

AGREEMENT BETWEEN CONTRA COSTA COUNTY AND THE CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT FOR THE DELEGATION OF SERVICES RELATED TO THE CERTIFIED UNIFIED PROGRAM AGENCY AND THE CONTRA COSTA COUNTY INDUSTRIAL SAFETY ORDINANCE

This Agreement is entered into by and between Contra Costa County (“County”), a political subdivision of the State of California, and Contra Costa County Fire Protection District (“District”), a fire protection district formed under the Fire Protection District Law of 1987 (Health and Safety Code Sections 13801 et seq.) and governed by the Board of Supervisors of the County of Contra Costa as its Board of Directors, collectively referred to as the “Parties”, for the delegation of services related to the Certified Unified Program Agency and the Contra Costa County Industrial Safety Ordinance.

Recitals

WHEREAS, on December 31, 1996, the California Environmental Protection Agency designated Contra Costa County as the Certified Unified Program Agency (“CUPA”) for the County pursuant to Health and Safety Code section 25404 and related law, effective January 1, 1997;

WHEREAS, the County’s CUPA Program protects the public from hazardous waste and hazardous materials;

WHEREAS, the County implements six program elements in the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (“Unified Program”) within the County;

WHEREAS, the County wishes to delegate certain administrative, operational, inspection, and enforcement activities relating to portions of the CUPA and related regulatory programs to District;

WHEREAS, the Contra Costa County Board of Supervisors has adopted the Contra Costa County Industrial Safety Ordinance, codified in Chapter 450-8 of the Contra Costa County Ordinance Code (the “Industrial Safety Ordinance” or the “ISO”), to enhance the prevention of accidental releases of hazardous materials and to protect public health, safety, and the environment;

WHEREAS, Contra Costa County wishes to delegate administration and enforcement responsibilities under the Industrial Safety Ordinance to the Contra Costa County Fire Protection District;

WHEREAS, the District possesses expertise, personnel, and operational capabilities necessary to perform such delegated functions; and

WHEREAS, the County intends to retain exclusive legislative authority to establish and impose regulatory fees by ordinance or resolution, while authorizing the District to administer, collect, receive, and retain such fees in connection with performance of delegated services.

The recitals of this Agreement are incorporated into the body of this Agreement by reference.

* * *

NOW, THEREFORE, in consideration of the above, the County and District agree as follows:

1) Scope of Delegated Services

1.1 Delegated Services.

1.1.1 Unified Program. County delegates to District the authority to administer, implement, manage and enforce the County’s six program elements in the Unified Program within the County, as set forth in **Exhibit A**. The six Unified Program elements that are part of the County’s CUPA include:

- 1) Hazardous Materials Release Response Plans and Inventory (Business Plan) (HSC §25500);
- 2) Hazardous Waste Generation and Onsite Treatment (HSC §25100);
- 3) Aboveground Petroleum Storage Act/Spill Prevention, Control, and Countermeasure Plan (HSC §25270);
- 4) Underground Storage Tanks (HSC §25280);
- 5) California Accidental Release Prevention Program (HSC §25531), and;
- 6) Hazardous Materials Management Plans and Inventory Statements under the California Fire Code.

1.1.2 Industrial Safety Ordinance. County delegates to District the authority to administer, implement, manage and enforce the Industrial Safety Ordinance, Chapter 450-8 (“ISO”). District is authorized to enforce the ISO pursuant to the provisions of Chapter 14-6 of the County Ordinance Code, specifically including but not limited to Article 14-6.4 (public nuisance abatement); Chapter 14-8 (criminal enforcement), as misdemeanors in infractions, and Chapter 14-12 (administrative penalties).

1.1.3 City of Richmond Industrial Safety Ordinance. County delegates to District the authority to enforce the City of Richmond’s Industrial Safety

Ordinance (Article VI, Chapter 6.43) to the extent the city ordinance is amended to grant this authority to District.

- 1.2 **District Acceptance.** District accepts the delegation set forth in paragraph 1.1 above, and agrees to administer, implement, manage and enforce the Unified Program and the ISO.

2) **County Retention of Legal Authority**

- 2.1 **Retention of CUPA Status.** County shall remain the legally designated CUPA and shall retain all nondelegable statutory and regulatory authority unless expressly delegated herein.
- 2.2 **Exclusive Authority.** County shall retain exclusive authority to impose regulatory fees; establish fee schedules; adopt ordinances and resolutions; establish regulatory standards; and exercise legislative or policy-making authority. No provision of this Agreement authorizes District to establish, increase, decrease, or eliminate regulatory fees unless expressly authorized by County ordinance or subsequent written amendment. Further, County reserves the right to exercise any authority County determines should remain exclusively with County.
- 2.3 **County Oversight.** County retains ultimate oversight authority over the Unified Program and may monitor District's performance for compliance with applicable law and County policies.

