

2023 FIRE HAZARD FUEL REDUCTION PROGRAM AGREEMENT

This Fire Hazard Fuel Reduction Program Agreement (“Agreement”) is made upon the date of execution, as set forth below, by and between, **CONTRACTOR** and the Cambria Community Services District (“**CCSD**”). The parties hereto, in consideration of the mutual covenants contained herein, hereby agree to the following terms and conditions:

It is understood and agreed to:

SCHEDULE OF CHARGES

The **CCSD** will pay the **CONTRACTOR** based upon the schedule of charges per the ***Bid Proposal Form***, attached hereto as Exhibit “D.”

DOCUMENTS INCORPORATED BY REFERENCE

Exhibits “A,” “B,” “C,” “D,” and “E,” attached hereto, are hereby incorporated by reference and made a part of this Agreement as if fully set forth herein.

OBLIGATIONS OF CONTRACTOR

- A. The **CONTRACTOR** shall furnish and maintain throughout the term of this Agreement all proper insurance coverage as specified in the "*Legal Relations and Responsibilities to the Public*" (Exhibit A) and shall comply with all of its terms and conditions.
- B. All work shall be completed as depicted in the "*Fire Hazard Fuel Reduction Program Schedule*" (Exhibit B). At all times the **CONTRACTOR**'s work shall be subject to the approval of the Fire Chief or his designee.
- C. The **CONTRACTOR** shall become familiar and shall fully comply with the **CCSD** "*2023 Cambria Fire Department Fire Hazard Fuel Reduction Program Policy*" (Exhibit C).
- D. Upon award of the Agreement, the **CONTRACTOR** shall furnish a "Cash Deposit to Secure Faithful Performance" (Exhibit E).
- E. The **CONTRACTOR** agrees to timely and fully perform or provide the services specified in this Agreement.
- F. The **CONTRACTOR** must submit packaged bills for lots cleared, including a cover page that lists the number of lots cleared and the total cost of the packaged bills.
- G. All parcel clearing charges must be submitted to the **Cambria Fire Department** by September 18, 2023, at 4:00 P.M. Failure to deliver the parcel clearance charges to the **CCSD** by this date will result in a 10% withholding of all charges that are delivered late to the **CCSD** as liquidated damages, assessed against the **CONTRACTOR**, and not as a penalty as damages would be difficult to ascertain.

MINIMUM AMOUNT OF SERVICE BY CONTRACTOR

CONTRACTOR agrees to devote the necessary hours to perform the services set forth in this Agreement in an efficient and effective manner. **CONTRACTOR** may represent, perform services for,

and be employed by additional individuals or entities, at **CONTRACTOR's** sole discretion, as long as the performance of such other services does not interfere with or present a conflict with the services rendered to CCSD pursuant to this Agreement.

GENERAL PROVISIONS

TERM: This Agreement will become effective on the date of execution set forth below and will continue for a period of one (1) year.

SERVICES TO BE PERFORMED: **CONTRACTOR** agrees to perform or provide the services specified in this Agreement.

CONTRACTOR shall determine the method, details and means of performing the above referenced services.

CONTRACTOR may, at **CONTRACTOR's** own expense, employ such assistants as **CONTRACTOR** deems necessary to perform the services required of **CONTRACTOR** by this Agreement. **CCSD** may not control, direct or supervise **CONTRACTOR's** assistants or employees in the performance of those services.

TOOLS AND INSTRUMENTALITIES: **CONTRACTOR** shall provide all tools, equipment and instruments to perform the services required under this Agreement.

TERMINATION OF AGREEMENT

TERMINATION ON NOTICE: Notwithstanding any other provision of this Agreement, either party hereto may terminate this Agreement, at any time, without cause by giving at least **thirty (30) days'** prior written notice to the other party to this Agreement.

TERMINATION ON OCCURRENCE OF STATED EVENTS: This Agreement shall terminate automatically on the occurrence of any of the following events:

- (1) Bankruptcy or insolvency of any party;
- (2) Sale of the business of any party;
- (3) The end of the **thirty (30) day** notice period as set forth above;
- (4) The completion of the work specified in Exhibit C; or
- (5) Assignment of this Agreement by **CONTRACTOR** without the prior written consent of the **CCSD**.

TERMINATION BY ANY PARTY FOR DEFAULT OF CONTRACTOR: Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party, at their option, may terminate this Agreement, immediately, by giving written notice of termination to the breaching party.

OPTION TO EXTEND: If **CONTRACTOR** has completed all work and obligations set forth in this Agreement satisfactorily, at the discretion of the **CCSD**, the Agreement may be extended for one (1) additional year. In that event, the **CCSD** will provide **CONTRACTOR** with an updated Exhibit B consisting of the Fire Hazard Fuel Reduction Program 2024 Schedule and all the terms governing this Agreement shall remain in effect according to the deadlines contained therein, unless sooner terminated.

MISCELLANEOUS:

REMEDIES: The remedies set forth in this Agreement shall not be exclusive, but shall be cumulative with, and in addition to, all remedies now or hereafter allowed by law or equity.

NO WAIVER: The waiver of any breach by any party of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of this Agreement.

