

**Contract Number**

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**SAP Number**

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## San Bernardino County Fire Protection District

<b>Department Contract Representative</b>	<u>Jose Rodriguez</u>
<b>Telephone Number</b>	<u>(909) 382-5401</u>
<b>Contractor</b>	<u>City of Barstow</u>
<b>Contractor Representative</b>	<u>Kody Tompkins</u>
<b>Telephone Number</b>	<u>(760) 255-5157</u>
<b>Contract Term</b>	<u>July 1, 2022 through June 30, 2027</u>
<b>Original Contract Amount</b>	<u>\$125,571.89</u>
<b>Amendment Amount</b>	<u></u>
<b>Total Contract Amount</b>	<u>\$125,571.89</u>
<b>Cost Center</b>	<u></u>

**IT IS HEREBY AGREED AS FOLLOWS:**

### HOUSEHOLD HAZARDOUS WASTE COLLECTION AGREEMENT

This Agreement is made and entered into between the San Bernardino County Fire Protection District, hereinafter referred to as "District" and the City of Barstow hereinafter referred to as the "City."

#### RECITALS:

**WHEREAS**, the California Public Resources Code (Section 47000 *et seq.*) requires cities and counties to prepare a Household Hazardous Waste Element which identifies a program for the safe collection, recycling, treatment and disposal of hazardous wastes which are generated by households in the City or county and which should be separated from the solid waste stream; and,

**WHEREAS**, the County of San Bernardino and each of the cities in the County have developed Household Hazardous Waste Elements (HHWE) which identify a county-wide cooperative program for the management of Household Hazardous Waste; and,

**WHEREAS**, the existing Household Hazardous Waste program operated by the District is consistent with the adopted HHWE; and,

**WHEREAS**, the District's Section of Hazardous Materials, is a section of the District responsible for the safe

management of hazardous waste; and,

**WHEREAS**, the City desires for the protection, health and welfare of the public and its personnel, the removal of hazardous waste from homes so that such materials will pose no danger in the event of fire, the prevention of potential environmental degradation and the conservation of resources through recycling.

**NOW, THEREFORE**, in consideration of mutual covenants and conditions the parties hereto agree as follows:

**WITNESSETH:**

**RESPONSIBILITIES AND DUTIES OF THE CITY**

1. The City agrees to operate a Household Hazardous Waste Collection Facility (hereinafter referred to as "Facility") for the District at the following location: City of Barstow Corporation Yard, 900 South H Avenue, Barstow, CA, in accordance with the most recent edition of the District's "The Satellite Facilities Operations Manual", as referred to and amended from time to time in accordance with Section 7 hereof (hereinafter referred to as "Operations Manual"). Employees or contractors of the City who have current training by the District will accept only "Household Hazardous Waste", as defined in Title 22, section 66260.10 of the California Code of Regulations and in California Health and Safety Code section 25218.1(e). The Facility will be open to County residents for collection of Household Hazardous Waste at least sixteen (16) hours per month, except during inclement weather and City observed holidays. The designated employees of the City (or whomever the City contracts with), will categorize, pack and label the wastes in accordance with the Operations Manual. The wastes will be stored in their original packaging (except used motor oil and antifreeze) and placed in the District provided containers inside the waste storage area (located within the fenced area of the Facility). The City approves the Facility's storage area(s) of ignitable and/or reactive waste designated by the District. The City approves the Facility's traffic control which is directed by authorized staff.
2. The City shall be responsible for maintenance of the Facility, the safety of persons and materials on the property of the Facility and keeping the Facility secure. It shall not be necessary for the City to require a person to be present at all times on the site of the Facility where the waste will be stored.
3. The City shall notify and obtain approval from the District prior to making any changes in the maintenance and/or operations of the Facility. The City shall notify the District of any changes in the management of the Facility.
4. The City shall publicize to its residents the need to properly reduce, recycle, store, transport and dispose of Household Hazardous Waste and inform its residents of the availability of nearby household hazardous waste collection facilities for safe management of household hazardous waste, in the manner and form recommended by District.
5. The City shall publicize to its residents the maximum quantities of hazardous waste allowed for transportation which are containers no larger than 5 gallons and maximum quantities of 15 gallons or 125 pounds per trip brought to a household hazardous waste collection facility per participant.
6. The City shall publicize to its small businesses that need to dispose of small quantities of business waste to contact the District and make an appointment to use the Very Small Quantity Generator (VSQG) program for proper disposal.
7. The City shall publicize to its residents that home generated sharps containers shall only contain needles, lancets and syringes with a needle attached that must be completely spent (used and no liquid remaining, this includes EpiPens). The public may use 2 gallon or smaller heavy-duty plastic household containers as an alternative to plastic bio-hazard sharps containers. The container should be leak-resistant, remain upright during use and have a tight fitting, puncture-resistant lid, such as a plastic laundry detergent container. Containers consisting of glass, metal, cardboard or paper will not be accepted.

8. Agreement Compliance: City agrees to comply with all applicable Federal, State and County laws, regulations and policies in carrying out its responsibilities under this Agreement.

