

## **EPIC Aviation, LLC**

### **SECOND AMENDMENT TO AGREEMENT FOR SERVICES #3104**

**THIS SECOND AMENDMENT** to that Agreement for Services #3104 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 EPIC Aviation, LLC, an Oregon limited liability company duly qualified to conduct business in the State of California, whose principal place of business is 222 West Colinas Boulevard, Suite 1425N, Irving, Texas 75039, and whose mailing address is Post Office Box 12249, Salem, Oregon 97309 (hereinafter referred to as "Contractor").

### **RECITALS**

**WHEREAS**, Contractor has been engaged by County to provide aviation fuel and related services for the Placerville and Georgetown Airports pursuant to Agreement for Services #3104, dated July 17, 2018, and First Amendment to Agreement for Services #3104, dated July 18, 2023, both incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

**WHEREAS**, the parties hereto desire to amend the Agreement to extend the expiration date of November 19, 2023 for three (3) additional months, amending **ARTICLE II, Term**;

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Contractor mutually agree to amend the terms of the Agreement in this Second Amendment to Agreement for Services #3104 on the following terms and conditions:

- I. **ARTICLE II, Term**, of the Agreement is amended in its entirety to read as follows:

#### **ARTICLE II**

**Term:** This Agreement shall become effective when fully executed by the parties hereto and shall expire on February 19, 2024.

Except as herein amended, all other parts and sections of Agreement for Services #3104 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement for Services #3104 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: Wendy Thomas  
Wendy Thomas

Dated: 11/14/2023

Chair Board of Supervisors  
"County"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By: Kim Dawson  
Deputy Clerk

Dated: 11/14/2023

-- EPIC AVIATION, LLC --

By: Maria L. Garton  
Maria L. Garton  
Manager  
"Contractor"

Dated: 10/10/2023

APPROVED AS TO FORM:  
JJ  
10/10/2023  
LEGAL DEPARTMENT

By: Bridget Gonchar  
Bridget Gonchar  
Chief Operating Officer

Dated: 10/10/2023

## **EPIC Aviation, LLC**

### **FIRST AMENDMENT TO AGREEMENT FOR SERVICES #3104**

**THIS FIRST AMENDMENT** to that Agreement for Services #3104 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 EPIC Aviation, LLC, an Oregon limited liability company duly qualified to conduct business in the State of California, whose principal place of business is 222 West Colinas Boulevard, Suite 1425N, Irving, Texas 75039 and whose mailing address is Post Office Box 12249, Salem, Oregon 97309 (hereinafter referred to as "Contractor");

### **RECITALS**

**WHEREAS**, Contractor has been engaged by County to provide aviation fuel and related services for the Placerville and Georgetown Airports pursuant to Agreement for Services #3104, dated July 17, 2018 incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

**WHEREAS**, the parties hereto desire to amend the Agreement to extend the expiration date of July 19, 2023 for four (4) additional months, amending **ARTICLE II, Term**;

**WHEREAS**, the parties hereto desire to amend the Agreement to update the department name in regards to the confidentiality and privileged nature of all records, amending **ARTICLE XI, Confidentiality**;

**WHEREAS**, the parties hereto desire to amend the Agreement to update the County and Contractor notice recipients, amending **ARTICLE XVII, Notice to Parties**;

**WHEREAS**, the parties hereto desire to amend the Agreement in accordance with Senate Bill 1489, the Levine Act, amending **ARTICLE XXIII, Conflict of Interest**, and adding **Exhibit C, California Levine Act Statement**;

**WHEREAS**, the parties hereto desire to amend the Agreement to update the County's Contract Administrator, amending **ARTICLE XXX, Contract Administrator**;

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Contractor mutually agree to amend the terms of the Agreement in this First Amendment to Agreement for Services #3104 on the following terms and conditions:

- I. **ARTICLE II, Term**, of the Agreement is amended in its entirety to read as follows:

**ARTICLE II**

**Term:** This Agreement shall become effective when fully executed by the parties hereto and shall expire on November 19, 2023.

