

**PLACER COUNTY
OFFICE OF EMERGENCY SERVICES**

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Thomas M. Miller, County Executive Officer
By Brett Storey, Senior Management Analyst

DATE: May 13, 2008

SUBJECT: Accept Two Clean Air Grants of \$60,000 (a Total of \$120,000) from the Placer County Air Pollution Control District for the Biomass Program, and approve a Budget Revision of \$120,000

ACTION REQUESTED

Accept and have the Chairman sign Two Clean Air Grants of \$60,000 (a total of \$120,000) from the Placer County Air Pollution Control District for the Biomass Program, and approve a Budget Revision.

BACKGROUND

Placer County has been awarded two Clean Air grants of \$60,000 each from the Placer County Air Pollution Control District, for a total award of \$120,000. \$25,000 (from FY07/08 Board approved HR 2389 Title III funding) will be used as the required match for these grants.

One grant was awarded for a joint US Forest Service (USFS)/Placer County program that will pool resources and provide a process to remove, chip and haul the accessible standing piles of wood materials in our National Forests (NF) to nearby biomass energy facilities. The USFS in both the Tahoe National Forest and the Lake Tahoe Basin Management Unit National Forest have agreed to participate with Placer County to make the accessible material available.

The second grant is for a countywide project that promotes woody biomass capture and usage through our successful biomass box program. This grant also will utilize regional collection and on-site grinding, loading and travel to the nearest biomass to electricity facility.

These two projects will remove hundreds of tons of air pollution from our region and allow us to track the costs and logistical efforts for future program development.

FISCAL IMPACT

There is no impact to the General Fund as a result of this action. On October 23, 2007, your Board approved HR 2389 Title III funding, which will be used for the grant match (a total of \$25,000).

Attachments

Budget Revision

PAS DOCUMENT NO.

BUDGET REVISION

POST DATE:

DEPT NO.	DOC TYPE	Total \$ Amount	TOTAL LINES
09	BR	240,000.00	2

Cash Transfer Required

Reserve Cancellation Required

Establish Reserve Required

Auditor-Controller

County Executive

Board of Supervisors

ESTIMATED REVENUE ADJUSTMENT

APPROPRIATION ADJUSTMENT

DEPT NO.	T/C	Rev	Fund	Sub Fund	OCA	PCA	OBJ 3	PROJ.	PROJ. DTL	AMOUNT	DEPT NO.	T/C	Rev	Fund	Sub Fund	OCA	PCA	OBJ 3	PROJ.	PROJ. DTL	AMOUNT
10	006		100		100700	10070	7292			120,000.00	10	014		100		100700	10070	2555			120,000.00
TOTAL											TOTAL										
120,000.00											120,000.00										

REASON FOR REVISION: Set up revenues and expenditures for two Placer County Air Pollution Control District biomass removal grants of \$60,000 each.

Match funds of \$25,000 already set up in 10070 by Board action on 10-23-07. Grant Number/Detail is: 8APCD2010000/020000.

Prepared by Ron Baker Ext 4645

Department Head _____

Date: 4/29/08

Board of Supervisors _____

Page: _____

Budget Revision # _____ FOR INDIVIDUAL DEPT USE

72

DESCRIPTION: IMPLEMENT A BIOMASS REMOVAL PROGRAM IN THE LAKE TAHOE NATIONAL FOREST AND LAKE TAHOE BASIN MANAGEMENT UNIT LANDS.

This AGREEMENT is between the Placer County Air Pollution Control District (hereinafter "PCAPCD") and County of Placer, County Executive Office (hereinafter "CONTRACTOR").

RECITALS

WHEREAS, under AB 2766 and AB 923 (Health and Safety Code Section 44220 and 44225 *et. seq.*), the PCAPCD has levied a \$6.00 fee on motor vehicles registered within the PCAPCD; and

WHEREAS, the PCAPCD has received Air Quality Mitigation Funds to off-set the impact of new development in Placer County by reducing emissions, primarily ozone precursor emissions, from sources that are not required by law to reduce emissions; and

WHEREAS, pursuant to AB 2766, AB 923 and the APCD's Offsite Mitigation Program, the monies collected under these levies must be used to reduce air pollution from motor vehicles and other sources, and for related air quality planning, education, air monitoring, and technical studies necessary for the implementation of the California Clean Air Act; and

