

## **LETTER OF UNDERSTANDING (FINAL DRAFT)**

This is a Letter of Understanding (“LOU”) by and between the State of California, acting by and through the Department of Transportation (“Department”) and the City of Oakland (“City”), collectively referred to herein as “the Parties”.

By this LOU, the Parties seek to improve communication, coordination and cooperation between the Parties with respect to ongoing property inspection and clean-up in order to maximize limited public resources.

By this LOU, the Parties acknowledge and represent that they each are entering into this LOU in good faith and with full intention of complying with each and every provision detailed herein.

By this LOU, the Parties acknowledge a mutual and shared goal of eliminating blighted conditions, illegal dumping, graffiti and overgrown vegetation on all Department property in the City, including but not limited to leased property, vacant property and improved property.

By this LOU, the Parties agree to undertake all necessary actions to maintain Department property in a clean and safe condition.

By this LOU, the Parties acknowledge that due to personnel, funding and other constraints on the Department’s resources, full compliance with each and every provision detailed herein may be impracticable. The LOU constitutes solely a guide to the intentions and policies of the Parties and is not intended to authorize, commit or otherwise establish any funding or any new project, nor is it a legally binding contract.

The following is an outline of the Parties’ intentions and understandings:

### **I. WORKING GROUP**

The Parties will establish a working group (“Working Group”) designed to enhance communication to notify one another of any clean-up and/or abatement-related issues (e.g., blighted conditions, illegal dumping, graffiti, overgrown vegetation and other fire and health safety hazards) that arise, including identifying points of contact for the City and the Department, and the Parties enable and envision the Working Group as follows:

- A. **Designee(s).** The Parties will each designate at least one regular representative to the Working Group or more, as the group deems necessary.
- B. **Frequency of Meeting.** The Working Group will meet once a month (“Monthly Meeting”).
- C. **Monthly Meeting Framework.** The Monthly Meetings are formalized forums to discuss, coordinate, prioritize and otherwise strategize in the Parties’ plans of approaching:

1. Any upcoming inspection and clean-up activities, including surveillance, mitigation and abatement efforts;
2. Any problem locations (or priority locations), including sharing of any information of the specific locations where illegal dumping activities regularly occur;
3. Any upcoming special clean-up and/or abatement activities or needs;
4. Any need for installation of signage (e.g. “No Trespassing” and “No Dumping”) at the Parties’ properties located in the City;
5. Any need for installation and/or repair of fences or other barriers at the Parties’ properties located in the City; and
6. Any need for coordinated enforcement, including police and security guards, local law enforcement, and any need for the Alameda County District Attorneys' Office to enforce existing laws and to develop and implement additional programs to discourage illegal dumping on the Parties’ properties in Oakland.

D. **Monthly Reports.** The Department will submit written monthly reports (“Monthly Reports”) at each of the Monthly Meeting to summarize the past month’s abatement activities in the City of what, where and when any cleanup and/or abatement activities occurred in the City since the previous monthly meeting to address the concerns that arose during that month. The monthly report must include at the minimum the information listed in Attachment “A” to this LOU.

E. **Progress Reports to City Council.** For the first two years of the LOU period starting April 2006, the Parties’ representatives to the Working Group will work together in preparing and jointly presenting a semi-annual progress report (“Progress Report”) to the City’s City Council. The Progress Report will present to the City Council a summary of the coordinated abatement activities in the City and what, where and when any cleanup and/or abatement activities occurred in the City since the previous Progress Report to address the concerns that arose since said report. The Progress Report will also include an estimated expenditure amount associated with the activities undertaken and detailed in said report. The frequency of the Progress Report will be reduced to annual reporting schedule upon expiration of the first two years of this LOU.

F. **Notice and Cleanup.** In general, the Department will clean up its property within ten days of receiving a written notice from the City of a condition requiring maintenance or cleanup response. If the Department deems additional time is needed to properly respond to the noticed condition, the Department will consult with the City as to its concerns and work with the City in reaching an agreement as to how and by when the condition will be addressed.

- G. **Delegated Maintenance Agreements.** In the event the Department is unable to maintain Department property in specific areas of the City, the Department will in good faith negotiate with the City to delegate maintenance of those areas to the City, and reimburse the City for the cost of providing maintenance in those identified areas.
- H. **Third Party Use of Property.** The Parties will coordinate efforts to ensure that any third party or lessee using Department property will comply with all applicable state and local laws, regulations and the clean-up requirements of this LOU.
- I. **Inventory of Department Properties.** The Parties agree to cooperate in the development of a comprehensive list of all Department properties, excluding on- and off ramps and state routes, within the City with the goal of incorporating the inventory on the City's GIS database, said database to be shared with the Department. The Parties agree to complete the inventory by June 30, 2006.
- J. The Department's **Cost Data for Maintenance Activities.** Beginning with the second report to the City Council in October 2006 and in each such Council report thereafter, the Department will provide information regarding overall staff hours and cost to the Department for maintenance efforts in each of the top 25 most populated cities in Caltrans District 4. For an October Council report, the Department will provide information regarding the previous January through June. For an April Council report, the Department will provide information for the previous July through December.
- K. **Failure to Abate.** If clean up and maintenance is not occurring in a timely manner and pursuant to the timeframes agreed to by the Working Group, or if the Working Group cannot agree to a reasonable timeframe for clean up and maintenance of identified blighted areas, the District Director of the Department and the Director of Public Works for the City will convene a meeting to resolve the differences. If disputes remain unresolved after a meeting between the District Director and the Director of Public Works, the City reserves the right to adjudicate the matter before a court of competent jurisdiction.

## II. LOU PERIOD

The Parties intend for this LOU to be in effect for ten years.

## III. ENTIRE UNDERSTANDING

The LOU constitutes the entire understanding between the Parties with regard to its contents. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the Parties relating to the subject matter, which are not included in the Letter.

#### IV. SIGNATORIES

The Parties represent and warrant that their signatories have the authority to represent them, their governing bodies, shareholders, and entities.

#### V. NOTICES

All notices, documents and writings required under the Agreement shall be transmitted to the other Party by fax and by regular mail to the persons and the addresses listed below. Each Party may change its representative by providing written notice to the other Party.

##### TO CITY

David Ferguson  
Operations Manager  
FACILITIES AND ENVIRONMENT  
Keep Oakland Clean and Beautiful  
750 50<sup>th</sup> Avenue, Oakland, CA 94601  
Telephone: (510) 434-5111  
Fax: (510) 434-5132  
E-Mail: [dferguson@oaklandnet.com](mailto:dferguson@oaklandnet.com)

##### TO CALTRANS

Mike Marcum  
Superintendent  
Maintenance Division – CALTRANS  
600 Lewelling Boulevard  
San Leandro, CA 94579  
Telephone: (510) 614-2665  
Fax: (510) 614-5989  
E-Mail: [Mike\\_Marcum@dot.ca.gov](mailto:Mike_Marcum@dot.ca.gov)

7. The LOU becomes effective once executed by both Parties.

Approved for form and legality

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**Bijan Sartipi**, District Director  
Department of Transportation

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**Kimberly H. Kim**, Esq.  
Attorney

Approved for form and legality

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**Deborah Edgerly**, City Administrator  
City of Oakland

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**John A. Russo**, Esq.  
City Attorney