- II. **ARTICLE XI, Confidentiality**, of the Agreement is amended in its entirety to read as follows:

**ARTICLE XI**

**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 Planning and Building Department 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.

- III. **ARTICLE XVII, Notice to Parties**, of the Agreement is amended in its entirety to read as follows:

**ARTICLE XVII**

**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:

County of El Dorado  
Planning and Building Department  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Chris Perry  
Assistant Director

With a copy to:

County of El Dorado  
Chief Administrative Office  
330 Fair Lane  
Placerville, California 95630

Attn.: Michele Weimer  
Procurement and Contracts  
Manager

or to such other location as County directs.

Notices to Contractor shall be addressed as follows:

EPIC Aviation, LLC  
Post Office Box 12249  
Salem, Oregon 97309

Attn.: Maria L. Garton  
Manager

With copy to:

13485 Veterans Way, Suite 600  
Orlando, Florida 32827

Attn.: General Counsel

or to such other location as Contractor directs.

**IV. ARTICLE XXIII, Conflict of Interest**, of the Agreement is amended in its entirety to read as follows:

**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 consultant 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 consultants 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 XVI, Default, Termination, or Cancellation.

Pursuant to Government Code section 84308 (SB 1439, the Levine Act), Contractor shall complete and sign the attached Exhibit C, marked "California Levine Act Statement," incorporated herein and made by reference a part hereof, regarding campaign contributions by Contractor, if any, to any officer of County.

- V. **ARTICLE XXX, Contract Administrator**, of the Agreement is amended in its entirety to read as follows:

**ARTICLE XXX**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Chris Perry, Assistant Director, Planning and Building Department, or successor.

Except as herein amended, all other parts and sections of Agreement for Services #3104 shall remain unchanged and in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment to Agreement for Services #3104 on the dates indicated below.

**-- COUNTY OF EL DORADO --**

By: Wendy Thomas

Dated: 7/18/23

Board of Supervisors  
"County"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By: Kyra Schaffter  
Deputy Clerk

Dated: 7/18/23

**-- EPIC AVIATION, LLC --**

By: M L Garton  
Maria L. Garton  
Manager  
"Contractor"

Dated: 7/14/2023

By: A Bankowitz  
Amanda Bankowitz  
Chief Financial Officer

Dated: 7/13/2023

**EPIC Aviation, LLC**

**Exhibit C**

**California Levine Act Statement**

**California Levine Act Statement**

California Government Code section 84308, commonly referred to as the "Levine Act," prohibits any officer of El Dorado County from participating in any action related to a contract if he or she receives any political contributions totaling more than two hundred and fifty dollars (\$250) within the previous twelve (12) months, and for twelve (12) months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. An officer of El Dorado County includes the Board of Supervisors, and any elected official (collectively "Officer"). It is the Contractor's responsibility to confirm the appropriate "officer" and name the individual(s) in their disclosure.

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to an Officer of the County of El Dorado in the twelve months preceding the date of the submission of your proposals or the anticipated date of any Officer action related to this contract?

\_\_\_\_\_ YES  \_\_\_\_\_ NO

If yes, please identify the person(s) by name:

Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to an Officer of the County of El Dorado in the twelve months following any Officer action related to this contract?

\_\_\_\_\_ YES  \_\_\_\_\_ NO

If yes, please identify the person(s) by name:

Answering YES to either of the two questions above does not preclude the County of El Dorado from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Officer(s) from participating in any actions related to this contract.

July 13, 2023

Date

  
\_\_\_\_\_

Signature of authorized individual

EPIC Fuels

Type or write name of company

Amanda Bankowitz

Type or write name of authorized individual



# ORIGINAL

## EPIC Aviation, LLC

### Aviation Fuel and Support Services

#### AGREEMENT FOR SERVICES #3104

**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 EPIC Aviation, LLC, an Oregon limited liability company duly qualified to conduct business in the State of California, whose principal place of business is 3871 Fairview Industrial Drive SE, #100, Salem, Oregon 97302 and whose mailing address is Post Office Box 12249, Salem, Oregon 97309 (hereinafter referred to as "Contractor");

