

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: August 15, 2012

CAO File No. 0220-04709-0002  
Council File No. 12-1300-S1  
Council District: All

To: The Council  
The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: Council Request (C.F. 12-1300-S1) to Convene a Working Group to Study Ordinance No. 181989, the City of Los Angeles Safer Sex in the Adult Film Industry Act

Subject: **REPORT BACK ON THE IMPLEMENTATION OF THE SAFER SEX IN THE ADULT FILM INDUSTRY ORDINANCE**

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### SUMMARY

On January 10, 2012, Council directed the City Administrative Officer (CAO) through Amending Motion 22-C (Wesson – Koretz, C.F. 12-1300-S1) to convene a Working Group with the participation of the Personnel Department, the City Attorney, the Police Department (LAPD), the California Division of Occupational Safety and Health (Cal-OSHA), the California Occupational Safety and Health Standards Board, and other relevant stakeholders invited at the discretion of the CAO, to study Ordinance No. 181989, the City of Los Angeles Safer Sex in the Adult Film Industry Act (Ordinance), to require condom usage in the Adult Film Industry (AFI) and make recommendations regarding amendment of the Ordinance necessary to further its purposes, as well as implementation matters. The Ordinance was adopted by Council on January 17, 2012. This report represents the Working Group's discussions and recommendations for implementation of the Ordinance. The recommendations seek to provide a feasible implementation plan that is respectful of State law and proactive in achieving the goal of the Ordinance to maintain safer working conditions in AFI.

### BACKGROUND

The Ordinance was created as a result of the Initiative Petition process. On August 31, 2011, five registered voters of the City submitted a proposed Initiative Petition for circulation to the City Clerk's Office. If adopted, the petition would require the City to adopt an Ordinance or submit to the voters a prospective Ordinance requiring any film permit issued under the authority of the City for commercial production of an adult film be conditioned on the usage of condoms in the making of the films. The initiative would also require the City to charge permit applicants a fee to pay for periodic inspections of AFI locations/working conditions. On December 5, 2011, the proponents of this Adult Film Workplace Safety Condom Initiative submitted 70,901 signatures to the City Clerk to place the

initiative on the June 2012 ballot. The City Clerk examined the signatures and determined that the Initiative Petition was sufficient.

On December 8, 2011, the Los Angeles City Attorney's Office filed a complaint seeking declaratory relief from the courts as to whether the Adult Film Workplace Safety Condom Initiative was preempted by State law. The parties subsequently entered into a Settlement Agreement in which, in exchange for a dismissal of the declaratory relief action, Council would adopt the proposed initiative, pursuant to Los Angeles City Election Code Section 700. On January 17, 2012, City Council adopted the Ordinance. The Council then directed the CAO to form a Working Group to study the Ordinance to require condom usage in the AFI and make recommendations regarding amendment of the Ordinance necessary to further its purposes, as well as implementation matters. The Settlement Agreement between the City and the Aids Healthcare Foundation mandated that the Working Group report back to Council within 120 days.

On May 16, 2012, the CAO, on behalf of the Working Group, requested a 90-day extension to report back on the implementation of the Safer Sex Ordinance. The additional time was requested due to the complexities of this issue and the need to obtain more information to implement the Ordinance. On June 6, 2012, Council authorized the 90-day extension, which the parties in the Settlement Agreement accepted.

The Working Group identified many options for Council consideration regarding how to implement the Ordinance. The background for the recommendations below and other options is discussed in the Findings section of this report. On July 24, 2012, the County Board of Supervisors took an action to include a Safer Sex in the Adult Film Industry ballot initiative in the November 6, 2012 State General Election. Consequently, the Working Group recommends that the Council direct the CAO to continue to work with the County to develop a long-term mechanism for enforcement pending the outcome of the ballot initiative. However, the City has an obligation to implement the Ordinance as approved by your Council while exploring a partnership with the County.

## **RECOMMENDATIONS**

That the Mayor and Council adopt the following actions:

1. **Revise the Film Permit Application**

Create a new section on the FilmL.A., Inc. Permit Application Request that seeks information about various filming activities that involve dangerous special effects or hazardous conditions, including the current categories relating to Gun Fire, Special Effects (breaking glass, explosions, fire), and add a section entitled, "Activities Carrying Risk of Transmission of Blood or Infectious Materials Pursuant to California Code of Regulations, Title 8, Section 5193(b)," which include a "check box" to reflect the exact language in the Ordinance which specifies whether or not production employees will be filmed engaging in non-simulated sexual intercourse, defined as vaginal or anal penetration by a penis.

2. Require Licensed Medical Inspections

Issue a Request for Proposals (RFP) seeking to contract with a licensed medical professional to conduct the periodic inspections of film productions involving "Activities Carrying Risk of Transmission of Blood or Infectious Materials." If this recommendation is adopted, more information would need to be gathered to determine City enforcement parameters and the CAO should be directed to report back to the Mayor and Council within 90 days with a draft RFP for further action.

3. Contract with the Los Angeles County Department of Public Health

If voters in Los Angeles County approve in the Statewide General Election scheduled for November 6, 2012, the measure (County Measure) to require adult film producers to obtain a health permit as a condition of producing a film that involves non-simulated sexual intercourse, then the City should adopt the County Measure and put a measure on the Citywide primary election in March of 2013 to reconcile the Ordinance in LAMC Section 12.22.1 with the County Measure to rely exclusively on the County health permit requirements and inspections to ensure the safety of performers in the AFI from the risk of transmission of bloodborne pathogens. If this recommendation is adopted, the City Attorney should be requested to report back with an amending Ordinance to reconcile LAMC Section 12.22.1 with the County Measure.

4. Develop a Fee Structure

Direct the CAO to develop a fee structure to contract for the services identified in Recommendations 2 and/or 3 above, and direct the CAO to report back to the Mayor and Council within 90 days with a draft fee proposal for adult film inspections.

**FISCAL IMPACT STATEMENT**

The impact to the General Fund is unknown at this time. Based on which recommendations the Council adopts, the Office of the City Administrative Officer, with assistance from the City Attorney and other departments, would report back to the Mayor and Council regarding the costs to the City and potential funding sources. Compliance with City Financial Policies would be reviewed once the source of funds is determined.

## **FINDINGS**

### **1. Basis for Report**

On January 10, 2012, Council directed the City Administrative Officer (CAO) through Amending Motion 22-C (Wesson – Koretz, C.F. 12-1300-S1) to convene a Working Group with the participation of the Personnel Department, the City Attorney, the Police Department (LAPD), the California Division of Occupational Safety and Health (Cal-OSHA), the California Occupational Safety and Health Standards Board, and other relevant stakeholders invited at the discretion of the CAO, to study the Ordinance to require condom usage in the Adult Film Industry (AFI) and make recommendations regarding amendment of the Ordinance necessary to further the Ordinance's purpose, as well as implementation matters. This Office was instructed to report on the Working Group Findings.

### **2. Federal Regulations**

The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) issued its final regulation on occupational exposure to bloodborne pathogens (Section 29 CFR 1910.1030), on December 6, 1991, which was the basis for California Section 5193. The Federal standard requires employers to develop an exposure control plan, to utilize engineering and work practice controls to minimize or eliminate exposures, to provide and ensure that employees use personal protective equipment where hazards remain, and to provide training and medical services to employees who have occupational exposure. For example, although Hepatitis C is considered a bloodborne pathogen in both the Federal and State of California standards, the Federal standard does not specifically require the testing of the source individual for Hepatitis C after an exposure incident. The Federal regulation does not contain the specific requirement for employee participation in the review and updating of the plan. In addition, there are some differences between the Federal and State standards regarding engineered sharps injury protection.

OSHA defines blood to mean human blood, human blood components, and products made from human blood. Other potentially infectious materials (OPIM) means:

- Human body fluids including semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;
- Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and,
- Human immunodeficiency virus (HIV) containing cell or tissue cultures, organ cultures, and HIV or Hepatitis B Virus (HBV) containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

### **3. State Regulations**

Cal-OSHA protects workers and the public from safety hazards through its Occupational Safety and Health program. The California Code of Regulations (CCR), existing Title 8 Regulations of General

Industry Safety Orders, Section 5193, Bloodborne Pathogens/Sharps Injury Prevention, became operative on January 11, 1993. Cal-OSHA specifically names semen and vaginal secretions as OPIMs. This section applies wherever there is occupational exposure, which is defined as "reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties."

The Cal-OSHA CCR, Title 8 Regulations, Section 5193, requires employers to:

- Establish, implement and maintain an effective written exposure control plan;
- Eliminate or minimize occupational exposure to blood or OPIM through the use of engineering and work practice controls;
- Provide and enforce the use of personal protective equipment where exposure remains after the institution of engineering and work practice controls;
- Provide medical services, including post-exposure evaluation and follow-up and provision of Hepatitis B vaccinations;
- Provide initial and annual training to employees;
- Keep and make available certain exposure and medical records, in accordance with this section and Section 3201; and,
- Review the exposure control plan at least annually, and have an effective procedure for involving employees in the evaluation of the plan;

The Cal-OSHA CCR, Title 8 Regulations, Section 3203, Injury and Illness Prevention Plan, requires employers to identify and evaluate occupational safety and health hazards and to correct hazards in a timely manner. It also requires employers to communicate with employees about occupational safety and health matters, investigate occupational injuries and illnesses, and train employees and supervisors. Other standards, such as Section 3204, Access to Employee Exposure and Medical Records, also apply in this industry.

The Division of Occupational Safety and Health (Division) is responsible for enforcing Section 5193. Prior to 2004, the Division had little experience with the AFI. After an outbreak of HIV related to the production of a video, the Division began inspecting AFI film sites, issuing citations, and negotiating abatement agreements. The Division has also responded to complaints and inquiries regarding bloodborne pathogens and other workplace hazards in the AFI. To assist AFI employees and employers, the Division created a website that explains the requirements of Cal-OSHA regulations specific to adult entertainment worksites. In addition, Cal-OSHA and the Division set up a hotline to answer questions and complaints from people in the industry. See Attachment A for the hotline contact information.

Enforcement of Section 5193 for the AFI has proved to be a challenge for Cal-OSHA. In some cases, it was not possible to identify the employers or the employees. In other cases, the investigators could not establish that the films were recorded in California; therefore, the State safety regulations would not apply. Producers who want to comply with the regulations have told the Division that the date tracking requirements do not apply to the AFI. Due to high turnover, it is difficult to train employees adequately. As a result of these enforcement issues, the State created an Advisory Committee to

update the language of Section 5193 to meet the needs of the AFI. The last Advisory Committee meeting was held in June 2011. No changes in the regulations have been made yet.

#### **4. County Regulations**

On September 17, 2009, the County of Los Angeles, Department of Public Health (DPH) sent a letter to the County Board of Supervisors (Attachment B) addressing sexually transmitted diseases related to the AFI. The DPH reported that they had, in conjunction with County Counsel, explored expanded local regulatory strategies. However, DPH added that these methods had substantial implementation and enforcement challenges, were likely to be only partially effective because the industry extends beyond the reach of Los Angeles County, and may possibly be subject to legal challenge. Consequently, DPH recommended State legislation to increase surveillance of occupational exposures, enhanced penalties and enforcement of condom use in the AFI.