### **RESPONSIBILITIES AND DUTIES OF THE DISTRICT**

9. The District shall continue to operate a comprehensive Household Hazardous Waste Program (Program) for the safe collection, recycling, treatment and disposal of household hazardous waste, including universal waste, Home-generated Sharps (HGS), and pharmaceutical waste excluding controlled substances. The District program shall be based on a Central Processing Facility and a regional network of collection centers sited so as to provide safe, convenient service to the public in a cost-effective manner.
10. The District shall act as the generator and transporter of the Household Hazardous Wastes, and shall assume responsibility for maintaining the necessary site and transportation permits. Further, the District will train City personnel (City personnel including City staff or contractors) and provide the District's Operations Manual, which designates waste to be accepted, defines a categorization scheme for wastes anticipated, and specifies emergency procedures to be followed. The District shall continue to provide an initial 32-hour training course for new Household Hazardous Waste personnel of the City and subsequent annual 8-hour "refresher" training course for City Household Hazardous Waste personnel. If there are changes to the District's Operations Manual, written notification and/or special training sessions shall be provided to the City personnel as soon as practicable with respect to said changes. The District's Operations Manual shall be consistent with all state and federal regulations applicable to Household Hazardous Waste facilities and amended as necessary.
11. The District will provide approved waste storage containers, meeting the specifications of the Department of Transportation for the disposal of hazardous waste and sufficient absorbent materials for "over packing" the waste containers. At the termination or expiration of this Agreement, all items provided by the District shall belong to the District, unless otherwise agreed upon in writing. The District will provide an Emergency Coordinator to offer support and assistance to the City during Facility operating hours excluding County observed holidays.
12. The District shall either remove the household hazardous wastes or independently contract with a licensed hazardous waste hauler to remove the accumulated wastes, monthly, and to recycle or dispose of wastes at an approved facility at no additional cost to the City.
13. The District shall provide an annual report to the City, which shall include the amounts and types of waste collected, participation by jurisdiction, and final disposition of the waste. The report will be provided at no additional cost to the City.
14. The District shall compile and provide to the California Department of Resources Recycling and Recovery (CalRecycle), the Department of Toxic Substances Control, and the Certified Unified Program Agency, the City's Annual Form 303 Report. The report will be provided at no additional cost to the City.
15. The District shall provide to the City, flyers/brochures/education material that shall be distributed by the City electronically. Hard copies will also be provided upon request, at no additional cost to the City.
16. The District shall charge any business that disposes of household hazardous waste the actual cost of disposal as indicated on the VSQG program. For cities or community services districts that operate their own household hazardous waste collection facility, if business waste is accepted at any satellite facility, the city or community services district will be responsible for the disposal cost of the business waste.

17. The District shall provide an electronic biohazardous waste label to every participant that disposes of home generated sharps. As provided in Paragraph 7, the public may use 2 gallon or smaller heavy-duty plastic household containers such as a plastic laundry detergent container as an alternative to plastic bio-hazard sharps containers. The biohazardous waste label shall be placed on the rigid heavy-duty, puncture-resistant plastic container used to dispose of home generated sharps.

**CONSIDERATION**

18. In consideration for the services provided and except as otherwise provided in this Agreement, City shall pay the District the following amount not to exceed \$125,571.89:

Fiscal Year	Annual Amount	Amount per quarter
2022/2023	\$22,521.64	\$5,630.41
2023/2024	\$23,682.59	\$5,920.65
2024/2025	\$24,973.48	\$6,243.37
2025/2026	\$26,404.99	\$6,601.25
2026/2027	\$27,989.19	\$6,997.30

Payments will be due on July 15, October 15, January 15, and April 15 of each year through the term of the contract. The Annual Amount and Amount per quarter identified in Paragraph 18 includes a discount to the City of \$13,200 annually, (\$3,300 quarterly), to assist with reimbursing City for some of its staffing costs for the Facility.

**TERM AND TERMINATION**

- 19. This Agreement shall be effective July 1, 2022 and shall remain in effect through June 30, 2027, but may be renewed for specified periods, unless, otherwise terminated or amended.
- 20. Notwithstanding the foregoing, either party may terminate this Agreement at any time upon 90 days prior written notice to the other party.

**INSURANCE AND INDEMNIFICATION**

- 21. City 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 coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.
- 22. District agrees to indemnify, defend (with counsel reasonably approved by City) and hold harmless City and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the performance of this Agreement by District, and/or its authorized officers, employees, agents, contractors or volunteers, including the acts, errors, or omissions of District and for any costs or expenses incurred by City on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The District's indemnification obligation applies to City's "active" as well as "passive" negligence but does not apply to City's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

City agrees to indemnify, defend (with counsel reasonably approved by District) and hold harmless District and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the performance of this Agreement by City, and/or its authorized officers, employees, agents, contractors or volunteers, including the acts, errors, or omissions of City and/or its authorized officers, employees, agents, contractors or volunteers and for any costs or expenses incurred by District on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The City's indemnification obligation applies to District's "active" as well as "passive" negligence but does not apply to District's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

In the event District and/or City are found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this Agreement, District and/or City, as applicable, shall indemnify the other to the extent of its comparative fault.

