

AIR QUALITY PROGRAMS AGREEMENT

Whereas, the Coastal Bend Air Quality Partnership (formerly the Corpus Christi Air Quality Group) was established in 1995 when Corpus Christi was very close to violating ozone air quality standards set forth by the Environmental Protection Agency (EPA).

Whereas, the purpose of the Partnership and its activities is to keep Nueces and San Patricio County air healthy and in compliance with EPA standards through voluntary measures; and

Whereas, the Partnership works to stay abreast of local ozone levels, seek funding for air quality programs, and identify and implement programs best suited to reduce ozone-causing emissions in our air.

This Air Quality Programs Agreement ("Agreement") is made and entered into effective as of January 1, 2024 (the "Effective Date"), by and between the City of Corpus Christi ("City") and the COASTAL BEND AIR QUALITY PARTNERSHIP ("CBAQP"), a Texas 501(c)(3) nonprofit corporation.

In consideration of the mutual covenants, rights, and obligations set forth herein and the benefits to be derived therefrom, the receipt and sufficiency of which each party acknowledges, the parties agree as follows:

1. **Term.** This Agreement is for one year commencing on the Effective Date and shall continue until December 31, 2024. The term includes an option to extend for up to two additional one-year periods subject to appropriations per Section 10.

2. **Programs, Projects, Activities.** During the term of this Agreement, the CBAQP agrees to provide to or on behalf of City, the projects, programs and/or related activities described in (**Exhibit A**) in accordance with the terms and conditions of this Agreement.

3. **Consideration.** In consideration of the Financial Agreement to be provided hereunder, the City agrees to pay the CBAQP \$25,000 annually. The CBAQP agrees that any funds paid to it pursuant to this Agreement will be utilized solely for the purpose of providing CBAQP projects, programs and activities identified in this agreement.

4. **Annual Report.** On an annual basis, the **CBAQP** shall submit to the City a written activity report (the "Activity Report") of its accomplishments for that particular year. Except as otherwise provided in this Section, the form of the Activity Report shall include, at a minimum, a narrative summary of the projects, programs and activities rendered during the year, and an annual financial statement including year-to-date expenditures incurred by the CBAQP in providing the projects, programs, and activities.

5. **Records.** The CBAQP shall maintain fiscal records and supporting documentation in the form of canceled checks, payroll records, and invoices evidencing the expenditure of all funds received by the CBAQP pursuant to this Agreement. The CBAQP agrees to maintain proper accounting

records reflecting the receipt and expenditure of funds paid to it by City pursuant to this Agreement in sufficient detail that a reasonable person could, from a review of such records, determine how all such funds were expended. Upon written request to do so, the CBAQP shall give the City or its duly authorized representatives, at any reasonable time or times, access to all books, accounts, records, files, or other papers belonging to or used by the CBAQP in connection with its performance of programs and activities. Failure to provide access to the foregoing documents shall constitute a breach of this Agreement by the CBAQP. The CBAQP agrees to keep in its possession for at least three (3) years after the termination of this Agreement all of the records described in this Section.

6. Performance Review. City may conduct a performance review on a semi-annual basis to evaluate the CBAQP's compliance with the provisions of this Agreement.

7. Early Termination. City shall have the right to terminate this Agreement any time if City determines that the CBAQP has breached or otherwise failed to comply with any terms of this Agreement. City shall give the CBAQP written notice of such termination at least thirty (30) days prior to the date of such termination. The notice shall include the reasons for such termination and the effective date of the termination.

8. Coordination of Services by City. City shall designate an Agreement Representative who will, on behalf of City, coordinate with the CBAQP and administer this Agreement. It shall be the responsibility of the CBAQP to coordinate all assignment-related activities with the Agreement Representative or Designee. For the purposes of this Agreement, the Agreement Representative shall be:

Dr. Fauzia Khan, MBBS, MPH, CPM
Public Health Director
1702 Horne Road
Corpus Christi, Texas 78416
Office: (361) 826-7202
fauziak@cctexas.com

City may change the Agreement Representative at any time by giving the CBAQP written notice of such change.

