense incurred on any project should be considered a direct cost. As a result, project-related travel, whether reimbursable per the contract terms or not, should be included as a direct cost.
- e. Ability to trace from invoices submitted to Caltrans to job cost records and original, approved source documents, for example, time sheets, vendor invoices, canceled checks.
- f. Ability to reconcile job cost records to the accounting records.

5. Compliance with cost principles described in the Code of Federal Regulations 48, Federal Acquisition Regulations System (FAR), Chapter 1, Part 31. Information on how to obtain this regulation is described under "Audit Criteria" on the following page.

6. Procedures to monitor and adjust projected overhead rates to actual rates.

7. Controls to ensure that written approval is obtained prior to any changes to the contract.

8. Procedures to retain accounting records and source documentation as required by the terms of the contract.

9. A system of internal control which provides reasonable assurance that assets are protected; financial data, records and statements are reliable; and errors and irregularities are promptly discovered, reported and corrected. The elements of a system of internal control should include, but not be limited to, the following:

- a. Separation of duties for proper protection of assets. Incompatible duties are those that place any person in a position to both perpetrate and conceal errors or irregularities in the normal course of business. For example, the person who writes checks should be different from the person who reconciles bank statements and the person who purchases goods should be different from the person who receives goods.
- b. Limiting access to assets to only authorized personnel who requires these assets in the performance of their assigned duties. For example, blank check stock should be locked in a safe when not in use.

c. Authorization and record keeping procedures which provide effective accounting control over assets, liabilities, revenues, and expenditures.

A system of practices to be followed in the performance of duties and functions. Such a system normally includes policies and procedures which establish the purpose and requirements of the accounting system. For example, timekeeping practices should ideally provide for the following:

- Timesheets be prepared, signed and dated by all employees.
- Timesheets be completed in non-erasable ink.
- Timesheet corrections be crossed out and initialed by the employee.
- Timesheets be signed by a supervisor as reviewed and retained on file as required by the contract.

e. Personnel with skills and training commensurate with their responsibilities.

f. A system of internal review. For example, bank reconciliations and travel expense claims should be reviewed, approved, and signed by a supervisor.

AUDITS

Contractors, whether a prime or subcontractor, performing under a negotiated contract with Caltrans are subject to the following audits.

INTERIM AUDITS

Interim audits are performed on an as-needed basis. The Applicant, subcontractors, and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Agreement. All parties involved in the contract shall make such materials available at their respective offices at all reasonable time during the Agreement period and for four years from the date of final payment under this Agreement. The interim audit will determine if the accounting systems adequately ensure that billed costs are supported and that any deficiencies are corrected. An interim audit may be requested by the contract administrator or by Caltrans' management to address concerns during the course of the contract. Also, an audit manager may initiate an interim audit of a multi-year contract to ensure that costs reimbursed to date are allowable.

POST AUDITS

Post audits of contracts are performed routinely after project completion. Post audits are performed to determine whether the costs claimed are allowable, allocable, reasonable, and in compliance with the Federal and State laws and regulations as well as the fiscal provisions stipulated in the contract. The examination includes reviews of applicable laws and regulations, the contract requirements and the contractor's internal control system. Audit tests of the contractor's accounting records and other auditing procedures considered necessary will also be performed. Applications of all audit procedures would also be governed by the individual contract under audit. Unsupported or unallowable costs are normally the result of weaknesses in the accounting system and will be reimbursed to Caltrans.

To provide contractors with a procedure for obtaining prompt and equitable resolution to a dispute arising from a post audit of a non-highway construction cost reimbursement contract, Caltrans has established an Audit Review Committee (ARC). Information explaining the ARC should be found in your contract and/or as an attachment to the post audit report.

AUDIT CRITERIA

For specific information regarding basic cost accounting systems and applicable State and Federal regulations, please see the following:

Code of Federal Regulations 48, Federal Acquisition Regulations System, Chapter 1, Part 31:

This regulation contains cost principles and procedures for the pricing of contracts/subcontracts and the determination, negotiation, or allowance of costs. Contact:

Superintendent of Documents
Government Printing Office
Washington, DC 20402

Washington, DC (202) 512-1800
San Francisco (415) 512-2770
Los Angeles (213) 239-9844

California State Administrative Manual:

A reference source for statewide policies, procedures, regulations and information. Contact:

Office of State Publishing
Department of General Services
Call for order form: (916) 445-2295

For review of the above references, contact your local library or the California State Library.

California State Library
Library and Courts Building
914 Capitol Mall
P. O. Box 942837
Sacramento, CA 94237-0001

Information: (916) 654-0261

For assistance in establishing an accounting system which will meet the objectives outlined in this brochure, you should contact an accountant and/or bookkeeper who is familiar with cost accounting systems.

Caltrans is an affirmative action employer. Equal opportunity is offered to all regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age or sexual orientation. Contractors that contract with Caltrans are responsible for taking necessary and reasonable steps to achieve these same goals.