3) **Fee Administration and Collection**

- 3.1 **County-Imposed Fees.** All regulatory fees collected pursuant to this Agreement shall be fees imposed by County pursuant to County ordinance or resolution. District shall implement and enforce County's fee schedule upon passage of said ordinance or resolution by County.
- 3.2 **Collection Authority.** County authorizes District, acting on behalf of County, to collect fees due under the Unified Program and ISO.
- 3.3 **Retention of Fees.** Except as otherwise required by law or this Agreement, District may retain all fees collected pursuant to this Agreement as compensation for performance of delegated services and to support administration of the Unified Program and ISO.
- 3.4 **Restricted Use of Fee Revenues.** District shall use retained fee revenues solely for lawful regulatory, administrative, operational, staffing, training, equipment, overhead, enforcement, emergency preparedness, and related program purposes reasonably connected to the delegated functions.
- 3.5 **Fee Accounting.** District shall maintain financial records sufficient to demonstrate the fees imposed; the amounts collected; expenditures of the retained revenues; and a reasonable relationship between fee revenues and program costs.

3.6 **Excess Revenues.** If either Party determines that fee revenues materially exceed lawful program costs, the Parties shall meet and confer regarding recommended fee adjustments or allocation modifications.

4) **Administrative Penalties:**

4.1 **Authorization re Administrative Enforcement Orders and Penalty Assessments.** District is authorized to issue and enforce Administrative Enforcement Orders and penalty assessments on behalf of the CUPA and pursuant to the ISO, and use any recovered assessments, penalties or payments received pursuant to a settlement agreement in lieu of assessments or penalties for the services described in this Agreement consistent with Chapter 6.11 of Division 20 of the Health and Safety Code. Pursuant to Health and Safety Code section 25404.1.1 and the ISO, these funds are to be used solely to fund enforcement of the CUPA statutes and ISO.

4.2 **Judgment Obtained by County.** In its sole discretion, the County may elect to apply for and receive a court judgment for an administrative penalty under Health and Safety Code section 25404.1.3. The County shall forward any funds collected by County to District under this Agreement. Pursuant to Health and Safety Code section 25404.1.1, these funds shall only be used by District solely for lawful regulatory, administrative, operational, staffing, training, equipment, overhead, enforcement, emergency preparedness, and related program purposes reasonably connected to the delegated functions.

5) **Stationary Source Event List.** No later than September 30, 2026, District shall implement Contra Costa County's existing list of stationary source activities and other events to be measured by each stationary source in order to evaluate the performance of process safety systems. This list is the "Event List." Each stationary source shall measure these activities and other events and document the measurements. These documented measurements are "common process safety performance indicators." No later than September 30 of each year after 2026, each stationary source will report to District the common process safety performance indicators recorded by the stationary source in the prior calendar year. District will include these common process safety performance indicators in the annual performance review and evaluation report required by Section 450-8.030 of the ISO.

6) **Termination**

6.1 This Agreement may be terminated by either party, in its sole discretion, by giving six months written notice of termination to the other party, and may be cancelled immediately by written mutual consent.

- 6.2 County, upon written notice to District, may immediately terminate this Contract should District fail to perform properly any of its obligations hereunder. In the event of such termination, County may proceed with the work in any reasonable manner it chooses.
- 6.3 The Parties acknowledge that the termination of this Agreement would require extensive operational adjustments for both Parties. The Parties further acknowledge that any interruption in the Unified Program or the ISO would result in risks to public welfare. Upon notice of termination by either party, the Parties will coordinate to develop a transition plan. The transition plan will include specific implementation deadlines, including any modification to the contract termination date, and will address matters including but not limited to service levels during the transition period.
- 7) **Effective Date:** The effective date of this Agreement is July 1, 2026.
- 8) **Indemnification**
- 8.1 **County Indemnification.** County agrees to indemnify, defend, and hold harmless District and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from the County's negligent acts or omissions which arise from County's performance of its obligations under this Agreement.
- 8.2 **District Indemnification.** District agrees to indemnify, defend and hold harmless County and its officers, employees, agents, and volunteers from any and all claims, actions, or losses, damages, and/or liability resulting from the District's negligent acts or omissions which arise from District's performance of its obligations under this Agreement.
- 9) **Insurance:** County and District are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate insurance or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.
- 10) **Jurisdiction/Choice of Law:** This Agreement shall be governed by the laws of the State of California. Any action or proceeding between the County and District concerning the interpretation or enforcement of this Agreement, or which arises out of or is in any way connected with this Agreement, shall be instituted and tried in the appropriate state court in the County of Contra Costa, California.
- 11) **Records:** District must keep and make available for inspection and copying by authorized representatives of the County, the State of California, and the United States

Government, the District's regular business records and such additional records pertaining to this Agreement as may be required by the County.

