

AN ORDINANCE

89066

**APPROVING THE SETTLEMENT TERMS AND CONDITIONS OF AN AGREED ORDER WITH THE TEXAS DEPARTMENT OF HEALTH PERTAINING TO NOTIFICATION VIOLATIONS RELATED TO THE TEXAS ASBESTOS HEALTH PROTECTION RULES, REDUCING ADMINISTRATIVE PENALTIES FROM \$61,000.00 TO ZERO DOLLARS (\$0.00) ON CONDITION THAT FOUR SUPPLEMENTARY PROVISIONS ARE MET WHICH CONDITIONS REQUIRE THE CITY MAKE AN ASBESTOS SURVEY ORDINANCE AND CONTINUE TRAINING.**

\* \* \* \* \*

**WHEREAS**, the City has negotiated an Agreed Order with the Texas Department of Health to resolve notification violations related to the Texas Asbestos Health Protection Rules, which settlement reduces administrative penalties from \$61,000.00 to zero dollars (\$0.00) providing that the four supplementary conditions are met; and

**WHEREAS**, the four conditions all pertain to City obligations to promulgate a local asbestos survey ordinance and to continue asbestos management training; and

**WHEREAS**, a true and correct copy of the Agreed Order is attached; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City of San Antonio hereby enters into and approves and accepts all the terms and conditions expressed in an Agreed Order, Docket No. D725-1998-0200, IN THE MATTER OF THE CITY OF SAN ANTONIO, TEXAS, BEFORE THE TEXAS DEPARTMENT OF HEALTH (TDH) signed by the TDH Associate Commissioner Joseph L. Fuller, October 27, 1998, a true and correct copy of which Agreed Order is fully incorporated herein verbatim for all purposes.

**SECTION 2.** City staff is hereby instructed to perform all acts directed in the Agreed Order to the benefit of the City of San Antonio, and to bring before the Council for consideration and passage an Asbestos Survey Ordinance, comporting with conditions of the Agreed Order, which action shall be made no later than March 27, 1999.

**SECTION 3.** This Ordinance evidences City of San Antonio acceptance of the aforesaid Agreed Order from TDH.

**SECTION 4.** This Agreed Order is approved by the City Council in consideration for TDH's waiver of potential administrative penalties amounting to \$61,000.00.

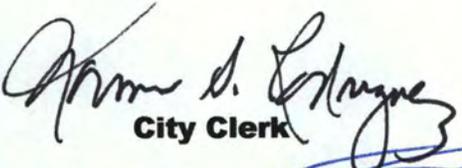
**SECTION 5.** This Ordinance shall be effective ten (10) days following date of passage.

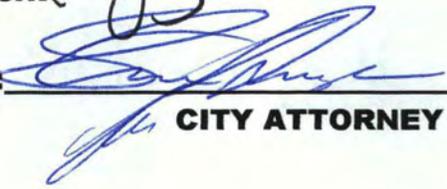
**PASSED AND APPROVED** this 14<sup>th</sup> day of January, 1999.



**M A Y O R**

Howard W. Peak

**ATTEST:**   
City Clerk

**APPROVED AS TO FORM:**   
CITY ATTORNEY

99-02

MEETING OF THE CITY COUNCIL

ALAMODOME
ARTS & CULTURAL AFFAIRS
ASSET MANAGEMENT
AVIATION
BUDGET & MANAGEMENT ANALYSIS
BUILDING INSPECTIONS
HOUSE NUMBERING
CITY ATTORNEY
MUNICIPAL COURT
REAL ESTATE (FASSNIDGE)
REAL ESTATE (WOOD)
RISK MANAGEMENT
CITY MANAGER
SPECIAL PROJECTS - FRANCES GONZALES
CITY PUBLIC SERVICE - GENERAL MANAGER
CITY PUBLIC SERVICE - MAPS AND RECORDS
CODE COMPLIANCE
COMMERCIAL RECORDER
COMMUNITY INITIATIVES
COMMUNITY RELATIONS
PUBLIC INFORMATION
CONVENTION AND VISITORS BUREAU
CONVENTION CENTER EXPANSION OFFICE
CONVENTION FACILITIES
ECONOMIC DEVELOPMENT
FINANCE - DIRECTOR
FINANCE - ASSESSOR
FINANCE - CONTROLLER
FINANCE - GRANTS
FINANCE - TREASURY
FIRE DEPARTMENT
HOUSING AND COMMUNITY DEVELOPMENT
HUMAN RESOURCES (PERSONNEL)
INFORMATION SERVICES
INTERGOVERNMENTAL RELATIONS
INTERNAL REVIEW
INTERNATIONAL AFFAIRS
LIBRARY
METROPOLITAN HEALTH DISTRICT
MUNICIPAL CODE CORPORATION
MUNICIPAL COURT
PARKS AND RECREATION
MARKET SQUARE
PLANNING DEPARTMENT
DISABILITY ACCESS OFFICE
LAND DEVELOPMENT SERVICES
POLICE DEPARTMENT
GROUND TRANSPORTATION
PUBLIC WORKS DIRECTOR
CAPITAL PROJECTS
CENTRAL MAPPING
ENGINEERING
PARKING DIVISION
REAL ESTATE DIVISION
SOLID WASTE
TRAFFIC ENGINEERING
PURCHASING AND GENERAL SERVICES
SAN ANTONIO WATER SYSTEMS (SAWS)
VIA
YOUTH INITIATIVES