#### RECITALS

**WHEREAS**, County has determined that it is necessary to obtain a contractor to provide aviation fuel and related services for the Placerville and Georgetown Airports;

**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 federal, 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 these services are more economically and feasibly performed by outside independent Contractors as well as 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 and services necessary to provide Federal Aviation Administration (FAA) approved 100LL Avgas and Jet A Fuel and related support services for the Placerville Airport located at 3501 Airport Road, Placerville, California 95667 and the Georgetown Airport located at 6241 Aerodrome Way, Georgetown, California 95634. Services shall include, but not be limited to, those tasks as identified in Exhibit A, marked "Scope of Services," incorporated herein and made by reference a part hereof.

#### ARTICLE II

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall be effective for the period of July 20, 2018 to July 19, 2023.

### **ARTICLE III**

**Compensation for Services** For services provided herein, County agrees to pay Contractor in accordance with the procedures outlined in Exhibit B, marked "Billing and Settlement Procedures," incorporated herein and made by reference a part hereof.

The total amount of this Agreement shall not exceed \$3,500,000.00, inclusive of all costs and expenses.

### **ARTICLE IV**

**Prices:** Prices for product sold, inclusive of all applicable taxes and fees, shall be Contractor's delivered price for each product on the date and for the method of delivery. The price shall be Contractor's established weekly price paid by other customers of the Contractor within a one-hundred (100) mile radius of County's designated places for delivery. Contractor shall fax weekly fuel price notices to County using the Placerville Airport fax number in Exhibit B.

### **ARTICLE V**

**Delivery:** When ordered by County, Contractor shall make deliveries at County's two (2) designated places of business which shall not be less than six thousand (6,000) gallons for 100LL Avgas and four thousand (4,000) gallons for Jet A Fuel. Delivery shall be made freight on board (FOB) destination to the Georgetown or Placerville Airport within twenty-four (24) to forty-eight (48) hours from the time of the order.

In the event deliveries are made in transport truck or tank wagon lots, deliveries within ten percent (10%) of amounts called for by this Agreement or any installment thereof agreed upon by County and Contractor shall be deemed sufficient deliveries by Contractor. Only actual amounts delivered will be paid for by County.

### **ARTICLE VI**

**Brand:** County shall not sell Contractor's products under trademarks or brand names of Contractor other than those authorized by Contractor. County further undertakes and agrees not to sell products purchased hereunder to any reseller whom County knows or has reason to believe will not sell such products only under Contractor's brand names as provided herein.

### **ARTICLE VII**

**Legal Requirements:** Contractor and County shall comply with all applicable laws, ordinances, regulations, judicial, and administrative orders, and other legal requirements of all governmental authorities, federal, state, municipal, or other, pertaining to this Agreement and the loading, storage, transportation, and sale of petroleum products.

### **ARTICLE VIII**

**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.

County assumes the payment of all domestic and foreign taxes and/or duties now or hereafter imposed, directly or indirectly, on the goods covered by this Agreement.

Contractor agrees to collect and remit all applicable federal, state, and local taxes as required by law.

#### **ARTICLE IX**

**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 X**

**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 XI**

**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 Services 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 XII**

**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 XIII**

**Independent Contractor/Liability:** 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, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner

in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

#### **ARTICLE XIV**

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

#### **ARTICLE XV**

**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 XVI**

##### **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. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- 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.
- D. **Termination or Cancellation without Cause:** County may terminate this Agreement in whole or in part upon seven (7) calendar days' written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates, as set forth in the Notice of Termination provided to Contractor, and for such other services which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Agreement. 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 XVII**

**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:

County of El Dorado  
Community Development Services  
Administration and Finance Division  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Creighton Avila  
Deputy Chief Administrative Officer

With a copy to:

County of El Dorado  
Community Development Services  
Administration and Finance Division  
2850 Fairlane Court  
Placerville, California 95667

Attn.: Michele Weimer  
Administrative Services Officer  
Contracts & Procurement Unit

or to such other location as County directs.