WHEREAS, CONTRACTOR has requested that the PCAPCD provide Clean Air Grant monies for the PROJECT(s) described in Exhibit A, subject to the terms and conditions set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has represented to the PCAPCD that CONTRACTOR has the necessary expertise, experience and ability to competently complete the described PROJECT(s); and

WHEREAS, PCAPCD staff has carefully reviewed the described PROJECT(s) and have found them to be within the requirements of AB 2766, AB 923 and the Offsite Mitigation Program in that the PROJECT(s) are reasonably expected to reduce air pollution and help in the further implementation of the California Clean Air Act and,

WHEREAS, the PCAPCD Board of Directors has approved Resolution #08-05, authorizing the Air Pollution Control Officer to sign and amend, as needed, grant agreements and contracts for approved projects listed in the table "PCAPCD Clean Air Projects 2008".

NOW THEREFORE, In consideration of the promises and covenants set forth herein, the parties agree as follows:

1. Contract Period

- a) The term of this contract shall begin on the date signed by both parties and conclude on or before May 31, 2010 unless terminated or amended.
- b) This contract may be canceled by either party upon serving thirty (30) days notice in writing to the other party.

2. Services

- a) CONTRACTOR agrees, during the term of this AGREEMENT, to perform the contracting services set forth below and in Exhibit "A" – Scope of Work (hereinafter "PROJECT").
- b) CONTRACTOR shall be obligated to devote as much time, attention, skill, and effort as may be reasonably required to perform the PROJECT services, in a professional and timely manner, consistent with the elements of the project.

3. Payment

- a) PCAPCD agrees to pay for the services covered by this AGREEMENT pursuant to the payment schedule set forth below and in Exhibit "B"- Payment Schedule.
- b) The amount paid to the CONTRACTOR shall constitute full payment for all services set forth herein. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond the maximum sum payable without prior written agreement by the PCAPCD.
- c) CONTRACTOR shall bill PCAPCD after purchase orders have been issued or contracts have been entered into for approved services or the project has been completed. CONTRACTOR agrees to provide a detailed invoice to PCAPCD referencing the contract number with copies of purchase orders, signed contracts, or receipts. PCAPCD retains the right to require proof of services performed or costs incurred prior to any payment under this AGREEMENT. Ten (10) percent of the contract amount will be withheld pending the presentation to PCAPCD of the final report as outlined in Exhibit C – Final Report Format.
- d) Notwithstanding any other terms of this AGREEMENT, no payments shall be made to CONTRACTOR until PCAPCD is satisfied that work of such value has been rendered pursuant to this AGREEMENT. However, PCAPCD shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.

4. Notices

- a) Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail,

postage prepaid, sent certified or registered and addressed to the parties as follows:

PCAPCD:
Placer County Air Pollution Control District
Attn: Air Pollution Control Officer
3091 County Center Drive, Suite 240
Auburn, CA 95603

CONTRACTOR:
County of Placer, Executive Office
Brett Storey
2968 Richardson Drive
Auburn, CA 95603

- b) Any notice so delivered personally shall be deemed to be received on the date of delivery and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

5. Obligations of PCAPCD

- a) PCAPCD agrees to pay CONTRACTOR an amount not to exceed the requirements set forth in Exhibit B –Payment Schedule, in accordance with the requirements listed in Exhibit A, Work Statement
- b) PCAPCD shall not reimburse CONTRACTOR for any expenses incurred by CONTRACTOR in the performance of PROJECT described in Exhibit A unless such reimbursement is specifically authorized in the Payment Schedule. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond this maximum amount without prior written agreement by the PCAPCD
- c) Except for the payment obligations set forth above, PCAPCD shall have no other obligations or responsibilities to CONTRACTOR under this AGREEMENT

6. Obligations of CONTRACTOR

- a) Contractor has or will obtain all additional funding set forth in Exhibit B of this AGREEMENT
- b) Contractor has or will obtain all required licenses, permits, fees, and other legal authorizations from all applicable Federal, State, and local jurisdictions necessary to commence and properly complete, in a professional manner, the PROJECT described in Exhibit A
- c) Labor, equipment, material, supply costs and other charges will be in conformance with the requirements of Exhibit B

- d) No component of the monies to be paid by PCAPCD to CONTRACTOR will be used for grant administration or any interest costs
- e) Contractor shall provide proof of PROJECT completion and verification of costs as set forth in Exhibit A and paragraph 3.

