

# AGREEMENT FOR SERVICES

#716-PHD0408

*with*

## THE COUNTY OF PLACER

*regarding*

### SOLID WASTE PERMITTING AND ENFORCEMENT ACTIVITIES IN EL DORADO COUNTY

**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 "El Dorado County") and the County of Placer, a political subdivision of the State of California (hereinafter referred to as "Placer County"), whose executive offices are located at 175 Fulweiler Avenue, Auburn, California 95603;

#### WITNESSETH

**WHEREAS**, El Dorado County has been successfully contracting with Placer County for several years to provide specified solid waste management services through the Environmental Health Division of the Placer County Health and Human Services Department (hereinafter referred to as "Placer LEA"); and

**WHEREAS**, El Dorado County has determined that it is in its best interest to continue to contract with Placer County for provision of said services; and

**WHEREAS**, Placer County has specially trained and experienced personnel to perform the special services required hereunder; and

**WHEREAS**, El Dorado County wishes to utilize these special services; 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**, El Dorado County has determined that the provisions of such services provided by Placer County are in the public's best interest, are more economically and feasibly performed by outside independent contractors as well as authorized by El Dorado County Charter, Section 210 (b) (6) and Government Code 31000;

**NOW, THEREFORE**, El Dorado County and Placer County mutually agree as follows:

## **ARTICLE I**

**Scope of Services:** This Agreement is entered into pursuant to the provisions of Title 14 of the California Code of Regulations (14 CCR), Division 7, Chapter 5, Article 1.0 through 2.2 [specifically Sections 18050 and 18072 (b)]. El Dorado County and Placer County agree that under the authority contained in Section 18050 and 18072(b) of 14 CCR, El Dorado County is entering into this Agreement with Placer County for Placer LEA to provide services to El Dorado County for permitting and enforcement activities within El Dorado County's territorial jurisdiction. The purpose of this Agreement is to comply with Section 18072 of 14 CCR, Technical Expertise, which requires that a Local Enforcement Agency shall have one or more full time staff members dedicated solely for solid waste issues.

Definitions of technical terms of a solid waste program shall be those used in 27 CCR, Section 20164 and Division 30 of the Public Resources Code, Section 40100 et seq.

- A. El Dorado County authorizes Placer LEA to organize and operate a program suited to a local enforcement agency's responsibilities within El Dorado County's territorial jurisdiction.
- B. For the duration of this Agreement, services provided by Placer LEA shall meet the requirements for a Local Enforcement Agency's responsibilities in site identification and assessment for Closed, Illegal, and Abandoned sites (hereafter CIA), inspection, enforcement, preparation of enforcement papers, and permit preparation at Solid Waste Operations and Facilities, including Disposal Sites as set forth in item F. of this Article, and shall be sufficient in these respects to satisfy the requirements of Public Resources Code, Div. 30 and 31, and 14 CCR, Div. 7 and 27 CCR, Div. 2.
- C. Placer LEA shall be responsible for obtaining certification from the California Integrated Waste Management Board and seeking legal counsel on enforcement and permitting matters. El Dorado County shall be responsible for grant administration, preparation of the designation information package, maintenance of a current solid waste independent hearing panel, solid waste task force and advisory committee, handling of citizen complaints on solid wastes not associated with Solid Waste Operations and Facilities, including Disposal Sites, excluding those services specifically identified as the responsibility of Placer LEA in item F. of this Article. Placer LEA shall be responsible for vehicle inspections associated with complaints. The El Dorado County Environmental Management Department shall be responsible for the investigation and handling of general nuisance complaints not associated with Solid Waste Operations and Facilities, including Disposal Sites.
- D. It is understood and agreed that in carrying out the duties related to the program set forth in this Article I, Scope of Services, that personnel of Placer LEA are acting on behalf of El Dorado County, as the agent for El Dorado County.
- E. Personnel of El Dorado County and Placer LEA will coordinate in the providing of services relating to this Agreement. El Dorado County and Placer LEA shall each identify one contact person for this purpose.

- F. Placer LEA shall complete all required forms and documents, and perform all labor to provide the following services:
- i. All legally mandated inspections and necessary follow-up inspections of Solid Waste Operations and Facilities, including Disposal Sites and waste tire sites.
  - ii. Site identification and site assessment for existing CIA sites as well as any new sites that are discovered.
  - iii. Preparation, processing and issuance of Solid Waste Facility permit documents.
  - iv. Preparation and issuance of enforcement orders.
  - v. Investigation and follow-up of citizen complaints related to Solid Waste Operations and Facilities, including Disposal Sites.
  - vi. Preparation and submittal of monthly time accounting and cost information for reimbursement.
  - vii. Maintenance and updating of the Enforcement Program Plan (EPP). To facilitate the required annual update of the EPP, documentation which must be provided by El Dorado County, such as the annual solid waste budget and list of solid waste hearing panel members, shall be provided to Placer LEA not less than 30 days prior to the due date for the annual updated EPP.

## **ARTICLE II**

**Term:** This Agreement shall become effective July 1, 2008 and shall continue in place until June 30, 2010 unless earlier terminated pursuant to the provisions under Article IX herein.

## **ARTICLE III**

**Compensation for Services:** Placer LEA shall prepare detailed statements on a monthly basis, summarized on an invoice and mailed to:

El Dorado County Public Health Department  
941 Spring Street, Suite 3  
Placerville, CA 95667.

The detailed statements shall include such information as date of service, type of service, person performing the service, time involved, and a brief statement as to the specifics of the services. The costs for reimbursement are based upon the established hourly rate as set by the Placer County Board of Supervisors and are not to exceed an annual amount of \$122,925.00. The total amount of this Agreement shall not exceed \$245,850.00.

Payments shall be made within forty-five (45) days following the receipt and acceptance of invoices from Placer LEA by the El Dorado County Public Health Fiscal Division.

Incorporated into the “not to exceed” amount above, Placer LEA may bill for actual costs of obtaining legal counsel as Placer LEA deems necessary for routine enforcement and permitting matters and shall submit a copy of the actual invoice to El Dorado County Public Health Fiscal Division. Prior to retaining legal counsel, Placer County shall notify El Dorado County of its intent to retain legal counsel in sufficient time to provide a reasonable opportunity for El Dorado County to be involved in the determination of the need for outside legal counsel and the selection process.

#### **ARTICLE IV**

**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 V**

**Exclusivity of Services to El Dorado County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from El Dorado County and its staff. It is further agreed that in all matters pertaining to this Agreement, Placer County shall provide the services as set forth in Article I, Scope of Services, only to El Dorado County and shall not provide such services to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside this Agreement that would conflict with Placer County’s responsibilities to El Dorado County during the term hereof.

#### **ARTICLE VI**

**Assignment and Delegation:** Placer County is under contract with El Dorado County for their unique qualifications and skills as well as those of their personnel. Placer County 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 El Dorado County.

#### **ARTICLE VII**

**Independent Placer County/Liability:** Except as set forth in Article I. Section D., Placer County is, and shall be at all times, deemed an independent contractor and shall be wholly responsible for the manner in which it performs services required by the terms of this Agreement. Placer County exclusively assumes responsibility for the 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.

Placer County 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. El Dorado 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 Placer County or its employees.

## **ARTICLE VIII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that El Dorado 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 El Dorado County business, El Dorado 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, El Dorado 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 El Dorado County released from any further liability hereunder, except for payment of any outstanding invoices submitted prior to the effective date of said notice and for payment for any and all work performed by Placer County up to the effective date of the notice but not yet invoiced .

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 El Dorado County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the El Dorado County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE IX**

### **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 in 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.

- B. **Bankruptcy:** This Agreement, at the option of the El Dorado County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Placer County.

- C. Ceasing Performance: El Dorado County may terminate this Agreement in the event Placer County ceases to operate as a political entity, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: El Dorado County may terminate this Agreement for any reason, in whole or in part, upon a written seven (7) calendar day notice by El Dorado County ("Notice of Termination"). If such prior termination is exercised, El Dorado County will pay for all services rendered prior to the effective date set forth in the Notice of Termination provided to Placer County, and for such other services, which El Dorado County may agree to in writing as necessary for contract resolution. In no event, however, shall El Dorado County be obligated to pay more than the total amount of the Agreement, as set forth in Article III. Upon receipt of a Notice of Termination, Placer County 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. In the event of termination for default, El Dorado County reserves the right to take over and complete the work by contract or by any other means.

#### **ARTICLE X**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing the same in the United States Post Office, postage prepaid and return receipt requested.

Notices to El Dorado County shall be in duplicate and addressed as follows, unless El Dorado County directs Placer County in writing to a different location:

EL DORADO COUNTY PUBLIC HEALTH DEPARTMENT  
931 SPRING STREET  
PLACERVILLE, CA 95667  
ATTN: GAYLE ERBE-HAMLIN, DIRECTOR

Notices to Placer County shall be addressed as follows unless Placer County directs El Dorado County in writing to a different location:

PLACER COUNTY ENVIRONMENTAL HEALTH DIVISION  
3091 COUNTY CENTER DR., SUITE 180  
AUBURN, CA 95603  
ATTN: JILL PAHL, DIRECTOR

#### **ARTICLE XI**

**Indemnity:** To the fullest extent of the law, Placer County shall defend, indemnify, and hold El Dorado 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, El Dorado 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 Placer County's services, operations, or performance hereunder. However, Placer County shall not be liable for damage or injury occasioned by the sole or active negligence or intentional acts of El Dorado

County, its officers and employees, or as expressly provided by statute. This duty of Placer County to indemnify and save El Dorado County harmless includes the duties to defend set forth in California Civil Code Section 2778.

