

21st Century Environmental Management of California, LP
a wholly-owned subsidiary of
PSC Environmental Services, LLC

Collecting, Processing, Transporting, and Disposing
of Household Hazardous Waste

AGREEMENT FOR SERVICES #219-S1511

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 21st Century Environmental Management of California, LP, a wholly-owned subsidiary of PSC Environmental Services, LLC, duly qualified to conduct business in the State of California, whose principal place of business is 5151 San Felipe Street, Suite 1100, Houston, TX 77056 and whose local address is 11855 White Rock Road, Rancho Cordova, CA 95742 (hereinafter referred to as "Contractor");

R E C I T A L S

WHEREAS, County has determined that it is necessary to obtain a Contractor to collect, process, transport, and dispose of household hazardous waste for the Community Development Agency;

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 provide equipment, personnel, and services necessary to collect, transport, process, and dispose of household hazardous waste (HHW) from the following locations: (1) Western El Dorado Recovery Systems, Inc. (WERS), 4100 Throwita Way, Diamond Springs, CA; (2) El Dorado County Union Mine Disposal Site, 5700 Union Mine Road, El Dorado, CA; (3) El Dorado Hills Fire Station, 3670 Bass Lake Road, El Dorado Hills, CA; and temporary event sites located throughout the County as designated by County's Contract Administrator (CA).

The specific services for each assignment shall be determined at a pre-service meeting, telephone conference or by email between Consultant and County's CA or County's CA's designee for each HHW event.

Contractor shall provide training covering appropriate lab packing procedures, personal protective equipment, and transportation regulations for all new County employees or County employees newly assigned to the HHW program. Training shall also cover pertinent hazardous waste operations and emergency response (HAZWOPER) topics, not covered in the California Specialized Training Institute's (CSTI) 24-hour hazardous materials first responder operations (FRO) course. For existing County employees, Contractor shall provide, upon request of County, one (1) eight (8) hour training session annually for the duration of the contract.

Contractor shall provide all drums, boxes, absorbent, safety equipment, signage, labels, appropriate shipping papers, vehicles and other equipment and materials used for the proper collection, transportation and disposal of hazardous waste.

Contractor shall properly prepare all required manifests, related shipping documents, land disposal restrictions, certificates of destruction and summary reports for each HHW shipment. Contractor shall provide copies of manifests, shipping documents, land disposal restrictions and certificates of destruction to the County. Contractor shall correct all errors and discrepancies and make subsequent notifications to State and Federal regulatory agencies as required. Contractor shall submit proof of proper treatment/disposal to County following the ultimate disposition of the waste.

All services, training and materials provided by Contractor shall comply with current California State Division of Industrial Safety Orders and requirements stipulated by Occupational Safety and Health Administration (OSHA), California State Department of Transportation, and any applicable regulatory agency requirements. Contractor shall ensure that all personnel working under this Agreement shall have received training appropriate to their assigned tasks and that training is current.

Contractor shall provide for the removal and transportation, to licensed Hazardous Waste Recycling Treatment Storage or Disposal Facilities (TSDFs), of all hazardous waste received at any of the Household Hazardous Waste Collection Events. Wherever possible, hazardous waste shall be recycled, or if not possible, treated or incinerated. If recycling, treatment, and incineration are not available alternatives, then, and only then, Contractor may arrange for the landfilling of hazardous waste. County hereby agrees that all Hazardous Waste Manifests for such removal, transportation and disposal shall bear the name of County as generator of the waste, and shall be signed by Contractor as an authorized representative of County. Contractor shall dispose in the aforementioned manner of all hazardous waste received at the Permanent Household Hazardous Waste Collection Facilities or temporary event sites in accordance with all applicable federal, state, and local laws and regulations. Contractor shall remove such hazardous waste in a reasonable and cost-effective manner consistent with the other provisions of this section. Contractor shall determine the TSDFs to be used for

recycling, treatment, incineration, or disposal of such hazardous wastes, and Contractor shall use such TSDFs for such purposes unless otherwise directed by County or unless uncontrollable circumstances require use of an alternative TSDF. Notwithstanding any of the foregoing, Contractor shall obtain the prior written approval of County before landfilling any hazardous waste.

ARTICLE II

Term: This Agreement shall become effective on January 1, 2015, and shall expire on December 31, 2017.

ARTICLE III

Compensation for Services: For services provided herein, County agrees to pay Contractor monthly in arrears. Payment shall be made within thirty (45) days following County's receipt and approval of itemized invoices detailing the services rendered.

