

Yolo County Agreement No. **2025-1**_____

**YOLO COUNTY UNIFIED PROGRAM PARTICIPATING AGENCY AGREEMENT WITH CITY OF WEST
SACRAMENTO FIRE DEPARTMENT**

This Agreement is entered into and effective on **January 28, 2025**, between the City of West Sacramento Fire Department (PA) as a Participating Agency and the Yolo County Department of Community Services, Environmental Health Division (YCEH) as the Certified Unified Program Agency (CUPA), referred to jointly herein as “the Parties”.

WHEREAS, the CUPA will fulfill its responsibilities under this Agreement through its Hazardous Materials Unit/CUPA staff; and

WHEREAS, State law requires that all Participating Agencies enter into Unified Program Agency Agreements with the CUPA; and

WHEREAS, the City as a Participating Agency (PA) understands that establishment of a formal Participating Agency Agreement is necessary, and

WHEREAS, the PA will fulfill its responsibilities under this Agreement through its inspectors; and

WHEREAS, this Agreement will become effective upon approval by the CalEPA Secretary; and

WHEREAS, this Agreement will remain in effect unless the CalEPA Secretary approves the removal of the PA or the withdrawal by the CUPA or PA, or the CalEPA Secretary withdraws certification of the CUPA; and

WHEREAS, no transition period is needed as the PA staff have been implementing the program and the CUPA has verified its qualifications to do so;

NOW, THEREFORE, the Parties hereby agree to the terms and conditions:

1. Definitions

Aboveground Petroleum Storage Act Program: means that program as authorized by Health & Safety Code Division 20, Chapter 6.67.

California Accidental Release Prevention (CalARP) Program: means that program as authorized by Health & Safety Code Division 20, Chapter 6.95. Article 2.

Certified Unified Program Agency (CUPA): as defined in Health & Safety Code §25404(a)(1)(A), a CUPA means the agency certified by the Secretary to implement the Unified Program within its jurisdiction.

Yolo County Environmental Health Division (YCEH): is a division within the Yolo County Department of Community Services. The YCEH is the agency that is the point of contact for the Unified Program within the County and its duties generally include establishing all applicable rules, procedures, and plans for the Unified Program.

Hazardous Materials Management Plan and Hazardous Materials Inventory Statement (HMMP-HMIS) Program: means that program as authorized by Health and Safety Code, Division 20, Chapter 6.11§25404(c)(6).

Hazardous Materials Business Plan (HMBP): means that program as authorized by Health & Safety Code Division 20, Chapter 6.95 Article 1.

Hazardous Waste Control Law: means those applicable statutes contained in Health & Safety Code Division 20, Chapter 6.5.

Hazardous Waste Generator Program: means that program as authorized by Health & Safety Code Division 20, Chapter 6.5.

Hazardous Waste Treatment Program: means that program as authorized by Health & Safety Code Division 20, Chapter 6.5.

Inspection and Enforcement Plan (I&E Plan): means a plan as authorized by Health & Safety Code Division 20 Chapter 6.11 §25404.2(a)(3) and Title 27 California Code of Regulations §15200 whereby the CUPA develops an inspection program in conjunction with the applicable PA's.

Participating Agency (PA): as defined in Health & Safety Code §25404(a)(1)(B), a PA means a state or local agency that has a written agreement with the CUPA to implement one or more elements of the Unified Program.

State: State of California.

State law: means the applicable codified statutes and published regulations of the State of California.

Underground Storage Tank Program (UST Program): means that program as authorized by Health & Safety Code Division 20, Chapter 6.7.

Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program): as described in Health & Safety Code §25404 et seq., the Unified Program means a program whereby the Secretary of the California Environmental Protection Agency (Secretary), in coordination with various Certified Unified Program Agencies and Participating Agencies, consolidate the regulation of hazardous waste and hazardous materials.