Notices to Contractor shall be addressed as follows:

EPIC Aviation, LLC  
P. O. Box 12249  
Salem, Oregon 97309

Attn.: Kevin Cox  
President

or to such other location as Contractor directs.

#### **ARTICLE XVIII**

**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 XVII, 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 XIX**

**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 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 XX**

**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. Workers' Compensation Insurance with statutory limits as required by the laws of any and all states in which Contractor's employees are located, and Employer's Liability Insurance on a per occurrence basis with a limit of not less than \$1,000,000.
- 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 consultant 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. Contractor
- H. The certificate of insurance must include the following provisions stating that:
  - 1. The insurer will not cancel the insured's coverage without 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 as respects 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 as respects 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 XXI**

**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 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 XXII**

**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 XXIII**

**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 XVI, Default, Termination, and Cancellation, herein.

#### **ARTICLE XXIV**

##### **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 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 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 8355 and Title 2, California Code of Regulations, Section 8103.

#### **ARTICLE XXV**

**Nonresident Withholding:** If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold County harmless for any action taken by the California Franchise Tax Board.

#### **ARTICLE XXVI**

**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 XXVII**

**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 XXVIII**

**Licenses:** Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

#### **ARTICLE XXIX**

**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 XXX**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Agreement is Creighton Avila, Deputy Chief Administrative Officer, Administration and Finance Division, Community Development Services, or successor.

#### **ARTICLE XXXI**

**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 XXXII**

**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 XXXIII**

**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 XXXIV**

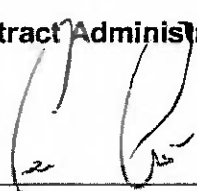
**Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

**ARTICLE XXXV**

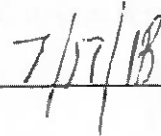
**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral agreements or understandings.

**Requesting Contract Administrator and Division Concurrence:**

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


  
Creighton Avila  
Chief Administrative Officer  
Administration and Finance Division  
Community Development Services

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



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


-- COUNTY OF EL DORADO --

By: 

Dated: 7/17/2018

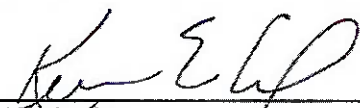
Board of Supervisors  
"County"

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

By:   
Deputy Clerk

Dated: 7/17/2018

-- EPIC AVIATION, LLC --

By:   
Kevin Cox  
President  
"Contractor"

Dated: 7/19/18

By:   
Marla Beckham  
Chief Financial Officer

Dated: 7/19/18

# EPIC Aviation, LLC

## Exhibit A

### Scope of Services

Contractor shall perform all services necessary for the delivery of aviation fuel to County's airport facilities in a safe, professional manner. Contractor's equipment shall be in good working order and all personnel shall be trained annually in safety measures to preclude accidents and the endangering of County personnel and property.

#### Fuel

Jet A Fuel meeting the American Society for Testing and Materials (ASTM) D 1655 latest revision and 100LL Aviation Gasoline meeting ASTM D910 latest revision. Jet fuel must be supplied without anti-icing additive.

- A minimum order quantity shall be 6,000 gallons of 100LL Avgas or 4,000 gallons of Jet A Fuel.

Contractor shall have adequate stock and appropriate equipment for the delivery of goods. Contractor shall provide ordering capability twenty-four (24) hours per day, seven (7) days per week.

#### Invoicing Requirement

Contractor shall render a Bill of Lading and Certificate of Analysis to the delivery facility at the time of delivery. A signature from a County employee on the Certificate of Analysis is required to ensure all documentation and fuel specifications have been met. Invoices and payments shall be for net gallons delivered.