9. Notices. All notices given pursuant to this Agreement shall be in writing, and if sent by mail shall be sent by certified mail, return receipt requested, postage prepaid, or by overnight delivery service, or email as addressed below:

If to City:
Corpus Christi-Nueces County Public Health District
Dr. Fauzia Khan, MBBS, MPH, CPM
Public Health Director
1702 Horne Road
Corpus Christi, Texas 78416
Office: (361) 826-7202
fauziak@cctexas.com

If to the CBAQP:
Sharon Bailey Murphy, MPA, CHMM, REM
Executive Director
Coastal Bend Air Quality Partnership
1305 N. Shoreline Blvd. Suite 220
Corpus Christi TX 78401-1537
Sharonm@cbaqp.org
361-299-0047

Other addresses may be designated in writing from time to time. All notices sent by certified mail are deemed received on the third business day after mailing. All notices sent by overnight delivery are deemed received on the next business day after being sent. All notices sent by facsimile or electronic transmission are deemed received on the day sent. Any party may change its address by giving notice to all other parties as set out herein.

10. Non-Appropriation. The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget. Such termination shall be without penalty to the City, and without any right or recourse to the CBAQP.

11. No Conflict of Interest. City and CBAQP each state independently that to the best of its knowledge, no member of City nor any officer, employee, or agent of City who will exercise any function or responsibility in connection with the carrying out of the provisions of this Agreement has any personal financial interest, direct or indirect, in this Agreement.

12. No Joint Enterprise or Liability. The parties do not intend, by entering into this Agreement, to create a partnership or joint enterprise with each other, and City shall at no time be responsible or liable for the acts of the CBAQP or the CBAQP's agents or employees. In no event shall City be liable *(i)* for the performance of any contracts made by the CBAQP with any other person or entity or *(ii)* for any damages, injuries, or losses charged to or adjudged against the CBAQP arising from its operations or the use or maintenance of its facilities. The CBAQP will be responsible for all costs and expenses incurred by it in providing the projects, programs, and activities hereunder, and City shall be under no obligation to provide any additional funding or incur any other costs or expenses in connection with the projects, programs, and activities beyond the Contract Amount.

13. Indemnity. The CBAQP agrees to defend, indemnify, and hold harmless City, employees and representatives for any claims or losses of any kind incurred by any of them because of or arising out of the projects, programs and activities performed by the CBAQP pursuant to this Agreement.

14. Confidential Information. The CBAQP agrees that any information given to the CBAQP by City concerning the financial or other affairs of City while in pursuit of the CBAQP's obligations under this Agreement will be held by the CBAQP in confidence and will not be revealed to any other person, entity, or governmental body without the express written consent of City.

15. Severability. If any provision of this Agreement is held to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held to be invalid, unconstitutional, or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid, unconstitutional, or unenforceable.

16. No Waiver of Rights. It is understood and agreed that no failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power, or privilege under this Agreement.

17. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement lies in San Patricio or Nueces County, Texas, exclusively.

18. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.

19. Assignments and Successors. No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party. Subject to the preceding sentence, this Agreement will apply to and be binding in all respects on and inure to the benefit of the successors and permitted assigns of the parties.

20. Headings. The titles and headings in this Agreement are used only for reference, and in no way define or limit the scope or intent of a provision of this Agreement.

21. Compliance with Applicable Laws. The CBAQP agrees to comply with all applicable federal, state, and local laws and regulations while performing its projects, programs, and activities.

22. No Organizational Conflict of Interest. The CBAQP hereby certifies that it has no actual or potential Organizational Conflict of Interest. "Organizational Conflict of Interest" means that because of other activities or relationships with other persons or entities, the CBAQP is unable or potentially unable to render impartial services to the City or the CBAQP's objectivity in performing the services under this Agreement is or might otherwise be impaired. An "Organizational Conflict of Interest" also exists if an owner, director, manager, trustee, or employee of the CBAQP publicly opposes, works against, or takes a position adverse to the project, permit, or objectives for which the CBAQP is engaged hereunder. CBAQP agrees to immediately notify the City of any actual or potential Organizational Conflict of Interest that

develops or occurs during the term of this Agreement. City may terminate this Agreement immediately if it becomes aware of any Organizational Conflict of Interest during the term of the Agreement.

23. Entire Agreement and Modification. This Agreement supersedes all prior agreements between the parties with respect to its subject matter. This Agreement constitutes a complete and exclusive statement of the terms of the agreement between the parties with respect to the subject matter of this Agreement. There are no written or oral representations or understandings that are not fully expressed in this Agreement. This Agreement may not be amended, supplemented, or otherwise modified except by written agreement executed by the party to be charged with the change.

IN WITNESS WHEREOF, City and CBAQP, acting under the authority of their respective governing bodies, have caused this Agreement to be executed by their duly authorized representatives on the dates set forth below, but effective for all purposes as of the Effective Date.

City of Corpus Christi

Coastal Bend Air Quality Partnership

Peter Zanoni
City of Corpus Christi
City Manager

Sharon Bailey Murphy

Sharon Bailey Murphy, MPA, CHMM, REM
Coastal Bend Air Quality Partnership
Executive Director

Date: _____

Date: November 30, 2023

Approved as to form:

Buck Brice
Deputy City Attorney
For City Attorney

EXHIBIT A
SERVICES AND RELATED ITEMS

The projects, programs and activities provided to City by the CBAQP consist of the projects, programs, and activities that seek to protect Coastal Bend's air quality and its attainment of National Ambient Air Quality Standards (NAAQS) established by the United States Environmental Protection Agency, which would be advantageous to the future growth and vitality for City and benefit the public welfare in Nueces and San Patricio Counties and shall include the following:

- 1) Work in conjunction with the Corpus Christi – Nueces County Public Health District to conduct an annual Air Quality and Public Health awareness campaign in association with Air Quality Awareness Week. Coordinate with the City of Corpus Christi Communications Department on the promotion of Air Quality Awareness Week activities, including press releases and information for social media promotions to advance regional dialogues about the effects of air quality on health, environment, economy, and overall quality of life.
- 2) Promote voluntary air quality improvement measures and emission reducing activities and include at a minimum, three press releases per quarter to the media and the CBAQP social media.
- 3) Propose, promote, and implement programs for monitoring air quality in Corpus Christi and provide City Mayor and Council a mid-annual and annual brief on the status of Coastal Bend air quality and the status of EPA’s review of non-attainment standards.
- 4) Recognize City as a supporter of the Coastal Bend Air Quality Partnership and work closely with City and area stakeholders in addressing issues related to air quality to promote local actions to reduce ozone precursors in the community and continue to maintain National Ambient Air Quality Standards for ozone.
- 5) The CBAQP will continue the outreach efforts and develop and disseminate the End of Season and Annual Reports as part of the community awareness process.
- 6) CBAQP meetings will be held a **minimum of 4 times a year** with additional meetings held as needed. Typical scheduling of meetings will be April (the beginning of ozone season), July (mid ozone season), October (end of ozone season) and December (end of year).
- 7) A report re-capping information presented, and issues stated at each meeting along with a copy of the attendee sheet will be provided to the CC-NCPHD and City IGR Department within **14 days of the meeting**.
- 8) Ozone season and ozone standard briefings will be made to elected officials, community, and business groups as needed and coordinate with partner entities to issue public alerts on ozone alert days.
- 9) An "end-of-ozone season" report, including ozone trending for the year and impact in the following year, will be submitted to the City of Corpus Christi’s CC-NCPHD and IGR Departments by **December 15th each year**.
- 10) An Ozone Advance Annual Report will be submitted to the U.S. EPA that includes Corpus Christi initiatives to reduce ozone forming emissions will be coordinated by the Chair, with

approval and coordination of the Group, and **submitted to the U.S. EPA by December 31st of each year.**

- 11)CBAQP will provide oversight and reporting of Ozone Advance activities for each year thereafter.
- 12)The CBAQP shall provide quarterly executive summary reports to the City's CC-NCPHD and IGR Department directors as well as the City's designated Assistant City Manager. The reports should summarize the activities included in the terms of the contract and the progress made. Any deviations from the scope of work must be included. The quarterly reports should include copies of all monthly financial statements. **The reports are due April 14, July 14, October 14, and January 14.** The final report must summarize activities carried out per the contract, all accomplishments, and any deviations.
- 13)Serve as a consultant for Public Health District media events related to Air Quality.
- 14)Provide daily reports on Air Quality to the CC-NCPHD director and designated Assistant City Manager and serve as an Air Quality subject matter expert during prescribed burns, prescribed fires, or natural wildfires when they occur within Nueces or San Patricio County.
- 15)Upon the City's request, the CBAQP agrees to make any and all financial records available for review.

End of Exhibit