2. Responsibilities of the CUPA

The CUPA shall have the following responsibilities, subject to the applicable laws and regulations:

- A. Manage, implement and maintain the applicable provisions of the Health and Safety Code including, but not limited to, Division 20 Chapters 6.5, 6.67, 6.7, 6.95, and 6.11; California Code of Regulations (CCR) Title 19, Division 2, "Office of Emergency Services"; CCR Title 22, Division 4.5 "Environmental Health Standards for the Management of Hazardous Waste"; CCR Title 23, Division 3 "State Water Resources Control Board"; CCR Title 24, Part 9 (California Fire Code), Chapter 50, Sections 5001.5.1 and 5001.5.2, and Appendix H; and CCR Title 27, Division 1, "General Functions and Responsibilities"; and such other laws and regulations that address the role or responsibility of a Certified Unified Program Agency.
- B. All permitting is done by the CUPA. All CERS data entry and approval is done by the CUPA. All monetary and financial aspects (except for the PA billing the CUPA for inspections) is done by the CUPA.
- C. Develop and maintain administrative procedures for the Unified Program in accordance with State laws and regulations.
- D. Implement a single fee system, pursuant to 27 CCR §15210, which incorporates fees and surcharges necessary to cover the costs incurred in implementing the Unified Program. This

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includes facilities assigned to the PA by the CUPA. The CUPA will be solely responsible for assessing, collecting, and remitting the applicable state surcharges quarterly.

- E. The CUPA assigns facilities to the PA to be inspected by PA inspectors. Such facilities **ONLY** include facilities subject to the Hazardous Materials Business Plan (HMBP) program, and the Hazardous Waste Small Quantity Generator (HW SQG) program. Therefore, there is no need for the CUPA staff to inspect these facilities for any other programs. Facilities inspected by the PA pay the same single fee as facilities inspected by the CUPA. The CUPA establishes CUPA fees for all regulated facilities and that is approved by the Yolo County BOS. The PA establishes a fee for the CUPA to reimburse the PA for inspection services.
- F. Compile program data from both Parties and prepare and forward reports to the California Environmental Protection Agency (CalEPA) as required by State law. This is done via quarterly Compliance, Monitoring, and Enforcement (CME) data transfer via Electronic Data Transfer (EDT). Since January 2013, CUPA facilities have been submitting their Hazardous Materials Business Plan (HMBP) electronically via the California Environmental Reporting System (CERS). CUPA staff reviews these submittals on an ongoing basis and either accepts them or rejects them for correction. A designated CUPA staff does CERS reviews for CUPA facilities assigned to the PA. At the beginning of each month, the CUPA Manager sends the PA an updated list of CUPA facilities that are due for routine inspection. The PA staff is approved to view CERS submittals before conducting a facility inspection. Currently the PA staff are using paper inspection forms to conduct inspections. The PA staff email their CUPA liaison an electronic copy of the inspection report and any applicable notices of violation. The PA may retain the physical copy of the inspection report per their records retention policy. The CUPA staff then uploads the inspection report to the OnBase database and enters the inspection and violation data into the EnvisionConnect database. Records retention, in alignment with applicable CUPA Administrative SOPs, for inspection reports, training documents, etc. is done by the CUPA. This shall be done for a period of not less than five (5) years.
- G. Complete the required self-evaluation and annual evaluation of any Participating Agencies or contract parties conducting any portion of the Unified Program.
- H. Conduct the Unified Program inspections at facilities within the city except those inspections at facilities falling solely within the PA's responsibilities as outlined in Section 3 of this Agreement. When new PA staff conduct CUPA inspections, they often request CUPA staff to shadow them and provide training. The PA staff will take the lead during a joint inspection. A joint inspection may cover more than one program element, depending on the facility. The PA staff will write the inspection report and cite any violations. Joint inspections are mainly done for training new PA staff. In addition, CUPA staff do not normally inspect facilities assigned to the PA; however, if it is a facility under investigation, then CUPA staff may conduct an inspection at that facility.
- I. County-wide, the CUPA shall inspect facilities that are subject to the California Accidental Release Prevention (CalARP) program, Underground Storage Tank (UST) program, Aboveground Petroleum Storage Tank (APSA) program, Hazardous Waste Large Quantity Generator (HW LQG) program, or the Hazardous Waste Treatment facility program, in accordance with applicable State law and regulation.
- J. The CUPA is responsible for and manages all meetings, hearings, legal proceedings, formal enforcement, and documentation for the CUPA facilities inspected by the PA.

