

(323) 881-2401

November 1, 2005

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**AGREEMENT BETWEEN THE COUNTIES OF ORANGE AND  
LOS ANGELES TO IMPLEMENT THE UNIFIED PROGRAM IN THE CITY OF LA HABRA  
(ALL) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR HONORABLE BOARD ACTING AS THE  
GOVERNING BODY OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:**

Approve and instruct the Chair to sign the attached agreement between the County of Orange, acting by and through the Health Care Agency, Environmental Health Division, and the County of Los Angeles, acting by and through the Consolidated Fire Protection District (District) to implement the Hazardous Materials Release Response Plans and Inventory Program (Disclosure) and the California Accidental Release Prevention Program (Cal-ARP), Program Elements under the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program mandated by SB 1082 (Calderon) in the City of La Habra.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION:**

SB 1082 (Calderon), the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program), requires the administrative consolidation of six hazardous materials and waste programs (Program Elements) under one agency, a Certified Unified Program Agency (CUPA).

On December 20, 2004, the City of La Habra approved, and on February 7, 2005, the District approved, a contract for the District to provide fire protection, hazardous materials and emergency medical services to the City of La Habra. The City of La Habra Fire Department was a participating agency under the CUPA for the County of Orange administered by the Orange County Health Care Agency, to implement the Disclosure and Cal-ARP Program Elements. The District has applied to the Orange County CUPA to implement the Disclosure and Cal-ARP Program Elements within the City of La Habra. Pursuant to the regulatory requirements of the Unified Program, the District must enter into a Participating Agency Agreement with the Orange County CUPA to implement these programs.

The proposed agreement specifies various roles and responsibilities of the agencies involved that are related to implementation of the Unified Program in the City of La Habra and will allow the District to implement the Disclosure and Cal-ARP Program Elements in the City of La Habra under the auspices of the Orange County CUPA.

#### **IMPLEMENTATION OF STRATEGIC PLAN GOALS:**

**Organizational Effectiveness:** Implementation of the Agreement will lay out protocols and individual agency responsibilities to fully implement the Unified Program in the City of La Habra in an effective manner. The Agreement describes the programs to be implemented, permit billing requirements and protocols, dispute resolution procedures, and the performance evaluation process. The Agreement promotes organizational effectiveness by allowing fully trained and qualified staff within the Health Hazardous Materials Division of the District to implement the Disclosure and Cal-ARP Programs in the City of La Habra. First responder emergency response information from the Disclosure Program will be readily available to the District.

**Fiscal Responsibility:** The Agreement promotes fiscal responsibility by delineating roles and responsibilities for billing of annual permit fees for the Disclosure and Cal-ARP Program Elements. There are 167 hazardous materials handlers in the City that will be inspected to ensure compliance with the requirements of the Disclosure Program. The Agreement specifies the annual permit fee billing procedures wherein each of these facilities will be billed by the Orange County CUPA for the appropriate permit fees to recover the costs of implementation by the District.

**Public Safety:** The Agreement allows for the implementation of the Disclosure and Cal-ARP Program Elements in the City of La Habra by the District. Technical staff from the Health Hazardous Materials Division will inspect facilities and ensure compliance with Disclosure

and Cal-ARP Program requirements. These programs promote public safety by ensuring full disclosure of hazardous materials inventories, appropriate risk reduction actions by facility personnel, proper storage protocols, emergency response plans, and other activities designed to protect first responders and the community from the deleterious effects of hazardous materials.

**FISCAL IMPACT/FINANCING:**

Annual costs to implement the Disclosure and Cal-ARP Programs within the City of La Habra by the District are estimated to be \$50,000. These costs are fully supported and recovered by the annual permit fees generated by the 167 facilities falling under these programs. The California Health and Safety Code (H&SC) Sections 25404.5(a)(2) and (3) allow for the collection of fees as a funding source to recover the necessary and reasonable costs incurred to implement the Program Elements. Under the Unified Program, fees already established by your Honorable Board for the Disclosure and Cal-ARP Program Elements will be provided to the Orange County CUPA. The Orange County CUPA will bill the facilities under the single fee system mandated by the Unified Program. The Orange County CUPA will collect and transfer those funds to the District to offset the implementation costs of the programs.

