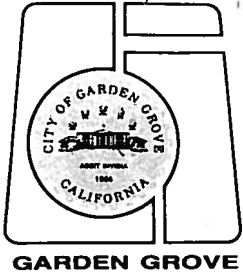


AGREEMENT BIBLIOGRAPHY

Agreement With:	City of Anaheim
Agreement Type:	Joint Powers Agreement for hazardous materials response
Date Approved:	10 09 1989
Start Date:	10 09 1989
End Date:	Until terminated
Contract Amount:	N/A
Comments	File No. 55 (XR: 61.7) Fire Department
Insurance Expiration:	N/A
Date Archived:	ARCHIVED 12/05/2017



CITY OF GARDEN GROVE, CALIFORNIA

11391 ACACIA PARKWAY, P.O. BOX 3070, GARDEN GROVE, CALIFORNIA 92642

October 17, 1989

City of Anaheim
Fire Department
500 East Broadway
Anaheim, CA 92805


Attention: Chief Jeff Bowman

Dear Chief Bowman:

Enclosed is the original of the Joint Powers Agreement for hazardous material response. This agreement was approved by the Garden Grove City Council at its meeting of October 9, 1989 and was subsequently executed.

Please forward to us a copy of this agreement when it has been fully executed.

Sincerely,


CAROLYN MORRIS, CMC
City Clerk

Enclosure

cc: Fire Department
Controller

HAZARDOUS MATERIALS EMERGENCY RESPONSE SERVICES
CONTRACT

This AGREEMENT, made this _____ day of _____, 19____, by and between the Orange County-City Hazardous Materials Emergency Response Joint Powers Authority (Authority) and _____ (Contract Agency) is made with reference to the following:

A. Authority, through Provider Agencies, employs, maintains, trains, and equips personnel capable of responding to emergencies created by the release of hazardous materials.

B. Contract Agency is responsible for providing hazardous material emergency response services within its jurisdiction.

C. Authority can provide Contract Agency with hazardous material emergency response services at a cost far below that which would be incurred by Contract Agency in maintaining its own team or contracting for services with private industry.

D. Contract Agency wishes to participate in Authority's Program to provide hazardous material emergency response services in accordance with the terms of this Agreement and the Orange County-City Hazardous Materials Emergency Response Joint Powers Agreement (JPA).

NOW, THEREFORE, the Parties agree as follows:

1. TERM:

The term of this AGREEMENT shall commence as of the 9th day of October, 1989 and shall continue until Contract

Agency withdraws from the Authority as provided in the JPA or this Agreement is terminated as provided in Section 7.

2. DEFINITIONS:

For the purposes of this Agreement, the definitions contained in Chapter 1 of the JPA shall apply.

3. AUTHORITY SERVICES: Authority, through Provider Agencies, shall furnish Contract Agency with hazardous material emergency response services as specified, and subject to the limitations, in the JPA. Authority does not guarantee or warrant that a Response Team will be available, at all times, to respond to any emergency within the jurisdiction of the Contract Agency. The Authority, Provider Agency and Response Team retain the sole and exclusive discretion as to the specific type, nature and timing of the services performed pursuant to this Agreement.

4. CONTRACT AGENCY'S DUTIES/JPA INCORPORATED:

A. Contract Agency shall pay Authority the hourly rate per response team, as determined by the Board pursuant to Section 5.7 of the JPA, for all services performed by Authority, Providing Agencies and Response Team(s) pursuant to this Agreement and the JPA. Services performed by the Response Team shall commence as of the date and time the Contract Agency advises the Authority of a hazardous materials emergency within its jurisdiction and shall continue until the Response Team(s) returns to station. Payment for services performed in less than one (1) hour shall be prorated. Contracting Agency shall pay within thirty (30) days after receipt of invoice, the cost of repairing

or purchasing all material and equipment damaged or destroyed in the course of responding responding to any hazardous material emergency pursuant to this Agreement.

B. Contract Agency acknowledges that the hourly rate in effect as of the date of this Agreement represents a reasonable hourly charge for services performed by Authority and Provider Agencies. Contract Agency understands that Authority shall, on an annual basis, revise the hourly rate to reflect any anticipated change in those factors considered by the Board in determining the rate for each fiscal year. The hourly rate for any specific fiscal year shall remain constant during the entire fiscal year.

C. Contract Agency shall notify Authority in the event of any hazardous material emergency occurring within its jurisdiction. Contract Agency shall take action, prior to the arrival of the Response Team(s), such as area evacuation, site security and traffic control, that is necessary or appropriate to minimize danger to the public and/or facilitate efforts of the Response Team. Contract Agency shall, upon request or pursuant to Board policy, provide the Response Team with police, fire, and other support services, adequate communication facilities and such other services personnel, equipment or facility as may be requested or required.

D. Contract Agency acknowledges that, by signing this Agreement, it becomes a Participating Agency within the Authority. Contract Agency agrees that all of the provisions of

the JPA are incorporated into this Agreement by reference and, in the event of any conflict between this Agreement and the JPA, the provisions of the JPA shall control. Contract Agency agrees to fully perform all of its duties and obligations pursuant to this provisions of this Agreement and the JPA as presently constituted as or hereafter amended.