7. **Hold Harmless/Indemnity**

The CONTRACTOR hereby agrees to protect, defend, indemnify, and hold PCAPCD free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PCAPCD arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of PCAPCD) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. CONTRACTOR agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the CONTRACTOR. CONTRACTOR also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against CONTRACTOR or PCAPCD or to enlarge in any way the CONTRACTOR'S liability but is intended solely to provide for indemnification of PCAPCD from liability for damages or injuries to third persons or property arising from CONTRACTOR'S performance pursuant to this contract or agreement.

As used above, the term PCAPCD means PCAPCD or its officers, agents, employees, and volunteers.

8. **Insurance Requirements**

It is recognized that CONTRACTOR is a self insured public agency, and as such provides coverage for General Liability, Errors & Omissions and Worker's Compensation. CONTRACTOR shall maintain said insurance in full force and effect during the term of this contract.

9. **Facilities, Equipment and Other Materials**

Except as set forth herein CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this AGREEMENT. PCAPCD shall furnish CONTRACTOR only those facilities, equipment, and other materials, and shall perform only those obligations as listed herein.

10. Non-Discrimination

CONTRACTOR shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sexual preference, or in contravention of any other protected classification or practice identified in the California Fair Employment and Housing Act; Government Code section 12900 et seq.

11. Records and Documents

- a. CONTRACTOR shall maintain at all times complete, detailed records with regard to work performed under this AGREEMENT, in a form acceptable to PCAPCD, and PCAPCD shall have the right to inspect such records at any reasonable time.
- b. CONTRACTOR agrees to return to PCAPCD, upon termination of this AGREEMENT, all documents, drawings, photographs, and other written or graphic material, however produced, received from PCAPCD and used by CONTRACTOR in the performance of its services. All work papers, drawings, internal memoranda, graphics, photographs, and any written or graphic material, however produced, prepared by CONTRACTOR in connection with its performance of services hereunder shall be, and shall remain after termination of this AGREEMENT, the property of PCAPCD and may be used by the PCAPCD for any purpose whatsoever. PCAPCD agrees that any future use of documents produced by the CONTRACTOR under the terms of this contract shall be at the sole discretion of the PCAPCD and CONTRACTOR shall bear no liability for the decisions on whether and how to use such documents.

12. Independent Status

- a. CONTRACTOR shall perform this contract as an independent contractor and not as an employee of PCAPCD. CONTRACTOR acknowledges that CONTRACTOR is not entitled to any of the PCAPCD's fringe benefits, including without limitation; paid holidays, life insurance, sick leave, or travel or any other expenses in connection with services performed hereunder. No part of the compensation payable to CONTRACTOR hereunder shall be deducted or withheld for payment of Federal or State income or other employment related taxes. It shall be the responsibility of CONTRACTOR to provide all coverage necessary for CONTRACTOR'S own benefit and not as an employee of PCAPCD.
- b. Except as PCAPCD may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of PCAPCD in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this AGREEMENT to bind PCAPCD to any obligation

13. **Warranties**

CONTRACTOR warrants that its services are performed, with the usual thoroughness and competence; in accordance with the standard for professional services at the time those services are rendered.

14. **Licenses, Permits, Etc**

CONTRACTOR represents and warrants to PCAPCD that it has or will obtain before initiation of the PROJECT, all licenses, permits, qualifications, and approvals of what ever nature, which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to PCAPCD that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this AGREEMENT, any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

15. **Assignment or Transfer**

CONTRACTOR may assign any of its rights, burdens, duties, or obligations under this AGREEMENT only upon the prior written consent of PCAPCD. Approval will be at the sole discretion of PCAPCD.

16. **Modification of Agreement**

This AGREEMENT cannot be changed or supplemented orally, and may be modified or superseded only by written instrument executed by all parties.

17. **Waiver**

One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this AGREEMENT shall not operate as a waiver of any subsequent breach or default.

18. **Entirety of AGREEMENT**

This AGREEMENT constitutes the entire AGREEMENT and understanding between the parties. There are no oral understandings, terms, or conditions, and no party has relied upon any representation, express or implied, not contained in this AGREEMENT. Any prior understandings, terms, or conditions are deemed merged into this AGREEMENT. This AGREEMENT is intended as the complete and exclusive statement of the parties' Agreement pursuant to Code of Civil Procedure section 1856.