**FACTS AND PROVISIONS/LEGAL REQUIREMENTS:**

H&SC Section 25404.3(d)(1)(B) requires the Orange County CUPA and the PA to enter into an agreement specifying their roles and responsibilities under the Unified Program.

The agreement has been approved as to form by County Counsel.

**IMPACT ON CURRENT SERVICE (OR PROJECTS):**

Some additional cost will be incurred to implement the Disclosure and Cal-ARP Program Elements within the City of La Habra; but all program costs are fee offset under the Unified Program. Implementation of the Disclosure and Cal-ARP Program Elements by the District will enhance public safety by ensuring emergency response information is readily available to the first responders.

The Honorable Board of Supervisors  
November 1, 2005  
Page 4

**CONCLUSION:**

Please return the adopted, stamped copy of the letter and the signed agreements to Bill Jones, Chief, Health Hazardous Materials Division, 5825 Rickenbacker Road, Commerce, CA 90040.

Respectfully submitted,

P. MICHAEL FREEMAN

PMF:es

Attachments

c: David E. Janssen, Chief Administrative Officer  
Violet Varona-Lukens, Executive Officer  
Vicky Santana, Deputy  
Randi Tahara, Deputy  
Joseph Charney, Deputy  
Rick Velasquez, Deputy  
Sussy Nemer, Deputy  
Auditor-Controller  
County Counsel

**AGREEMENT BETWEEN THE COUNTY OF ORANGE  
AND THE LOS ANGELES COUNTY FIRE  
FOR IMPLEMENTATION OF  
UNIFIED PROGRAM ELEMENT REQUIREMENTS**

This Agreement is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, between the County of Orange, acting by and through the Health Care Agency, Environmental Health Division, hereinafter referred to as "County", and the Consolidated Fire Protection District of Los Angeles County, hereinafter referred to as "LACoFD."

**Recitals**

WHEREAS, the Health and Safety Code, hereinafter referred to as "H&SC", Section 25404(c) mandates that the County establish a Unified Program to consolidate administration of the following requirements (collectively, "Program Elements"):

- A. The Hazardous Waste Generator Program, H&SC, Division 20, Chapter 6.5, including hazardous waste generators conducting treatment pursuant to Sections 25200.3 and 25201.5, and facilities deemed to hold a "Permit by Rule" pursuant to regulations adopted to implement the tiered permit program;
- B. The Aboveground Storage Tank Program Spill Prevention Control and Countermeasure Plan requirements, H&SC, Division 20, Chapter 6.67, Section 25270.5(c);
- C. The Underground Storage Tank Program, H&SC, Division 20, Chapter 6.7;
- D. The Hazardous Material Release Response Plans and Inventory Program, H&SC, Division 20, Chapter 6.95, Article 1;
- E. The California Accidental Release Prevention Plan Program, applicable to acutely hazardous materials, H&SC, Division 20, Chapter 6.95, Article 2;
- F. The Hazardous Materials Management Plan and the Hazardous Materials Inventory Statement requirements, Uniform Fire Code, Part 7, Article 80, Section 8001.3.2 and Section 8001.3.3, as adopted by the State Fire Marshal pursuant to H&SC Section 13143.9; and

WHEREAS, H&SC Section 25404.1(b)(1) requires that the County apply for State certification as a Certified Unified Program Agency (CUPA) to implement and operate the Unified Program throughout the unincorporated area of the County and in all cities within the County that have not been certified as a CUPA; and

WHEREAS, the County has submitted an application to become a CUPA; and

WHEREAS, H&SC Section 25404.1(b)(3) authorizes the County to enter into formal agreements with other qualified public agencies to implement and enforce certain elements of the Unified Program as "Participating Agencies"; and

WHEREAS, the County wishes to have LACoFD implement and enforce the following requirements in all territory within the jurisdiction of the City of La Habra: H&SC Division 20, Chapter 6.95, Articles 1 and 2; and Subdivisions (b) and (c) of Section 80.103 of the Uniform Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9 of the H&SC; and

WHEREAS, LACoFD is qualified and wishes to implement said requirements on behalf of the County.

