

ABOVEGROUND PETROLEUM STORAGE ACT PROGRAM  
GRANT AGREEMENT  
BETWEEN THE  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
**AND**  
CITY OF LONG BEACH  
CERTIFIED UNIFIED PROGRAM AGENCY  
AGREEMENT NO. 07-654-550

State and Grantee hereby agree as follows: **30714**

1. PROVISIONS. The following statute authorizes the State to enter into this Grant Agreement:

A. California Health and Safety Code, division 20, chapter 6.67, section 25270.11

2. PURPOSE. The State shall provide a grant to and for the benefit of the Grantee for the purpose of allocating moneys from the Environmental Protection Trust Fund (EPTF) to the Certified Unified Program Agencies (CUPAs), in accordance with the formula and process determined by the Secretary for Environmental Protection (Secretary) in consultation with the CUPAs. Up to 80% of the grant is authorized by statute to be paid in advance and will be paid upon approval of the grant. The CUPAs shall expend those funds for the purpose of implementing the Aboveground Petroleum Storage Act (APSA).

3. GRANT AMOUNT. \$77,261.59

4. TERM OF AGREEMENT. The term of the Agreement shall begin on January 1, 2008, and end on March 1, 2010. The grant is for the implementation of the APSA Program from January 1, 2008, through December 31, 2009. ABSOLUTELY NO FUNDS MAY BE REQUESTED AFTER June 1, 2011.

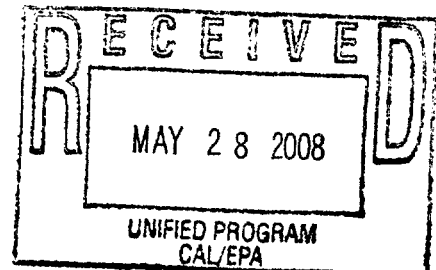
5. REPRESENTATIVES. Either party may change its Representative(s) upon written notice to the other party. The Representatives during the term of this Agreement will be:

California Environmental Protection Agency
<b>GRANT MANAGER</b>
John Paine, Staff Environmental Scientist
1001 "I" Street, 4 <sup>th</sup> Floor
Sacramento, California 95814
Phone (916) 327-5092
Fax (916) 322-6555
jpaine@calepa.ca.gov

City of Long Beach CUPA	<b>GRANT CONTACT</b>
<b>GRANTEE</b>	(if different from Project Director)
Name of Project Director, Title: Nelson Kerr, Hazardous Waste Operations Officer	Name: Linda Kolinski, Hazardous Waste Emergency Response Planner
Street Address: 2525 Grand Avenue	Street Address: 2525 Grand Avenue
City, Zip: Long Beach, CA 90815	City, Zip: Long Beach, CA 90815
Phone: (562) 570-4170	Phone: (562) 570-4285
Fax: (562) 570-4038	Fax: (562) 570-4038
e-mail: nelson_kerr@longbeach.gov	e-mail: linda_kolinski@longbeach.gov

6. STANDARD AND SPECIAL PROVISIONS. The following exhibits are attached and made a part of this Agreement by this reference:

- Exhibit A      REPORTING AND INVOICING PROVISIONS
- Exhibit B      SPECIAL AND GENERAL PROVISIONS
- Exhibit C      APSA GRANT APPLICATION




7. GRANTEE REPRESENTATIONS. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Grantee in its application, accompanying documents, and communications filed in support of its request for grant funding.

8. DEFINITIONS. The following defined terms apply throughout this Agreement:  
"APSA" means the Aboveground Petroleum Storage Act;  
"AST" means aboveground storage tank;  
"Cal/EPA" means the California Environmental Protection Agency;  
"CUPA" means the Certified Unified Program Agency;  
"EPTF" means the Environmental Protection Trust Fund;  
"Grantee" means City of Long Beach CUPA;  
"PA" means the Participating Agency;  
"Project" means the implementation of the Aboveground Petroleum Storage Act;  
"Secretary" means the Secretary of the California Environmental Protection Agency; and  
"State" means the State of California, including Cal/EPA.

IN WITNESS THEREOF, the parties have executed this Agreement on the dates set forth below.

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.**


By:

 **Assistant City Manager**  
Grantee Signature (as authorized in the resolution)

Patrick H. West, City Manager  
Grantee Name, Title (Typed/Printed)

May 16 2008  
Date

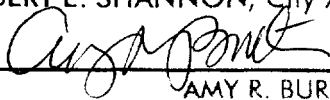
By:

  
Donald A. Johnson, Assistant Secretary  
California Environmental Protection Agency

28 May 2008  
Date

APPROVED AS TO FORM

5-12, 2008  
ROBERT E. SHANNON, City Attorney

By   
AMY R. BURTON  
DEPUTY CITY ATTORNEY

## EXHIBIT A

### REPORTING AND INVOICING PROVISIONS

#### A. REPORTING PROVISIONS

1. The Grantee shall prepare and submit APSA Program Implementation Status Reports, including invoices for documentation of expenditures, and an inventory of aboveground storage tank (AST) facilities to the Cal/EPA Grant Manager at the following address:

California Environmental Protection Agency  
Unified Program Section  
c/o John Paine, Staff Environmental Scientist  
1001 "I" Street, 4<sup>th</sup> Floor  
Sacramento, California 95814

2. Each report shall provide a brief description of all the actions taken and work activities performed during the reporting period. As necessary, the report shall also include a description of any problems encountered or potential issues identified that may affect the terms, conditions, provisions, or commitments contained under this Agreement.

3. Each report shall have a cover letter certified by the Project Director or the Grant Contact.

4. For purposes of the APSA Program Implementation Status Reports, the reporting period is as follows:

- |                           |   |                                     |
|---------------------------|---|-------------------------------------|
| a. 1 <sup>st</sup> Report | = | January 1, 2008, to June 30, 2008   |
| b. 2 <sup>nd</sup> Report | = | July 1, 2008, to December 31, 2008  |
| c. 3 <sup>rd</sup> Report | = | January 1, 2009, to June 30, 2009   |
| d. Final Report           | = | July, 1, 2009, to December 31, 2009 |

5. Submission of the reports and invoices shall be in accordance with the following schedule:

- |                                     |                 |                         |
|-------------------------------------|-----------------|-------------------------|
| a. 1 <sup>st</sup> Report & Invoice | <u>Due Date</u> | <b>August 1, 2008</b>   |
| b. 2 <sup>nd</sup> Report & Invoice | <u>Due Date</u> | <b>February 1, 2009</b> |
| c. 3 <sup>rd</sup> Report & Invoice | <u>Due Date</u> | <b>August 1, 2009</b>   |
| d. Final Report & Invoice           | <u>Due Date</u> | <b>March 1, 2010</b>    |

6. For purposes of the inventory of AST facilities, the Grantee shall submit a revision of the Cal/EPA list of AST facilities for the CUPA's jurisdiction. The revision will serve to determine the final percentage share for each CUPA for any funds remaining from the Environmental Protection Trust Fund. The Grantee shall use the format provided in the Cal/EPA list of AST facilities.

7. The Grantee shall submit the revised inventory of AST facilities to Cal/EPA no later than **December 1, 2008**.

#### B. INVOICING PROVISIONS

1. Invoices shall be used to depict the expenditures incurred by the Grantee in implementation of the APSA Program from January 1, 2008, through December 31, 2009.
2. The invoice shall include all APSA Program implementation expenditures (direct and indirect) incurred by the Grantee during the reporting period.
3. The invoice shall be submitted as an attachment to the "Implementation Status Report," in accordance with the submission schedule provided above.
4. The Grantee shall use the invoice template format provided by Cal/EPA.

## EXHIBIT B

### SPECIAL AND GENERAL PROVISIONS

#### A. SPECIAL PROVISIONS

1. **AMENDMENTS:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.
2. **DISPUTES:** The Grantee shall continue with the responsibilities under this Agreement during any dispute. Any dispute arising under this Agreement which is not otherwise disposed of by agreement shall be decided by the Cal/EPA Assistant Secretary for Local Programs or an authorized representative. The decision shall be in writing and a copy thereof furnished to the Representatives of this Agreement. The decision of the Assistant Secretary shall be final and conclusive unless, within thirty (30) calendar days after mailing of the decision to the Grantee, the Grantee furnishes a written appeal of the decision to the Secretary for Environmental Protection, with carbon copies furnished to the Cal/EPA Assistant Secretary for Local Programs and the Cal/EPA Grant Manager. The decision of the Secretary shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal under this clause, the Grantee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Agreement. This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the Cal/EPA Assistant Secretary for Local Programs or the Secretary, on any question of law.
3. **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS:** The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this Agreement. The Grantee further agrees that it will maintain financial accounts in accordance with generally accepted accounting principles. Without limitation of the requirement to maintain financial management systems and accounting standards in accordance with generally accepted fiscal and accounting principles, the Grantee agrees to:
  - a. Establish a financial account(s) and accounting system(s) that will adequately and accurately depict all EPTF amounts received and expended during the term of this Agreement, including but not limited to:
    - i. EPTF advance allocation amounts, including interest earned;
    - ii. Additional EPTF allocations amounts;
    - iii. All APSA Program implementation expenditures (direct and indirect); and
    - iv. Running balance of EPTF allocations and expenditures.
4. **RECORDS MANAGEMENT:** Maintain all documentation and financial records, as may be necessary, for the state to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations. Establish an official file for the EPTF allocation that shall adequately document all significant activities and actions relative to the Implementation of the APSA Program, including but not limited to:
  - a. Fiscal accounting;
  - b. APSA Implementation Status Reports; and,
  - c. Invoicing and supporting documentation.
5. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with APSA Program implementation in an expeditious manner. The Grantee shall prepare and submit all required reports and invoices as stipulated in this Agreement.

6. WITHHOLDING OF GRANT DISBURSEMENTS: Cal/EPA may withhold all or any portion of the EPTF allocations provided for by this Agreement in the event the Grantee:

- a. Materially violates, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or
- b. Fails to maintain reasonable progress toward implementation of the APSA Program.

**B. GENERAL PROVISIONS**

1. ASSIGNMENT: This grant is not assignable by the Grantee, either in whole or in part, without the consent of the State.
2. AUDIT: Grantee agrees that the Cal/EPA, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the expenditure of allocated EPTF moneys and performance of this Agreement. The Grantee agrees to maintain such records for a possible audit for a minimum of three (3) years after term of the Agreement, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement.
3. COMPUTER SOFTWARE: The Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
4. CONFLICT OF INTEREST: The Grantee certifies that it is in compliance with applicable state and/or federal conflict of interest laws.
5. GOVERNING LAW: This grant is governed by and shall be interpreted in accordance with the laws of the State of California.
6. INDEPENDENT ACTOR: The Grantee, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of the State.
7. NONDISCRIMINATION: During the performance of this Agreement, the Grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, medical condition, marital status, age (over 40) or denial of family-care leave, medical-care leave, or pregnancy-disability leave. The Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
8. NO THIRD PARTY RIGHTS: The parties to this grant Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this grant Agreement, or of any duty, covenant, obligation or undertaking established herein.
9. TERMINATION: The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the Grantee agrees, upon demand, to immediately return the remaining unused portion, if any, of the Grantee's allocation of the EPTF.
10. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement shall continue to have full force and effect and shall not be affected thereby.

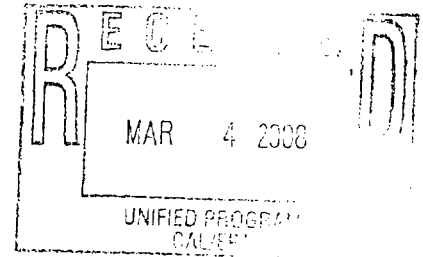
**EXHIBIT C**

**APSA GRANT APPLICATION**  
(see enclosure)

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

**1. Entity Information:**

Name of Grantee: Long Beach Certified Unified Program Agency  
Name of Project Director: Nelson Kerr, Hazardous Waste Operations Officer  
Address: 2525 Grand Avenue  
City, Zip: Long Beach, California 90815  
Phone: 562/570-4170  
Fax: 562/570-4038  
Email: [nelson\\_kerr@longbeach.gov](mailto:nelson_kerr@longbeach.gov)



Name of Grant Contact: Linda Kolinski, Hazardous Waste Emergency Response Planner  
Address: 2525 Grand Avenue  
City, Zip: Long Beach, California 90815  
Phone: 562/570-4285  
Fax: 562/570-4038  
Email: [linda\\_kolinski@longbeach.gov](mailto:linda_kolinski@longbeach.gov)

**2. Grant Amount:** \$77,261.59

**3. Work plan: (Scope of Work)**

Long Beach Certified Unified Program Agency  
AST Implementation Plan

The Long Beach Certified Unified Program Agency (CUPA) will incorporate the implementation of the Aboveground Petroleum Storage Act (APSA) Program into the

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

existing Unified Program structure established for the City of Long Beach. The current activities of verifying preparation of an SPCC and referrals to the Regional Water Quality Control Board will be replaced with full implementation and administration of the APSA, beginning on January 1, 2008. The following work plan, and associated timelines for completion, addresses all aspects related to the City of Long Beach's planned APSA implementation activities from January 1, 2008, through December 31, 2009.

A. Work Plan

I. Fee Accountability Program

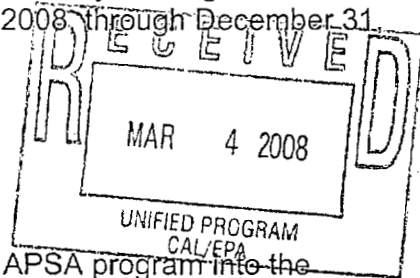
The Long Beach CUPA will incorporate the APSA program into the existing Unified Program (UP) Accountability system, accounting for the fee schedule, the actual amount billed, and the revenue collected. The fee accountability program is designed to encourage more efficient and cost-effective operation of the program for which the single fee is assessed. For the APSA program, the fee accountability program will be instituted before incorporating it into the single fee system. The Long Beach CUPA's fee accountability program includes the following elements:

- Accounting for: the fee schedule, the actual amount billed, and the revenue collected;
- Discrete billable services, categorized as general;
- Staff work hours required to implement the APSA program;
- Direct program expenses (including durable and disposable equipment);
- Indirect program expenses (including overhead for facilities and administrative functions);
- The number of businesses regulated under the APSA Program in the City of Long Beach; and,
- The Quantity and range of services provided, including frequency of inspection.

The incorporation of the APSA Program into the Unified Program Fee Accountability System and Program will be accomplished by September 30, 2009.

II. Unified Program Single Fee System

Prior to January 1, 2010, the City of Long Beach City Council will adopt the APSA program fee as part of the UP Single Fee system in the Long Beach CUPA. The APSA Program fee will be established at a level sufficient to pay the necessary and reasonable costs incurred by the





**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

CUPA in administering the APSA Program, including, but not limited to, inspections, enforcement, training and administrative costs.

By January 1, 2010, the Long Beach CUPA's "UP Single Fee Invoice" will be amended to include a line item for the APSA Program fee. Fees for non-recurring APSA Program activities of the CUPA such as, but not limited to, the fee for an initial permit of special inspection, may be billed separately from the "UP Single Fee Invoice." Beginning in January 2010, each regulated business will be assessed the APSA Program fee as part of the single fee invoice.

The Long Beach CUPA UP fee schedules will be available to interested parties on the City of Long Beach website ([www.longbeach.gov/Health](http://www.longbeach.gov/Health)) or upon request to the Long Beach CUPA.

The Long Beach CUPA's dispute resolution procedures will be amended to incorporate the APSA Program, which will guide the resolution of fee disputes that arise between the businesses regulated under the APSA Program element.

III. Staffing Plan

Staff resources for the initial implementation phase (January 1, 2008 – December 31, 2009) of the APSA Program will involve the redirection of existing CUPA staff. As part of the CUPA's staffing plan and adoption of the single fee for the APSA Program, the adequacy of proposed staffing resources will include an analysis of:

1. The number and type of regulated tank facilities within the jurisdiction;
2. An estimate of the annual number of compliance and complaint inspections, considering the cost of the following activities:
  - (i) Inspections and the related travel, research, analysis of findings, and documentation;
  - (ii) Inspection and enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;
  - (iii) Permit activities including application reviews, modifications and revisions, and facility evaluations;
  - (iv) Training including field, meetings, seminars, workshops, courses and literature reviews; and
  - (v) Management including day-to-day operation scheduling and supervision.

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

Existing CUPA staff will be redirected to assist with the start up activities. Once ASPA training is completed, the CUPA will redirect current staff to perform the necessary inspections and follow-up inspections. An evaluation as to the effectiveness of this approach will be made prior to January 1, 2010. The necessity of hiring additional staff for the ASPA program will be evaluated at that time.

IV. Identification of Regulatory Universe

The Long Beach CUPA will use the AST Tank Facility list provided by Cal/EPA as a starting point for the identification of the regulated tank facilities in the City of Long Beach.

The list will be compared with the existing CUPA facility data to determine those facilities already regulated under one or more Unified Program elements that handle petroleum materials in amounts that are equal to or in excess of 1,320 gallons. The list will then be segregated based on the following categories:

1. Exempted tank facilities with total tank storage capacity of less than 20,000 gallons
2. Tank facilities w/storage capacity  $\geq$  1,320 and  $<$  10,000 gallons
3. Tank facilities w/storage capacity  $\geq$  10,000 and  $<$  100,000 gallons
4. Tank facilities w/storage capacity  $\geq$  100,001 and  $<$  1,000,000 gallons
5. Tank facilities w/storage capacity  $\geq$  1,000,001 and  $<$  10,000,000 gallons
6. Tank facilities w/storage capacity  $\geq$  10,000,001 and  $<$  100,000,000 gallons
7. Tank facilities w/storage capacity  $\geq$  100,000,001 gallons

The Long Beach CUPA will submit the complete list of regulated tank facilities to Cal/EPA by December 1, 2008.