19. **Jurisdiction**

This AGREEMENT, and the right and obligations of the parties, shall be governed by and construed in accordance with the laws of the State of California.

20. Exhibits

All exhibits referred to herein and attached hereto are fully incorporated by this reference.

The parties so agree.

PCAPCD:

By: Thomas J. Christofk
Air Pollution Control Officer

Date

CONTRACTOR:

Jim Holmes
Chairman, Placer County Board of Supervisors

Date

EXHIBIT A -WORK STATEMENT

To Contract Number 25298

2008

Placer County Executive Office (EO)
175 Fulweiler Ave.
Auburn, CA 95603

Implement a USFS biomass removal program.

1. The EO shall help to reduce open pile/slash burning on Lake Tahoe National Forest (LNF) and Lake Tahoe Basin Management Unit (LTBMU) lands in Placer County by collecting slash piles and fuel waste and transporting them to local agencies for biomass processing.
2. The EO shall implement their program based on the outline provided in their 2008 Clean Air Grant application.
3. The EO shall keep records on the number of tons of wood waste collected.
4. The EO shall provide copies of contractual agreements relative to this project.
5. The EO shall adhere to time constraints in paragraph 3 of the AGREEMENT for encumbrance and disbursement of funds.
6. The District may require a pre- and post-inspection in order to verify contractual requirements have been met.
7. If for any reason after project funding, the equipment/project funded under this contract does not perform according to what was submitted in the 2008 CAG application or if the conditions of this contract are not met, then the EO shall return partial to all awarded grant funds to the District in a timely manner.
8. The EO shall notify Placer County Air Pollution Control District (District) in writing if installation and/or implementation of this project will deviate from the scope of work outlined in the EO's 2008 Clean Air Grant Application. This notification will occur at least 14 days in advance of any request for payments from the EO. Any changes in the scope of work are subject to approval from the PCAPCD.
9. The EO shall provide the District a Final Report as described in Exhibit B. The Final Report shall be submitted after one year of project completion. The EO has 90 days from the conclusion of the project to submit the Final Report.
10. The EO will post signage or find appropriate locations in which to advertise that funding for this program was made available by the District.

EXHIBIT B - PAYMENT SCHEDULE

To Contract Number CN025298

2008

CONTRACTOR: County of Placer, Executive Office

Budget:

Amount Awarded by PCAPCD:	\$ 60,000
Co-Funding (if applicable)	\$ 15,000
Total PROJECT Amount:	\$ 75,000

PROJECT Title:

Implementation of biomass removal program in Lake Tahoe Basin.

PROJECT Time Line:

Proposed Start Date:	May 31, 2008
Final Date to Receive Co-Funding:	May 31, 2009
Proposed End Date:	May 31, 2010

Project Description:

Implement a biomass removal program in the Lake Tahoe National Forest and the Lake Tahoe Basin Management Unit to reduce open pile and slash burning.

Payment:

The PCAPCD will provide up to Sixty Thousand Dollars (\$60,000) in funding for the biomass removal program in accordance with the requirements listed in Exhibit A, Work Statement and Exhibit B- Payment Schedule.

EXHIBIT C - FINAL REPORT FORMAT

To Contract Number 25298

2008

**Placer County Executive Office (EO)
175 Fulweiler Ave.
Auburn, CA 95603**

The final report shall include the following information:

1. Identify the project being reported including contract number.
2. Describe any problems encountered during project implementation. Identify any services not performed as outlined in the 2007 Clean Air Grant application.
3. List the total number of tons of wood waste collected and the number of tons burned as fuel.

Note: After the final report is submitted to the District, staff will conduct a performance evaluation on the project.

Agreement Number CN025299

DESCRIPTION: IMPLEMENT A COMMUNITY BIOMASS REMOVAL PROGRAM IN COMMUNITIES THAT CLEAR THEIR LAND FOR FIRE PREVENTION.

This AGREEMENT is between the Placer County Air Pollution Control District (hereinafter "PCAPCD") and County of Placer, County Executive Office (hereinafter "CONTRACTOR").