NOW, THEREFORE, the parties hereto mutually agree as follows:

### **Agreement**

#### 1. **Program Elements to be Administered by the County**

The County, acting as the CUPA, shall administer the following Program Elements relating to the following facilities and operations in all territory within its jurisdiction:

- A. The Hazardous Waste Generator Program, H&SC, Division 20, Chapter 6.5, including hazardous waste generators conducting treatment pursuant to Sections 25200.3 and 25201.5, and facilities deemed to hold a "Permit by Rule" pursuant to regulations adopted to implement the tiered permit program;
- B. The Aboveground Storage Tank Program Spill Prevention Control and Countermeasure Plan requirements, H&SC, Division 20, Chapter 6.67, Section 25270.5(c);
- C. The Underground Storage Tank Program, H&SC, Division 20, Chapter 6.7;
- D. As part of the services provided for the Hazardous Waste Generator Program, the County will continue to provide site mitigation and criminal investigation services for sites clearly under the purview of Program Elements under the jurisdiction of the County. Where multimedia or cases involving multiple Program Elements falling under the jurisdiction of both agencies arise or in situations where the jurisdiction is unclear, both agencies will work together or through a joint strike force to resolve the jurisdictional issue.
- E. The County will provide emergency services relating to bioterrorism events or events relating to weapons of mass destruction where the coordination

with the County Health Officer, local law enforcement agencies, County fire agencies, State and Federal EPA and the Federal Bureau of Investigations is necessary. In cases involving facilities with program elements under the jurisdiction of the County, a referral or joint response will be initiated, particularly in situations where a potential criminal investigation is indicated. Both agencies will work together to establish protocols and procedures where appropriate.

2. Program Elements to be Administered by LACoFD

LACoFD, acting as a Participating Agency, shall administer the following program elements relating to the following facilities and operations in the City of La Habra:

- A. The Hazardous Material Release Response Plans and Inventory Program, pursuant to H&SC, Division 20, Chapter 6.95, Article 1;
- B. The California Accidental Release Prevention Plan Program, applicable to acutely hazardous materials, pursuant to H&SC, Division 20, Chapter 6.95, Article 2;
- C. The Hazardous Material Management Plan and the Hazardous Materials Inventory Statement requirements, pursuant to Uniform Fire Code, Part 7, Article 80, Section 8001.3.2 and Section 8001.3.3, as adopted by the State Fire Marshal pursuant to H&SC Section 13143.9, to the extent implemented by LACoFD.
- D. As part of the services provided for the Hazardous Materials Release Response Plans, California Accidental Release Prevention Plan Program, and the Hazardous Materials Management Plan and the Hazardous Materials Inventory Statement requirements, the LACoFD will provide criminal investigation services for cases involving solely the above referenced program elements. In cases involving multiple program elements and where program elements under the jurisdiction of both agencies are involved, both agencies will work together or through a joint strike force to resolve the jurisdictional issue.
- E. LACoFD will provide emergency services, including emergency services involving hazardous materials. In cases involving facilities with program elements under the jurisdiction of the County, a referral or joint response will be initiated, particularly in situations where a potential criminal investigation is indicated. Both agencies will work together to establish protocols and procedures where appropriate.

### 3. County's Obligations

In accordance with H&SC Section 25404 et seq., and Title 27 of the California Code of Regulations Sections 15100 et seq., the County shall:

- A. Conduct, at a minimum, quarterly meetings of Participating Agencies for the purpose of establishing policies and procedures, resolving duplication and regulatory overlap issues, encouraging uniformity, and communicating enforcement actions, pursuant to 27 CCR 15180(a)(7).
- B. Establish, implement and maintain the Single Fee Billing System pursuant to H&SC Section 25404.5(a) and 27 CCR 15210(a) and 15220, incorporating the following elements:
  - (1) Fees and surcharges in an amount to cover the necessary and reasonable costs incurred by the County and Participating Agencies in implementing the Unified Program, including the state surcharge.
  - (2) Methods for the collection and accounting of fees and surcharges.
  - (3) Policies and procedures for the adjustment of fees and assignment of lost funds due to nonpayment.
- C. Implement and maintain a Fee Accountability Program, pursuant to H&SC Section 25404.5(c) and 27 CCR 15210(b), to encourage efficient and cost-effective operation of the Unified Program and annually review such Program.
- D. Collect fees for LACoFD administered program elements and disburse fees collected to LACoFD within 45 days of collection, or as otherwise agreed to by the County and LACoFD, pursuant to 27 CCR 15210(a)(4).
- E. Consolidate, coordinate and make consistent any local or regional regulations, ordinances, requirements or guidance documents related to the implementation of Program Elements in cooperation with LACoFD, pursuant to H&SC Section 25404.2(a)(2).
- F. Develop and implement a single, unified Inspection and Enforcement Plan in cooperation with LACoFD and coordinate the Plan with inspection and enforcement programs of other federal, State, regional and local agencies, pursuant to H&SC Section 25404.2(a)(3) and (4).

