

AGREEMENT FOR SERVICES #005-S1711

**Local Enforcement Agency – Solid Waste Management Services**

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**THIS AGREEMENT** made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and the County of Placer, a political subdivision of the State of California, whose principal place of business is 175 Fulweiler Avenue, Auburn, CA 95603 (hereinafter referred to as "Contractor");

**RECITALS**

**WHEREAS**, County has determined that it is necessary to obtain a Contractor 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**, 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; 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 Contractor is 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 Contractor mutually agree as follows:

**ARTICLE I**

**Scope of Services:** Contractor agrees to furnish the personnel and equipment necessary to provide solid waste management permitting and enforcement activities within the County of El Dorado's territorial jurisdiction. The purpose of this Agreement is to comply with Title 14 CCR Section 18072 "Technical Expertise," which requires that a Local Enforcement Agency (LEA) shall have one or more full time staff members dedicated solely for solid waste issues.

This Agreement is entered into pursuant to the provisions of Title 14 of the California Code of Regulations ("CCR") Division 7, Chapter 5, Article 1.0 through 2.2, Sections 18050 and 18072 (b), incorporated by reference as if fully set forth herein.

Definitions of technical terms of a solid waste program shall be those used in Title 27 CCR, Section 20164, available at: <http://www.calrecycle.ca.gov/Laws/Regulations/title27/ch2.html>, and Public Resources Code, Division 30, Section 40100 et seq., available at: <http://www.leginfo.ca.gov/calaw.html>.

- A. County authorizes Contractor to organize and operate a program suited to a local enforcement agency's responsibilities within County's territorial jurisdiction.
- B. For the duration of this Agreement, services provided by Contractor shall meet the requirements for a Local Enforcement Agency's responsibilities in site identification and assessment for "Closed, Illegal, and Abandoned Sites" (hereinafter referred to as "CIA"), inspection; enforcement; preparation of enforcement papers; and permit preparation at Solid Waste Operations and Facilities including disposal sites as set forth below in Section E. Services provided in these respects shall satisfy the requirements of Public Resources Code, Division 30 and 31; Title 14, CCR Division 7; and Title 27 CCR Division 2.
- C. The provision of services related to this Agreement shall be coordinated between the personnel of County and of Contractor. One contact person per party shall be identified by the parties for this purpose.
- D. County shall be responsible for:
  - 1. Administering the California Department of Resources Recycling and Recovery Grant;
  - 2. Providing required documentation including but not limited to the annual solid waste budget and list of solid waste hearing panel members to Placer LEA for its use in annually updating the Enforcement Program Plan (EPP). Such documentation shall be provided to Contractor no less than thirty (30) days prior to the due date that Contractor must submit an annual updated EPP to the Contract Administrator;
  - 3. Preparing the Designation Information Package;
  - 4. Maintaining a current solid waste independent hearing panel;
  - 5. Maintaining a solid waste task force and advisory committee;
  - 6. Handling citizen complaints on solid wastes not associated with Solid Waste Operations and Facilities, including disposal sites and excluding those services specifically identified as the responsibility of Contractor in this Article titled "Scope of Services"; and
  - 7. Investigating and handling general nuisance complaints not associated with Solid Waste Operations and Facilities, including disposal sites, through its Community Development Agency, Environmental Management Division.
- E. Contractor shall be responsible for:
  - 1. Obtaining certification from the California Department of Resources Recycling and Recovery (CalRecycle) and seeking legal counsel on matters regarding enforcement and permitting.
  - 2. Completing and, as required, submitting all required forms and documents pursuant to this Agreement and providing all labor required to perform the following:
    - a. Maintaining and annually updating the EPP to ensure current information as required and in accordance with due date requirements established by CalRecycle;
    - b. Performing all legally-mandated inspections and necessary follow-up inspections of Solid Waste Operations and Facilities, including disposal sites and waste tire sites;
    - c. Performing site identification and site assessment for existing CIA sites as well as any new sites that are discovered;
    - d. Preparing, processing, and issuing Solid Waste Facility permit documents;
    - e. Preparing and issuing enforcement orders;

- f. Investigating and follow-up of citizen complaints related to Solid Waste Operations and Facilities, including disposal sites;
  - g. Preparing and submitting monthly time accounting and other cost information for reimbursement; and
  - h. Performing on-site investigations in response to complaints that may require use of Placer County vehicles.
3. Maintaining at all times complete detailed records with regard to work performed under this Agreement in a form acceptable to County and County shall have the right to inspect such records at any reasonable time. All records and documents prepared by Contractor in the course of fulfilling its obligations under this Agreement shall be the property of County. Contractor may retain copies of said records and documents for its own purposes.

## **ARTICLE II**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall cover the period of July 1, 2016 to April 31, 2021.

## **ARTICLE III**

**Compensation for Services:** For services provided herein, including any deliverables that may be identified herein, County agrees to pay Contractor upon the satisfactory completion and County's acceptance of work, monthly in arrears and within forty-five (45) days following the County's receipt and approval of itemized invoice(s) identifying services rendered.

