TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: FIRE

AGENDA DATE: DECEMBER 15, 2008

CMR: 461:08

SUBJECT: Approval of an Amendment to Participating Agency Agreement with County of Santa Clara to Add Provisions for Administration of the Underground Storage Tank (UST) Program, Aboveground Storage Tank (AST) Program and Single Fee System

RECOMMENDATIONS

Staff recommends that Council approve the attached Amendment (Attachment 1). This Amendment updates the existing agreement with Santa Clara County to: (1) update Aboveground Storage Tank program responsibilities to reflect recent changes to state law; (2) assign responsibility for Underground Storage Tanks to the County; and (3) transfer administration of the Single Fee System currently conducted by the City to the County. The City will continue to conduct all other programs as authorized in the current Agreement.

BACKGROUND

The Palo Alto Fire Department has enforced local and State Underground Storage Tank (UST) regulations since 1983. There are currently 73 underground storage tanks operating in the City. All of the regulated underground storage tank facilities have undergone several mandated upgrades to significantly reduce the potential for releases from the tanks and associated piping.

In 2007, the Fire Department evaluated the elements and time commitment devoted by City staff to the underground storage tank program and concluded that transferring UST responsibilities to the County would help enhance level of service provided by the Fire Department in all areas of hazardous materials management. Specifically, the County would perform the same level of UST program service. Since the County operates at 100 percent cost recovery for this program there will be an increased cost to business. Facilities with a single UST will see an increase of $229 per year. Large facilities (service stations) with multiple tanks will see an increase of up to $1624 per year, per site. The Fire Department inspection staff (approximately equivalent to .30 full time employee) will then be available to conduct other critical fire and hazardous materials facility inspections. This transfer to the County is expected to reduce revenues from permitting and inspection services previously provided by the City by approximately $30,000 per fiscal year. The reduction in revenue is anticipated to be offset with additional permitting and inspection fees. Inspectors will focus on facilities that need to be brought into compliance with certificate of occupancy requirements as well as facilities where substantial hazards exist and closer over-sight is necessary. In 2007, a letter of intent was signed by the City Manager to the
County Executive to transfer these programs to the County and directed Fire Department staff to work with County staff to prepare for this transfer.

The City has provided data to the State each year on aboveground storage tanks, which the state Water Quality Control Board has used to regulate those tanks. However, Assembly Bill 1130 went into effect on January 1, 2008 and transferred responsibility for enforcement and administration to Certified Unified Program Agencies and Participating Agencies. This amendment establishes that the City will continue to gather the aboveground storage tank data and assume responsibility for regulating the additional elements assigned by AB 1130.

Finally, the single fee system, which provides businesses with a single invoice for local, county and state hazardous materials fees, has been implemented by the City of Palo Alto since 1998. With approval of this amendment, the County will administer that system by providing for inspection services, billing and collection, enforcement and compliance issues, and program oversight. County administration will ease administration responsibilities and workload for City staff, and, because the County’s billing system contains greater efficiencies, is anticipated to provide an enhanced ability to collect. The County has agreed to provide this service at no cost to the City and will provide an annual report.

**RESOURCE IMPACT**
The transition of the UST program to the County will result in the reduction of $30,000 in Hazardous Materials Permit fees. It is anticipated that the increased availability of the Fire Department inspection staff to reduce the backlog and conduct Use and Occupancy fee inspections in the next six months will offset the revenue reduction.

Training staff to administer the new aboveground storage tank regulations will be covered by grant funding, and Cal/EPA will be providing inspection training in spring of 2009. In addition, the Fire department will review any increases in time needed to administer the new AST elements and adjust the fee schedule accordingly.

**POLICY IMPLICATIONS**
This recommendation is consistent with existing City policies.

**ENVIRONMENTAL IMPACT**
This is not an action requiring review under the California Environmental Quality Act.

**ATTACHMENTS/EXHIBITS**
Attachment 1-Amendment to Participating Agency Agreement
Attachment 2-Participating Agency Agreement

Prepared By: ____________________________
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Acting Fire Marshal