



**Contract No. 037-C-06/07-BOS Between the
County of El Dorado and Global Labs Incorporated
doing business as California Laboratory Services**

THIS CONTRACT No. 037-C-06/07-BOS made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), acting by and through County Service Area No. 10, a lawfully established County Service Area as defined by Government Code Section 25210 et seq., and Global Labs Inc., doing business as California Laboratory Services (CLS) a California Small Business, Number: 2916, duly qualified to conduct business in the State of California, whose principal place of business is 3249 Fitzgerald Road, Rancho Cordova, CA 95742 (hereinafter referred to as "Contractor").

W I T N E S S E T H

WHEREAS, County has determined that it is necessary to obtain a Contractor to provide analysis of ground, surface and wastewater sample testing from the Union Mine Landfill and the Union Mine Wastewater Treatment Facility for the Environmental Management Department; and

WHEREAS, Contractor has represented to County that it is experienced and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

WHEREAS, Contractor is granted by the State of California, Department of Health Services, Environmental Laboratory Accreditation Program, an Environmental Laboratory Certification No. 1233, and this Certificate is granted in accordance with provisions of Section 100825, et seq. of the Health and Safety Code; and

WHEREAS, The Environmental Management Department must comply with the updated Waste Discharge Requirements for the Union Mine Landfill and the Union Mine Wastewater Treatment Facility as adopted by the California Regional Water Quality Control Board, Central Valley Region on January 26, 2006; and

WHEREAS, El Dorado Irrigation District has approved the acceptance of wastewater discharge from the Union Mine Waste treatment facility under certain terms and conditions; and

WHEREAS, El Dorado Irrigation District (District) has standard terms and conditions for accepting wastewater discharge from the Union Mine Wastewater Treatment Facility such that analytical testing must be completed so the standard maximum discharge concentrations as established in the District's Wastewater Regulation 13 are not exceeded; and

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

WHEREAS, County has determined that the provisions of such services provided by Contractor 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/or Government Code 31000;

NOW, THEREFORE, County and Contractor mutually agree as follows:

ARTICLE I

Scope of Services: Contractor agrees to provide all equipment, tools, material, labor and incidentals necessary to complete all laboratory testing on an as needed basis as directed in writing by County and in accordance with the requirements of the El Dorado Irrigation District.

Contractor shall provide reports of analytical results to County via email within (7) days, and via mail within twenty-one (21) days. The fields to be provided in the hard copy will include at a minimum, but not limited to:

- Client Name
- Project number
- Client Sample Identification (Name)
- Laboratory Sample Identification (Name)
- Sample Date
- Sample Time
- Preparation Date
- Preparation Time
- Analysis Date
- Batch Identification
- Preparation Method Name (e.g., TC 15)
- Preparation Method Identification Code (e.g., SW-846)
- Analysis Method Name (e.g., VOC)
- Analysis Method Identification Code (e.g., SW-846)
- Result
- Reporting Limit
- Unit
- Dilution Factor

ARTICLE II

Standards for Service: Contractor will strive to perform services in a manner consistent with that level of care and skill ordinarily exercised by other members of the Contractor's profession currently practicing in the same locality and under similar conditions. No other representation, express or implied, is included or intended in this Contract, or in any report, opinion, document, or other instrument of service.

ARTICLE III

Term: This Contract shall become effective when fully executed by both parties hereto and shall expire two (2) years from the date of execution thereof.

ARTICLE IV

Compensation for Services:

A. For services provided herein, County agrees to compensate Contractor pursuant to the attached "Schedule of Costs," marked Exhibit "A" incorporated herein and made by reference a part hereof. The parties recognize that in the performance of this Contract, Contractor may be required to perform tests or may be required to employ test methods not listed on Exhibit "A." In such cases, Contractor shall be compensated at a price mutually agreed upon in writing by County and Contractor and consistent with the prevailing market rate for such test or method. Payments shall be made within forty-five (45) days following County's receipt and approval of invoices

B. The total compensation under this Contract to Contractor SHALL NOT EXCEED Two Hundred Thousand Dollars and No Cents (\$200,000.00).

ARTICLE V

Contractor Reporting: Contractor Reporting: Reports on Services rendered by Contractor shall be submitted to County in the format, and under the conditions as agreed upon.

ARTICLE VI

Deliverables: Deliverables will be specified by the County for each individual assignment, and specific task assignments and service requirements will be specifically identified in writing on a task-by-task basis. Failure to submit requested deliverables shall be grounds for termination of the Contract, as provided in Article XIII.

ARTICLE VII

Ownership of Data: Upon completion or earlier termination of all service under this Contract, ownership and title to all reports, documents, plans, (including digitized plans) specifications and estimates produced as part of this Contract will automatically be vested in the County and no further Contract will be necessary to transfer ownership to the County. The Contractor shall furnish the County all necessary copies of data needed to complete the review and approval process. Any reuse of such materials shall be done at the sole risk of the County.

ARTICLE VIII

Changes to Contract: This Contract 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. There shall be no change in the Contractor's Administrator or sub contractors without prior written approval by the County's Administrator.

ARTICLE IX

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

ARTICLE X

Assignment and Delegation: Contractor is engaged by County for its unique qualifications and skills as well as those of their 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 XI

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 terms of this Contract. Contractor exclusively assumes responsibility for acts of its employees, associates, and sub contractors, if any are authorized herein, as they relate to services to be provided under this Contract during the course and scope of their employment.

Contractor shall be responsible for performing the service under this Contract in a safe, professional, skillful and a serviceman like manner and shall be liable for its own negligence and negligent acts of its employees and sub contractors. County shall have no right of control over the manner in which service is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or it's employees or sub contractors.