Since 2003, DPH has monitored the AFI by: 1) working with health-related organizations associated with the industry to enhance education and outreach in the AFI to prevent HIV and other Sexually Transmitted Diseases (STDs); 2) collaborating with Cal-OSHA to develop guidelines to reduce disease exposure in the AFI and request workplace investigations; and 3) working with County Counsel, the County Chief Executive Officer (CEO) and County legislative advocates to support State legislation to implement regulations to ensure protection of workers in this industry.

In addition to its role in surveillance, DPH has taken several actions to address these public health issues in the AFI including:

- Worked with Cal-OSHA to develop a model Exposure Control Plan applicable to this industry based on existing standards in Title 8, CCR, specifically including the Injury and Illness Prevention Program standard (Section 3203), and the Bloodborne Pathogens standard (Section 5193);
- Following developments of the model Exposure Control Plan, initiated discussion with the State Labor and Workforce Development Agency to develop educational outreach plans and materials for both producers and performers;
- Secured technical assistance in May 2004 from the National Institute of Occupational Safety and Health (NIOSH), to investigate workplace hazards in this industry, and issue recommendations;
- Testified in June 2004 before a California State Assembly Committee in support of legislation to regulate the AFI to: 1) require condom use for all high risk sexual encounters; 2) have screening requirements for STDs set by the State with screening costs paid by the industry, and offer vaccinations for appropriate preventable conditions; 3) mandate education and training of all AFI performers; and 4) assure monitoring to ensure compliance by State and local health departments paid for by the AFI;
- Conducted periodic dialogue with producers and performers in both straight and gay male roles of the industry, as well as with other relevant agencies, including the California Department of Health Services, STD Control Program and the State Office of AIDS to understand better the health and safety issues in the AFI, and develop appropriate screening recommendations and interventions. During these meetings, DPH has consistently asserted

that it is the responsibility of the AFI to require male performers to wear condoms to minimize risk of preventable serious illness;

- Requested Cal-OSHA to conduct investigations of recent incidents of presumed workplace infection with STDs and HIV. Between April 2004 and June 2009, nine requests were made to Cal-OSHA for investigations of presumed workplace STD infections. Although two of these cases are pending, the completed investigations resulted in ten violations;
- Initiated investigations, as needed, seeking to determine the extent of potential exposure and actual disease transmission; and,
- Offered additional HIV and STD testing services to performers, provided counseling and medical referrals for those performers who were infected with HIV, and offered partner contact and referral services to their private sex partners.

The County of Los Angeles has held a consistent position that screening alone is insufficient to prevent STDs and HIV/AIDS. Screening can only detect infection, and while it is vital for containing new or existing infections, there are other measures that should be employed in the AFI such as condom use and Hepatitis B vaccinations.

The County was approached by the Aids Healthcare Foundation to enforce condom use in the AFI. Initially, the County Board of Supervisors declined consideration of a Countywide proposal to require condom usage, but a group of proponents pursued a ballot initiative to require the County to enforce AFI performers to wear condoms on the job. At the July 24, 2012 County Board of Supervisor's meeting, the members voted to place the initiative on the County November 2012 ballot. If approved by voters, the measure would require the County to create and administer a new permitting and enforcement organization. The DPH would be able to conduct random spot checks and, if necessary, revoke film permits. Violators could be fined and/or charged with misdemeanors.

Currently, the County does not employ or license anyone to inspect performers. More information is needed about the feasibility of hiring or contracting for these services.

## **5. City Regulations**

Filming permits issued by the City are for temporary use of public property authorized under Los Angeles Municipal Code (LAMC) Section 12.22A. The current language on the reverse side of the filming permit issued by the Los Angeles Police Department (LAPD), which constitutes a condition of the permit, states that the:

*Permittee agrees to comply with all applicable federal, state and local laws, regulations, ordinances and rules, including all applicable federal and state requirements for workers' compensation insurance for all persons operating under this permit as well as all applicable regulatory, environmental, safety and other standards, including standards of care in carrying out the activities that are the subject of this permit (the Permit Activities).*

The LAMC Section 12.22A also provides an authorized representative of the Permit Authority including the LAPD and other City departments to suspend, revoke, cancel or amend film permits if the activities under the permit endanger health or safety, may cause damage to real or personal

property, or violate the terms and conditions of the permit. In addition, the following language has been placed on film permits where the applicant has indicated that nudity will be filmed and/or where the producer is a recognized adult film producer:

*Permittee must abide by all applicable workplace health and safety regulations, including California Code of Regulations Title 8, Section 5193, which mandates barrier protection, including condoms, to shield performers from contact with blood or other potentially infectious material during the production of films.*

In the City of Los Angeles, complaints about location filming are managed by FilmL.A., Inc. and typically fall into the following three categories:

- When FilmL.A., Inc. receives a complaint regarding the violation of a rule, regulation or law that is within the City's jurisdiction, it is referred to the appropriate agency. For example, a complaint about a generator creating fumes will be referred to the State Air Quality Management Division which has responsibility and authority for enforcement of the regulation. Although FilmL.A., Inc. may inform the production company that a complaint was received, it does not impact the filming activity or cause revocation of the permit.
- If a City ordinance violation is alleged that is not related to the film permit activity, FilmL.A., Inc. consults with the LAPD and sometimes the City Attorney about whether or not to refer the complaint to the appropriate City agency. For example, a complaint may be received that a house is being used for many commercial activities that includes permitted filming, rental as a party house, and other activities. The LAPD and the Department of Building and Safety may investigate the complaint and the results of that investigation may have an effect on the issuance of future film permits at the property.
- Finally, if specific conditions of the film permit are violated, such as staying beyond permit hours, conducting activity not on the permit, violating attached Special Conditions, FilmL.A., Inc. and the LAPD may seek correction, if possible, or the LAPD may shut down the production by revoking the permit. Further action could take place if violations of criminal statutes or ordinances are also taking place.

Enforcement of City permit regulations is handled primarily by the LAPD and the Los Angeles Fire Department (LAFD) with assistance from other City departments.

## **6. Working Group Discussions**

The Working Group has held four meetings on March 2, April 18, May 11, and August 7, 2012 at the CAO where the Working Group reviewed the City's ability to implement and enforce the Ordinance. The members of the Working Group discussed reasons why City departments do not enforce health or workplace safety standards including lack of jurisdiction, resources and technical qualifications.

According to the LAFD, fire inspections for compliance with City regulations can vary from no general oversight, to spot checks, to full-time inspection. The level of inspection depends on the applicable regulation governing the activity. The LAFD currently does not conduct inspections similar to those described in the Ordinance.



The LAPD does not enforce or inspect any health or workplace related standards. There are currently no inspection protocols within the LAPD that approach the level of enforcement contemplated in the Ordinance.

The Personnel Department does not have jurisdiction regarding enforcement of workplace safety standards outside of City departments. The Personnel Department indicated that they work closely with Cal-OSHA, and that Cal-OSHA is responsible for protecting workers and the public from safety hazards in the workplace.

The City has a contract with FilmL.A., Inc. to process film permits issued by the LAPD. FilmL.A., Inc. employees are not trained for and do not enforce safety standards or conduct inspections. They are not authorized to perform any type of enforcement or regulatory functions.

The City of Los Angeles does not have a public health office or officer, and has delegated those functions to the Los Angeles County (LAMC sections 11.01(a) and 31.00 *et seq.*). At the Working Group meetings, the DPH indicated that they track communicable disease mitigation, such as preventing the spread of HIV and STDs in bathhouses and sex clubs. Owners of these businesses pay a business license fee; the businesses are inspected once a year; and owners pay for HIV testing. These inspections do not necessarily represent enforcement functions.

During the Working Group meetings, Cal-OSHA representatives indicated that they do not have a monitoring role in enforcing workplace safety. They operate on a complaint-based system and acknowledge that their agency has jurisdiction over all employee/employer relationships regarding workplace safety in the State of California. They have also cited film productions for violating State workplace safety regulations since 2004, including failures to require employees exposed to bloodborne pathogens to wear barrier protection. Cal-OSHA has further indicated that while their citations of adult film production violations have all been settled at the hearing stage, courts have found in a workers' compensation setting that adult film performers are employees and not independent contractors.

In addition to analyzing departmental roles and responsibilities, the Working Group also identified several potential actions that could improve observance of the Ordinance, most of which are included in the Recommendations section of this report. Other options could include the following:

- FilmL.A., Inc. could host or organize a free one-time seminar for adult film producers and invite Cal-OSHA, the City Attorney, LAPD, or other entities to present and educate the AFI about the obligation to inform their employees of their rights to wear barriers, along with where to file grievances using standardized fliers; or,
- In the event the City or FilmL.A., Inc. receives complaints from AFI employees, those calls would be referred to Cal-OSHA for review and callers would also be provided with the hotline contact information.
- Require, as part of the FilmL.A., Inc. Permit Application Request, that film productions involving "Activities Carrying Risk of Transmission of Blood or Infectious Materials" employ an on-set, licensed medical professional monitor who will file with the City of Los Angeles a post-production certificate declaring under penalty of perjury that the film producers complied with

Los Angeles Municipal Code Section 12.22.1 in the production of the film. More information is needed about this option to determine City enforcement parameters.

- If voters in Los Angeles County approve the County Measure on November 6, 2012 to require adult film producers to obtain a health permit as a condition of producing a film that involves non-simulated sexual intercourse, the City could adopt the County Measure and pursue a contract with the County to conduct the periodic film inspections required by the Ordinance in LAMC 12.22.1. Further, if the measure passes, the City, through FilmL.A., Inc., could confirm whether or not the companies applying have the required health permit and deny the film permit if they do not have the health permit.

## **7. City Ordinance Implementation**

At the March 2, 2012 Working Group meeting, Cal-OSHA acknowledged that the regulation of workplace safety is a matter of State concern, at least where there is an employee/employer relationship. State law exclusively governs employee workplace safety in this area and expressly preempts local government from adopting and enforcing regulations on the transmission of bloodborne pathogens.

However, since Council adopted the Safer Sex Ordinance, the Working Group has sought to provide a feasible implementation plan that is respectful of State law but also proactive in achieving the goal of this Ordinance to maintain a safer working place in the AFI where condoms are used to mitigate the potential spread of HIV/AIDS and other sexually transmitted diseases and infections. These options are included in the Recommendations section of this report.

## **8. Adult Film Industry Fees**

The Working Group discussed how fees might be applied in the AFI and noted that there are many issues associated with implementing such a fee. For example, applying a fee to all permits would unfairly target all films while the adult films represent a small percent of the current work. The City cannot charge a fee to non-adult filmmakers because they would be paying for a service that is not provided to them.

The current system does not provide an adequate way to identify adult film permit applicants. Filmmakers are not required to provide information about the content of their films. Currently FilmL.A., Inc. has a miscellaneous category for which filmmakers provide information voluntarily. If the few AFI companies that are willing to report the content of their films become aware that there is a fee associated with reporting adult films, they may choose to discontinue identifying the content of their films. Charging the small number choose to apply for permits may not generate enough revenue to enforce the remaining companies who currently do not apply for permits. The City's fiscal constraints make it especially difficult when evaluating enforcement methods since personnel costs can easily exceed the fiscal resources that would ever become available. Further, the AFI may be unfairly targeted based on their activities.

The City has also taken considerable steps to promote filming in the City of Los Angeles and to alleviate runaway productions. It is possible that a new fee may be construed as not being film friendly.