RECITALS

WHEREAS, under AB 2766 and AB 923 (Health and Safety Code Section 44220 and 44225 *et. seq.*), the PCAPCD has levied a \$6.00 fee on motor vehicles registered within the PCAPCD; and

WHEREAS, the PCAPCD has received Air Quality Mitigation Funds to off-set the impact of new development in Placer County by reducing emissions, primarily ozone precursor emissions, from sources that are not required by law to reduce emissions; and

WHEREAS, pursuant to AB 2766, AB 923 and the APCD's Offsite Mitigation Program, the monies collected under these levies must be used to reduce air pollution from motor vehicles and other sources, and for related air quality planning, education, air monitoring, and technical studies necessary for the implementation of the California Clean Air Act; and

WHEREAS, CONTRACTOR has requested that the PCAPCD provide Clean Air Grant monies for the PROJECT(s) described in Exhibit A, subject to the terms and conditions set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has represented to the PCAPCD that CONTRACTOR has the necessary expertise, experience and ability to competently complete the described PROJECT(s); and

WHEREAS, PCAPCD staff has carefully reviewed the described PROJECT(s) and have found them to be within the requirements of AB 2766, AB 923 and the Offsite Mitigation Program in that the PROJECT(s) are reasonably expected to reduce air pollution and help in the further implementation of the California Clean Air Act and,

WHEREAS, the PCAPCD Board of Directors has approved Resolution #08-05, authorizing the Air Pollution Control Officer to sign and amend, as needed, grant agreements and contracts for approved projects listed in the table "PCAPCD Clean Air Projects 2008".

NOW THEREFORE, In consideration of the promises and covenants set forth herein, the parties agree as follows:

1. Contract Period

- a) The term of this contract shall begin on the date signed by both parties and conclude on or before May 31, 2010 unless terminated or amended.
- b) This contract may be canceled by either party upon serving thirty (30) days notice in writing to the other party.

2. Services

- a) CONTRACTOR agrees, during the term of this AGREEMENT, to perform the contracting services set forth below and in Exhibit "A" – Scope of Work (hereinafter "PROJECT").
- b) CONTRACTOR shall be obligated to devote as much time, attention, skill, and effort as may be reasonably required to perform the PROJECT services, in a professional and timely manner, consistent with the elements of the project.

3. Payment

- a) PCAPCD agrees to pay for the services covered by this AGREEMENT pursuant to the payment schedule set forth below and in Exhibit "B"- Payment Schedule.
- b) The amount paid to the CONTRACTOR shall constitute full payment for all services set forth herein. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond the maximum sum payable without prior written agreement by the PCAPCD.
- c) CONTRACTOR shall bill PCAPCD after purchase orders have been issued or contracts have been entered into for approved services or the project has been completed. CONTRACTOR agrees to provide a detailed invoice to PCAPCD referencing the contract number with copies of purchase orders, signed contracts, or receipts. PCAPCD retains the right to require proof of services performed or costs incurred prior to any payment under this AGREEMENT. Ten (10) percent of the contract amount will be withheld pending the presentation to PCAPCD of the final report as outlined in Exhibit C – Final Report Format.
- d) Notwithstanding any other terms of this AGREEMENT, no payments shall be made to CONTRACTOR until PCAPCD is satisfied that work of such value has been rendered pursuant to this AGREEMENT. However, PCAPCD shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.

4. Notices

- a) Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail,

postage prepaid, sent certified or registered and addressed to the parties as follows:

PCAPCD:
Placer County Air Pollution Control District
Attn: Air Pollution Control Officer
3091 County Center Drive, Suite 240
Auburn, CA 95603

CONTRACTOR:
County of Placer, Executive Office
Brett Storey
2968 Richardson Drive
Auburn, CA 95603

- b) Any notice so delivered personally shall be deemed to be received on the date of delivery and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

5. Obligations of PCAPCD

- a) PCAPCD agrees to pay CONTRACTOR an amount not to exceed the requirements set forth in Exhibit B –Payment Schedule, in accordance with the requirements listed in Exhibit A, Work Statement
- b) PCAPCD shall not reimburse CONTRACTOR for any expenses incurred by CONTRACTOR in the performance of PROJECT described in Exhibit A unless such reimbursement is specifically authorized in the Payment Schedule. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond this maximum amount without prior written agreement by the PCAPCD
- c) Except for the payment obligations set forth above, PCAPCD shall have no other obligations or responsibilities to CONTRACTOR under this AGREEMENT

6. Obligations of CONTRACTOR

- a) Contractor has or will obtain all additional funding set forth in Exhibit B of this AGREEMENT
- b) Contractor has or will obtain all required licenses, permits, fees, and other legal authorizations from all applicable Federal, State, and local jurisdictions necessary to commence and properly complete, in a professional manner, the PROJECT described in Exhibit A
- c) Labor, equipment, material, supply costs and other charges will be in conformance with the requirements of Exhibit B

- d) No component of the monies to be paid by PCAPCD to CONTRACTOR will be used for grant administration or any interest costs
- e) Contractor shall provide proof of PROJECT completion and verification of costs as set forth in Exhibit A and paragraph 3.