ARTICLE XII

Fiscal Considerations: The parties to this Contract 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 Contract to the contrary, County shall give notice of cancellation of this Contract 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 Contract. Upon the effective date of such notice, this Contract 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 agreed to be performed, pursuant to this paragraph in the sole discretion of the County, this Contract may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

ARTICLE XIII

Default, Termination, and Cancellation:

- A. Default: Upon the occurrence of any default of the provisions of this Contract, 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 in which the extension of time of to cure expires.

Notice given under this section shall specify the alleged default and the applicable Contract provision and shall demand that the party in default perform the provisions of this Contract within the applicable period of time. No such notice shall be deemed a termination of this Contract 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 Contract, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. Ceasing Performance: County may terminate this Contract in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Contract.
- D. Termination or Cancellation without Cause: County may terminate this Contract in whole or in part seven (7) calendar days upon written notice by County for any reason. 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 Contract. 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. In the event of termination for default, County reserves the right to take over and complete the service by Contract or by any other means.

ARTICLE XIV

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 registered. Notices to County shall be in duplicate and addressed as follows:

Environmental Management Department
Gerri Silva, Director
County of El Dorado
2850 Fairlane Ct.
Placerville, CA 95667

Or to such other location as the County directs.

Notices to Contractor shall be addressed as follows:

California Laboratory Services
Attn: Scott Furnas, Vice President
3249 Fitzgerald Road
Rancho Cordova, CA 95742

Or to such other location as the Contractor directs.

ARTICLE XV

Indemnity: The Contractor shall 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 the Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Contractor, sub contractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prohibited 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 XVI

Insurance: Contractor shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than One Million Dollars (\$1,000,000) combined a single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than One Million Dollars (\$1,000,000) is required in the event motor vehicles are used by the Contractor in the performance of the Contract.
- D. In the event Contractor is a licensed professional, and is performing professional services under this Contract, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than One Million Dollars (\$1,000,000) per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to the Risk Management Division, or be provided through a partial or total self-insurance likewise acceptable to the Risk Management Division.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Contract. In the event said insurance coverage expires at any time or times during the term of this Contract, Contractor agrees to provide at least thirty (30) days prior to a said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of a term of the Contract, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Risk Management Division and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the 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 Contract upon the occurrence of such events.

- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer will not cancel the insures coverage without thirty (30) days prior written notice to County, and;
 - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additionally insured, but only insofar as the operations under this Contract are concerned. This provision shall apply to all liability policies except workers' compensation and professional liability insurance policies.
- I. The Contractor's 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 Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retention must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the County, its officers, officials, employees, and volunteers; or the 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 the 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. Contractors' obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Contract.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Contract for not less than three (3) years following completion of performance of this Contract.
- O. Certificates of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with the Risk Management Division, as essential for protection of the County.

ARTICLE XVII

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 Contract shall participate in or attempt to influence any decision relating to this Contract 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 Contract or the proceeds thereof.

ARTICLE XVIII

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 Contract; or, 2) any other entities connected with or directly affected by the services to be performed by this Contract. Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed by Contractor.

ARTICLE XIX

Withholding (Form 730): In accordance with changes in Internal Revenue Law, OASDI (Old Age, Survivors, & Disability Insurance) and income taxes may be withheld from any payments made under terms of this Contract if Contractor falls under "Contract-Employee" category as determined by County prior to execution of Contract.

ARTICLE XX

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. The Contractor will be required to submit a Form 590 prior to execution of a Contract or County shall withhold seven (7) percent of each payment made to the Contractor during the term of the Contract. This requirement applies to any agreement/contract exceeding \$1,500.00.

ARTICLE XXI

Tax Payer 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 XXII

California Forum and Law: Any dispute resolution action arising out of this Contract, 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. Contractor waives any removal rights it might have under Code of Civil Procedure Section 394.

ARTICLE XXIII

Administrator: The County Officer or employee with responsibility for administering this Contract is Greg Stanton, Environmental Health Manager, or his successor.

ARTICLE XXIV

Authorized Signatures: The parties to this Contract represent that the undersigned individuals executing this Contract 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 XXV

Partial Invalidity: If any provision of this Contract 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 XXVI

Venue: Any dispute resolution action rising out of this Contract, 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. Contractor waives any removal rights it might have under Code of Civil Procedure Section 394.

ARTICLE XXVII

Confidentiality: Contractor shall maintain the confidentiality and privileged nature of all 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 Contractors staff, employees and representatives, shall not use or disclose, directly or indirectly at any time, any said confidential information, other than to the County Environmental Management Department for the purpose of, and in the performance of the Contract. This confidentiality Contract shall survive after the expiration or termination of this Contract.

ARTICLE XXIII

Entire Contract: This document and the documents referred to herein or exhibit(s) hereto is the entire Contract between the parties and they incorporate or supersede all prior written or oral Contracts or understandings.

ARTICLE XXIV

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.

REQUESTING DEPARTMENT CONCURRENCE:

By: _____ **Dated:** _____

Gerri Silva, M.S., REHS
Environmental Management Director

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first below written.

- - COUNTY OF EL DORADO - -

Dated: _____

By: _____
, Chair
Board of Supervisors

ATTEST:

Dated: _____

By: _____
Cindy Keck, Clerk of the
Board of Supervisors

- - CONTRACTOR - -

Dated: _____

By: _____
Scott Furnas, Vice President
Global Labs Incorporated doing business as
California Laboratory Services (CLS)

EXHIBIT "A"
SCHEDULE OF COSTS