#### Los Angeles County Department of Public Health Fee Estimate

At the Board of Supervisor's meeting held on July 24, 2012, the County Director and Health Officer presented the Board of Supervisors with a report including a preliminary implementation approach, Challenges to Compliance, a preliminary cost analysis, and performer complaints (Attachment C). According to the County Department of Public Health, the estimate includes the establishment of an Adult Film Public Health Permit Office, which would require approximately \$582,932 for a two-year permit as proposed by the County Ordinance. This cost does not include potential additional costs associated with confiscation, law enforcement involvement, and administrative and appeal proceedings. The report indicated that if ten public health permits were issued, the two-year cost would translate into a fee of \$58,294 per permit. Alternatively, based on the County's preliminary analysis, if 50 permits were issued, the permit fee would be \$11,658 per permit, prior to the addition of costs associated with confiscation, law enforcement involvement, and administrative and appeal proceedings. Once all of the costs are identified, the County anticipates that the fee would be significantly larger.

#### Los Angeles Fire Department Fee Estimate

Although the LAFD has a Film Inspection service, it is currently strictly related to fire prevention. The LAFD film Inspectors enforce the Fire and Life Safety Ordinances located in the Los Angeles Fire Code, Article 7 of Chapter V of the LAMC. All filming locations are currently either assigned a full-time Fire Safety Officer or a Spot Check Officer.

The Ordinance states that the City may conduct periodic inspections to ensure compliance with the conditions set forth in Section 12.22.1(B)(4) of the LAMC. In addition, fees may be collected by the City to provide for inspectors to ensure compliance with conditions on film permits. Though the LAFD does not have a public health inspector service, the Department provided preliminary cost estimates for periodic or spot check inspections of adult films, but indicated that to implement enforcement of the Ordinance, the Department must first address several significant issues including proposed changes in working conditions with labor representatives, implementation of a Fire Safety Officer inspection program for all filming, and the addition of staff.

Depending on the on the frequency of the spot checks and the number of permits and film shoots, the cost could range from to \$3,472 per permit for 480 permits to \$2,204 per permit for up to 10,000 permits. The number of LAFD staff required could reach 102 full-time sworn positions and 18 full-time civilian positions. The total cost could range from \$1.7 to \$23 million annually as presented in the draft budget request/reduction package (Attachment D). These estimates do not include costs associated with confiscation, law enforcement involvement, and administrative and appeal proceedings.

If the LAFD were required to provide periodic or spot check inspections for adult films, the City would also need to develop an enforcement process and associated costs, since the LAFD does not have enforcement authority under the Ordinance. Furthermore, it would be prudent to analyze the value and effectiveness of spot checking versus 100 percent implementation for inspections. Additional items to be considered would include program implementation, funding, staffing, and full cost recovery of direct and indirect costs. For implementation of spot checks and the corresponding fees, the CAO would need to work with the LAFD to develop a complete proposal.

## 9. Film Permits Issued in the City of Los Angeles

FilmL.A., Inc. coordinates the on-location film permits for the City of Los Angeles, parts of Los Angeles County, several area school districts and the Angeles National Forest. In 2011, FilmL.A., Inc. issued 22,864 film permits categorized as follows:

2,484	Feature films
2,220	Drama films
3,567	Commercials
3,685	Reality shows
562	Sitcoms
563	Pilots
480	Adult films
<b>9,363</b>	<b>Miscellaneous films</b>
22,684	Total

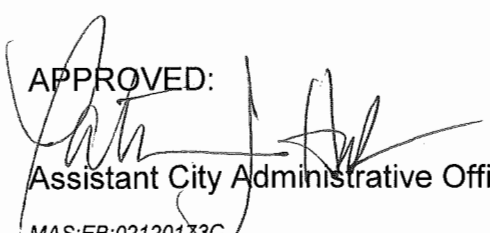
FilmL.A., Inc. states that the 9,363 miscellaneous permits may have included commercials, student films, still photos, webisodes, music videos, documentaries, talk shows and infomercials, among others. It is possible that many films are made in Los Angeles without permits, including some in the adult film category. Therefore, the range used by the LAFD to calculate potential spot check inspection costs includes 480 permits at the low end, which represents the actual number of permits issued in 2011, up to 10,000 permits at the high end, which is an estimate that would need to be evaluated as part of the analysis of the proposed inspection costs.

by:



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Senior Administrative Analyst II

APPROVED:



Assistant City Administrative Officer

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Attachments

## ATTACHMENT – A

### Division of Occupational Safety and Health (DOSH)

## VITAL INFORMATION FOR WORKERS AND EMPLOYERS IN THE ADULT FILM INDUSTRY

A recent cluster of HIV infections in the adult film industry in Southern California has drawn attention to health hazards in these work places.

Workers in this industry need to know there are laws written to protect them from injury and illness on the job, and where to go for help if their employer doesn't follow those laws. Employers in the adult film industry must know how to protect their employees from health and safety hazards and understand the consequences of failing to comply with state regulations.

[Click here for information on how to file a complaint with Cal-OSHA if you work in the adult film industry.](#)

The California Occupational Safety and Health Act requires employers to provide a safe and healthful workplace for employees, and pay the costs of their health and safety program. This same act gives Cal-OSHA jurisdiction over virtually all private employers in California, including employers in the adult film industry. Employers must comply with all relevant regulations, which are contained in Title 8 of the California Code of Regulations.

In the adult film industry, these requirements include:

- Following a written safety and health program, known as an injury and illness prevention program, or IIPP. In simple terms, an IIPP identifies potential hazards specific to the workplace and ways to protect workers from those hazards. [Click here](#) to view Cal-OSHA's model IIPP for employers with intermittent workers
- Training employees in health and safety hazards
- Protecting employees from electrical hazards, such as those associated with special lighting
- Protecting employees from hazards associated with bloodborne pathogens
- Providing sanitation facilities
- Not discriminating against employees who complain about safety and health conditions.

### **Health hazards in the adult film industry**

In addition to general health and safety hazards associated with film and video production, workers in the adult film industry face particular hazards because actors perform sex acts in the course of making the films or videos. Many diseases can be transmitted through blood, semen, vaginal fluid and fecal material, or by mucous membrane contact.

One important group of diseases is those caused by bloodborne pathogens, including HIV, hepatitis B and hepatitis C. In addition to actors, employees in this industry at risk of becoming infected include people who clean up after scenes and people who assist in developing scenes, whether or not they are shown on film. If any sharps, such as razor blades or wires, are used (for shaving, piercing, etc.), they pose a particular risk for spreading infection because they can puncture the skin.

Other sexually transmitted diseases (STDs) are not considered bloodborne pathogens, but can be transmitted through contact with mucous membranes, semen, vaginal fluids or feces.

## Bloodborne pathogens

The Cal-OSHA bloodborne pathogens standard requires employers to protect workers from serious diseases including HIV, hepatitis B and hepatitis C, which can be transmitted through exposure to blood and other potentially infectious materials. The major requirements of this standard include:

- Controlling exposures
- Personal protective equipment
- Hepatitis B vaccine
- Confidential medical record
- Procedures for exposure incidents
- Training

### Controlling exposures

The bloodborne pathogens standard requires employers to use feasible **engineering and work practice controls** to protect workers from coming into contact with blood or other disease-carrying body fluids (referred to in the standard as "other potentially infectious material", or "OPIM"). Semen and vaginal fluid are always considered OPIM. Any other body fluid is considered OPIM if it's visibly contaminated with blood. Saliva is considered OPIM in connection with dental procedures because these procedures routinely cause saliva to be contaminated with blood.

The kind of contact prohibited by the standard is contact between skin or mucous membranes and blood or OPIM.

The methods an employer will use to protect employees from contact with blood or OPIM must be spelled out in detail in a written **exposure control plan**, which is described in the bloodborne pathogens standard.

The bloodborne pathogens standard is built on the rule of **universal precautions**. This means blood or OPIM is always treated as hazardous, no matter who the source is. This is important because the available testing methods do not always guarantee that disease will be detected. This is particularly true right after a person has become infected. Depending on the test and the disease, it may take anywhere from two weeks to six months to be able to detect an infection. There is also a risk of "false negative" results, particularly if tests have not been properly administered, or if specimens have not been properly stored. Also, many bloodborne diseases are not routinely tested for.

Examples of engineering and work practice controls used in the adult film industry include:

- Simulation of sex acts using acting, production and post-production techniques
- Ejaculation outside the partner's body
- Use of barriers, which protect the partner from contact with semen, vaginal fluids, mucous membranes, etc. Examples of barriers include condoms and dental dams (Condoms and dental dams can also be considered personal protective equipment for the partner who uses them)
- Plastic and other disposable materials to clean up sets
- Sharps containers for disposal of any blades, wires or broken glass.

### Personal protective equipment

If, after using all practical engineering and work practice controls, workers are still exposed to hazards, employers must provide, and ensure employees use, appropriate personal protective equipment. Personal protective equipment can include:

- Condoms
- Dental dams
- Gloves
- Eye protection.

To learn more about safer sex, [click here](#)

*Note:* Cal-OSHA regulations do not require these barriers or personal protective equipment to be visible in the final product, and producers are free to use production and post-production editing techniques to remove them from the image.

### **Hepatitis B vaccine**

Employers in this industry must provide the hepatitis B vaccine series to employees who may be exposed to blood, semen, vaginal fluid or OPIM. This series consists of three shots, generally administered into the arm muscle, over a period of six months. About one or two months after the third shot, the healthcare provider will draw blood to ensure the employee has developed a strong enough immune response (antibody titer, which refers to the concentration of antibodies in the blood) to protect against infection. In some cases the healthcare provider will recommend an additional series of shots. To learn more about the hepatitis B vaccine, [click here](#).

### **Confidential medical record**

Every employer covered by this standard must ensure that a medical record is maintained for each employee, which must be kept confidential.

### **Procedures for exposure incidents**

If an employee has unprotected contact with someone else's blood, semen, vaginal fluid, or OPIM, the employer must provide them with a [medical evaluation and follow up](#) [5193 (f)] at no cost to the employee. If the source individual consents, he or she can be tested, and the results can be disclosed to the exposed employee, but that employee must be informed of requirements to keep the person's identity and infection status confidential.

If there is reason to believe a person has been exposed to HIV, the doctor may recommend the person be put on drugs to prevent infection (post-exposure prophylaxis, or PEP), such as AZT. If there is reason to believe a person has been exposed to hepatitis B, and has not been completely vaccinated, the doctor may recommend hepatitis B immunoglobulin, and may start the vaccine series. There is currently no post-exposure treatment recommended for hepatitis C.

To read more about recommendations for PEP [click here](#)

### **Training**

Employers must provide each employee with training about bloodborne pathogens, including how they can protect themselves against infection and what to do if they are exposed.

### **Other diseases**

Many other diseases can be transmitted through sexual contact (sexually transmitted diseases, or STDs). Examples of STDs that are not considered bloodborne include:

- [Human papilloma virus \(warts\)](#)
- [Herpes virus](#)
- [Bacterial vaginosis](#)
- [Chlamydia \(may cause pelvic inflammatory disease\)](#)
- [Gonorrhea](#)
- [Hepatitis A \(oral contact with feces\).](#)

In general, the use of barriers such as condoms and dental dams and, when necessary, protection of the eyes, nose, and mouth, will help prevent these infections, as well as preventing infection with bloodborne pathogens. Employers are required to have written procedures for preventing disease transmission.

