

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF CONTRA COSTA
AND THE COUNTY OF ALAMEDA
FOR LICENSED AGRICULTURAL COMMISSIONER/SEALER OF WEIGHTS AND
MEASURES SERVICES**

Effective March 15, 2017, this Memorandum of Understanding (“MOU”) is entered into by and between the County of Contra Costa (“Contra Costa”) and the County of Alameda (“Alameda”) (collectively, the “Counties,” and, individually, as a “County”).

RECITALS

- (a) Contra Costa requires the services of a licensed Agricultural Commissioner/Sealer of Weights and Measures (“Commissioner/Sealer”) to perform the duties set forth in the California Food and Agricultural Code.
- (b) Alameda currently employs a licensed Commissioner/Sealer with the expertise and capability to provide the necessary service to Contra Costa.
- (c) The positions of Commissioner/Sealer in both Alameda and Contra Costa are components of each respective County, with common powers and duties.
- (d) It is the purpose of this MOU to authorize these Counties to coordinate their work and jointly exercise these powers and duties as set forth herein.
- (e) This MOU is authorized by California Food and Agricultural Code section 2124.

AGREEMENT

Now, therefore, the Counties agree as follows:

- 1. **TERM.** This MOU is effective as of the date it is finally executed, and ends one year from that date. This MOU may be extended if mutually agreed upon by the parties in writing.
- 2. **SCOPE OF SERVICES.** During the term of this MOU, Alameda shall assign its current Commissioner/Sealer to perform for Contra Costa the ministerial functions requiring a fully licensed and duly appointed Agricultural Commissioner/Sealer of Weights and Measures in accordance with all applicable federal, state, and county laws, ordinances, and regulations.
 - a. For example, the Commissioner/Sealer’s responsibilities for Contra Costa include, but are not limited to, signing of Notice of Proposed Actions; signing agreements with the California Department of Pesticide Regulation (DPR) or the California

Department of Food and Agriculture (CDFA); and submitting Official Requests to the CDFA, DPR, and any other local, state, or federal governmental agencies.

- b. The Commissioner/Sealer shall provide guidance to Contra Costa staff on issues of policy limited to the regulatory responsibilities of an Agricultural Commissioner/Sealer of Weights and Measures. Contra Costa warrants that it will maintain, throughout the duration of the MOU, adequate staffing levels to support the duties of the Commissioner/Sealer. To the extent feasible, Contra Costa will utilize Contra Costa staff to perform the duties of the Agriculture/Weights and Measures Department that do not require a fully licensed and duly appointed Agricultural Commissioner/Sealer of Weights and Measures. For example, staff shall be responsible for researching and preparing preliminary drafts or reports of agreements for the Commissioner/Sealer's review.
- c. The Commissioner/Sealer shall not be responsible for nor have any authority over any budgetary or human resources functions. Such functions will remain the responsibility of Contra Costa staff.
- d. The Contra Costa County Administrator's Office shall remain the Appointing Authority for the Contra Costa Agriculture/Weights and Measures Department.
- e. The Commissioner/Sealer shall provide eight (8) hours of work per week for Contra Costa, to be performed at the Contra Costa Department of Agriculture's office in Concord, California, or at such other location in Contra Costa as may be requested by Contra Costa. The eight (8) hours of work may be performed during one (1) business day or split into two (2) four-hour days. Any meeting or other functions requiring a fully licensed and duly appointed Agricultural Commissioner/Sealer of Weights and Measures to be present shall occur only during normal business hours. Travel time between Contra Costa offices or work locations and travel time to or from Concord to other Contra Costa locations shall be included within the eight (8) hours. In no event shall the Commissioner/Sealer be required to provide more than eight (8) hours of work per week for Contra Costa.
- f. The Commissioner/Sealer shall remain an employee of Alameda and shall not be considered an employee of Contra Costa. The Commissioner/Sealer shall not have or be deemed to have any type of employment relationship with Contra Costa, including, but not limited to, a joint employer or co-employer relationship. Contra Costa shall not be responsible for worker's compensation benefits or any employee benefits for the Commissioner/Sealer while he is providing services to Contra Costa.
- g. While performing services for Contra Costa pursuant to this MOU, the Commissioner/Sealer shall act solely in the public interest of Contra Costa as directed by the Contra Costa County Board of Supervisors.