Contractor may invoice for the actual cost of obtaining outside legal counsel as Contractor deems necessary for routine enforcement and permitting matters and as long as legal services are not considered an expense separate from this Agreement and said legal services do not cause the total amount of this Agreement to be exceeded. However, prior to obtaining legal counsel, Contractor shall notify County of its intent to retain legal counsel in sufficient time for County to participate in the decision to obtain outside legal counsel and the selection process for said legal counsel. Contractor shall submit a copy of the actual invoice for said legal services to County

For the purposes of this Agreement, the billing rate shall be based upon the established hourly rate as set by the Placer County Board of Supervisors. In the event the rates are changed by the Placer County Board of Supervisors, Contractor shall submit an updated approved rate to County within thirty (30) days of approval to:

County of El Dorado  
Health and Human Services Agency  
3057 Briw Road, Suite A  
Placerville, California 95667  
Attn: Contracts Unit

Total amount of this Agreement shall not exceed \$625,000.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces and on any enclosures or backup documentation. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Invoices / remittances shall be addressed as indicated in the table below or to such other location as County or Contractor may direct per the Article titled "Notice to Parties."

Mail invoices to:	Mail remittance to:
Health & Human Services Agency Fiscal Unit 3057 Briw Road, Suite B Placerville, CA 95667	County of Placer Environmental Health Division 3091 County Center Drive, #180 Auburn, CA 95603

In the event that Contractor fails to deliver the documents or other deliverables required pursuant to 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 deliverables are received, or proceed as set forth herein below in Article XI, Default, Termination, and Cancellation.

#### **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**

**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 term hereof.

#### **ARTICLE VII**

**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 VIII**

**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 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 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**

**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 contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

## **ARTICLE XI**

### **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 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.

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

## **ARTICLE XII**

**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 addressed as follows:

COUNTY OF EL DORADO  
Health and Human Services Agency  
3057 Briw Road, Suite A  
Placerville, CA 95667  
ATTN: Contracts Unit

or to such other location as the County directs.

with a carbon copy to

COUNTY OF EL DORADO  
Chief Administrative Office  
Procurement and Contracts Division  
360 Fair Lane  
Placerville, CA 95667  
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

COUNTY OF PLACER  
Environmental Health Division  
3091 County Center Drive, Suite 180  
Auburn, CA 95603  
ATTN: Director, Environmental Health

or to such other location as the Contractor directs.

### **ARTICLE XIII**

**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 pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties". Said notice shall become part of this Agreement upon acknowledgment in writing by the County 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 XIV**

**Indemnity:** Contractor shall defend, indemnify, and hold the County, its Officers, employees, agents, and representatives harmless against and from any and all claims, losses, liabilities or damages, demands and actions including payment of reasonable attorney's fees arising out of or resulting from the performance of this Agreement, caused in whole or in part by any negligent or willful act or omission of Contractor, its Officers, agents, employees, subcontractors, or anyone directly employed by any of them regardless of whether caused in part by a party indemnified hereunder.

County shall defend, indemnify, and hold Contractor, its Officers, employees, agents, and representatives harmless against and from any and all claims, losses, liabilities or damages, demands and actions including payment of reasonable attorney's fees arising out of or resulting from the performance of this Agreement, caused in whole or in part by any negligent or willful act or omission of County, its Officers, agents, employees, subcontractors, or anyone directly employed by any of them regardless of whether caused in part by a party indemnified hereunder.

#### **ARTICLE XV**

**Insurance:** It is agreed that Contractor and County shall each maintain at all times during the performance of this Agreement, insurance coverage, or self-insurance in the amounts of not less than \$1,000,000 to cover all of its operations. Coverage, specifically, but not limited to not less than \$1,000,000 for general liability, \$1,000,000 for automobile liability, \$1,000,000 for professional liability, and \$1,000,000 for workers' compensation.

#### **ARTICLE XVI**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XVII**

**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 XVIII**

**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 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 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 XIX**

### **Nondiscrimination:**

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

## **ARTICLE XX**

**California Residency (Form 590):** If Contractor is a California resident, Contractors must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The 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 Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

## **ARTICLE XXI**

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

## **ARTICLE XXII**

**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 XXIII**

**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 XXIV**

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

## **ARTICLE XXV**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Michael Deatherage, Public Health Laboratory Director, Health and Human Services Agency, or successor.

## **ARTICLE XXVI**

**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 XXVII**

**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 XXVIII**

**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.

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## 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

**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: Michael Deatherage  
Michael Deatherage  
Public Health Laboratory Director  
Health and Human Services Agency

Dated: Mar 28, 2016

### Requesting Department Head Concurrence:

By: Don Ashton  
Don Ashton, MPA  
Director  
Health and Human Services Agency

Dated: 3/29/2016

### Requesting Department Head Concurrence:

By: Steve Pedretti  
Steve Pedretti  
Director  
Community Development Agency

Dated: 4/1/16

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

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

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

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

Ron Mikulaco, Chair  
Board of Supervisors  
"County"

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

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

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

**-- COUNTY OF PLACER --**

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

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

Robert Weygandt, Chairman  
Board of Supervisors  
"Contractor"

ATTEST:  
Sharlet Pyne  
Clerk of the Board of Supervisors

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

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

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