## Employer/employee status

Currently, some workers in the adult film industry are paid as employees (they get a paycheck with taxes and other deductions) and some are paid as independent contractors (they get a 1099 at the end of the year). Even workers who are paid as independent contractors may be considered employees under the law. The Division of Labor Standards Enforcement (DLSE) provides guidance for determining whether someone is an independent contractor. Although determinations about whether a person is an employee or an independent contractor are made based on the circumstances of each case, an employer/employee relationship has been found in similar circumstances, including in the mainstream film industry and exotic dance establishments.

## Where to go for help

Employees who believe their employer is not complying with the law can file a complaint with Cal-OSHA. The name of any person who submits a complaint to Cal-OSHA is kept confidential. To file a complaint related to hazards in the adult film industry, **call (213) 237-9958**.

Upon receiving a health or safety complaint, a Cal-OSHA inspector will visit the worksite or employer's office and investigate the working conditions. Citations may be issued, which include a requirement to fix the problem (abatement) and may also require the employer to pay a civil penalty. For **general** information on the Cal-OSHA enforcement program [click here](#).

It is illegal for employers to retaliate or otherwise discriminate against workers who complain about unsafe working conditions. Employees who believe they've been discriminated against for complaining about an unsafe condition can [file a complaint](#) with DLSE.

Workers in the adult film industry can contact the Los Angeles County Department of Health Services STD branch for STD information, testing and treatment.

Employers can get free assistance in evaluating hazards and developing an appropriate health and safety program by contacting the Cal-OSHA Consultation Service. To request an on-site consultation visit, call **(213) 237-9958**.

## Links:

[Centers for Disease Control and Prevention \(CDC\)](#)

[CDC "Exposure to Blood" publication](#)

[CDC publication on post-exposure treatment for occupational exposure to HIV, HBV, HCV](#)

[Hepatitis B vaccine \(HBV\) info sheet](#)

[Information on STDs from the CDC](#)

[Male latex condoms and sexually transmitted diseases](#)

[University of California at San Francisco \(UCSF\) Center for AIDS Prevention Studies HIV prevention fact sheets](#)

[UCSF publication on sex workers and HIV](#)

[Facts from the U.S. Food and Drug Administration about condoms and STDs](#)





ATTACHMENT B



JONATHAN E. FIELDING, M.D., M.P.H.  
Director and Health Officer

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September 17, 2009

TO: Each Supervisor  
FROM: Jonathan E. Fielding, M.D., M.P.H. *Jonathan E Fielding*  
Director and Health Officer  
SUBJECT: ADULT FILM INDUSTRY

This is to provide you with an update on the Department of Public Health's (DPH) activities to investigate and address sexually transmitted disease related to the adult film industry (AFI). This is an update to our June 19, 2009 memo.

As outlined in this report, DPH has taken action to address sexually transmitted disease (STD) and HIV in the AFI, and continues to monitor and take action on AFI-related disease cases. DPH, in conjunction with County Counsel, has also explored expanded local regulatory strategies, however these methods have substantial implementation and enforcement challenges, are likely to be only partially effective because the industry extends beyond the reach of Los Angeles County, and may possibly be subject to legal challenge. Consequently, DPH continues to recommend State legislation to increase surveillance of occupational exposures, enhanced penalties and enforcement of condom use in the AFI.

Background

Working conditions in the AFI typically involve a worker having unprotected, prolonged and repeated sexual intercourse with multiple sexual partners over short periods of time, increasing the likelihood of transmission of sexually transmitted diseases including HIV. Since 2003, DPH has monitored the AFI by: working with health-related organizations associated with the industry to enhance education and outreach in the adult film industry to prevent HIV and other STDs; collaborating with Cal/OSHA to develop guidelines to reduce disease exposure in the AFI and request workplace investigations; and working with County Counsel, the CEO and County legislative advocates to support State legislation to implement regulations to ensure protection of workers in this industry.

### **STD and HIV in the Adult Film Industry**

The Adult Industry Medical (AIM) Healthcare Foundation and Talent Testing Services are organizations which provide STD and HIV screening and limited medical care to individuals working in the AFI and are required by law to report cases of HIV and STDs to DPH.

Since 2004 DPH received reports of 2,396 cases of Chlamydia (CT), 1389 cases of gonorrhea (GC), and five syphilis cases among AFI performers; 20.2% of performers diagnosed with STD had one or more repeat infections within a one year period. Between 2004 and 2008, repeat infections were reported for 25.5% of individuals. Due to the failure to routinely screen for rectal and oropharyngeal infections, a sustained high level of endemic disease among AFI workers persists. Furthermore, these disease rates and reinfection rates are likely to be significantly underestimated as rectal and oral screening is not done routinely and these anatomic sites are likely to be a reservoir for repeat reinfection.

Analyses of 2008 data also indicated that AFI performers experience significantly higher rates of infection (20%) than the general public (2.4%) or in the area of the County (SPA 6) experiencing the highest rates of STDs (4.5%).

Data is less clear for HIV since occupation is not reported in HIV/AIDS reports. Since 2004, AIM has reported 25 cases of HIV. However, it is difficult to confirm the number of actual performers infected with HIV/AIDS as not all those tested are current performers and may have other roles in the AFI, or are partners of an AFI performer, or may otherwise be referred to AIM for testing. AIM claims that a minority of the 25 cases are performers, but even if this is accurate, it is reasonable to assume that some of the remaining 25 infected individuals were tested because they wished to work in the AFI in Los Angeles or were partners of AFI performers.

### **DPH Activities in Addressing the STD and HIV in the AFI**

In addition to its role in surveillance, DPH has taken several actions to address these public health issues in the AFI including:

- Worked with Cal/OSHA to develop a model Exposure Control Plan applicable to this industry based on existing standards, in Title 8, California Code of Regulations, specifically including the Injury and Illness Prevention Program standard (Section 3203), and the Bloodborne Pathogens standard (Section 5193).
- Following development of the model Exposure Control Plan, initiated discussion with the State Labor and Workforce Development Agency to develop educational outreach plans and materials for both producers and performers.
- In May 2004, secured technical assistance from the National Institute of Occupational Safety and Health (NIOSH), to investigate workplace hazards in this industry, and issue recommendations.

- In June 2004, testified before a California Assembly Committee in support of legislation to regulate the AFI to (1) require condom use for all high risk sexual encounters; (2) have screening requirements for STDs set by the state with screening costs paid by the industry, and offer vaccinations for appropriate preventable conditions; (3) mandate education and training of all adult film industry performers; and (4) assure monitoring to ensure compliance by state and local health departments paid for by the industry.
- Conducted periodic dialogue with producers and performers in both straight and gay male roles of the industry, as well as with other relevant agencies, including the California Department of Health Services, STD Control Program and the State Office of AIDS to better understand health and safety issues in this industry, and develop appropriate screening recommendations and interventions. During these meetings, DPH has consistently asserted that it is the responsibility of the industry to require male performers to wear condoms to minimize risk of preventable serious illness.
- Requested Cal/OSHA conduct investigations of recent incidents of presumed workplace infection with STDs and HIV. Between April 2004 and June 2009 nine requests were made to Cal/OSHA for investigations of presumed workplace STD infections. Although two of these cases are pending, the completed investigations resulted in ten violations.
- Initiated investigations, as needed, seeking to determine the extent of potential exposure and actual disease transmission.
- DPH offered additional HIV and STD testing services to performers, provided counseling and medical referrals for those performers who were infected with HIV, and offered partner contact and referral services to their private sex partners.

It has been the consistent position of the Department that screening alone is insufficient to prevent STDs and HIV/AIDS. Screening can only detect infection and while it is vital for containing new or existing infections, there are other preventive measures that should be employed in the AFI such as condom use and hepatitis B vaccination.

#### **Additional Local Regulatory Measures to Address STD and HIV in the AFI**

DPH has explored whether expanded local regulation of the AFI can be used to reduce exposure to STD and HIV. Our consultations with County Counsel have yielded the following approaches that could be used.

Health Officer Order: County Counsel has determined that existing health officer authority may be used to set health protection requirements on adult film production companies to protect performer health. In order to utilize health officer authority, a detailed written order would need to be served on all necessary parties outlining the nexus between the behavior and spread of disease within the industry.

DPH would then need to develop a mechanism to monitor compliance with the order, and enforcement of the order would require proof of service of the order on parties and evidence of an alleged violation. Violation of the order could be prosecuted by the District Attorney as a misdemeanor. A County health officer order would not apply to Long Beach and Pasadena, as they are separate public health jurisdictions.

County Code: County Counsel has also indicated that County Code could be amended to set requirements on the AFI. This approach could be similar to the County Code requirements on Commercial Sex Venues and require AFI production firms to secure a public health permit to operate.

The public health permit would be conditioned upon the entity's adherence to preventive measure requirements.

Similar to the health officer order approach, DPH would then need to develop a mechanism to monitor compliance with the order. Compliance time frames and penalties would need to be specified in the Code. This approach would be applicable in the unincorporated areas of the County and in those cities which adopt the County ordinance, and would not apply to Long Beach and Pasadena.

#### **Challenges with Local Regulatory Approaches**

Both the health officer order and the County Code amendment have inherent implementation challenges that would severely limit either approach in controlling STDs and HIV in the AFI. Under a health officer order approach the noticing requirements would be administratively challenging and resource intensive. There are an estimated 200 production companies in Los Angeles County, employing approximately 1,200 workers who engage in direct work-related sexual contact. Filming locations are difficult to ascertain, usually taking place at private homes or, to a lesser degree, in small film studios. Producers planning a film recruit performers independently or may use a talent agency to identify performers for their films. Performers are usually hired as independent contractors (not employees) for a specific film. Although there are regulations that require permits for filming, productions in homes or short term rental commercial space is often completed without permit. In addition, the fixed assets for filming in the AFI are limited and it is easy to change locations or move production to another county. Due to these factors, it is likely that there would be a high degree of non-compliance with a regulatory County Code approach.

Further, with either approach DPH would need to devote significant staff resources to identify sites of the production companies and to monitor compliance with performer protection requirements. This would likely also entail the viewing of commercial AFI video productions to ascertain compliance, assuming we could identify who produced each film, when it was produced and where it was shot. The staff resources that would be needed for this have not been determined, but would require significant new funding to accomplish.

In addition to these practical challenges, County Counsel indicates that an expanded local regulation of the AFI, would likely face constitutional challenge on freedom of speech grounds. The outcome of such a legal challenge could not be predicted with certainty.

Each Supervisor  
September 17, 2009  
Page 5

**Conclusion and Next Steps**

DPH has taken an active role in addressing STDs and HIV in the AFI including disease investigation, surveillance, and outreach and education efforts to reduce the risk of infection. At present, DPH monitors AFI-related STDs and HIV cases, takes action to investigate cases of disease, and makes referral to Cal/OSHA, which has subpoena power and can impose penalties, for further investigation and action with respect to workplace safety violations.

A health officer order or a new requirement in County Code will be difficult to implement and resource intensive, possibly subject to legal challenge, and, overall, unlikely to be an effective approach to prevent AFI performers from acquiring preventable STDs including those that are life-altering.

The best scenario would entail expanded statutory requirements on the AFI. The County has supported these efforts in the past, but none of the legislative proposals have been successful. DPH recommends the Board sponsor or support measures to strengthen penalties and enforce condom use related to the AFI in the upcoming legislative session.

If you have any questions or need additional information, please let me know.