5. AUTHORITY COLLECTIONS:

A. In consideration of the agreement of Authority to provide services pursuant to this Agreement and the JPA, Contract Agency assigns to Authority all of its right, title and interest in and to any claim or cause of action against the person or entity responsible, in whole or in part, for the hazardous material emergency. This assignment includes, without limitation, the right to recover monies paid to Authority for the provision of services pursuant to this Agreement and the JPA, the right to collect the reasonable value of all services performed by Authority, and all right to recover punitive damages, penalties, or statutory enhancements to the extent provided by law. Contract Agency agrees to cooperate with Authority in its efforts to recover money from any person or entity responsible for a hazardous material emergency. Contract Agency waives and gives up any right it may have to receive or hold any funds collected by Authority and relating to hazardous materials emergencies for which Contract Agency has paid Authority.

B. Nothing in this section shall prevent Contract Agency from pursuing efforts to collect, from the person or entity

responsible for the release of hazardous materials, all costs and expenses (including payments made pursuant to workers' compensation laws) incurred by Agency in providing police, fire and other support services. Contract Agency may assign, to Authority and for collection only, the right to recover police, fire and related costs. In such event, Authority shall pursue collection of those costs in the same manner and at the same time as it attempts to collect its costs. Authority shall pay over to Contract Agency all funds to which it is entitled within thirty (30) days of receipt.

6. INDEMNIFICATION AND WAIVER:

A. Contract Agency waives and gives up any claim against, or right to sue, the Authority, any Provider Agency, any other Contract Agency, or any of its officers, employees or representatives, for any loss, damage or injury that arises out of, or is in any way related, to the performance of services pursuant to this Agreement. This waiver extends to bodily injury, or property damage, that may be sustained by the Contract Agency, or its officers, employees, contractors or agents and which was proximately caused, in whole or in part, by the negligent act, conduct or omission of the Authority, any Provider Agency, any other Contract Agency, or their officers, employees, agents, contractors, representatives, or any third party, provided, however, this waiver does not extend to bodily injury or property damage caused by the fraudulent or willful conduct or any willful or negligent act which constitutes a violation of a penal statute.

B. Contract Agency shall defend, indemnify and hold harmless the Authority, the responding Provider Agency, and their respective officers, employees, contractors, agents and representatives, with respect to any claim, loss, liability, damage, lawsuit, cost or expense that arises out of, or is in any way related, to the performance of services by the Authority or the responding Provider Agency including, without limitation claims, litigation, damage, loss, liability, costs or expenses caused, or alleged to have been caused, in whole or in part, by the negligence of Authority, Provider Agencies, or their respective officers employee's agents or representatives. The obligation of Contract Agency to defend, indemnify and hold harmless the Authority, responding Provider Agency and their respective officers, employees, contractors, agents, or representatives also extends, without limitation, to any injury, death, loss or damage sustained by any third party, any employee or contractor of a Public Entity and to such contractor's employees.

D. In the event that liability is imposed upon the Authority, any Participating Agency, or their respective officers, employees, agents or representatives that arises out of or is in any way related to the provision of hazardous material emergency services pursuant to this Agreement and the JPA, or the existence of any hazardous material emergency within Contract Agencies jurisdiction, Contract Agency shall fully satisfy any such judgment or award between the Provider Agencies, relative to any

service performed by Authority or any hazardous material emergency within Contracting Agency's jurisdiction, Contracting Agency shall fully satisfy any such judgment or award and shall fully indemnify the Authority, Participating Agencies, and their respective officers, employees, contractors, agents and representatives for any such liability, judgment or award.

7. TERMINATION:

A. This Agreement shall terminate if Contract Agency withdraws from the Authority as specified in the JPA. Termination shall be effective as of the date of withdrawal.

B. Authority may terminate this Agreement, and Contract Agency's status as a Participating Agency in the Authority, if Contracting Authority fails to make payments required by this Agreement, fails to provide the support services required by this Agreement, or otherwise materially breaches this Agreement or any provision of the JPA.

C. Contract Agency shall, subsequent to the effective date of any termination or withdrawal, continue to be fully responsible to perform the duties and obligations required pursuant to this Agreement and/or the JPA and which are based upon facts, events or occurrence which predate withdrawal or termination.

8. MISCELLANEOUS PROVISIONS:

A. Each of the parties to this Agreement shall immediately notify the other of any litigation or claim that is asserted by or against either party regarding this Agreement or

the JPA.

B. Each of the parties to this Agreement shall cooperate with one another in the defense of any lawsuit or claim filed against either party in arising out of, or in any way related, to this Agreement or the JPA, as well as any effort any Authority to collect money from persons or entities responsible for any hazardous material emergency.

C. The validity of this Agreement, and any of its terms and provisions, as well as the rights and duties of the parties, shall be interpreted and construed pursuant to, and in accordance with, the laws of the State of California.

AUTHORITY:

Dated: October 9, 1989

By: 
MAYOR

Attest:

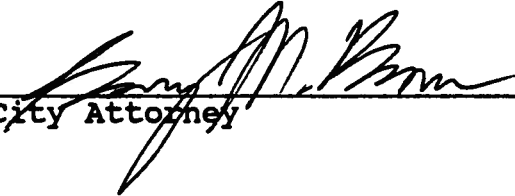

City Clerk

CONTRACT AGENCY:

Dated: _____

By: _____

APPROVED AS TO FORM:

 9/25/89
City Attorney

HMERSERS.EXC
8/14/89