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- K. Informal and formal enforcement actions shall be conducted by the CUPA. Informal enforcement includes Notice of Violation on the inspection report and the Courtesy Notice of Violation letters sent monthly, and formal enforcement includes the \$500 Penalty Settlement Offer letters, Administrative Enforcement Orders, and potential referral to the County DA's Office. The PA retains the right to conduct informal enforcement.

3. Responsibilities of the PA

The PA shall have the following responsibilities within its jurisdictional boundaries subject to the applicable laws and regulations:

- A. Conduct Unified Program inspections of those facilities assigned by the CUPA and in accordance with the Inspection and Enforcement Plan. All CUPA facilities assigned to the PA shall be inspected at least once every three years. Such facilities **ONLY** include facilities subject to the Hazardous Materials Business Plan (HMBP) program, and the Hazardous Waste Small Quantity Generator (HW SQG) program.
- B. Document and report the results of inspections conducted by the PA on forms provided or approved by the CUPA. The PA staff are trained on the CUPA I&E Plan and according to the plan, if the inspector is unable to complete the inspection report at the time of the inspection and give a copy to the facility, they shall do so no later than five calendar days from the date of the inspection. Inspection documents, including the inspection form and any photos of the inspection, shall be forwarded to the CUPA within seven (7) working days of the inspection or receipt of the evidence by the PA.
- C. The PA staff may cite violations in the inspection report. The PA staff will follow up with the facility regarding correction of the violation and certification of return to compliance. If needed, within 24 hours, PA staff shall report the following violations of law to the CUPA: 1) Class I or Class II violations of the Hazardous Waste Control Law; and 2) any other violations that pose an immediate threat to public health, worker safety, or the environment or requires an immediate enforcement action to protect life or health.
- D. Provide for PA staff's education, training, and experience to ensure satisfaction of requirements identified in 27 CCR §15260 and §15270 and maintain adequate resources to implement the program element(s) it administers under this Agreement. It is recommended that the PA work with the CUPA to coordinate and track training of PA staff.
- E. Provide all tools and equipment necessary for the PA staff to conduct the Unified Program inspections.
- F. Participate in the public forums, advisory committees, and other planning groups at the request of the CUPA to facilitate the implementation of the Unified Program.
- G. Provide the CUPA and/or the applicable State and Federal agencies with information appropriately requested regarding the inspection program that the PA is conducting on behalf of the CUPA.

4. Fee Program

- A. The PA shall adopt fees for program elements the PA administers in its performance of this Agreement. This fee will be charged to the CUPA quarterly. The CUPA oversees management of the single fee system, surcharge, and fee accountability system. The CUPA's income is based on fees annually charged to facilities. Expenditure includes staff salaries and benefits, direct costs,

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and indirect costs. This includes a workload analysis that shows the hours needed by the CUPA staff to implement each Unified Program element. The CUPA and the PA have agreed that for each CUPA facility inspection conducted by the PA, the CUPA will pay the PA a fixed fee from the PA's approved Book of Fees. All the CUPA facilities in Yolo County are charged the same fee regardless of who does the inspection. In the event of a joint inspection, the facility will be charged the annual CUPA fees only once and the PA will be reimbursed by the CUPA for conducting the inspection. In the fall of each year, the CUPA reviews the fees to ensure that the fees do not exceed the cost to run the program. A comprehensive fee review with the fee consultant is done approximately every three (3) years to ensure that all program costs are being captured in the fees. At the end of each quarter, the PA sends the CUPA an invoice with a list of facility inspections conducted. The CUPA verifies the information and then pays the invoice. The fee study done by the CUPA also determines if the fees assessed by the CUPA will be sufficient to cover the necessary and reasonable costs for the PA to implement applicable Unified Program elements. A copy of the most recent fee study was provided to CalEPA.