JEF:lm

c: Chief Executive Officer  
Acting County Counsel  
Executive Officer, Board of Supervisors



JONATHAN E. FIELDING, M.D., M.P.H.  
Director and Health Officer

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July 23, 2012

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H.  
Director and Health Officer

SUBJECT: SAFER SEX IN THE ADULT FILM INDUSTRY BALLOT INITIATIVE  
(Agenda Item #15 for the Board Meeting of July 24, 2012)

This is in response to your Board's July 10, 2012 consideration of the Safer Sex in the Adult Film Industry ballot initiative. At that meeting, your Board directed the Department of Public Health (DPH) to respond to a range of questions raised by your Board and to assess potential implications for enforcing a mandatory condom policy in the adult film industry. This memorandum does not address the legal issues raised by your Board; these will be addressed by County Counsel under a separate memorandum.

**Preliminary Implementation Approach**

Based on a review of the ballot initiative, DPH has preliminarily developed the following implementation approach. The measure establishes two types of permits: a required Public Health Permit to be issued by DPH, and an on-location permit possibly issued by a city, the County, or another entity such as Film LA.

*Public Health Permit*

- The Public Health Permit application would include the required elements of an Exposure Control Plan, staff training, and payment of the Permit fee.
- A film company would have to attest and maintain documentation that it was in compliance with the condom mandate and relevant staff have taken the required training.
- Training would need to be accomplished via a DPH-approved training entity. Similarly, the included Exposure Control Plan and documentation would also be subject to review at any time.

*Film Permit*

- While the proposed measure specifies a requirement for an on-location film permit, the implementation of this provision is not clear as on-location activities relate to conditions a given city or the unincorporated area place on such activities broadly. For instance, some cities may not require on-location permit while others may have specific conditions. Because there are no uniform on-location permit conditions across the County and cities, implementation of this provision would likely require focused discussions with cities.
- At least for the unincorporated area, the County would need to identify an existing entity or create new administrative infrastructure to issue on-location Film Permits.

#### *Monitoring and Enforcement*

- DPH Public Health Investigators (PHIs) would be trained and deployed to conduct random checks to ensure compliance (frequency to be determined) with issued Public Health Permits.
- DPH would maintain a phone line to field complaints and reports of violations.
- DPH PHIs would follow up on complaints that warrant further inspection.
- Violations would be addressed in one or a combination of ways including: permit revocation or suspension; penalty assessment; order of a plan of correction; confiscation and storage of equipment; and an administrative review proceeding.

#### **Challenges to Compliance**

The ballot measure's effectiveness will be a challenge with respect to compliance as there are few options to identify and require underground, inconspicuous, intentionally non-compliant filmmakers to obtain permits. While it is likely that there will be adult filming conducted without a permits, larger adult film production companies may be more motivated to secure a permits for insurance or other business purposes.

On multiple occasions, there have been broad comparisons made of the adult film industry to the mobile food industry, in particular as it relates to permitting and enforcement with established operating standards. There are key differences to be made: 1) In the highly competitive mobile food industry, competitors will often report non-compliant food vendors, giving enforcement authorities information to identify or otherwise track their location; and 2) Mobile food vendors through both social and traditional media consistently and quite publicly share information on their location in order to draw customers (and many disclose this information in advance).

Conversely, adult film producers do not publicly disclose their intended film location in advance and are difficult to be identified by competitors, thus limiting the ability to locate and inspect them. The by-product of the film production (the film) is not released until months or even years after the film shoot takes place, highlighting the enforcement difficulties with respect to the adult film industry.

Additionally, we understand from several years of illegal food vendor (i.e. unpermitted food carts) enforcement that confiscating equipment has not proven to be entirely successful given the relative ease to re-establish activities. As such, imposing fines and confiscating the equipment of non-compliant adult film producers may not result in films being produced in full compliance with a mandatory condom use ordinance.

#### **Preliminary Cost Analysis**

There would be significant startup costs to DPH regardless of the level of compliance with the ballot measure and the number of Public Health Permits reviewed and issued. Although there are cost recovery provisions in the ballot measure, the County may face unfunded costs due to an unknown but potentially large complaint volume that could occur from segments of the industry that are un-permitted.

Among the range of activities and infrastructure needed are: training and curriculum development and ongoing review; permitting processes; administrative review; database maintenance; inspections; warm-line staffing and complaint follow-up; fine assessments, appeals processes, and administrative review procedures; confiscation, law enforcement engagement, and evidence warehousing activities and infrastructure, etc.

Each Supervisor  
July 23, 2012  
Page 3

Based on a preliminary cost analysis the establishment of an Adult Film Public Health Permit Office would at a minimum require approximately \$291,466 not including potential additional costs associated with confiscation, law enforcement involvement, and administrative and appeal proceedings. Because the ordinance proposes a two-year permit, the two-year costs are estimated to be \$582,932.

If 10 Public Health Permits were issued, the two-year costs translate into a fee of \$58,294 per permit. Alternatively, if 50 Permits are issued, the per permit fee would be \$11,658. Because actual permit volume is unknown at this time, DPH will need to make a volume estimate for purposes of establishing the initial fee and make adjustments thereafter, as is done with other Public Health Permits.

In the event that all or nearly all of the estimated 200 adult film production companies operating in Los Angeles County solicit a Public Health Permit, the cost per permit would decline. The decrease in the Public Health Permit fee would be tempered, however, by additional operating expenses associated with an increased volume in applications and related monitoring and enforcement activities

Attached is a preliminary Public Health Permit cost and fee worksheet. Note this does not include costs associated with on-location permits.

**Performer Complaints**

Finally, and as part of the questions outlined by your Board related to any current complaints from actors or actresses in the adult film industry, we have no record of complaints filed directly with our Department. We have made referrals based on disease case reports to the California Division of Occupational Safety and Health (CalOSHA), the entity with jurisdiction over California blood-borne pathogen protection standards and workplace safety regulations.

If you have any questions or require additional information, please let me know.

JEF:kb  
PH:1207:001

Attachment

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors



**LOS ANGELES COUNTY – DEPARTMENT OF PUBLIC HEALTH**  
**PRELIMINARY PUBLIC HEALTH PERMIT COST AND FEE WORKSHEET**  
 (does not include on-location film permit)

**I. Costs based on 0-50 Public Health Permits per Year**

**A. Personnel**

Administrative Assistant I, 1.0 FTE	\$73,644
Public Health Investigator I, 1.0 FTE	\$92,814
Sup. Public Health Investigator, 0.50 FTE	\$54,208
Indirect Costs (15% of S&EB)	\$33,100

Staff responsibilities (initial list):

- Staff the Public Health Permit Office; handle the public
- Application Review (3-5 hours/per application)
  - Review completeness
  - Manage Public Health Permit Database
  - Ensure training compliance
  - Process payment via Treasurer/Tax Collector
- Respond to complaints
- Conduct inspections
- Oversee administrative review and appeal proceedings
- Ensure appropriateness of blood-borne pathogen training curriculum
- Liaison with city governments and on-location film permitting authorities

**B. Support Costs**

Public Health Permit Administrative Office	
Lease	\$24,000
Office Equipment	\$ 3,000
Computers	\$ 6,000
Phone, Office Phone Line, Complaint Line	\$ 1,200
Database establishment and maintenance	\$ 2,500
Webpage development, inclusion into existing DPH page	\$ 1,000

Additional Ordinance Enforcement Related Costs

Warehousing of equipment	TBD
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**C. Possible Additional Ancillary Personnel Costs**

Law Enforcement Costs	TBD
Other Administrative Review and Appeal Costs	TBD

**Preliminary Estimated Annual Total Operating Costs** **\$291,466**

**Preliminary Estimated Two-Year Total Operating Costs** **\$582,932**

**II. Preliminary Estimated Two-Year Permit Fees (range based on permit volume)**

10 permits	\$58,294 per permit
25 permits	\$23,318 per permit
50 permits	\$11,658 per permit

**III. Additional Annual Variable Costs based on 51-200 Public Health Permits per year**

Public Health Investigator I, 1.0 FTE	\$92,814
Additional Law Enforcement Costs	TBD
Additional Administrative Review and Appeal Costs	TBD
Additional Confiscation and Warehousing Costs	TBD

###

ATTACHMENT C



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL


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JOHN F. KRATTLI  
County Counsel

July 23, 2012

TO: SUPERVISOR ZEV YAROSLAVSKY, Chairman  
SUPERVISOR GLORIA MOLINA  
SUPERVISOR MARK RIDLEY-THOMAS  
SUPERVISOR DON KNABE  
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: JOHN F. KRATTLI   
County Counsel

RE: **Item No. 15 for the Agenda of July 24, 2012**  
**AIDS Healthcare Foundation Ballot Initiative – Safer Sex in**  
**the Adult Film Industry**

**Purpose of Memorandum**

This memorandum responds to questions raised by your Board concerning the "County of Los Angeles Safer Sex in the Adult Film Industry" ballot initiative sponsored by the AIDS Healthcare Foundation. The Department of Public Health will also be providing a memorandum to your Board in response to your questions.

**Summary**

On July 3, 2012, the County Registrar-Recorder/County Clerk ("RRCC") certified the Safer Sex in the Adult Film Industry Initiative ("Initiative"). On July 10, 2012, the matter was before your Board for certification of the results of the Registrar-Recorder's determination that sufficient valid signatures had been obtained, Countywide, to qualify the measure for placement on the ballot. At that time we advised that your Board was required to either adopt the ordinance contained in the Initiative without alteration, or submit the Initiative, without alteration, to the voters on the next Statewide ballot, or request a report on issues related to the Initiative before taking one of the two previously identified actions at a subsequent Board meeting. You asked that our office and the Department of Public Health ("DPH") report back on various issues related to the Initiative, and you continued the matter to your July 24, 2012, meeting.

Both the California Elections Code and case law support the conclusion that all qualified voters in the County, whether residing in incorporated or unincorporated areas, are entitled to vote on the Initiative.

If approved, all of the ordinance provisions of the Initiative would become part of the County Code and would be effective in the unincorporated areas of the County.

However, in light of the language of the agreements pursuant to which DPH provides services to 85 of the 88 cities in the County, the "public health permit" provisions set forth in the Initiative would not become effective within any of those cities until such city has adopted those measures into its municipal code. Once adopted by one of those cities, DPH would then enforce the adopted ordinance within the jurisdiction of that city.

Likewise, the zoning "film permit" provisions of the Initiative would not become effective in any city, unless and until the city took an affirmative action to adopt such provisions as part of its municipal code.

The Initiative's provisions will not be enforceable by DPH in the cities of Vernon, Long Beach, and Pasadena. Those cities do not contract with DPH and have their own health officer. Those city health officers enforce both State health laws and their own municipal health codes, but do not enforce County health laws. Accordingly, those cities would have to enact a similar adult film industry condom requirement ordinance and enforce it themselves.

The following analysis also discusses the initiative process, potential legal challenges to the Initiative, the fact that the County is not obligated to defend the validity of the Initiative, potential liability of the County if the Initiative is approved, DPH's enforcement of the Initiative provisions, and comparisons with the City of Los Angeles and the Simi Valley ordinances.

## ANALYSIS

### The Initiative Process

The initiative process established by the Legislature, and described in the Elections Code, contemplates that County initiatives be approved by voters countywide. The statutory scheme includes circulation of petitions in the signature gathering stage throughout the County, as well as a vote by all electors of the County once the ordinance is submitted to the voters.