7. **Hold Harmless/Indemnity**

The CONTRACTOR hereby agrees to protect, defend, indemnify, and hold PCAPCD free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PCAPCD arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of PCAPCD) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. CONTRACTOR agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the CONTRACTOR. CONTRACTOR also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against CONTRACTOR or PCAPCD or to enlarge in any way the CONTRACTOR'S liability but is intended solely to provide for indemnification of PCAPCD from liability for damages or injuries to third persons or property arising from CONTRACTOR'S performance pursuant to this contract or agreement.

As used above, the term PCAPCD means PCAPCD or its officers, agents, employees, and volunteers.

8. **Insurance Requirements**

It is recognized that CONTRACTOR is a self insured public agency, and as such provides coverage for General Liability, Errors & Omissions and Worker's Compensation. CONTRACTOR shall maintain said insurance in full force and effect during the term of this contract.

9. **Facilities, Equipment and Other Materials**

Except as set forth herein CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this AGREEMENT. PCAPCD shall furnish CONTRACTOR only those facilities, equipment, and other materials, and shall perform only those obligations as listed herein.

10. **Non-Discrimination**

CONTRACTOR shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sexual preference, or in contravention of any other protected classification or practice identified in the California Fair Employment and Housing Act; Government Code section 12900 et seq.

11. Records and Documents

- a. CONTRACTOR shall maintain at all times complete, detailed records with regard to work performed under this AGREEMENT, in a form acceptable to PCAPCD, and PCAPCD shall have the right to inspect such records at any reasonable time.
- b. CONTRACTOR agrees to return to PCAPCD, upon termination of this AGREEMENT, all documents, drawings, photographs, and other written or graphic material, however produced, received from PCAPCD and used by CONTRACTOR in the performance of its services. All work papers, drawings, internal memoranda, graphics, photographs, and any written or graphic material, however produced, prepared by CONTRACTOR in connection with its performance of services hereunder shall be, and shall remain after termination of this AGREEMENT, the property of PCAPCD and may be used by the PCAPCD for any purpose whatsoever. PCAPCD agrees that any future use of documents produced by the CONTRACTOR under the terms of this contract shall be at the sole discretion of the PCAPCD and CONTRACTOR shall bear no liability for the decisions on whether and how to use such documents.

12. Independent Status

- a. CONTRACTOR shall perform this contract as an independent contractor and not as an employee of PCAPCD. CONTRACTOR acknowledges that CONTRACTOR is not entitled to any of the PCAPCD's fringe benefits, including without limitation; paid holidays, life insurance, sick leave, or travel or any other expenses in connection with services performed hereunder. No part of the compensation payable to CONTRACTOR hereunder shall be deducted or withheld for payment of Federal or State income or other employment related taxes. It shall be the responsibility of CONTRACTOR to provide all coverage necessary for CONTRACTOR'S own benefit and not as an employee of PCAPCD.
- b. Except as PCAPCD may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of PCAPCD in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this AGREEMENT to bind PCAPCD to any obligation

13. Warranties

CONTRACTOR warrants that its services are performed, with the usual thoroughness and competence; in accordance with the standard for professional services at the time those services are rendered.

14. **Licenses, Permits, Etc**

CONTRACTOR represents and warrants to PCAPCD that it has or will obtain before initiation of the PROJECT, all licenses, permits, qualifications, and approvals of what ever nature, which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to PCAPCD that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this AGREEMENT, any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

15. **Assignment or Transfer**

CONTRACTOR may assign any of its rights, burdens, duties, or obligations under this AGREEMENT only upon the prior written consent of PCAPCD. Approval will be at the sole discretion of PCAPCD.

16. **Modification of Agreement**

This AGREEMENT cannot be changed or supplemented orally, and may be modified or superseded only by written instrument executed by all parties.

