

**Council Meeting: March 18, 2008**

SUBJECT: Notice of Intent to Apply for, Accept, and Appropriate a Grant of \$48,473.70 from the California Environmental Protection Agency to Implement the Aboveground Petroleum Storage Tank Act and Budget Modification No. 37

REPORT IN BRIEF

The Department of Public Safety (DPS) is seeking Council approval to apply for, accept, and appropriate a grant from the California Environment Protection Agency (CalEPA) Environmental Protection Trust Fund in the amount of \$48,473.70. The grant will fund staff time and materials for implementation of the Aboveground Petroleum Storage Tank Act (APSA), a new program for Certified Unified Program Agencies (CUPA) in California; DPS is a CUPA.

BACKGROUND

As of January 1, 2008, authority to enforce the APSA was transferred from the State Water Resources Control Board (SWRCB) to CUPAs. The APSA applies to operators of aboveground petroleum tanks with a capacity greater than 1320 gallons and facilities where 1320 gallons or more of petroleum is stored in containers that hold at least 55 gallons. The APSA requires operators to prepare and implement a Spill Prevention Control and Countermeasures Plan (SPCCP), conduct periodic inspections and immediately report releases to the CUPA and the Governor's Office of Emergency Services.

The CUPA is required to inspect specified aboveground petroleum storage tanks and petroleum storage facilities once every three years. The purpose is to determine if the tanks and facilities are in SPCCP compliance, and to take enforcement action when appropriate. Prior to inspections, CUPA inspectors must complete and pass a CalEPA established aboveground storage tank training program. CUPAs are also required to collect and report program data annually to CalEPA.

In 2008 and 2009, CalEPA will support implementation of this program by providing Environmental Protection Trust Fund monies through a grant. DPS is being allocated \$48,473.70 from the Fund to implement the APSA program in Sunnyvale. Beginning January 1, 2010, each CUPA must establish and collect a fee sufficient to pay the necessary and reasonable costs of the APSA.

EXISTING POLICY

4.1 Law Enforcement Sub-Element

Goal 4.1A: Provide a safe and secure environment for people and property in the community.

Action Statement 4.1A.1d: Maintain, train and equip special response teams for extraordinary or extremely hazardous emergency incidents.

Goal 4.1B: Provide community oriented services that are responsive to citizen's needs in traditionally non-criminal areas.

Policy 4.1D.2: Provide effective and efficient management of Public Safety resources in order to meet the needs of: The community, the internal organization, and those mandated by regional, State, and Federal agencies.

Action Statement 4.1D.2b: Develop proposals and apply for appropriate governmental grants.

4.2 Fire Services Sub-Element

Policy 4.2C.2. Coordinate a comprehensive program designed to control and mitigate harmful effects resulting from the storage, use and transport of hazardous materials.

Seismic Safety and Safety Sub-Element

Policy A3: Promote a living and working environment safe from exposure to hazardous materials.

DISCUSSION

The APSA grant program is being administered by CalEPA and delegated to CUPAs for implementation. The Unified Program, of which the CUPA program is derived, consolidates, coordinates, and makes consistent the administrative requirements, permits, inspections, and enforcement activities of six environmental and emergency response programs. State agencies responsible for these programs set the standards, while local governments will implement standards. CalEPA oversees implementation of the entire program.

The Unified Program has been implemented at 84 local environmental health or fire departments certified by CalEPA. Some of the CUPAs also have contractual agreements with local "participating agencies" (PAs), which implement at least one program element under their authority as the CUPA.

DPS was certified by CalEPA as a CUPA in 2001. Current program responsibilities include permitting, inspection and enforcement for underground storage tanks, hazardous waste generators and treatment systems, hazardous materials storage facilities and high risk chemical operations. Additionally, CUPAs verify that SPCCPs are present at facilities which are required to comply with the APSA. Facilities not in compliance are referred to the SWRCB for follow-up action.

Prior to this program, the SWRCB collected annual fees from facilities but rarely conducted inspections, investigated CUPA referrals or took enforcement action due to being understaffed. Predicated on inability of the SWRCB to fully implement the program, all responsibilities were transferred to CUPAs for local implementation. Fees collected by the SWRCB were placed in the Environmental Protection Trust Fund for disbursement to CUPAs and are intended for implementation and maintenance of the APSA program at the local level for the first two years.

There are currently 895 business facilities in Sunnyvale required to maintain Hazardous Materials Consolidated Permits. Of those 895 facilities, approximately 35 will be regulated by APSA provisions because they have aboveground tank storage. To fulfill APSA requirements, staff anticipates spending additional time at these facilities during the normal inspection process beginning in FY 2008/2009. Staff support will also be required to produce and distribute educational material to businesses to ensure these facilities are familiar with the program and are able to comply with APSA provisions. The costs for the additional time spent at inspection sites and the educational materials for businesses will be captured in a special project through the implementation period, ending December 31, 2009. Beginning January 1, 2010, a new fee will be added to the City's fee schedule, establishing a level of full cost recovery of the program, including education and inspection. The amount of the fee will be based upon staff hours and associated costs required to implement and support the program.

FISCAL IMPACT

If Council authorizes DPS to apply for and accept the APSA Grant, authorization is also needed to appropriate the monies accordingly. Approval of Budget Modification No. 37 will appropriate revenues from the APSA grant to a two-year special project. The project will allow DPS to effectively manage the specific costs associated with implementation of the APSA until January 1, 2010. At that time, activities required to fulfill APSA will be rolled into the Department of Public Safety's operating budget. The cost for these activities will be recovered through fees charged to businesses with aboveground tank storage. Budget Modification No. 37 is presented in the following table:

BUDGET MODIFICATION NO. 37
FISCAL YEAR 2007-2008

	Current	Increase (Decrease)	Revised
General Fund			
<u>Revenues:</u>			
CalEPA APSA Grant	\$0	\$48,473.70	\$48,473.70
<u>Expenditures:</u>			
New Special Project — Implement CalEPA Aboveground Petroleum Storage Act	\$0	\$48,473.70	\$48,473.70

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

ALTERNATIVES

1. Authorize staff to apply for the CalEPA Environmental Protection Trust Fund grant monies. If the grant is awarded, Budget Modification No. 37 will be accepted in the amount of \$48,473.70 and monies will be appropriated to a special project for implementation of the APSA. In addition, beginning January 1, 2010, DPS will have a new fee recovering full cost of the APSA program.
2. Do not authorize staff to apply for the CalEPA Environmental Protection Trust Fund grant monies for implementation of the APSA.

RECOMMENDATION

Staff recommends Alternative No. 1: Authorize staff to apply for the CalEPA Environmental Protection Trust Fund grant monies in the amount of \$48,473.70. If the grant is awarded, Budget Modification No. 37 will be accepted and monies will be appropriated to a special project for implementation of the APSA. In addition, beginning January 1, 2010, DPS will have a new fee recovering full cost of the APSA program.

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