Proponents of an initiative must file a notice of intention with the County elections official prior to circulating a petition for signatures in a county (Elections Code § 9103(a)). A copy of the proposed measure is transmitted by the County elections official to the County Counsel to complete an impartial title and

summary, which shall be finalized within 15 days (Elections Code § 9105). The County Counsel's title and summary must appear on each section of the petition and across the top of each page of the petition (Elections Code § 9105 (c)). Any elector of the County, whether a resident of the unincorporated area or an incorporated city, may seek a writ of mandate to have the ballot title or summary amended (Elections Code § 9106).

The number of signatures required for an initiative to qualify for a ballot is determined by the Registrar prior to circulating the petition. That number is ascertained based on the total number of votes cast in the County for all candidates for Governor at the last gubernatorial election (Elections Code § 9107). Petitions are circulated countywide after the proponents have published the County Counsel's title and summary (Elections Code § 9108).

The Elections Code does not provide for a manner in which to calculate the signatures required for an unincorporated area only vote, nor does it provide for signature gathering in only the unincorporated area.

Once a petition is certified as sufficient by the Registrar, and placed on the ballot by the Board of Supervisors, if the ballot measure receives a majority vote in its favor, the ordinance shall become a valid and binding ordinance of the County. The ordinance shall go into effect 10 days after the date the final results of the election are declared by the Board of Supervisors.

Here, the proponents of the "County of Los Angeles Safer Sex in the Adult Film Industry Act" filed a Notice of Intention to Circulate Petition with the Registrar on November 23, 2011. On December 7, 2011, the County Counsel prepared the title and summary of the initiative (enclosed) in conformance with Elections Code section 9105. The title and summary were provided to the proponents and were included in the petitions.

The County Counsel has a ministerial duty to provide the title and summary when requested by an initiative proponent, unless an action is filed seeking authorization from the court to be relieved of that duty. *Widders v. Furchtenicht* (2008) 167 Cal.App.4th 769, 779. A court will only relieve the County Counsel from the duty if the initiative is clearly unconstitutional. *Id.* at 780.

### **The Initiative is Subject to a Countywide Vote**

#### The One-Person, One-Vote Rule

In addition to the statutory scheme established by the Legislature providing for countywide votes on initiatives described above, the one-person, one-vote rule strongly suggests that when general funds available for countywide

services are at issue, or when there is a public interest in the matter affecting all citizens of the County, no one segment of the voting jurisdiction is entitled to more input in an election, and all voters in the County must have the opportunity to vote.

The Constitution protects the right of all qualified citizens to vote in federal, state and local elections. *Reynolds v. Sims* (1964) 377 U.S. 533, 554, and *Avery v. Midland County* (1968) 390 U.S. 474. If the government body in question has substantial "general government powers," it is subject to a strict scrutiny analysis and the one-person, one-vote principle must be adhered to throughout the geographic region under the jurisdiction of the governing body. *Id.* at 485-486.

The U.S. Supreme Court and California Courts have found that when a public entity exercises general powers of government, the right to vote cannot be restricted to certain groups. "When all citizens are affected in important ways by a governmental decision . . . , the Constitution does not permit . . . the exclusion of otherwise qualified citizens from the franchise." *Phoenix v. Kolodziejcki* (1970) 399 U.S. 204.

A California Court of Appeal struck down a voting scheme that excluded all unincorporated county voters from voting to approve the location of a county airport within a city. *Hawn v. County of Ventura* (1977) 73 Cal.App.3d 1009. The Court found the voting scheme unconstitutional because it denied the right to vote to all county residents. The court found that by restricting the right to vote to city voters, those voters were not only given the power to prohibit airports within their borders, but also the power to dump the problem upon the disenfranchised residents of the unincorporated areas. *Id.* at 1020.

The Initiative creates a County ordinance and explicitly gives your Board the power to amend the ordinance. The Initiative proposes additional duties for the Public Health Officer who is appointed by and serves under the direction of your Board. Because the Initiative impacts the revenues collected and the services provided by DPH, and can implicate general funds, the benefits and burdens may affect all County residents with an interest in County services.

The residents of incorporated cities have a substantial interest in measures regulating public health. As more fully explained below, the Initiative, if approved by the voters, would be effective in the unincorporated areas and in those cities which contract for DPH services and which adopt the necessary ordinances. City residents are entitled to vote on the Initiative and thereby affect whether the Initiative's provisions may become effective in their city. If only unincorporated residents are allowed to vote and they reject the Initiative, city residents who support the Initiative would be denied the opportunity to have their city council take the necessary steps to make the Initiative's provisions effective

in their city. Conversely, city residents who oppose the Initiative would not be able to vote against the measure.

Based on the relevant case law, as well as the Elections Code provisions which clearly contemplate countywide signature gathering, we conclude that the voters throughout the County are entitled to vote on the Initiative.

**Areas in the County in which the Initiative, if Approved by the Voters, would be Applicable**

If approved by the voters, the Initiative will amend Title 11, Health and Safety, and Title 22, Planning and Zoning, of the Los Angeles County Code ("LACC"). The amendments to Title 11 would establish a "Public Health Permit," which would be valid for two years. The amendments to Title 22 would add new provisions and requirements to the existing County zoning provisions for an "on-location film permit". Both the public health permit provisions and the on-location film permit provisions would be operable in the unincorporated areas of the County.

Public Health Provisions. The Title 11 Public Health Permit provisions would not be operable in incorporated areas of the County until those cities which contract with DPH for public health services adopt those provisions into their individual municipal codes. The reason for this is that the specific language of the contracts that DPH has with 85 cities to act as their local health officer requires a city's adoption of County health ordinances (Title 11 or amendments thereto) prior to enforcement by DPH within that city.

The Initiative's provisions will not be operable in the cities of Vernon, Long Beach, and Pasadena. Those cities, which have their own health officers, do not contract with DPH for public health services. Those cities' health officers enforce both State health laws and their own municipal health codes, but do not enforce County health laws. Those cities would have to enact their own adult film industry regulations and enforce those regulations themselves.

On-location Film Permit Provisions. The portion of the ordinance that amends Title 22, Planning and Zoning, of the County Code will be operable in the unincorporated areas. The 85 DPH contracted cities would have to adopt these provisions into their municipal codes for the adult film permit provisions to apply to filming permits issued by those cities.

It is important to note, that in any city that adopts the Title 11 Public Health Permit provisions of the Initiative, DPH would have public health permit inspection duties over adult movie filming even if that city chose not to adopt the on-location filming permit provisions of the Initiative. The on-location

filming permit provisions would enhance DPH's regulation of adult movie filming in the cities by providing additional notice to DPH of specific film shoots, as well as providing additional permit fees to finance DPH's regulations under the Initiative. However, additional benefits would only accrue in those cities if adult film producers agree to obtain on-location film permits.

### **Potential Legal Challenges to the Proposed Ordinance**

#### Challenges Based on the Initiative Power

Generally, the initiative power applies only to acts that are legislative in character, not to executive or administrative acts. *Simpson v. Hite* (1950) 36 Cal.2d 125, 134. A ballot measure may be challenged prior to an election where it is determined that the electorate does not have the power to adopt the proposal in the first instance. *AFL v. Eu* (1984) 36 Cal.3d 687, 695. For example, a measure may be excluded from the ballot if it violates the single subject rule, or if the measure is not properly the subject to the initiative power. *Id.* at 695-696.

In this instance, the Initiative, which would create a new regulatory scheme, plainly appears legislative in nature. A legal challenge asserting that the Initiative is not a proper subject of the initiative power, would be unlikely to succeed.

#### Constitutional Challenges

In terms of the substantive provisions of the Initiative, it is unclear whether the measure violates the First Amendment and other constitutional protections. Some cases suggest that even if a proposed measure is within the initiative power, courts have the discretion to allow a pre-election challenge upon a compelling showing that the substantive provisions of the initiative are clearly invalid. However, making such a showing is difficult, requiring a clear showing of a facial defect.

With respect to the possibility of legal challenges regarding the Initiative, constitutional legal challenges may come from the Free Speech Coalition, as well as individual producers and performers. There are two types of possible challenges: (1) A facial challenge to the constitutionality of the ordinance as written, and (2) an "as applied" challenge to the ordinance as it is actually enforced. These challenges may be brought separately or be combined in a single or multiple lawsuits. A challenge solely to the constitutionality of the ordinance need not be defended by the County. However, the County would need to defend itself and its employees in an as-applied challenge to the constitutionality of any County enforcement actions, since this would be based on actions taken by the County in implementing the ordinance.



### **Duty to Defend**

If the measure is challenged prior to or after placement on the ballot, the County is under no obligation to defend the validity of the measure. For example, in *Perry v. Brown* (2011) 52 Cal.4th 1116, the California Supreme Court held that the proponent of an initiative was uniquely positioned to defend the validity of an initiative where the public official has declined to do so. The Court recognized that "although public officials ordinarily have the responsibility of defending a challenged law, in instances in which the challenged law has been adopted through the initiative process there is a realistic risk that the public officials may not defend the approved initiative measure 'with vigor.' [Citations omitted]. This enhanced risk is attributable to the unique nature and purpose of the initiative power, which gives the people the right to adopt into law measures that their elected officials have not adopted and may often oppose." *Id.* at 1149. During the lawsuit challenging Proposition 8, the County took no position on the merits of the measure after passage by the voters, and no attorney fees were awarded against the County.

### **Potential Liability of County if the Initiative is Approved by the Voters**

The ordinance requires the County to issue adult film public health permits to qualifying adult film producers prior to the filming of an adult film. The stated purpose of the Initiative is to minimize the spread of sexually transmitted infection during the filming of adult films.

It should be noted that, in 2009, AIDS Healthcare Foundation ("AHF") filed a lawsuit against the County, seeking a writ of mandate to compel the County to require the use of condoms in the making of adult films. Should the Initiative pass, it is possible that AHF may seek to impose certain regulatory requirements regarding the enforcement of the ordinance through a writ of mandamus.

Although the ordinance requires DPH to create a regulatory permitting process, it leaves specific enforcement procedures and actions to the discretion of DPH. As such, it is unlikely that discretionary enforcement under the ordinance would create a mandatory duty to protect a particular performer or performers from injury. There are a variety of immunities that would be applicable to the County and Public Health Officer for actions taken in implementing and enforcing the Initiative's provisions. These include Government Code section 818.2 (immunity for failure to enforce any law); Government Code section 818.4 (immunity for issuance or denial of a permit or license); and Government Code section 818.6 (immunity for failure to inspect). Moreover, Government Code section 855.4 immunizes a public entity and public employee from an injury resulting from a decision to perform or not perform a discretionary act to control the spread of communicable disease.

### **Enforcement of the Initiative by DPH**

Once the ordinance is adopted, DPH is charged with enforcing the public health provisions. As previously stated, DPH also enforces the public health ordinances of those cities which have entered into contracts with the County for enforcement. Accordingly, DPH would also be responsible for enforcing the County ordinance in those contract cities which adopt the ordinance. The County ordinance contemplates that DPH may promulgate regulations pertaining to the filming of adult films.

The Initiative requires that producers of adult films must have an adult film public health permit in order to film or produce adult films. It is a violation of the ordinance for a producer to fail to require performers to use condoms or other safety precautions during acts of sexual intercourse. Should producers not comply with the requirements of the adult film public health permit, the permit can be suspended or revoked depending on the violation.

DPH must initiate an enforcement scheme that provides for the citation of adult film producers that violate the ordinance. The specific procedures of the enforcement scheme would need to be determined by DPH.

For those adult film producers who have obtained an adult film public health permit from DPH, the Initiative contemplates inspections by DPH investigators. During the inspections, DPH investigators are to determine whether or not the adult film producer is in compliance with the conditions of the permit. If not in compliance, the DPH investigator is to provide a statement of deficiencies and a list of corrective measures necessary to return to compliance with the permit requirements to the producer. In order to accomplish inspections, the Initiative permits DPH investigators "to enter and inspect any location suspected of conducting any activity regulated" by the County's Initiative. DPH inspectors may then "take possession of any sample, photograph, record or other evidence, including documents bearing upon an adult film producer's compliance." Further, the Initiative allows for reinspection of premises by DPH after a notice of deficiencies has been issued to a producer.

For those adult film producers who are filming without a valid public health permit, the Initiative permits the entry of premises that DPH investigators suspect are filming adult content without a permit.

### **The County is not Required to Set Up its Own Film Permitting Office**

The question has arisen whether passage of the Initiative would require the County to set up its own film permitting office. Although we believe the County would be responsible for ensuring that an on-location film permitting process was in place and that film permits issued for adult filming activity

contained the content required in the Initiative, we do not believe that the County would be required to establish any specific model for film permitting or create a new film permitting office.

The Initiative would amend section 22.56.1925 of Title 22 (Planning and Zoning) of the County Code. That section sets forth the current requirements relating to the issuance of on-location filming permits, a type of temporary use permit. The Initiative amends the existing on-location filming permit provisions to impose specific requirements for permits issued to the producers of adult films. On-location filming permits for adult films must contain language requiring the permittee to abide by all applicable health and safety regulations, including mandating the use of condoms, to shield performers from exposure to blood borne and other sexually transmitted infections. Any person obtaining an adult film on-location filming permit would be required to maintain engineering and work practice controls in order to protect employees from exposure to sexually transmitted infections. The County would be required to charge a permit fee for such on-location filming permits that was sufficient to provide for periodic inspections to ensure compliance with the public health requirements imposed by the Initiative.

Currently, the issuance of on-location filming permits in the County is coordinated through Film LA. Should the Initiative pass, we believe that such coordination could continue, but the County would have to take steps to ensure that the permits issued for adult film on-location filming in the unincorporated County by Film LA meet the additional requirements established by the Initiative as described in the previous paragraph. We do not believe that the initiative language relating to on-location filming permits dictates the creation of any specific type of film-permitting office. In fact, the language of the Initiative relating to on-location film permits specifically provides that the provisions apply directly to the County, or to any entity contracting with the County to administer the involved film permitting process.

As indicated elsewhere in this memorandum, in the event the Initiative is approved by the voters, the provisions of the Initiative addressing on-location film permits would only be automatically effective in the unincorporated areas of the County, since the on-location filming permit provisions of the County Code only apply to unincorporated County areas. Any city electing to have those provisions apply within its boundaries would be required to adopt an ordinance imposing those requirements within its own municipal code. Such a city would then have to take steps to ensure that on-location filming permits for adult films complied with the provisions of the Initiative. The specific approach used by any such city for the issuance of on-location filming permits for adult films would have to be determined by that city.

### **Differences between the City Ordinance and the Proposed County Ordinance**

The City ordinance is significantly less extensive in scope than the County ordinance proposed by the Initiative. The proposed County ordinance regulates all adult film production, while the City ordinance only regulates persons or entities who obtain film permits from the City for on-location commercial filming of adult films.

The City ordinance requires that all producers of adult films issued permits under the authority of the City are required to maintain engineering and work practice controls to protect employees from exposure to blood and other potentially infectious materials. Such controls include, but are not limited to, simulation of sex acts, use of condoms, and the provision of lubricants to facilitate condom use. Any City adult film permit must include language requiring the permittee to abide by all applicable workplace health and safety regulations, including the provisions of the California Code of Regulations which require the use of barrier protection, including condoms, during film production.

The City ordinance does not, as does the proposed County ordinance, 1) require the producers of adult films to obtain a public health permit; 2) require the successful completion of a blood pathogen training course by all permittees; 3) provide for the City to promulgate regulations for an exposure control plan, and to review and approve such plans; 4) provide that the City may enter and inspect any location for the purposes of enforcing the ordinance; 5) provide a process for the suspension and revocation of the City permit; 6) provide for both civil fines and misdemeanor penalties, and injunctive relief; or 7) provide that if the City permit is suspended or revoked, the involved producer of the adult films shall cease filming adult films

### **The City of Simi Valley Has Adopted An Ordinance Similar to the City of Los Angeles Ordinance**

In April 2012, the City of Simi Valley adopted an ordinance similar to one adopted by the City of Los Angeles. Simi Valley now requires producers to obtain an adult film permit. The Simi Valley Ordinance requires condoms, dental dams or other appropriate means to be used in every instance of sexual penetration or oral sex in the production of an adult film within the city. The ordinance permits the city's director of administrative services to review all film or other media evidencing sexual penetration or oral sex and inspect any site where the production of an adult film takes place.

If you have questions concerning this matter, please contact me, Assistant County Counsel Richard K. Mason at (213) 974-1866, or Principal Deputy County Counsel Robert E. Ragland at (213) 974-1928.

JFK:RER:sc

c: William T Fujioka  
Chief Executive Officer

Sachi A. Hamai, Executive Officer  
Board of Supervisors

Jonathan E. Fielding, M.D., M.P.H., Director and Health Officer  
Department of Public Health

Jonathan E. Freedman, M.D., Chief Deputy Director  
Department of Public Health

Dean C. Logan  
Registrar-Recorder/County Clerk



**ATTACHMENT D  
BUDGET REQUEST/REDUCTION PACKAGE  
FY 2011-2012**

<b>1. DEPT/BUREAU:</b>	LAFD / FPB	<b>2a. TYPE:</b>	<input type="checkbox"/> Current <input checked="" type="checkbox"/> New <input type="checkbox"/> Reduction	<b>2b. PRIORITY:</b>	
<b>3. PACKAGE TITLE:</b>	Ordinance No. 181989 - start up costs				
<b>4. ELEMENT/PROGRAM TITLE:</b>	AF3805-FPB Hazardous Materials Enforcement				
<b>5. PROVIDES SERVICES TO YOUTH AND CHILDREN:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
<b>6a. DESCRIPTION OF WORK OUTPUT AND OBJECTIVE:</b>					
<b>6b. ADDRESSES MAYOR'S BUDGET GOALS:</b>	Public Safety				
<b>7. LEGAL BASIS:</b>	<input type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> City Charter <input checked="" type="checkbox"/> Ad. Code/Ordinance <input type="checkbox"/> Policy or Budget				
<b>8. LAYOFFS:</b>	Projected number if package is not funded:				
<b>9. SOURCE OF FUNDS:</b>	List all proposed funding sources and basis for use of special purpose funds. If more than one source of funds is proposed for this package, complete the attachment.				
<b>10. REVENUE:</b>	State the revenue impact of funding or not funding this package and any required ordinance changes.				

**11. IMPACT:** Detail quantifiable and non-quantifiable benefits of funding this package, including the impact on service levels, and any consequences of not funding it.

<b>12. RESOURCES REQUIRED NEXT FISCAL YEAR:</b>		<b>SPACE (SQ. FT.)</b>		
<b>SWORN SALARY</b>			<b>CIVILIAN SALARY</b>	
No. of Sworn: <u>6</u>			No. of Civilian: <u>1</u>	
<b>Acct</b>	<b>Acct Name</b>	<b>Amount</b>	<b>Acct</b>	
1012	Salary Sworn	632,520	1010	
1093	Constant Staffing	0	1090	
1030	Bonus Sworn	3,066	1070	
1050	Unused Sick Time	0	<i>Subtotal Salary</i>	
1092	Overtime Sworn	0	60,487	
1093	Constant Staffing	0		
1098	Variable Staffing	366,080		
<i>Subtotal Salary</i>		1,001,666		
Pension		194,310	Pension	
Benefits		74,010	Benefits	
<i>Subtotal P &amp; B:</i>		268,320	26,355	
<b>Sworn Total:</b>		<b>1,269,986</b>	<b>Civilian Total:</b>	
			86,842	
<b>EQUIPMENT/EXPENSE</b>				
<b>Acct</b>	<b>Acct Name</b>	<b>Amount</b>		
6010	Office & Administrative	2,100		
6020	Operating Supplies	1,400		
4430	Uniforms	43,260		
3260	Rescue Supplies & Expense	12,480		
9350	Communications Services	54,790		
6010	Office & Administrative	20,090		
7300	Furniture, Office & Tech. Equip	42,000		
6020	Operating Supplies	1,400		
GSD	GSD	3,600		
7340	Transportation Equipment	99,000		
3090	Field Equipment Expense	4,200		
9999	OTHER	25,632		
		0		
		0		
		0		
		0		
		0		
<b>Equipment/Expense Total:</b>		<b>309,952</b>		
<b>Budget Package Total:</b>		<b>1,666,780</b>		









## BUDGET REQUEST: EXPENSE/EQUIPMENT DETAIL

FY 2011-2012

**PACKAGE TITLE:** Ordinance No. 181989 - start up costs

PAGE 5

Acct Title	Acct Detail	Type	Qty (Q)	Unit Cost (U)	Proposed (Q * U)
GSD GSD	fuel- non-emergency sedan		6	600	3,600
					0
					0
					0
					0
					0
					0
					0
<b>Total: \$</b>			<b>6</b>	<b>600</b>	<b>3,600</b>
<b>7340</b> Transportation Equipment	VEHICLE, NON-EMERGENCY SEDAN		6	16,500	99,000
					0
					0
					0
					0
					0
					0
					0
<b>Total: \$</b>			<b>6</b>	<b>16,500</b>	<b>99,000</b>
<b>3090</b> Field Equipment Expense	AUTO PARTS/VEHICLE/YR		6	600	3,600
	disposable gloves, goggles, biohazard disposal kit		6	100	600
					0
					0
					0
					0
					0
					0
<b>Total: \$</b>			<b>12</b>	<b>700</b>	<b>4,200</b>
<b>9999</b> OTHER	Office Space (clerical & supervisors, 64 sq ft)		1	2,304	2,304
	Office Space (Inspector, 108 sq ft)		6	3,888	23,328
					0
					0
					0
					0
					0
					0
<b>Total: \$</b>			<b>7</b>	<b>6,192</b>	<b>25,632</b>