V. Staff Training Plan

All CUPA staff will be redirected and will be attending the AST Training Program developed by Cal/EPA, which is scheduled to be delivered in July, August, and September of 2008. This will include going through the AST Training Program's computer-based training course, including successful completion of the examination for inspectors. The APSA Program standards will be incorporated into the CUPA's ongoing training program and provided to program staff on a regular basis.

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

VI. Inspection and Compliance Program

As part of the Long Beach CUPA's Unified Inspection and Enforcement Program, the CUPA will ensure all regulated businesses subject to the APSA Program are in compliance with all the program requirements, including the SPCC Plan preparation and implementation, annual submission of their facility statement, and spill notifications. Exempted tank facilities will be periodically reviewed to verify that their total tank capacity is less than 20,000 gallons and to ensure they are performing and documenting their daily tank inspections. Tank facilities with storage capacity of  $\geq 1,320$  and  $< 10,000$  gallons will be periodically reviewed to verify that their total tank capacity is less than 10,000 gallons and to ensure that they have prepared and are implementing an SPCC Plan, are submitting their annual facility statements, and are paying the APSA Program fee. Tank facilities with storage capacity of  $\geq 10,000$  gallons will be inspected at least once every three years to ensure that they have prepared and are implementing an SPCC Plan in compliance with U.S. Code of Federal Regulations, Title 40, Part 112. The inspection will also include a visual inspection of all of the tanks at the tank facility. The inspection and all violations discovered during the inspections will be documented on an official inspection report form. Minor violations will be clearly identified and required to be corrected within 30 days. The owner/operator of the tank facility will be required to certify that all minor violations have been corrected. For more significant or serious violations that go uncorrected, the Long Beach CUPA will either initiate an administrative enforcement action or refer the case to the Long Beach City Prosecutor for civil or criminal enforcement.

VII. UP Administrative Procedures

The Long Beach CUPA's administrative policy and procedures will be reviewed and updated, as necessary to incorporate all relevant aspects of the APSA Program. The policies and procedures to be revised include:

- 00-2A Unified Program Single Fee
- 00-5A File Identification
- 00-6A File Retention
- 00-7A Unified Program Inspection and Enforcement Plan
- 00-9A Unified Program Consolidated Permit
- 00-12A Administrative Enforcement Order
- 00-13P Aboveground Petroleum Storage Tank Program Spill Prevention Control and Countermeasure Plan

All revisions will be completed by December 31, 2009.

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

VIII. Regulated Business Outreach Activities

The Long Beach CUPA will develop educational and guidance materials for those businesses regulated under the APSA Program. The educational and guidance materials will include fact sheets and guidance documents to assist regulated businesses in complying with all requirements of the APSA Program. These materials will be developed and distributed prior to December 2009. The CUPA administration will make itself available to assist businesses on a case-by-case basis, as needed.

IX. Other Implementation Activities

The Long Beach CUPA is the only Unified Program Agency within the jurisdictional boundaries of the City of Long Beach.

B. Implementation Timeline

Activity	2008				2009				2010
	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar
Report to Cal-EPA			X		X		X		X
Fee Accountability							X		
Single Fee									X
Staffing									X
Regulated Businesses				X					
Training			X						
Procedures								X	
Outreach								X	
Inspections									X

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

**4. Projected Budget:**

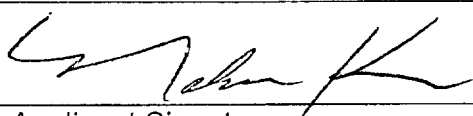
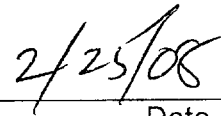
Direct Program Costs:

*Personnel Services	\$56,276.19
Operating Expenses (prorated for project)	
Travel Expenses	\$ 1,000.00
Supplies/Materials (less than \$5,000 per item)	
4 mailings x 95 facilities x \$1.50	\$ 570.00
Print 200 copies inspection reports	\$ 100.00
 Indirect Cost (25%) (Rate applied to Personnel Services only)	 \$19,315.40
<b>TOTAL</b>	<b>\$77,261.59</b>

\*Salary is based on hourly rate and includes fringe benefits

**5. CERTIFICATION**

I certify under penalty of perjury that the information I have entered on this application is true and complete to the best of my knowledge and that I am an employee of the applicant authorized to submit the application on behalf of the application. I further understand that any false, incomplete, or incorrect statements may result in the disqualification of this application. By signing this application, I waive any and all rights to privacy and confidentiality of the proposal on behalf of the applicant, to the extent provided in this program.

	
Applicant Signature	Date

Nelson Kerr, Hazardous Waste Operations Officer
Printed Name of Applicant