- G. Establish and implement a Dispute Resolution Process designed to resolve problems pursuant to 27 CCR 15180(a)(4) and 15210(a)(9), and a process for formal appeals from dispute resolution decisions.
- H. Conduct an annual audit of LACoFD performance, pursuant to 27 CCR 15280(a) and 15290(b), or as necessary to maintain the Unified Program standards. Guidelines for content and conduct of the audits shall be developed in cooperation with LACoFD.
- I. Enter into a Program Improvement Agreement with LACoFD, pursuant to 27 CCR 15180(a)(8)(D), and Article 7 - Participating Agency Management of this Agreement, if LACoFD ceases to meet minimum qualifications or fails to implement its Program Elements. The Program Improvement Agreement shall specify the areas of improvement, minimum accomplishments necessary, and timeframes, which shall be met by the LACoFD.
- J. Establish procedures for removing or revoking Participating Agencies, containing, at a minimum: notice; a statement of causes; public comment; and appeal procedures, pursuant to H&SC Section 25404.3(d)(1)(B). The County shall comply with such procedures prior to notifying the Secretary of Cal-EPA that a Participating Agency no longer meets the minimum qualifications, or fails to implement the Program Element.
- K. Comply with all statutory and regulatory requirements pursuant to H&SC Section 25404 et seq., and 27 CCR 15100 et seq.

4. LACoFD Obligations

In accordance with H&SC Section 25404 et seq., and Title 27 of the California Code of Regulations Sections 15100 et seq., LACoFD shall:

- A. Attend and participate in all scheduled meetings with the County.
- B. Maintain adequate resources to implement its Program Elements, pursuant to 27 CCR 15170(l)(2).
- C. Maintain training records and make training records available to the County upon request pursuant to 27 CCR 15180(a)(2).
- D. Institute procedures to respond to requests for information from the public, from government agencies, and from emergency responders, pursuant to 27 CCR 15180(a)(2)(D).

- E. Provide the County with all data required by the County to effectively manage the Unified Program. The data and information shall be submitted in a timely manner and according to a frequency agreed upon by the County and LACoFD. The method of submittal will be agreed upon by the County and LACoFD.
- F. Cooperate with the County in the development and implementation of a Single Fee System and comply with all provisions in the System.
- G. Establish fees for Program Elements which reflect the necessary and reasonable costs of implementation pursuant to 27 CCR 15230(a).
- H. Notify the County of the cost of Program Elements and fees, pursuant to 27 CCR 15210(a)(4) and 15230(b), by the deadline mutually agreed upon ahead of time by the County and LACoFD, but in no case later than 30 days prior to the proposed billing date by the County.
- I. Receive fees collected by the County for LACoFD administered programs and advise the County of any discrepancies within a mutually agreeable timeframe, but in no case later than 60 days after the receipt of the fees. Both parties will work towards resolving any discrepancies.
- J. Determine any adjustment or waiver of fees that was erroneously charged or computed for LACoFD administered programs, at the discretion of the Board of Supervisors or as delegated.
- K. Cooperate with the County in the consolidation of any local or regional regulations, ordinances, requirements or guidance documents related to the implementation of Program Elements.
- L. Cooperate with the County in the development of a single, Unified Inspection and Enforcement Plan and comply with all provisions in the Plan.
- M. Abide by the procedures established in the Dispute Resolution Process.
- N. Cooperate with the County in its annual audit of the Program Elements administered by the LACoFD.
- O. Enter into a Program Improvement Agreement with the County if the LACoFD ceases to meet minimum qualifications or fails to implement its Program Elements, pursuant to 27 CCR 15180(a)(8)(D). The Program

Improvement agreement shall specify the areas of improvement, minimum accomplishments necessary and timeframes, which LACoFD must meet.