#### Other Services – No Additional Charges

Contractor shall provide the following services at no additional charge to County:

- Annual inspection of self-serve facility, refueling equipment and trucks, and on-site training by a regional technical representative employed by Contractor;
- Annual seminar that includes quality control training, 14 C.F.R. § 139, Section 321 Fire Training and the Transportation Security Administration Ramp security training;
- Annual seminar for equipment maintenance training provided by industry original equipment manufacturers (OEMs);
- Manuals, which shall be listed by name and subject;
- List of all required testing equipment, along with on-site instruction in use of the equipment;
- Additional web-based and on-site training, as requested by County, including Line Service Training (initial and recurrent), EPIC Hands-On Training, Online Safety and Health Training for Aviation Facilities (OSHA), Customer Service, Safety and Security, and Aircraft De/Anti-icing Training;
- Marketing consultation for changes/updates to County webpage, printed collateral and advertising;
- Credit card settlement process; and

- Up to \$5,000.00 for fuel system maintenance and/or equipment upgrades as invoices are submitted by County to Contractor for system maintenance and/or equipment upgrades.

Training and site visits shall be arranged at a time mutually agreeable to Contractor and County and will be coordinated by County's Contract Administrator or designee.

**Other Services – Additional Charges**

If County chooses to upgrade either or both of the credit card processing systems currently in use at the airports, Contractor shall provide one (1) or two (2) QTPod M4000 Self-Serve Terminals at a cost to County of \$7,500.00 each.

**Software Updates**

There shall be no additional charge for software updates from Contractor. Charges may apply for software updates as required by other entities (i.e., credit card compliance required by state or federal laws).

**Product Identification and Imaging**

Contractor shall provide and maintain, at Contractor's expense, brand name and product signs, decals, and windsocks.

**Cooperative Advertising**

At Contractor's expense, Contractor shall deposit \$.005 per gallon of fuel purchased by County into a Cooperative Advertising account. Funds accumulate for one (1) calendar year and can be used by County for up to 50% reimbursement from Contractor up to the amount accrued in the Cooperative Advertising account each calendar year for uniforms, print media or specialty items that include the EPIC logo. Funds shall not roll over to the next calendar year. Contractor's Marketing Department shall provide consultation to County on various options to maximize County's cooperative advertising and overall budget.



# EPIC Aviation, LLC

## Exhibit B

### Billing and Settlement Procedures

#### Billing

Includes assembly of fuel delivery documentation within forty-eight (48) hours of fuel delivery; verification of the fuel delivery information; processing of invoices to County within seventy-two (72) hours of fuel delivery; and transmitting invoices to County via mail, facsimile or email as directed by County's Contract Administrator. Ten days (10) from the date of delivery and subject to approval and verification of invoices and fuel delivery documentation by County, funds shall be transferred from County's designated fuel account as maintained by Contractor to Contractor through an electronic funds transfer.

#### Mailing Address

County of El Dorado  
Community Development Services  
Administration and Finance Division  
2850 Fairlane Court  
Placerville, CA 95667

#### Placerville Airport Contact Numbers

Phone: (530) 622-0459  
Fax: (530) 622-0270

#### Credit Card Settlement

Includes daily settlement of electronic point of sale and card lock systems; posting of sales to County's designated fuel account as maintained by Contractor within two (2) business days; and payment of Contractor fuel invoices from County's designated fuel account as maintained by Contractor. Contractor shall issue payments by check from fuel sales over fuel costs proceeds semiannually or at intervals determined by County's Contract Administrator and agreed upon by Contractor.

#### Credit Card Processing Fees

The following represents the types of credit cards accepted by Contractor and the rate charged to County for each credit card type for credit card transactions when fuel is purchased by County's customers. This percentage is deducted from the amount deposited in County's designated fuel account as maintained by Contractor.

Credit cards accepted to process:

<u>Card Type</u>	<u>Processing Fee</u>	<u>Reimbursement Time</u>
EPIC Card	1.75%	2 Business Days
UVair Fueling Card	2.95%	2 Business Days
American Express	3.35%	2 Business Days
AVCard	3.25%	2 Business Days
Discover	2.95%	2 Business Days
MasterCard	2.10% Qualified	2 Business Days
	3.15% Non-Qualified	2 Business Days
Visa	2.10% Qualified	2 Business Days
	3.15% Non-Qualified	2 Business Days
MultiService	3.25%	2 Business Days
U.S. Government	4.50%	2 Business Days
AIRCard		