11.1 **Retention of Records:** District must retain all documents pertaining to this Agreement for five years from the date of document creation; for any further period that is required by law; and until all federal/state audits are completed. Upon request, District must make these records available to authorized representatives of the County, the State of California, and the United States Government.

11.2 **Access to Books and Records of District, Subcontractor:** Pursuant to Section 1861(v)(1) of the Social Security Act, and any regulations promulgated thereunder, District must, upon written request and until the expiration of five years after the furnishing of services pursuant to this Agreement, make available to the County, the Secretary of Health and Human Services, or the Comptroller General, or any of their duly authorized representatives, this Agreement and books, documents, and records of District necessary to certify the nature and extent of all costs and charges hereunder.

Further, if District carries out any of the duties of this Agreement through a subcontract with a value or cost of \$10,000 or more over a twelve-month period, such subcontract must contain a clause to the effect that upon written request and until the expiration of five years after the furnishing of services pursuant to such subcontract, the subcontractor must make available to the County, the Secretary, the Comptroller General, or any of their duly authorized representatives, the subcontract and books, documents, and records of the subcontractor necessary to verify the nature and extent of all costs and charges thereunder.

This provision is in addition to any and all other terms regarding the maintenance or retention of records under this Agreement and is binding on the heirs, successors, assigns and representatives of District.

12) **Inspection:** Contractor's performance, place of business, and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the County, the State of California, and the United States Government.

13) **Non-Discrimination:** District shall not unlawfully discriminate against any person or entity on the basis of race, color, ancestry, national origin, ethnic group identification, religion, creed, age, sex, gender, gender identity, gender expression, sexual orientation, marital status, disability, medical condition, genetic information, military or veteran status, or any other characteristic protected by law in carrying out the delegated services.

14) **Severability:** If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Agreement is or shall be invalid for any reason, the same shall be deemed

severable from the remainder hereof and shall in no way affect or impair the validity of this Agreement or any other portion thereof.

- 15) **Construction:** Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.
- 16) **Waiver:** The waiver by a Party of any breach of any term or provision of this Agreement will not be deemed to be a waiver of such term or provision or of any subsequent breach of the same or any other term or provision contained herein.
- 17) **Relinquishment of Rights:** Nothing contained in this Agreement shall be construed as a relinquishment of any rights now held by the County or District.
- 18) **Legal Compliance:** District is subject to and must comply with all applicable federal, state, and local laws and regulations with respect to its performance under this Agreement, including but not limited to, licensing, employment, and purchasing practices; and wages, hours, and conditions of employment, including nondiscrimination.
- 19) **Agency:** In the performance of this Agreement, District, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County.
- 20) **Notice:** Both parties shall notify the other party in writing of any change in mailing address within ten (10) business days of the change.

All notices provided for by this Agreement must be in writing and may be delivered by email. Written notice provided pursuant to this section shall be sent to the following addresses:

County: Office of the County Administrator
Contra Costa County
County.Administrator@cao.cccounty.us

District: *Fire Chief or Designee*
Contra Costa County Fire Protection District
info@cccfd.org

and

- 21) **Assignment:** This Agreement is not assignable by either party, whether in whole or in part, without the consent of the other party.
- 22) **Entire Agreement:** This Agreement contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Agreement will be deemed to exist or to bind any of the parties hereto.

- 23) **Modification:** Both parties agree any alterations, variations, modifications, or waivers of the provisions of the Agreement, shall be valid only when reduced to writing, executed and attached to the original Agreement and approved by the person(s) authorized to do so on behalf of District and the County.
- 24) **Timely Performance:** Except as otherwise provided herein, if District has knowledge of any actual or potential situation that will delay or threatens to delay the timely performance of this Agreement, District shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.
- 25) **Survival:** Sections 6, 8, 11 and 12 shall survive the termination of this Agreement.
- 26) **Execution in Counterparts:** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.
- 27) **No Third-Party Rights:** Nothing in this Agreement may be construed to create, and the parties do not intend to create, any rights in third parties.
- 28) **Authorization:** The representatives of the Parties signing this Agreement represent and warrant that they have full power and authority to enter into this Agreement and to perform the obligations set forth herein.

IN WITNESS WHEREOF, Contra Costa County and the Contra Costa County Fire Protection District have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

CONTRA COSTA COUNTY FIRE
PROTECTION DISTRICT



CONTRA COSTA COUNTY



_____,

Dated: _____

Dated: