

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY  
AND RECORD OF ACTION**

**REPORT/RECOMMENDATION TO THE BOARD OF DIRECTORS  
OF THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT  
AND RECORD OF ACTION**

June 11, 2024

**FROM**

**LUTHER SNOKE, Chief Executive Officer, County Administrative Office**

**DAN MUNSEY, Fire Chief/Fire Warden, San Bernardino County Fire Protection District**

**SUBJECT**

San Bernardino County Certified Unified Program Agency Program

**RECOMMENDATION(S)**

1. Acting as the governing body of San Bernardino County, approve **Agreement No. 24-475** with the San Bernardino County Fire Protection District for the San Bernardino County Fire Protection District to continue to manage the San Bernardino County Certified Unified Program Agency Program, from June 11, 2024, through June 30, 2027.
2. Acting as the governing body of the San Bernardino County Fire Protection District, approve Agreement No. 24-475 with the San Bernardino County for the San Bernardino County Fire Protection District to continue to manage the San Bernardino County Certified Unified Program Agency Program from June 11, 2024, through June 30, 2027.

(Presenter: Dan Munsey, Fire Chief/Fire Warden, 387-5779)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Improve County Government Operations.**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.**

**FINANCIAL IMPACT**

Approval of this agreement will not require the use of Discretionary General Funding (Net County Cost) as the Certified Unified Program Agency (CUPA) is funded through compliance inspection and CUPA administrative fees. San Bernardino County (County) is the recognized CUPA and the County's CUPA Program is managed by the San Bernardino County Fire Protection District (SBCFPD), Office of the Fire Marshal, Hazardous Materials section.

This agreement formalizes SBCFPD's continued management and implementation of the County's CUPA Program. The CUPA Program generates approximately \$10.6 million in revenue each fiscal year. Revenue collected by the CUPA program through compliance inspection and CUPA administrative fees ensures full cost recovery of the program. Sufficient

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revenue has been included in SBCFPD's 2023-24 budget and will be included in future recommended budgets.

**BACKGROUND INFORMATION**

On December 31, 1996, the California Environmental Protection Agency designated the County as the CUPA. The County, through SBCFPD's Office of the Fire Marshal, Hazardous Materials Section, implements six program elements in the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program (Unified Program) within the County. The six Unified Program elements that are part of the County's CUPA include:

1. Hazardous Materials Release Response Plans and Inventory (Business Plan)
2. Hazardous Waste Generation and Onsite Treatment
3. Aboveground Petroleum Storage Act/Spill Prevention, Control, and Countermeasure Plan
4. Underground Storage Tanks
5. California Accidental Release Program
6. Hazardous Materials Management Plans and Inventory Statements under the Fire Code

The CUPA Program protects the public from hazardous waste and hazardous materials and is designed to provide a unified way to coordinate the administration of permits, inspection activities, and enforcement activities related to hazardous materials throughout the county.

Before and after its reorganization in 2008, SBCFPD and its predecessor-in-interest, managed and implemented the County's CUPA Program. In addition, Section 11.0202 of the San Bernardino County Code (County Code) identifies the Fire Chief/Fire Warden, the Fire Marshal, and other designated employees of the SBCFPD as an enforcement officer of the County Code. The CUPA provisions in the County Code may be found in Chapter 7, of Division 3 of Title 2.

On July 26, 2022 (Item No. 63), the Board of Supervisors of the County and the Board of Directors of SBCFPD (collectively Boards) approved a Stipulation and Order Settlement Agreement template and a Consent Order Settlement Agreement template (collectively Settlement Agreements) associated with Administrative Enforcement Orders (AEO) issued by SBCFPD, on behalf of the County as the CUPA, as well as delegated their authority to complete and approve these documents when they have a penalty assessment of \$100,000 or less from July 26, 2022 through June 30, 2027.

AEOs are a formal means of enforcement of hazardous materials laws and regulations. AEOs are used primarily to address the failure to comply with hazardous materials laws and regulations and are an alternative means to civil or criminal prosecution when a violator fails to respond to either a notice to comply or notice of violation. The goals of the AEO are to return a facility to compliance with hazardous materials laws and regulations in a timely manner and to deter future non-compliance.

The intent of the agreement is to formalize SBCFPD's continued management and implementation of the County's CUPA Program, from June 11, 2024, through June 30, 2027. The termination date of this agreement coincides with the above-referenced termination date on the Boards' delegation of authority to complete and approve the AEO Settlement Agreement templates.

Under the terms of the agreement, SBCFPD will implement, manage and enforce the County's six program elements in the Unified Program within the County. SBCFPD will adopt CUPA administrative fees in its annual fee schedule. SBCFPD will retain CUPA fees to recover costs for providing the necessary services associated with the County's CUPA program, as well as

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collect and retain any penalty assessments to be paid to SBCFPD on behalf of the County associated with Settlement Agreements related to AEOs issued by SBCFPD, on behalf of the County as the CUPA as provided by the Boards' action on July 26, 2022 (Item No. 63) and use the penalty assessments for the services described in this agreement consistent with Chapter 6.11 of Division 20 of the Health and Safety Code.

If the County elects to apply for and receive a court judgment for an administrative penalty under Health and Safety Code section 25404.1.3, then under the agreement, the County shall forward any funds collected by the County to SBCFPD. Pursuant to Health and Safety Code section 25404.1.1, these funds shall only be used by SBCFPD to fund activities of the County's CUPA program in enforcing hazardous materials laws and regulations. SBCFPD also agrees to comply with the County Code, the Health and Safety Code, and all other applicable laws and regulations in providing the services described in this agreement.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Scott Runyan, and Julie Surber, Principal Assistants County Counsel 387-5455) on May 3, 2024; Finance (Ivan Ramirez, Administrative Analyst, 387-4020) on May 28, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on May 28, 2024.

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Record of Action of the Board of Directors  
San Bernardino County Fire Protection District

Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

Moved: Joe Baca, Jr. Seconded: Curt Hagman  
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD/SECRETARY

BY   
DATED: June 11, 2024



cc: CAO - Snoke w/ agree  
Contractor c/o CAO w/ agree  
File w/ agree

JLL 06/14/2024