## ATTACHMENT D

### BUDGET REQUEST/REDUCTION PACKAGE

FY 2011-2012

PAGE 1



1. DEPT/BUREAU:	LAFD / FPB	2a. TYPE: <input type="checkbox"/> Current <input checked="" type="checkbox"/> New <input type="checkbox"/> Reduction	2b. PRIORITY:																																																																																																																																																									
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<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3">SWORN SALARY</th> <th colspan="3">CIVILIAN SALARY</th> <th colspan="3">EQUIPMENT/EXPENSE</th> </tr> <tr> <th>Acct</th> <th>Acct Name</th> <th>Amount</th> <th>Acct</th> <th>Acct Name</th> <th>Amount</th> <th>Acct</th> <th>Acct Name</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td colspan="3">No. of Sworn: 102</td> <td colspan="3">No. of Civilian: 18</td> <td colspan="3"></td> </tr> <tr> <td>1012</td> <td>Salary Sworn</td> <td>10,958,118</td> <td>1010</td> <td>Salary General</td> <td>1,069,359</td> <td>6010</td> <td>Office &amp; Administrative</td> <td>36,000</td> </tr> <tr> <td>1093</td> <td>Constant Staffing</td> <td>0</td> <td>1090</td> <td>Overtime General</td> <td>0</td> <td>6020</td> <td>Operating Supplies</td> <td>24,000</td> </tr> <tr> <td>1030</td> <td>Bonus Sworn</td> <td>52,299</td> <td>1070</td> <td>Salaries As Needed</td> <td>0</td> <td>4430</td> <td>Uniforms</td> <td>630,360</td> </tr> <tr> <td>1050</td> <td>Unused Sick Time</td> <td>0</td> <td colspan="3"><b>Subtotal Salary: 1,069,359</b></td> <td>3260</td> <td>Rescue Supplies &amp; Expense</td> <td>212,160</td> </tr> <tr> <td>1092</td> <td>Overtime Sworn</td> <td>0</td> <td colspan="3"></td> <td>9350</td> <td>Communications Services</td> <td>934,080</td> </tr> <tr> <td>1093</td> <td>Constant Staffing</td> <td>0</td> <td colspan="3"></td> <td>6010</td> <td>Office &amp; Administrative</td> <td>344,400</td> </tr> <tr> <td>1098</td> <td>Variable Staffing</td> <td>500,000</td> <td colspan="3"></td> <td>7300</td> <td>Furniture, Office &amp; Tech. Equip</td> <td>724,500</td> </tr> <tr> <td colspan="2"><b>Subtotal Salary</b></td> <td><b>11,510,417</b></td> <td colspan="3"></td> <td>6020</td> <td>Operating Supplies</td> <td>24,000</td> </tr> <tr> <td>Pension</td> <td></td> <td>3,366,334</td> <td>Pension</td> <td></td> <td>291,542</td> <td>GSD</td> <td>GSD</td> <td>33,600</td> </tr> <tr> <td>Benefits</td> <td></td> <td>1,288,170</td> <td>Benefits</td> <td></td> <td>177,552</td> <td>7340</td> <td>Transportation Equipment</td> <td>924,000</td> </tr> <tr> <td colspan="2"><b>Subtotal P &amp; B</b></td> <td><b>4,624,504</b></td> <td colspan="2"><b>Subtotal P &amp; B</b></td> <td><b>469,094</b></td> <td>3090</td> <td>Field Equipment Expense</td> <td>42,700</td> </tr> <tr> <td colspan="2">Sworn Total:</td> <td>16,134,921</td> <td colspan="2">Civilian Total:</td> <td>1,538,453</td> <td>9999</td> <td>OTHER</td> <td>436,320</td> </tr> <tr> <td colspan="2"></td> <td></td> <td colspan="2"></td> <td></td> <td colspan="2"><b>Equipment/Expense Total:</b></td> <td><b>4,366,120</b></td> </tr> <tr> <td colspan="2"></td> <td></td> <td colspan="2"></td> <td></td> <td colspan="2"><b>Budget Package Total:</b></td> <td><b>22,039,494</b></td> </tr> </tbody> </table>				SWORN SALARY			CIVILIAN SALARY			EQUIPMENT/EXPENSE			Acct	Acct Name	Amount	Acct	Acct Name	Amount	Acct	Acct Name	Amount	No. of Sworn: 102			No. of Civilian: 18						1012	Salary Sworn	10,958,118	1010	Salary General	1,069,359	6010	Office & Administrative	36,000	1093	Constant Staffing	0	1090	Overtime General	0	6020	Operating Supplies	24,000	1030	Bonus Sworn	52,299	1070	Salaries As Needed	0	4430	Uniforms	630,360	1050	Unused Sick Time	0	<b>Subtotal Salary: 1,069,359</b>			3260	Rescue Supplies & Expense	212,160	1092	Overtime Sworn	0				9350	Communications Services	934,080	1093	Constant Staffing	0				6010	Office & Administrative	344,400	1098	Variable Staffing	500,000				7300	Furniture, Office & Tech. Equip	724,500	<b>Subtotal Salary</b>		<b>11,510,417</b>				6020	Operating Supplies	24,000	Pension		3,366,334	Pension		291,542	GSD	GSD	33,600	Benefits		1,288,170	Benefits		177,552	7340	Transportation Equipment	924,000	<b>Subtotal P &amp; B</b>		<b>4,624,504</b>	<b>Subtotal P &amp; B</b>		<b>469,094</b>	3090	Field Equipment Expense	42,700	Sworn Total:		16,134,921	Civilian Total:		1,538,453	9999	OTHER	436,320							<b>Equipment/Expense Total:</b>		<b>4,366,120</b>							<b>Budget Package Total:</b>		<b>22,039,494</b>
SWORN SALARY			CIVILIAN SALARY			EQUIPMENT/EXPENSE																																																																																																																																																						
Acct	Acct Name	Amount	Acct	Acct Name	Amount	Acct	Acct Name	Amount																																																																																																																																																				
No. of Sworn: 102			No. of Civilian: 18																																																																																																																																																									
1012	Salary Sworn	10,958,118	1010	Salary General	1,069,359	6010	Office & Administrative	36,000																																																																																																																																																				
1093	Constant Staffing	0	1090	Overtime General	0	6020	Operating Supplies	24,000																																																																																																																																																				
1030	Bonus Sworn	52,299	1070	Salaries As Needed	0	4430	Uniforms	630,360																																																																																																																																																				
1050	Unused Sick Time	0	<b>Subtotal Salary: 1,069,359</b>			3260	Rescue Supplies & Expense	212,160																																																																																																																																																				
1092	Overtime Sworn	0				9350	Communications Services	934,080																																																																																																																																																				
1093	Constant Staffing	0				6010	Office & Administrative	344,400																																																																																																																																																				
1098	Variable Staffing	500,000				7300	Furniture, Office & Tech. Equip	724,500																																																																																																																																																				
<b>Subtotal Salary</b>		<b>11,510,417</b>				6020	Operating Supplies	24,000																																																																																																																																																				
Pension		3,366,334	Pension		291,542	GSD	GSD	33,600																																																																																																																																																				
Benefits		1,288,170	Benefits		177,552	7340	Transportation Equipment	924,000																																																																																																																																																				
<b>Subtotal P &amp; B</b>		<b>4,624,504</b>	<b>Subtotal P &amp; B</b>		<b>469,094</b>	3090	Field Equipment Expense	42,700																																																																																																																																																				
Sworn Total:		16,134,921	Civilian Total:		1,538,453	9999	OTHER	436,320																																																																																																																																																				
						<b>Equipment/Expense Total:</b>		<b>4,366,120</b>																																																																																																																																																				
						<b>Budget Package Total:</b>		<b>22,039,494</b>																																																																																																																																																				
Preparer's Name		Title		Phone Number																																																																																																																																																								





# BUDGET REQUEST - EXPENSE/EQUIPMENT DETAIL

## FY 2011-2012

PACKAGE TITLE: Ordinance No. 181989

PAGE 3

Acct Title	Acct Detail	Type	Qty (Q)	Unit Cost (U)	Proposed (Q * U)
6010 Office & Administrative	OFFICE SUPPLIES		120	300	36,000
					0
					0
					0
					0
					0
					0
					0
					<b>Total: \$</b>
			120	300	36,000
6020 Operating Supplies	OPERATING EXPENSES		120	200	24,000
					0
					0
					0
					0
					0
					0
					0
					<b>Total: \$</b>
			120	200	24,000
4430 Uniforms	UNIFORM SPECIAL DUTY		102	6,180	630,360
					0
					0
					0
					0
					0
					0
					0
					<b>Total: \$</b>
			102	6,180	630,360
3260 Rescue Supplies & Expense	BREATHING APPARATUS		102	2,080	212,160
					0
					0
					0
					0
					0
					0
					0
					<b>Total: \$</b>
			102	2,080	212,160



**BUDGET REQUEST: EXPENSE/EQUIPMENT DETAIL**  
**FY 2011-2012**

PACKAGE TITLE: Ordinance No. 181989

PAGE 4

Acct Title	Acct Detail	Type	Qty (Q)	Unit Cost (U)	Proposed (Q*U)
9350 Communications Services	HANDIE TALKIE RADIO		102	6,040	616,080
	Telephone Installation, Voicemail, & LAN		120	2,650	318,000
					0
					0
					0
					0
					0
	<b>Total: \$</b>		<b>222</b>	<b>8,690</b>	<b>934,080</b>
6010 Office & Administrative	CHAIR, ROTARY ARM		120	185	22,200
	CHAIR, SIDE ARM		120	135	16,200
	OFFICE SUPPLIES		120	300	36,000
	COMPUTER (GENERAL PURPOSE) S/W NOT INCLUDED		120	1,400	168,000
	17" FLAT PANEL MONITOR		120	450	54,000
	SOFTWARE (COMPUTER OR LAPTOP)		120	400	48,000
					0
				0	
	<b>Total: \$</b>		<b>720</b>	<b>0</b>	<b>344,400</b>
7300 Furniture, Office & Tech. Equip	MODULAR FURNITURE		119	6,000	714,000
	EXECUTIVE OFFICE FURNITURE FOR BC, AC, DC		1	10,500	10,500
					0
					0
					0
					0
					0
	<b>Total: \$</b>		<b>120</b>	<b>16,500</b>	<b>724,500</b>
8020 Operating Supplies	OPERATING EXPENSES		120	200	24,000
					0
					0
					0
					0
					0
					0
	<b>Total: \$</b>		<b>120</b>	<b>200</b>	<b>24,000</b>



## BUDGET REQUEST: EXPENSE/EQUIPMENT DETAIL FY 2011-2012

PACKAGE TITLE: Ordinance No. 181989

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Acct Title	Acct Detail	Type	Qty (Q)	Unit Cost (U)	Proposed (Q * U)
GSD GSD	fuel- non-emergency sedan		56	600	33,600
					0
					0
					0
					0
					0
					0
					0
<b>Total: \$</b>			56	600	33,600
7340 Transportation Equipment	VEHICLE, NON-EMERGENCY SEDAN		56	16,500	924,000
					0
					0
					0
					0
					0
					0
					0
<b>Total: \$</b>			56	16,500	924,000
3090 Field Equipment Expense	AUTO PARTS/VEHICLE/YR		56	600	33,600
	disposable gloves, goggles, biohazard disposal kit		91	100	9,100
					0
					0
					0
					0
					0
					0
<b>Total: \$</b>			147	700	42,700
9999 OTHER	Office Space (clerical & supervisors, 64 sq ft)		18	2,304	41,472
	Office Space (Inspector, 108 sq ft)		91	3,888	353,808
	Office Space (Captain, 96 sq ft)		10	3,456	34,560
	Office Space (BC, 180 sq ft)		1	6,480	6,480
					0
					0
					0
					0
<b>Total: \$</b>			120	16,128	436,320



**BUDGET REQUEST: EXPENSE/EQUIPMENT DETAIL**  
**FY 2011-2012**

PACKAGE TITLE: Ordinance No. 181989

Acct Title	Acct Detail	Type	Qty (Q)	Unit Cost (U)	Proposed (Q*U)
					0
					0
					0
					0
					0
					0
					0
					0
					0
					0
			<b>Total: \$</b>	0	0
					0
					0
					0
					0
					0
					0
					0
					0
					0
			<b>Total: \$</b>	0	0
					0
					0
					0
					0
					0
					0
					0
					0
					0
			<b>Total: \$</b>	0	0
					0
					0
					0
					0
					0
					0
					0
					0
					0
			<b>Total: \$</b>	0	0