- B. The CUPA shall implement a fee accountability program designed to encourage efficient and cost-effective operation of the program for which fees are assessed, and pursuant to 27 CCR §15220.
- C. The City of West Sacramento shall adopt a fee that will be charged to the CUPA for reimbursement of PA inspections.

5. Coordination and Communication

- A. Contacts for planning, problem resolution, and coordination will be at the management level of the CUPA and the PA.
- B. Whenever the need arises, the CUPA will discuss with the PA any deficiencies in the inspections, corrective actions needed and timeframes for correction. This shall ideally be done via email.
- C. The Parties will meet at least quarterly to discuss program status, progress, and issues related to their respective performances under this Agreement, if any. The quarterly meetings are an opportunity for the PA and CUPA to consolidate, coordinate and make consistent applications of regulatory requirements, guidance documents, or any other aspects of the Unified Program implementation bridging between the two agencies.

6. Annual Performance Review

- A. The CUPA starts working on the annual performance review starting in July. If during the annual performance review, the CUPA determines that the PA's performance is deficient, or the PA has failed to maintain the required qualifications, the CUPA and the PA shall meet no later than August 15th of each year to discuss the deficiency, appropriate corrective action and time frames for correcting the deficiency. At the conclusion of this meeting, the CUPA shall provide a Notice of Deficiency to the PA within 30 days from the date of the meeting. The Notice of Deficiency shall specify the circumstances of each deficiency, corrective actions necessary, and time frame for the correction of each deficiency.
- B. In accordance with Title 27 CCR Section 15280, CUPA's annual self-audit will include an evaluation of the PA's performance in conducting CUPA inspections. The CUPA will provide the PA with a copy of the CUPA's annual self-audit report by September 30th of each year.
- C. The PA shall correct all deficiencies by the specified due date, not to exceed one-hundred eighty (180) days. Until the CUPA determines that each identified deficiency is adequately corrected, the

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PA shall provide monthly deficiency status reports to the CUPA. The status reports shall include detailed information on the progress made to correct each identified deficiency and any potential circumstances that are preventing the PA from achieving the required corrective actions. The PA may request additional time to correct the deficiencies from the CUPA. The request, denial or approval shall be documented in writing and provided to both parties.

- D. If the PA fails to fully correct the noted deficiencies within the prescribed time frame, or within the prescribed time frame of an extension granted by the CUPA, the CUPA and the PA shall enter into a Program Improvement Agreement ("PIA") with conditions and deadlines. The PIA is binding on all parties and shall specify the areas of improvement, corrective actions, and time frames that shall be met.
- E. The PIA shall provide an additional period, not to exceed forty-five (45) days, for the PA to correct the deficiencies.
- F. If the PA fails to meet any of the requirements of a PIA, see Section 8(A).

7. Dispute Resolution Procedure

- A. The CUPA and the PA shall cooperate informally to resolve conflicts.
- B. If any matter cannot be resolved informally, the complainant (defined as the party bringing forth the complaint) shall inform, in writing, the other party's coordinator (as a respondent) of the dispute. Within thirty (30) days of receiving the complaint, the respondent shall review the complaint and respond in writing to the complainant, citing the basis for their decisions and the evidence relied upon.
- C. If the dispute is not resolved, the complainant may request a meeting at an agreeable time within fifteen (15) business days from the date the response was received by the complainant. The meeting may be waived if both parties agree to such a waiver.
- D. If the dispute is not resolved after the first meeting, either party may request a second meeting at an agreeable time frame within fifteen (15) business days from the date of the first meeting.
- E. If the dispute is still not resolved after the second meeting, either party may request a meeting with an appropriate management representative of the CUPA or the PA.
- F. If the dispute is still not resolved, either party may request that the CalEPA Secretary resolve the dispute by sending a written request to the CalEPA Secretary. A copy of the request shall be sent simultaneously to the other party. Disputes will be resolved by the CalEPA Secretary subject to a fair and reasonable process given the particular dispute as deemed appropriate by the CalEPA Secretary. The CalEPA Secretary's decision is final and binding.