- P. Comply with all statutory and regulatory requirements pursuant to H&SC 25404 et seq. and 27 CCR 15100 et seq.

## 5. Dispute Resolution Between Agencies

In the event that a dispute arises between the County and LACoFD, the following procedures will be followed in an effort to resolve the dispute:

- A. The County and LACoFD will meet and discuss in good faith the issues in an effort to resolve the dispute. Both agencies shall respond to dispute inquiries in an expeditious fashion.
- B. If a satisfactory resolution cannot be reached, the County and LACoFD will meet with representatives of Cal/EPA in an effort to resolve the dispute.
- C. If the previous measures have been unsuccessful in resolving the dispute, each agency will state their positions and recommended resolutions in writing. The County will submit both positions, without revision, to Cal/EPA following procedures established by Cal/EPA. The final decision of Cal/EPA is binding on both agencies.

## 6. Indemnification

- A. The LACoFD shall indemnify and hold the County, its officers, agents and employees free and harmless from any claim or liability whatsoever, based or asserted upon any act or omission of LACoFD, its officers, agents and employees, for property damage, bodily injury or death or any other element of damage of any kind or nature, occurring in the performance of this Agreement to the extent that such liability is imposed on the County by the provisions of Section 895.2 of the Government Code, and LACoFD shall defend, at its own expense, including attorney's fees, the County, its officers, agents and employees in any legal action or claim of any kind based upon such alleged acts or omissions.
- B. The County shall indemnify and hold LACoFD, its officers, agents and employees free and harmless from any claim or liability whatsoever, based or asserted upon any act or omission of the County, its officers, agents and employees, for property damage, bodily injury or death or any other element of damage of any kind or nature, occurring in the performance of this Agreement to the extent that such liability is imposed on LACoFD by the

provisions of Section 895.2 of the Government Code, and the County shall defend, at its own expense, including attorney's fees, LACoFD, its officers, agents and employees in any legal action or claim of any kind based upon such alleged acts or omissions.

7. Termination of Agreement

Either party may terminate this Agreement by giving the other party six (6) months written notice and upon approval of the Secretary of Cal-EPA.

8. Amendments

This Agreement sets forth the entire Agreement between the parties and any modifications must be in the form of a written amendment agreed to and signed by both parties.

9. Severability

Each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision shall be invalid under applicable law, it will be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

10. Notice

All notices and other communications shall be in writing and shall be effective when deposited in the U.S. Mail, postage prepaid and addressed as follows:

To the County:            Director of Environmental Health Division  
                                  Health Care Agency  
                                  County of Orange  
                                  1241 East Dyer Road, Suite 120  
                                  Santa Ana, CA 92705

To LACoFD:                Division Chief  
                                  Health Hazardous Materials Division  
                                  Los Angeles County Fire Department  
                                  5825 Rickenbacker Road  
                                  Commerce, CA 90040

A party shall notify the other party of any change in its address.

IN WITNESS WHEREOF, the County of Orange has caused this Agreement to be executed by its Chair and attested by its Clerk, and the Consolidated Fire Protection District of Los Angeles County has caused this agreement to be executed by its Chair and attested by its Clerk, on the day, month, and year noted herein below.

COUNTY OF ORANGE

CONSOLIDATED FIRE PROTECTION DISTRICT OF  
LOS ANGELES COUNTY

\_\_\_\_\_  
THOMAS W. WILSON  
Chair, Board of Supervisors

\_\_\_\_\_  
GLORIA MOLINA  
Chair, Board of Supervisors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:  
Signed and certified that a copy of this document  
has been delivered to the Chair of the Board.

ATTEST:  
Signed and certified that a copy of this document  
has been delivered to the Chair of the Board.

DARLENE J. BLOOM, Clerk of the Board of  
Supervisors, Clerk of Orange County, California  
of Orange County, California

VIOLET VARONA-LUKENS, Executive Officer,  
of the Board of Supervisors of Los Angeles  
County, California

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

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

(SEAL)  
APPROVED AS TO FORM:  
BENJAMIN DEMAYO, County Counsel

(SEAL)  
APPROVED AS TO FORM:  
RAYMOND G. FORTNER, JR., County Counsel

BY: \_\_\_\_\_  
Deputy

BY: \_\_\_\_\_  
Deputy