For the purposes hereof, the billing rates shall be in accordance with Exhibit A marked "Disposal Costs," incorporated herein and made by reference a part hereof.

The total amount of this Agreement shall not exceed \$300,000.00, inclusive of all expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado
Community Development Agency
Environmental Management Division
2850 Fairlane Court
Placerville, California 95667
Attn.: Barbara Houghton
Environmental Health Manager

or to such other location as County directs.

In the event that Contractor fails to deliver, in the format specified, the deliverables required by this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the required deliverables or progress reports are received, or proceed as set forth below in ARTICLE XII, Default, Termination, and Cancellation, herein.

Annual Consumer Price Index (CPI) increases will be allowed after the first 12 months, upon approval by County, and with 60 days advance written notice. CPI increase requests shall include documentation substantiating the increase.

ARTICLE IV

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.

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

Licenses: Contractor warrants and agrees that it is duly licensed or certified in good standing to perform the services contemplated under this Agreement, and that Contractor shall maintain said licenses and certificates in good standing throughout the term of this Agreement in compliance with all applicable federal, state, and local regulations.

ARTICLE VII

Environmental Compliance: Contractor warrants that its operations/services/materials provided under this Agreement are in compliance with any applicable environmental federal, state, or local statute, law or regulation dealing with hazardous materials or toxic substances.

ARTICLE VIII

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 IX

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 Agency 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 X

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 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 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 XII

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 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 XIII

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 XIV

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.

- 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 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 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. 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.

ARTICLE XV

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:

With a copy to:

21st Century Environmental Management of
California, LP a wholly-owned subsidiary of
PSC Environmental Services, LLC

County of El Dorado
Community Development Agency
Environmental Management Division
2850 Fairlane Court
Placerville, California 95667

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

Attn.: Barbara Houghton
Environmental Health Manager

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:

21st Century Environmental Management of California, LP
A wholly-owned subsidiary of PSC Environmental Services, LLC
11855 White Rock Road
Rancho Cordova, California 95742

Attn.: Marc Winkler, Operations Manager

or to such other location as Contractor directs.

ARTICLE XVI

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 XIII, 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 XVII

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 provided 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 XVIII

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. Full Workers' Compensation and Employers' 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 \$5,000,000 combined single limit per occurrence for bodily injury and property damage and a \$10,000,000 aggregate limit.
- C. Automobile Liability Insurance of not less than \$5,000,000 is required in the event motor vehicles are used by Contractor in performance of the Agreement.
- D. Pollution Liability and Environmental Impairment Insurance is required with a limit of liability not less than \$5,000,000.
- 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 shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. 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. New certificates of insurance are subject to the approval of County's Risk Management Division, and Contractor agrees that no work or services shall be performed prior to the giving of such approval.
- 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 XIX

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 the 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 XX

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 XXI

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 XII, Default, Termination, and Cancellation, herein.

ARTICLE XXII

California Residency (Form 590): All independent contractors providing services to County must file a State of California Form 590, certifying their California residency or, in the case of a limited liability company or corporation, certifying that they have a permanent place of business in California. Contractor will be required to submit a Form 590 prior to execution of this Agreement, or County shall withhold seven (7) percent of each payment made to Contractor during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.

ARTICLE XXIII

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 XXIV

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 XXV

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 XXVI

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Barbara D. Houghton, Environmental Health Manager, Environmental Management Division, Community Development Agency, or successor.

ARTICLE XXVII

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 XXVIII

Partial Invalidity: If any provision of the 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 XXIX

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 XXX

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 XXXI

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 Concurrence:

By: _____

Barbara Houghton
Environmental Health Manager
Environmental Management Division
Community Development Agency

Dated: _____

Requesting Division Concurrence:

By: _____

Gerri Silva, M.S., REHS
Environmental Management Division Director
Community Development Agency

Dated: _____

Requesting Department Concurrence:

By: _____

Steven M. Pedretti, Director
Community Development Agency

Dated: _____

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

-- COUNTY OF EL DORADO --

By: _____

Dated: _____

Board of Supervisors
"County"

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

By: _____

Dated: _____

Deputy Clerk

-- 21st CENTURY ENVIRONMENTAL MANAGEMENT OF CALIFORNIA, LP a wholly-owned subsidiary of PSC ENVIRONMENTAL SERVICES, LLC --

By: _____

Dated: _____

Michael J. Collins
Vice President
"Contractor"

By: _____

Dated: _____

Daniel V. Ginnetti
Secretary