8. Removal and Withdrawal

- A. **Removal of the PA by the CUPA.** The CUPA may decide to remove the PA based on a determination of inadequate performance in accordance with 27 CCR sections 15330(d)(A), 15300, and 15180(e)(5). If the CUPA has documented and determined, after completing the PA's annual performance review per Section 6, including the PA failing to comply with the PIA, that the PA is not adequately performing HMBP and HW SQG inspections, then the CUPA shall complete the following steps for removal of the PA:
 - i. Notice to PA. If the PA fails to meet any of the requirements of a PIA, the CUPA shall send a notice to the PA of the CUPA's intent to notify the CalEPA Secretary of a request to remove

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- the PA. The notice shall identify why the PA's performance is inadequate and recommended program change.
- ii. Public Comment. After noticing the PA, the CUPA shall hold a public hearing to obtain public comments on the PA's inadequate performance and solicit oral and written comments from the public.
 - iii. PA Appeal to County Administration. Within thirty (30) days of receipt of the notice of intent to remove the PA, the PA may appeal the CUPA's decision by sending a written notice of appeal to the YCEH Director. The PA shall be notified within sixty (60) days from the YCEH Director's receipt of the PA's written notice of appeal, as to whether the Director has decided to move forward with removing the PA by notifying and seeking approval from the CalEPA Secretary in accordance with California Code of Regulations, Title 27, Section 15300 (a). Within 14 days of receipt of the Director's decision, the PA may submit a written appeal of the Director's decision to the Yolo County Board of Supervisors. The CUPA and PA shall follow the procedures outlined in the Yolo County Code of Ordinances, Chapter 4, Appeals.
 - iv. If the Board of Supervisors upholds the YCEH decision, the CUPA must apply and obtain approval from the Secretary to remove the PA.

B. Withdrawal.

- i. Withdrawal by the CUPA or PA. This PA Agreement shall terminate if the CUPA, with the approval of the CalEPA Secretary, voluntarily discontinues its role as a CUPA within the PA's boundaries. In addition, the PA Agreement may terminate if the PA withdraws as a PA, with the approval of the Secretary of the program change.
 - a. A party may withdraw only by providing at least one hundred eighty (180) days advance written notice to the other party and to the CalEPA Secretary of its intent to withdraw. Any such withdrawal shall occur in compliance with all applicable requirements promulgated by CalEPA.
 - b. If the PA seeks to withdrawal, during the period between notice and withdrawal, the Parties shall cooperate to facilitate any necessary transfer of pertinent unified program responsibilities. The CUPA shall become responsible for conducting the CUPA inspections that were assigned to the withdrawing PA, once approved by the Secretary.
- ii. Withdrawal of Certification of the CUPA by the CalEPA Secretary. Should the CalEPA Secretary withdraw the certification of the CUPA, the CalEPA Secretary shall notify the CUPA of its intent to withdraw certification. If the PA is the reason for withdrawal of certification of the CUPA, the parties shall work together to correct any deficiencies noted by the CalEPA Secretary as the basis for the notice of Intent to withdraw certification, and to reallocate unified program responsibilities, as necessary, but, to the extent reasonable, without materially increasing the duties or responsibilities of either party, to ensure that a coordinated, consolidated, and consistent unified program is achieved and maintained. If the notice of intent to withdraw certification of the CUPA is thereafter rescinded, this PA Agreement shall remain in effect. If the CalEPA Secretary withdraws certification of the CUPA, this Agreement shall terminate.

9. Applicable Laws

In the performance of the services required by this Agreement, each Party shall comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives, and laws. This Agreement shall be

deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Woodland, California.

10. Indemnification

The PA shall defend, indemnify, save, keep and hold harmless the County, its officers, officials, employees, agents and volunteers from all damages, costs or expenses (including but not limited to attorney fees) in law or equity that may at any time arise or be asserted because of any damages (whether to property or person, or otherwise) which are based, in whole or in part, upon any act or omission of the PA, its officers, agents or employees occurring in the performance of this Agreement

The County shall defend, indemnify, save, keep and hold harmless the PA, its officers, officials, employees, agents and volunteers from all damages, costs or expenses (including but not limited to attorney fees) in law or equity that may any time arise or be asserted because of any damages (whether to property or person, or otherwise) which are based, in whole or in part, upon any act or omission of the County, its officers, agents or employees occurring in the performance of this Agreement.

11. Status of Parties

Parties acknowledge and agree that each Party is an independent contractor, and that no relationship of employer-employee exists between the CUPA and the PA. It is further understood and agreed by the Parties hereto that neither Party shall have any right to act on behalf of the other Party in any capacity whatsoever as an agent or to bind the other Party to any obligation whatsoever.

12. Records Management

All records, documents, and general correspondence relating to this Agreement shall be retained by each Party and made available for review and copying by the other Party throughout the term of this Agreement and for a period of not less than five (5) years.

13. Insurance/ Self-Insurance

Both the PA and the CUPA are members of the Yolo County Public Agency Risk Management Authority and participate in its liability, insurance, and self-insurance programs.

The Parties acknowledge and agree that claims against the CUPA directly related to the PA's performance under this Agreement, will be covered by the PA and will be counted as costs for the PA for premium calculation purposes; provided, however, that does not include claims that arise due to the negligence or willful misconduct of the CUPA, its officers, or employees.

Further, the Parties acknowledge and agree that claims against the PA directly related to the CUPA's performance under this Agreement will be covered by the CUPA and will be counted as costs for the CUPA for premium calculation purposes; provided, however, that does not include claims that arise due to the negligence or willful misconduct of the PA, its officers, or employees.

14. Amendment

The Agreement may be amended only by written instrument signed by the CUPA and the PA. Any future changes to the agreement will need to be provided to the Secretary of the CalEPA for approval before becoming effective.

15. Beneficiaries

Except where specifically stated otherwise in this document, the promises in this document benefit the CUPA and the PA only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this Agreement, nor do the Parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

16. Entire Agreement


This Agreement constitutes the entire agreement between the CUPA and the PA, and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the Parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.


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IN WITNESS WHEREOF, the Parties have executed this Agreement.

CITY OF WEST SACRAMENTO

COUNTY OF YOLO

DocuSigned by:

Amanda Berlin, Assistant City Manager

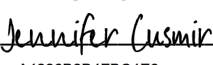

Mary Vixie Sandy, Chair
Yolo County Board of Supervisors

Date: 2/4/2025 | 10:01:10 AM PST

Date: _____

Attest: Jennifer Cusmir, City Clerk
City of West Sacramento

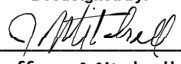
Attest: Julie Dachtler, Senior Deputy Clerk
Yolo County Board of Supervisors

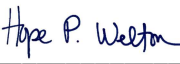
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By: Jennifer Cusmir
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By: _____
Deputy (Seal)

Approved as to Form:

Approved as to Form:

DocuSigned by:

By: Jeffrey Mitchell, City Attorney

Philip J. Pogledich, County Counsel

By: Hope P. Welton, Senior Deputy
Digitally signed by Hope P. Welton, Senior Deputy
Date: 2025.02.05 13:35:27 -08'00'