El Dorado shall defend, indemnify and hold Placer 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, a challenge by a third party as to the adequacy of or manner in which Placer LEA undertakes to perform its regulatory duties, responsibilities and functions under law as the Local Enforcement Agency for El Dorado County under this Agreement. As used herein the term "El Dorado County" means El Dorado County or its officers, officials, agents, employees, and volunteers. As used herein the term "Placer County" means Placer County or its officers, officials, agents, employees, and volunteers.

## **ARTICLE XII**

**Insurance:** El Dorado County acknowledges that Placer County is a self-insured public entity with respect to all relevant insurance coverage, including but not limited to, worker's compensation, general liability, automobile liability, and professional liability. Parties agree that Placer County may satisfy its insurance requirements through a program of self-insurance.

In the event that Placer County discontinues its policy of self-insurance, Placer County agrees to procure and continue in force and effect applicable insurance coverage satisfactory to the El Dorado County Risk Manager. Additionally, Placer County will provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager. The certificate of insurance must include the following provisions stating that:

1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to El Dorado County, and;
2. El Dorado County, is included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all liability policies except worker's compensation and professional liability insurance policies. As used here in Section H.2. and in Sections I, J, and K, the term "El Dorado County" means El Dorado County or its officers, officials, agents, employees, and volunteers.

## **ARTICLE XIII**

**Interest of Public Official:** No official or employee of El Dorado County who exercises any functions or responsibilities in review or approval of services to be provided by Placer County 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 El Dorado County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

## **ARTICLE XIV**

**Interest of Placer County:** Placer County covenants that Placer County presently has no personal interest or financial interest, and shall not acquire the 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.

#### **ARTICLE XV**

**California Residency (Form 590):** All independent Contractors providing services to El Dorado 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. Placer County will be required to submit a Form 590 prior to execution of this Agreement or El Dorado County shall withhold seven (7) percent of each payment made to Placer County during term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

#### **ARTICLE XVI**

**Taxpayer Identification / Form W9:** All individuals/sole proprietors, corporations, partnerships, associations, organizations or public entities providing services to El Dorado County shall provide a fully executed Department of the Treasury Internal Revenue Service Form W-9, "Request for Taxpayer Identification Number and Certification".

#### **ARTICLE XVII**

**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. Placer County waives any removal rights it might have under Code of Civil Procedure Section 394.

#### **ARTICLE XVIII**

**Record Keeping:** Placer LEA shall maintain at all times complete detailed records with regard to work performed under this Agreement in a form acceptable to El Dorado County, and El Dorado County shall have the right to inspect such records at any reasonable time. All records and documents prepared by Placer LEA in the course of fulfilling its obligations under the Scope of Work shall be the property of El Dorado County. Placer LEA may keep copies of said records and documents for its own purposes.

#### **ARTICLE XIX**

**Audits:** All Placer LEA's funding records related to this Agreement shall be subject to audit by El Dorado County at any time during the term of this Agreement, and for a period that extends through any required records retention period, should it be requested by El Dorado County's Auditor/Controller. In the event that Placer LEA has more than one funding contract with El Dorado County, Placer LEA shall maintain an individual schedule of expenses for each El Dorado County contract, such that can be reconciled to an audit. If Placer LEA receives in excess of \$500,000 in total funding from El Dorado County in any one fiscal year, Placer LEA must have an independent/individual audit of each El Dorado County contract.

#### **ARTICLE XX**

**Administrator:** The El Dorado County Officer or employee with responsibility for administering this Agreement is Gayle Erbe-Hamlin, Director of Public Health, 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**

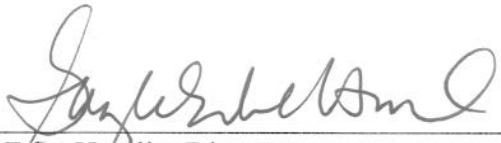
**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

**ARTICLE XXIII**

**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.

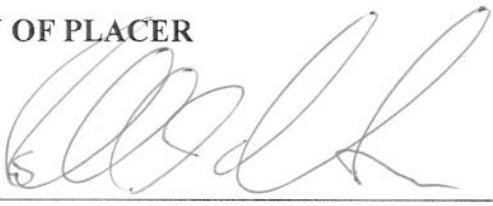
IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the dates indicated below.

**DEPARTMENT HEAD CONCURRENCE**

By:   
Gayle Erbe-Hamlin, Director  
Public Health Department

Date: 6/12/08

**COUNTY OF PLACER**

By:   
Richard J. Burton, M.D., M.P.H., Director  
Placer County Health and Human Services Administration

Date: 6-9-08

**COUNTY OF EL DORADO**

By: \_\_\_\_\_  
Rusty Dupray, Chairman  
El Dorado County Board of Supervisors

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

**ATTEST:**  
Cindy Keck, Clerk

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