ASSIGNMENT: This Agreement is specifically not assignable by **CONTRACTOR** to any person or entity. Any assignment or attempt to assign by **CONTRACTOR**, whether it be voluntary or involuntary, by operation of law or otherwise, is void and is a material breach of this Agreement and shall immediately cause this Agreement to terminate.

ATTORNEYS' FEES: In the event of any controversy, claim or dispute between the parties hereto, arising out of or related to this Agreement, or the breach thereof, the prevailing party shall be entitled, in addition to other such relief as may be granted, to a reasonable sum as and for attorneys' fees.

NOTICES: Except as otherwise expressly provided by law, any and all notices or other communication required or permitted by this Agreement or by law to be served on or given to any party to this Agreement shall be in writing and shall be deemed duly served and given when personally delivered or, in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid, addressed as follows for each respective party:

CCSD CONTRACTOR

General Manager
Cambria Community Services District
P.O. Box 65
Cambria, CA 93428

CONTRACTOR

GOVERNING LAW: This Agreement and all matters relating to this Agreement shall be governed by the laws of the State of California in force at the time any need for the interpretation of this Agreement or any decision or holding concerning this Agreement arises. Any action arising out of or related to this Agreement shall be filed in the Superior Court of the State of California with jurisdiction over San Luis Obispo County.

BINDING EFFECT: This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns of the parties hereto, but nothing in this section shall be construed as consent by **CCSD** to any assignment of this Agreement or an interest in this Agreement.

SEVERABILITY: Should any provision of this Agreement be held by a court of competent jurisdiction or by a legislative or rulemaking act to be either invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, unimpaired by the holding, legislation or rule.

SOLE AND ENTIRE AGREEMENT: This Agreement constitutes the sole and entire Agreement between the parties with respect to the subject matter hereof. This Agreement correctly set forth the obligations of the parties hereto to each other as of the date of this Agreement. All Agreements or representations respecting the subject matter of this Agreement not expressly set forth or referred to in this Agreement are null and void.

TIME: Time is expressly declared to be of the essence in this Agreement.

DUE AUTHORITY: The parties hereby represent that the individuals executing this Agreement are expressly authorized to do so on and in behalf of the parties.

CONSTRUCTION: The parties agree that each has had an opportunity to have their legal counsel review this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only and are not intended to be construed to define or limit the provisions to which they relate.

AMENDMENTS: Amendments to this Agreement shall be made only with the mutual written consent of all the parties to this Agreement.

Executed on this _____ day of _____, 2023 at Cambria, California.

**CAMBRIA COMMUNITY SERVICES
DISTRICT**

CONTRACTOR

By: _____
Matthew McElhenie, General Manager

By: _____
Its: _____

Attest:

Haley Dodson, Administrative Analyst

Approved As To Form:

Timothy J. Carmel, District Counsel

EXHIBIT "A"

LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC

Contractor's Insurance: The **CONTRACTOR** shall not commence work under this Agreement until they have obtained all insurance required under this Section and such insurance has been approved by the **CCSD** as to form, amount and carrier. Nor shall the **CONTRACTOR** allow any subcontractor to commence work on his subcontract until the same insurance required of the subcontractor has been so obtained and approved.

- (a) Workers Compensation Insurance: The **CONTRACTOR** shall establish and maintain, during the life of this Agreement, workers compensation insurance in a minimum amount of **One Million Dollars (\$1,000,000)** for all employees working under this Agreement, and in case any work is sublet, **CONTRACTOR** shall require subcontractor similarly to provide workers compensation insurance. **CONTRACTOR** shall indemnify the **CCSD** for any damage resulting to it from failure of either **CONTRACTOR** or the subcontractor to procure or maintain such insurance.
- (b) Commercial General Liability Insurance: The **CONTRACTOR** shall procure and maintain during the life of this Agreement, such public liability and property damage insurance as shall protect the **CCSD**, its elected and appointed boards, officers, agents and employees, **CONTRACTOR**, and any subcontractor performing work covered by this Agreement from claims for damage for bodily injury including death, as well as claims for property damage which may arise from **CONTRACTOR's** or subcontractor's operations under this Agreement, whether such operations be by the **CONTRACTOR**, or by any subcontractor, or by anyone directly or indirectly employed by either **CONTRACTOR** or subcontractor, and in the minimum amount of **One Million Dollars (\$1,000,000)**.
- (c) Auto Liability: **CONTRACTOR** shall possess and maintain auto liability insurance (Business Auto Coverage Form) for all vehicles used in the provision of services under this Agreement. The minimum amount of auto liability insurance shall be in the amount of **One Million Dollars (\$1,000,000) per accident**.
- (d) Proof of Coverage of Insurance: Upon award of bid, **CONTRACTOR** shall furnish the **CCSD** with a Certificate of Insurance and endorsement, which shall contain the following:
- "Name as Additional Insured Parties: The Cambria Community Services District (CCSD), its elected and appointed boards, officers, agents and any subcontractor in the performance of work for the **CCSD**."
- Thirty (30) days** prior notice shall be given to the **CCSD** of any reduction in insurance coverage or of insurance cancellation.
- (e) Hold Harmless Agreement: **CONTRACTOR** shall indemnify, defend and hold harmless, at its cost and with counsel selected by the **CCSD**, the **CCSD** and its officers, officials, employees and agents from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any act, error or omission of the **CONTRACTOR**, his agents or employees, in the performance of the work.