17. **Waiver**

One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this AGREEMENT shall not operate as a waiver of any subsequent breach or default.

18. **Entirety of AGREEMENT**

This AGREEMENT constitutes the entire AGREEMENT and understanding between the parties. There are no oral understandings, terms, or conditions, and no party has relied upon any representation, express or implied, not contained in this AGREEMENT. Any prior understandings, terms, or conditions are deemed merged into this AGREEMENT. This AGREEMENT is intended as the complete and exclusive statement of the parties' Agreement pursuant to Code of Civil Procedure section 1856.

19. **Jurisdiction**

This AGREEMENT, and the right and obligations of the parties, shall be governed by and construed in accordance with the laws of the State of California. If any action is instituted to enforce or interpret this AGREEMENT, venue shall only be in the appropriate state or federal court having venue over matters arising in Placer County, California, provided that nothing in this AGREEMENT shall constitute a waiver of immunity to suit by the PCAPCD.

20. **Exhibits**

All exhibits referred to herein and attached hereto are fully incorporated by this reference.

The parties so agree.

PCAPCD:

By: Thomas J. Christofk
Air Pollution Control Officer

Date

CONTRACTOR:

Jim Holmes
Chairman, Placer County Board of Supervisors

Date

EXHIBIT A - WORK STATEMENT

To Contract Number 25299

2008

Placer County Executive Office (EO)
175 Fulweiler Ave.
Auburn, CA 95603

Implement a community biomass removal program.

1. The EO shall help to reduce open burning in Placer County by providing biomass boxes in communities that clear their land for fire prevention and then transport the wood waste to a local biomass agency to be burned as a fuel source.
2. The EO shall implement their program based on the outline provided in their 2008 Clean Air Grant application.
3. The EO shall keep records on the number of tons of wood waste collected and the number of tons burned as fuel, if different.
4. The EO shall provide copies of contractual agreements relative to this project.
5. The EO shall adhere to time constraints in paragraph 3 of the AGREEMENT for encumbrance and disbursement of funds.
6. The District may require a pre- and post-inspection in order to verify contractual requirements have been met.
7. If for any reason after project funding, the equipment/project funded under this contract does not perform according to what was submitted in the 2008 CAG application or if the conditions of this contract are not met, then the EO shall return partial to all awarded grant funds to the District in a timely manner.
8. The EO shall notify Placer County Air Pollution Control District (District) in writing if installation and/or implementation of this project will deviate from the scope of work outlined in the EO's 2008 Clean Air Grant Application. This notification will occur at least 14 days in advance of any request for payments from the EO. Any changes in the scope of work are subject to approval from the PCAPCD.
9. The EO shall provide the District a Final Report as described in Exhibit B. The Final Report shall be submitted after one year of project completion. The EO has 90 days from the conclusion of the project to submit the Final Report.
10. The EO will post signage or find appropriate locations in which to advertise that partial funding for this program was made available by the District.

EXHIBIT B- PAYMENT SCHEDULE

To Contract Number CN025299

2008

CONTRACTOR: County of Placer, Executive Office

Budget:

Amount Awarded by PCAPCD:	\$ 60,000
Co-Funding (if applicable)	\$ 15,000
Total PROJECT Amount:	\$ 75,000

PROJECT Title:

Implementation of biomass removal program.

PROJECT Time Line:

Proposed Start Date:	May 31, 2008
Final Date to Receive Co-Funding:	May 31, 2009
Proposed End Date:	May 31, 2010

Project Description:

Implement a biomass removal program in communities that clear their land for fire prevention and transport the wood waste to a local biomass facility to be used as a fuel source.

Payment:

The PCAPCD will provide up to Sixty Thousand Dollars (\$60,000) in funding for the biomass removal program in accordance with the requirements listed in Exhibit A, Work Statement and Exhibit B- Payment Schedule.

EXHIBIT C - FINAL REPORT FORMAT

To Contract Number 25299

2008

Placer County Executive Office (EO)
175 Fulweiler Ave.
Auburn, CA 95603

The final report shall include the following information:

1. Identify the project being reported including contract number.
2. Describe any problems encountered during project implementation. Identify any services not performed as outlined in the 2008 Clean Air Grant application.
3. List the total number of tons of wood waste collected and the total tons of wood waste burned as fuel.

Note: After the final report is submitted to the District, staff will conduct a performance evaluation on the project.