



Agenda Report

Fullerton City Council

MEETING DATE: JULY 20, 2021

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: STEVE DANLEY, ACTING CITY MANAGER

PREPARED BY: ADAM LOESER, FIRE CHIEF

SUBJECT: HAZARDOUS MATERIALS DISCLOSURE / BUSINESS EMERGENCY PLAN PROGRAM TRANSFER FROM FULLERTON FIRE DEPARTMENT TO ORANGE COUNTY HEALTH CARE AGENCY ENVIRONMENTAL HEALTH DIVISION

SUMMARY

Fullerton and the County of Orange entered into an agreement to allow the City to act as a Partnering Agency to regulate businesses that store hazardous materials in Fullerton. However, the Fire Department has had difficulty retaining staff and funding to provide adequate oversight for this program and recommends relinquishing oversight of the program back to the County.

RECOMMENDATION

Transfer Hazardous Materials Disclosure / Business Emergency Plan Program from the Fullerton Fire Department to the Orange County Health Care Agency's Environmental Health Division

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statements:

- Fiscal and Organizational Stability
- Public Safety.

FISCAL IMPACT

The County reimburses for inspections for Hazardous Materials and Storage through this program, but further fiscal analysis reveals that the money generated from reimbursement does not cover the total cost of the program. While the net cost of administering this program ranges from \$150,000 - \$180,000 per year, transferring this

program back to the County will result in General Fund savings of approximately \$25,000 - \$50,000 per year. While the City will no longer receive the program revenue, the City would also no longer incur direct related program costs and allow remaining Fire Department positions to focus on other Fire Department initiatives.

DISCUSSION

In 1985, local jurisdictions became responsible for the regulation of businesses that store hazardous materials. In concept, doing so allowed for the disclosure and oversight of the hazardous materials first responders would face during an emergency response. In 1997, state legislation moved that responsibility to the County. However, Fullerton opted to maintain control of the oversight and entered into an agreement to act on behalf of the County as a Partnering Agency. Over the years, the Fullerton Fire Department has had difficulties retaining personnel with the highly technical expertise necessary. In addition, the General Fund has subsidized the costs associated with acting as a Partner Agency. With another Hazardous Materials Specialist set to retire next month, the Fullerton Fire Department recommends relinquishing oversight of the program back to the County.

In accordance with AB 2185, businesses within the City of Fullerton must regulate if they routinely store and use hazardous materials. The Certified Unified Program Agency (CUPA) program carries out several of the various hazardous materials regulatory programs administered by the State and local jurisdictions. CalEPA's oversight of the program provides consolidation, coordination and consistency in the administrative requirements, permits, inspections and enforcement activities of six environmental and emergency response programs in the state of California. The six programs are:

1. Hazardous Materials Release Response Plans and Inventories (Business Plans)
2. California Accidental Release Prevention Program (CalARP)
3. Underground Storage Tanks (USTs)
4. Aboveground Petroleum Storage
5. Hazardous Waste Generator and Onsite Treatment Programs
6. Hazardous Material Management Plans and Hazardous Material Inventory Statements.

SB 1082 places enforcement responsibility on the Orange County Health Care Agency (OCHCA) Environmental Division, unless the local jurisdiction provides services as a partner agency (PA). Fullerton has been a CUPA PA since entering an agreement with the OCHCA in 1997. A subsequent amendment in 2010 expanded the scope of service and remains in place today. The City's efforts require specialized personnel with highly technical education to perform the necessary duties of carrying out CUPA enforcement. Additionally, those personnel require specialized equipment and ongoing technical training. As a PA, the County provides cost recovery for positions necessary, however not entirely. The workload requires three full-time Hazardous Materials Specialists with varying administrative assistance from front office staff and the Fire Marshal. The cost recovery from the County does not provide enough to cover all costs, resulting in a general fund impact. As a result, position compensation has compared to other

agencies and retention issues continue to hamper our ability to continue the CUPA enforcement. Additionally, our most senior Hazardous Materials / Environmental Compliance Specialist will retire in August 2021, reducing our ability to perform underground tank inspections entirely.

The Fullerton Fire Department performs in excess of 7,000 fire and life safety inspections annually. These inspections do not include the hazardous materials CUPA inspections. The Fullerton Fire Prevention Bureau staffing will reduce to three personnel, with one expected to leave for a Firefighter position. Further, staff has identified revenue collection as historically deficient. Lack of staff availability has greatly minimized the City's wildland / weed abatement program. The Fire Prevention Bureau will need to maintain a minimum of a four-person staff in order to ensure all fire and life safety inspections occur annually.

The City of Fullerton has no obligation to remain a participating agency in the CUPA program. Considering the incomplete cost recovery, the ongoing staffing issues and the need to reorganize the Fire Prevention Bureau for efficiencies, staff recommends relinquishing the CUPA duties to the OCHCA. In doing so, the City will reclassify the remaining Hazardous Materials Specialist as a Fire Prevention Specialist and focus efforts on fire, life safety and wildland fire enforcement.

Attachments:

- Attachment 1: Original Agreement with County of Orange