- i. In the event that the public interest of Contra Costa and Alameda potentially conflict in any manner, the assigned Commissioner/Sealer shall report the potential conflict to the County Administrator of each County.
 - ii. Together, the County Administrators shall determine whether a genuine conflict exists.
 - iii. In the event of a conflict, either County Administrator may direct the assigned Commissioner/Sealer to abstain from participation in such matter.
3. PAYMENT. Contra Costa shall pay Alameda the sum of \$190.00 per hour for each hour of the Commissioner/Sealer's work for Contra Costa pursuant to this MOU.
 - a. Alameda will invoice Contra Costa for payment on a quarterly basis.
 - b. Alameda, through the Commissioner/Sealer, will also submit to Contra Costa quarterly reports detailing work performed, including expenditures and charges, and reasonable documentation of those expenditures and charges, if any.
4. TERMINATION. Either County may terminate this MOU without cause at any time upon sixty (60) days' prior written notice to the other County.
5. NO PUBLIC AGENCY. This MOU does not create a public agency separate from the Counties hereto.
6. INDEMNITY AND RELEASE. To the fullest extent permitted by law, Contra Costa shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, its Commissioner/Sealer assigned to perform services pursuant to this MOU, its employees and agents, and Humberto Izquierdo, from and against any and all claims, losses, damages, liabilities and expenses, including, but not limited to, attorneys' fees, arising out of or resulting from the performance of services pursuant to this MOU (collectively "Liabilities") except to the extent such Liabilities are caused by the negligent acts and/or willful misconduct of any indemnitee. The obligation of this indemnity shall be for the full amount of all damage to the County of Alameda and other indemnified parties, including, but not limited to, defense costs, and shall not be limited by any insurance limits.

7. NOTICES. All correspondence regarding this MOU, including invoices, payments, and notices, shall be directed to the following persons at the following addresses and phone numbers:

CONTRA COSTA: Eric Angstadt
Chief Assistant County Administrator
Contra Costa County Administrator
651 Pine Street, 10th Floor
Martinez, California 94553
TEL: (925) 335-1009

ALAMEDA: Chris Bazar
Agency Director
Alameda County Community Development
Agency
224 W. Winton Avenue, Room 110
Hayward, California 94544
TEL: (510) 670-5333

8. REPRESENTATIONS. Each Party hereby warrants that it has authority to execute this MOU.
9. AMENDMENT. No amendment to this MOU will be effective unless it is in writing and signed by both Counties.
10. SURVIVAL. The obligations of this Agreement, which by their nature would continue beyond the termination or expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 6), shall survive termination or expiration.
11. SEVERABILITY. Should any provision of this MOU, for any reason, be deemed or held invalid or unenforceable, in whole or in part, by a tribunal of competent jurisdiction, such provision shall be enforced to the maximum extent possible, and the remaining provisions of this MOU shall remain in full force and effect, to the maximum extent possible.
12. EXECUTION IN COUNTERPARTS. This MOU may be executed in counterparts, each of which shall be treated as an original and all of which together shall be considered one and the same agreement. Facsimile signatures or scanned copies of signatures are binding and are to be considered original signatures.

CONTRA COSTA COUNTY

COUNTY OF ALAMEDA

DATED:

DATED:

COUNTY ADMINISTRATOR

David Twa
County Administrator

Wilma Chan
President, Board of Supervisors,
County of Alameda

Approved as to form:

Approved as to form:

COUNTY COUNSEL
SHARON L. ANDERSON

COUNTY COUNSEL
DONNA R. ZIEGLER

By: _____
Christina J. Ro-Connolly
Deputy County Counsel

By:  _____
Heather M. Littlejohn
Deputy County Counsel

CJR: