

Contract Number

SAP Number

San Bernardino County Fire Protection District

Department Contract Representative	<u>Fire Chief Dan Munsey</u>
Telephone Number	<u>(909) 387-5779</u>
Contractor	<u>San Bernardino County Probation Department</u>
Contractor Representative	<u>Edward Barry</u>
Telephone Number	<u>(909)387-5656</u>
Contract Term	<u>April 6, 2021 – June 30, 2026</u>
Original Contract Amount	<u>\$125,000</u>
Amendment Amount	<u>\$0</u>
Total Contract Amount	<u>\$125,000</u>
Cost Center	<u>4810001000</u>

AGREEMENT BETWEEN THE COUNTY OF SAN BERNARDINO AND THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT RELATED TO HAZARDOUS MATERIALS SERVICES ASSOCIATED WITH PROBATION DEPARTMENT UNIFORMS AND EQUIPMENT

WHEREAS, the County of San Bernardino (“County”) is designated by the California Environmental Protection Agency as the Certified Unified Program Agency (“CUPA”) with staff trained and equipped to respond to emergency incidents involving spilled or deposited hazardous materials and has the resources to manage and investigate such incidents; and

WHEREAS, the San Bernardino County Fire Protection District, Hazardous Materials Division (“HAZMAT”) staffs, equips, and administers the County’s CUPA; and

WHEREAS, the County’s Probation Department (“Probation”) desires HAZMAT to perform assessments of Probation Officer (Officer) clothing, equipment, and/or gear that may have been potentially contaminated with hazardous or infectious materials and to coordinate and perform remedial activities as set forth below (“Services”); and

WHEREAS, HAZMAT hereby agrees to respond to all such incidents reported to them by Probation and provide the Services within the territorial boundaries of the County; and

WHEREAS, this Agreement also specifically addresses the procedures to be followed by HAZMAT and Probation when responding to incidents involving Officer's clothing, equipment, and/or gear that may be contaminated with hazardous or infectious materials.

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

1. PROBATION RESPONSIBILITIES

- A. In the event that the Officer's clothing, equipment, and/or gear have/has been exposed to hazardous or infectious materials, Probation will notify HAZMAT, by phone the same day, to investigate the situation.
- B. Probation shall cooperate with HAZMAT by providing necessary assistance.

2. HAZMAT RESPONSIBILITIES

- A. Once HAZMAT is notified by Probation or other appropriate person(s) that an exposure of potentially hazardous or infectious materials of the Officer's clothing, equipment, and/or gear has occurred, HAZMAT will provide the following Services:
 - 1. HAZMAT will dispatch field personnel to the incident location, during normal business hours and after hours, if needed, to assess the situation and, if necessary, to conduct an assessment of the Officer's clothing, equipment, and/or gear.
 - 2. If the assessment of the Officer's clothing, equipment or gear is determined to be contaminated with hazardous or infectious materials and no longer usable, HAZMAT will bag said items and have said items destroyed by a State Licensed Hazardous Materials contractor.
 - 3. When the assessment by HAZMAT reveals clothing, equipment, and/or gear are exposed to non-hazardous materials or hazardous materials, but are determined to be reusable, HAZMAT will advise Probation of this determination and shall apply to the Officer's reusable clothing, equipment, and/or gear, a decontamination solution while on scene.
 - 4. When an Officer has left an incident and later determines they may have been exposed to hazardous or infectious material (or non-hazardous material), HAZMAT will respond to the alternate location, including workstations, within San Bernardino County to assess the exposed items and determine if the items are reusable or not. HAZMAT will process the items in accordance with Section 2.A.2 and 2.A.3 above, as determined.
 - 5. HAZMAT will also dispose of Officer's nitrile gloves, expended Narcan devices and respirator.
- B. HAZMAT will perform its responsibilities under this Agreement within the constraints of Federal, State, and County established laws, regulations, policies and guidelines.
- C. HAZMAT will provide to Probation the following documentation within fourteen (14) days of any HAZMAT incident response Service: location of the exposure, address, description of material if known, date, time, agencies contacted and description of action taken.
- D. HAZMAT and Probation shall comply with all applicable laws and regulations in carrying out their respective responsibilities under this Agreement.

3. FISCAL PROVISIONS

- A. HAZMAT will provide Probation a cost report summary including the following attachments within sixty (60) days of the initial HAZMAT incident response (or earlier if necessary to comply with applicable regulations):
 - 1. Incident Response Billing form (with such supporting documentation as copies of invoices from outside contractors).
 - 2. CUPA HAZMAT Emergency Response Report.
 - B. Probation will be responsible for the costs incurred by HAZMAT, which includes all HAZMAT personnel time incurred in providing the Services to Probation, and any expense incurred for cleansing or destroying Probation clothing, equipment and/or gear (identified in Section 2 of this Agreement).
 - C. The maximum amount of payment by Probation to HAZMAT for the Services under this Agreement shall not exceed \$125,000 without an amendment to this Agreement.
4. This Agreement may be terminated without cause upon thirty (30) days' written notice by either party. Upon such termination, payment will be made by Probation to HAZMAT for services rendered and expenses reasonably incurred prior to the effective date of termination. This Agreement may also be terminated immediately by either party in the event of a breach of the Agreement terms by the other party. In such event, the non-breaching party shall be entitled to pursue any available remedies authorized by law or regulations.
5. Unless this Agreement is terminated early, the term of this Agreement is from April 6, 2021 through June 30, 2026. Sections 3 and 6, herein, shall survive the termination of this Agreement.
6. County agrees to indemnify, defend (with counsel reasonably approved by HAZMAT) and hold harmless HAZMAT 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.

HAZMAT agrees to indemnify, defend (with counsel reasonably approved by County), 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 HAZMAT's negligent acts or omissions which arise from HAZMAT's performance of its obligations under this Agreement.

In the event the County and/or HAZMAT is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the County and/or HAZMAT shall indemnify the other to the extent of its comparative fault.

7. County and HAZMAT 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 coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.
8. This Agreement shall be governed by the laws of the State of California. Any action or proceeding between the County and HAZMAT 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 San Bernardino, California.
9. During the term of this Agreement, the County and HAZMAT shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin,

ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. HAZMAT shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

10. 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.
11. The recitals of this Agreement are incorporated into the body of this Agreement by this reference.
12. Time is of the essence for each and every provision of this Agreement.
13. 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.
14. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
15. Nothing contained in this Agreement shall be construed as a relinquishment of any rights now held by the County or HAZMAT.
16. The parties' actions under this Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of this Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.
17. In the performance of this Agreement, HAZMAT, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County.
18. HAZMAT and Probation will designate an individual to serve as the primary point of contact for this Agreement. Each Party's designee must respond to inquiries within two (2) business days. HAZMAT and Probation shall not change the primary contact without written notification to and acceptance by the other party. HAZMAT and Probation will also designate a back-up point of contact in the event the primary contact is not available.
19. Both parties shall notify the other party in writing of any change in mailing address within ten (10) business days of the change.
20. This Agreement is not assignable by either party, whether in whole or in part, without the consent of the other party.
21. 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 HAZMAT and the County.

22. If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorneys' fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Section 6.
23. In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Agreement, the party with the problem or potential problem shall notify the other party within one (1) working day, in writing and by telephone.
24. Both parties shall make all reasonable efforts to ensure that none of their officers or employees, whose positions in their entities enable them to influence any award of this Agreement or any competing offer, shall have any direct or indirect financial interest resulting from the award of this Agreement or shall have any relationship to the other parties or officer or employee of the other parties.
25. County and HAZMAT shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the other party in an attempt to secure favorable treatment regarding this Agreement. Both parties, by written notice, may immediately terminate this Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the other party with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded. Both parties shall immediately report any attempt by an officer, employee or agent of the other party to solicit (either directly or through an intermediary) improper consideration from the party. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the parties are entitled to pursue any available legal remedies.
26. Any written notice provided pursuant to this Agreement shall be sent via interoffice mail to the following addresses:

Probation: Chief Probation Officer
Probation Department
Mail Code: 0460

HAZMAT: Dan Munsey, Fire Chief/Fire Warden
San Bernardino County Fire Protection District
Mail Code: 0451
27. No news releases, advertisements, public announcements or photographs arising out of this Agreement or the parties' relationship with each other may be made or used without prior written approval of both parties.
28. Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

29. This Agreement and any other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

30. 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.

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

SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT

COUNTY OF SAN BERNARDINO

▶

 Curt Hagman, Chairman, Board of Directors

▶

 Curt Hagman, Chairman, Board of Supervisors

Dated: _____
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Dated: _____
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell, Secretary

Lynna Monell, Clerk

By _____
 Deputy

By _____
 Deputy

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
▶ _____ Jamie Ryan, Deputy County Counsel	▶ _____	▶ _____ Tracy Reece, Chief Probation Officer
Date _____	Date _____	Date _____