Notwithstanding indemnification for any claim, action, loss, or damage involving a third party, District and City hereby waive any and all rights of subrogation recovery against each other.

Furthermore, if District or City attempts to seek recovery from the other for Workers' Compensation benefits paid to an employee, District and City agree that any alleged negligence of the employee shall not be construed against the employer of that employee.

#### **GENERAL TERMS AND CONDITIONS**

23. Representation of the District. In the performance of the Agreement, City, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the District.
24. Change of Address. City shall notify the District in writing of any change in mailing address within ten (10) business days of the change.
25. Agreement Assignability. Without the prior written consent of the District, the agreement is not assignable by City, either in whole or in part.
26. Agreement Amendments. City agrees that any alterations, variations, modifications, waivers, or provisions of the Agreement shall be valid only when reduced to writing, duly signed, and attached to the original Agreement and approved by the required persons of both City and District.
27. Correction of Performance Deficiencies. Failure by City or District to comply with any of the provisions, covenants, requirements or conditions of this agreement shall be a material breach of this agreement.  

In the event of a non-cured breach, either Party may, at its sole discretion and in addition to immediate termination and any other remedies available at law, in equity, or otherwise specified in this Contract:

  - A. Afford the breaching Party, thereafter, a time period within which to cure the breach, which period shall be established at sole discretion of the other Party; and/or,
  - B. Terminate this Contract.
28. Attorney Fees and Costs. 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 attorneys' fees directly arising from a third-party legal action against a party hereto and payable under INDEMNIFICATION paragraphs.
29. Venue and Governing Law. The venue of any action or claim brought by any party to this Agreement will be the Central District Court of San Bernardino County Superior Court. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third-party, the parties hereto agree to use their

best efforts to obtain a change of venue to the Central District Court of San Bernardino County Superior Court. This contract shall be governed by the laws of the State of California.

30. Notification. In the event of a problem or potential problem that will impact the level of performance under this Agreement, the City shall notify the District within one (1) working day, in writing and by telephone.
31. Former County and District Officials. City agrees to provide or has already provided information on former San Bernardino County and District administrative officials (as defined below) who are employed by or represent City. The information provided includes a list of former County and District administrative officials who terminated COUNTY or District employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of City. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County or District department or group head, assistant department or group head, or an employee in the Exempt Group, Management Unit, or Safety Management Unit.
32. Inaccuracies or Misrepresentations. If in the course of or the administration of this Agreement if a Party determines that the other Party has made a material misstatement or misrepresentation, or that materially inaccurate information has been provided, this Agreement may be immediately terminated. If the Agreement is terminated according to this provision, either Party is entitled to pursue any available legal remedies.
33. Waiver. No delay on the part of either party in exercising any power or right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof of any other power or right. No waiver by any party of any right hereunder or of any default shall be binding upon such party unless such waiver is in writing and signed by a duly authorized official of such party; and no waiver of any default or failure by such party to exercise any right hereunder shall operate as a waiver of any other or further exercise of such right or of any further default.
34. Severability. If any provisions of this agreement, or portions thereof, or the application thereof to any circumstances shall be held invalid or unenforceable, the remainder of this agreement and the application thereof to other circumstances shall nevertheless be valid.
35. Notices and Reports. Any notices shall be addressed to the respective parties as set forth below:

DISTRICT: **Monica Ronchetti**  
Deputy Fire Marshal/CUPA Manager  
Household Hazardous Waste Section  
2824 East "W" Street  
San Bernardino, CA 92415-0799

CITY: **Kody Tompkins**  
GM of Environmental Services  
220 East Mountain View  
Barstow, CA 92311

36. Entire Agreement.
  - A. This agreement is intended by the parties hereto as a final expression of their agreement and understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms hereof and supersedes any and all prior and contemporaneous agreements and understandings.
  - B. The signatures of the Parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.
37. This agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterpart 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 Board of Directors has caused this Agreement to be subscribed to by the Secretary thereof, and City has caused this Agreement to be subscribed on its behalf by its duly authorized officers, the day, month and year written.

**SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT**

►  
 \_\_\_\_\_  
 Curt Hagman, Chairman, Board of Directors

Dated: \_\_\_\_\_  
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD  
 Lynna Monell, Secretary

By \_\_\_\_\_  
 Deputy

City of Barstow  
 \_\_\_\_\_  
 (Print or type name of corporation, company, contractor, etc.)

By ► \_\_\_\_\_  
 (Authorized signature - sign in blue ink)

Name \_\_\_\_\_  
 (Print or type name of person signing contract)

Title \_\_\_\_\_  
 (Print or Type)

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

Address \_\_\_\_\_  
 \_\_\_\_\_

**FOR COUNTY USE ONLY**

Approved as to Legal Form  
 ►  
 Scott Runyan, Supervising Deputy County Counsel  
 Date \_\_\_\_\_

Reviewed for Contract Compliance  
 ►  
 Date \_\_\_\_\_

Reviewed/Approved by Department  
 ►  
 Date \_\_\_\_\_