

AGREEMENT FOR SERVICES # 799-PHD1008

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**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 Koefran Industries (hereinafter "Koefran"), a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 11350 Kiefer Boulevard (mailing: P.O. Box 276424), Sacramento, CA 95827-6424, and whose Agent for Service of Process is *Koefran Industries, A. Michael Koewler, 11350 Kiefer Blvd, Sacramento, CA 95830*, and Sacramento Rendering Co. (hereinafter "SRC"), a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 11350 Kiefer Boulevard, and whose Agent for Service of Process is *A. Michael Koewler, 11350 Kiefer Blvd, Sacramento, CA 95830* (hereinafter, Koefran Industries and Sacramento Rendering Co. shall also be referred to separately as "Contractor" and collectively as "Contractors");

**WITNESSETH**

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to provide services necessary to remove and dispose of all small animal carcasses collected by the East Slope and West Slope Animal Services facilities and dispose of all large animal carcasses delivered to Contractor's location; and

**WHEREAS**, Koefran and SRC ("Contractors") have represented to County that they are specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

**WHEREAS**, County has determined that the provision of these services provided by Contractors 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 31000;

**NOW, THEREFORE**, County and Contractors mutually agree as follows:

**Article I. Scope of Services**

Section 1.01 Contractors agree to furnish the personnel and equipment necessary to collect and dispose of all small animal carcasses collected by the East Slope and West Slope County Animal Services facilities.

Section 1.02 Definitions:

- (a) For the purposes hereof, “small animal carcasses” shall mean the whole bodies of dead animals not to exceed two hundred twenty-five (225) pounds in weight, including but not limited to the bodies of domesticated cats and dogs.
- (b) “Large animal carcasses” shall mean the whole bodies of dead animals exceeding two hundred twenty-five (225) pounds in weight.
- (c) “Hazardous waste carcass” shall mean the head only of a carcass, testing positive for rabies.
- (d) “Freezer unit” shall mean an enclosed freezing box provided by the Contractors to the County, for the purpose of storing and preserving small animal carcasses and hazardous waste animal carcasses.

Section 1.03 Contractors’ Responsibilities:

- (a) Provide waste bags and/or boxes for hazardous waste carcasses. Waste bags and/or boxes for hazardous waste carcasses shall be red and such carcasses shall not exceed ten (10) pounds per bag and/or box.
- (b) Remove, or cause to be removed, all small animal and hazardous waste animal carcasses from the collection site within a reasonable time after County has notified Koefran that the freezer units have reached maximum capacity.
- (c) Remove said carcasses within twenty-four (24) hours after County has notified Koefran of a malfunction of any of the freezer units.
- (d) Thoroughly rinse out all 55-gallon drums which have been used for freezer storage of carcasses upon completion of each scheduled pick up. Said cleaning shall be completed in an area designated by County.
- (e) Make or cause to be made all repairs necessary on any of the freezer units.
- (f) Pay all costs for repair to any of the freezer units made necessary by ordinary wear and tear and by malfunction or damage for which County is not liable under Article I, § 1.04 (i) of this agreement.
- (g) Accept and dispose of large animal carcasses (over 225 pounds per animal) delivered to Contractor’s location as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 1.04 County agrees to:

- (a) Remove all collars, chains, tags or other objects affixed or attached to carcasses, except paper.
- (b) Remove animals from polyethylene bags prior to placing in freezer unit.
- (c) Collect and store said small animal and hazardous waste animal carcasses in freezer units to be provided by Contractors.
- (d) Refrain from placing in any of the freezer units any live animal or decomposed or maggot-infested carcasses.
- (e) Comply with all applicable laws and regulations regarding collection, storage and handling of carcasses.
- (f) Maintain each freezer unit in a clean and sanitary condition.
- (g) Not make or cause to be made any repairs or modifications to any of the freezer units without the prior approval of Koefran.
- (h) Take reasonable precautions to prevent access to each freezer unit by individuals who are not agents or employees of County while the freezer is in County's possession.
- (i) Be liable for all costs incurred to repair of each freezer unit if such repairs are necessitated by County's negligence, while each freezer unit is in the possession of the County. Liability for said repairs shall also include those caused by vandalism.
- (j) Deliver large animal carcasses to Contractor's location.

**Article II. License**

Koefran and SRC warrant and represent that they are duly licensed in good standing by the State of California to perform services under this Agreement, and that each shall maintain said license in good standing throughout the term of this Agreement.

**Article III. Term**

This Agreement shall become effective when signed by all parties hereto and expire June 30, 2012 unless earlier terminated pursuant to the provisions under Article X herein.

**Article IV. Compensation for Services**

For services provided herein, County agrees to pay Koefran, on behalf of both Contractors, monthly in arrears and within forty-five (45) days following the County's receipt of itemized invoice(s) issued by Koefran identifying, to the County's satisfaction, the services rendered hereunder by either Koefran or SRC and any applicable fees in accordance with this Agreement. All invoices for services provided hereunder shall be issued by Koefran on behalf of both Contractors and payment of any invoice issued by Koefran shall be deemed compensation in full for all services provided by either Koefran or SRC as itemized in the invoice.

The collective monthly rate for services performed hereunder by Koefran shall be \$1,575.00 for the West Slope facility and \$393.75 for the East Slope facility.

The monthly rate provided herein above shall be increased 2.5% effective January 1, 2010, increased an additional 2.5% effective January 1, 2011, and increased an additional 2.5% effective January 1, 2012.

In addition to the monthly rate provided herein, County agrees to pay the applicable fees for medical waste disposal and for the disposal of large animal carcasses delivered to Contractor's location as set forth in Exhibit A, attached hereto and incorporated herein by reference, monthly in arrears and within forty-five (45) days following the County's receipt of itemized invoice(s) issued by Koefran identifying, to the County's satisfaction, the services rendered hereunder by either Koefran or SRC and any applicable fees in accordance with this Agreement.

The total amount for the term of this Agreement shall not exceed \$90,000.00 collectively for services performed by Koefran and SRC.

**Article V. Changes to Agreement**

This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

**Article VI. Contractor to County**

It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractors shall act as Contractors only to County and shall not act as Contractors to any other individual or entity affected by this Agreement (unless required by law) nor provide information in any manner to any party outside of this Agreement that would conflict with Contractors' responsibilities to County during term hereof.

**Article VII. Assignment and Delegation**

Contractors are engaged by County for their unique qualifications and skills as well as those of their personnel. Contractors 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 VIII. Independent Contractor/Liability:**

Contractors are, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which each performs services required by terms of this Agreement. Contractors exclusively assume responsibility for acts of each of their respective 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.

Contractors shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for their own negligence and negligent acts of their respective 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 Contractors or their employees.

**Article IX. Fiscal Considerations**

The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado 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 the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

**Article X. Default, Termination, and Cancellation**

Section 10.01 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 thirty (30) 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 on 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.

**Section 10.02 Bankruptcy:** This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of either SRC or Koefran.

**Section 10.03 Ceasing Performance:** County may terminate this Agreement in the event either SRC or Koefran ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.

**Section 10.04 Termination or Cancellation without Cause:** Either party may terminate this Agreement upon thirty (30) days written notice to the other party 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 SRC and /or Koefran, 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 contract. Koefran and/or SRC shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination.

**Article XI. 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, with postage prepaid. Notices to County shall be addressed as follows:

**COUNTY OF EL DORADO  
HEALTH SERVICES DEPARTMENT – PUBLIC HEALTH DIVISION  
931 SPRING STREET  
PLACERVILLE, CA 95667  
ATTN: NEDA WEST, DIRECTOR**

or to such other location as the County directs.

Notices to either Koefran or SRC shall be addressed as follows:

**KOEFRAN INDUSTRIES, INC.  
11350 KIEFER BLVD (physical address)  
P.O. BOX 276424 (mailing address)  
SACRAMENTO, CA 95827-6424  
ATTN: STAN LAWLOR, GENERAL MANAGER**

or to such other location as the Contractor directs. Any notices required to be provided hereunder to either Contractor may be addressed to Koefran alone, and any such notice addressed to Koefran and pertaining to SRC shall be deemed sufficient and complete as if addressed to SRC.

#### **Article XII. Indemnity**

Koefran and SRC jointly and severally agree to defend, indemnify, and hold the County 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 either Contractor's services, operations, or performance hereunder, except to the extent proximately caused by the active negligence or willful action or inaction of the County, its officers and employees. This duty of Contractors to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

#### **Article XIII. Insurance**

Contractors shall provide proof of a policy of insurance satisfactory in the exercise of commercial reasonableness to the El Dorado County Risk Manager and documentation evidencing that each Contractor maintains insurance that meets the following requirements:

Section 13.01 Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractors as required by law in the State of California.

Section 13.02 Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.

Section 13.03 Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractors in the performance of the Agreement.

Section 13.04 Contractors shall furnish a certificate of insurance reasonably satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.

Section 13.05 The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.

Section 13.06 Contractors agree that the insurance required above 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, Contractors agree to provide at least fifteen (15) 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 the 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 Contractors agree that no work or services shall be performed prior to the giving of such approval. In the event either 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.

Section 13.07 The certificate of insurance must include the following provisions stating that:

- (a) The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
- (b) The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- (c) The Contractors' insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of the Contractors' insurance and shall not contribute with it.
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- (e) 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.
- (f) Contractors' obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- (g) In the event Contractors cannot provide an occurrence policy, Contractors 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.

**Article XIV. 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 Contractors 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 XV. Interest of Contractors**

Koefran and SRS covenant that each respective 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. Koefran and SRC further covenant that in the performance of this Agreement no person having any such interest shall be employed by either Contractor.



**Article XVI. 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. Each Contractor attests that it is unaware of any current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract 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 either 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 the Article in the Agreement titled, "Default, Termination and Cancellation".

**Article XVII. California Residency (Form 590)**

All independent Contractors providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. Each Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Contractors during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

**Article XVIII. Taxpayer Identification Number (Form W-9)**

All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

**Article XIX. County Business License**

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 Code Section 5.08.070.

**Article XX. Administrator**

The County Officer or employee with responsibility for administering this Agreement is Linda Haller, Chief Animal Control Officer, Health Services Department – Public Health Division, or successor.

**Article XXI. 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 to the obligations set forth herein.

**Article XXII. Partial Invalidity**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

**Article XXIII. Venue**

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 XXIV. 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.

**Article XXV. Miscellaneous**

Section 25.01 Force Majeure: If either party cannot perform its obligations hereunder (other than financial obligations, including the obligation to pay money when due) due to events beyond the reasonable control of that party, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond the reasonable control of a party shall include without limitation acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, government regulation or restriction having a direct and material impact on the ability to perform hereunder and severe weather conditions.

Section 25.02 Liability Limitation: Excluding the indemnity obligations under Article XII, in no event shall the liability of Koefran or its agents, successors, affiliates, and/or assigns for any breach or default under this Agreement, whether actual or alleged, be greater than the total not-to-exceed amount for the entire term of this Agreement.

Section 25.03 Attorneys Fees: If either County or Koefran initiates legal proceedings arising under or relating to this Agreement, the prevailing party in the proceeding shall be entitled to recover its costs and reasonable attorney's fees, including any expert witness fees incurred.

**REQUESTING DEPARTMENT HEAD CONCURRENCE:**

By:   
Neda West, Director  
Health Services Department

Dated: 6-19-09

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

By: \_\_\_\_\_  
Ron Briggs, Chairman  
Board of Supervisors  
"County"

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

**ATTEST:**  
*Suzanne Allen de Sanchez Clerk  
of the Board of Supervisors*

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

Date: \_\_\_\_\_

**-- CONTRACTOR --**

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

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

**KOEFRAN INDUSTRIES, INC.,  
A CALIFORNIA CORPORATION**

**SACRAMENTO RENDERING CO.  
A CALIFORNIA CORPORATION**

By: Gene Klotz  
Gene L. Klotz,  
Vice President  
"Contractor"

By: Gene Klotz  
Title: V.P.  
"Contractor"

By: [Signature]  
Corporate Secretary

By: [Signature]  
Corporate Secretary

Dated: 2/2/09

Dated: 2/2/09

**Exhibit A****AGREEMENT FOR SERVICES #799-PHD1008****FEE SCHEDULE****July 1, 2009**

<b><u>Description</u></b>	<b><u>Amount</u></b>	<b><u>Quantity</u></b>
2-gallon red sharps container disposal	\$55.00	Each
8-gallon red or yellow (chemo) sharps container disposal	\$195.00	Each
Bagged medical waste, red or yellow (chemo)	\$3.75	Per pound

Price includes pickup, disposal, replacement container, and medical waste tracking receipt.

<b><u>Description</u></b>	<b><u>Amount</u></b>	<b><u>Quantity</u></b>
Disposal of animal carcasses delivered to Contractor's location (over 225 pounds per animal) at 11350 Kiefer Blvd, Sacramento, CA 95830.	\$135.00	Each