AGENDA ITEM NUMBER: \_\_\_\_\_

18  
JAN 14 1999

DATE: \_\_\_\_\_

MOTION: \_\_\_\_\_

ORDINANCE NUMBER: \_\_\_\_\_

89066

RESOLUTION NUMBER: \_\_\_\_\_

ZONING CASE NUMBER: \_\_\_\_\_

TRAVEL AUTHORIZATION: \_\_\_\_\_

NAME	ROLL	AYE	NAY
ROGER FLORES, II District 1			
MARIO SALAS District 2			
DEBRA GUERRERO District 3			
RAUL PRADO District 4			
RICK VASQUEZ District 5			
JOSE MENENDEZ District 6			
ED GARZA District 7			
ROBERT MARBUT District 8			
TIM BANNWOLF District 9			
JEFF S. WEBSTER District 10			
HOWARD W. PEAK Mayor			

CONSENT AGENDA 99-02

DOCKET NO. D725-1998-0200

CASES #: 608072, 609028, 609163, 704047, 702046, 706024, 706025,  
706018, 706019, 706022, 706021, 706020, and 703062

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
CITY OF SAN ANTONIO	§	DEPARTMENT OF HEALTH
	§	
SAN ANTONIO, TEXAS	§	AUSTIN, TEXAS

### AGREED ORDER

#### I. JURISDICTION

The Texas Department of Health ("Department"), Toxic Substances Control Division ("Division"), Asbestos Programs Branch, is authorized to enforce the Texas Asbestos Health Protection Act ("Act") and the Texas Asbestos Health Protection Rules (Rules), Title 25 of the Texas Administrative Code (TAC), Chapter 295, and the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, Subpart M.

#### II. RESPONDENT

City of San Antonio ("Respondent") is the operator of several demolition/renovation projects and as such is subject to the aforementioned Act and Rules.

#### III. FACTS

On multiple dates in 1995, 1996 and 1997, the Department received and reviewed asbestos and demolition project notification forms from the Respondent. The purpose of the review was to determine the projects' compliance with the Texas Asbestos Health Protection Act (TAHPA) and the National Emission Standards for Hazardous Air Pollutants (NESHAP).

At the time of the reviews, the following violations were identified

- failure to properly complete notification form in violation of 25 TAC 295.61(a) - Case #: 608072 reviewed October 15, 1995 with a penalty amount \$500.00;
- failure to provide a timely notification of asbestos related activities in violation of 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - Case #609028 reviewed January 11, 1996 with a penalty amount of \$10,000.00;
- failure to pay the required notification fee in violation of 25 TAC 295.61(j)(4) - Case #609163 reviewed September 25, 1996 with a penalty amount of \$2,000.00;

- failure to provide a timely notification of asbestos related activities in violation of 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - Case #704047 reviewed November 13, 1996 with a penalty amount of \$4,000.00;
- failure to provide a timely notification of asbestos related activities in violation of 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - Case #702046 reviewed December 13, 1996 with a penalty amount of \$100.00;
- failure to provide a timely notification of asbestos related activities in violation of 40 CFR Part 61, Subpart M, 61.145(b) - Case #706024 reviewed December 30, 1996 with a penalty amount of \$3,000.00;
- failure to provide a timely notification of asbestos related activities in violation of 40 CFR Part 61, Subpart M, 61.145(b) - Case #706025 reviewed December 30, 1996 with a penalty amount of \$5,000.00;
- failure to provide a timely notification of asbestos related activities in violation of 40 CFR Part 61, Subpart M, 61.145(b) - Case #706018 reviewed January 6, 1997 with a penalty amount of \$8,000.00;
- failure to provide a timely notification of asbestos related activities in violation of 40 CFR Part 61, Subpart M, 61.145(b) - Case #706019 reviewed January 6, 1997 with a penalty amount of \$6,000.00;
- failure to provide a timely notification of asbestos related activities in violation of 40 CFR Part 61, Subpart M, 61.145(b) - Case #706022 reviewed January 15, 1997 with a penalty amount of \$5,000.00;
- failure to provide a timely notification of asbestos related activities in violation of 40 CFR Part 61, Subpart M, 61.145(b) - Case #706021 reviewed January 15, 1997 with a penalty amount of \$3,000.00;
- failure to provide a timely notification of asbestos related activities in violation of 40 CFR Part 61, Subpart M, 61.145(b) - Case #706020 reviewed January 15, 1997 with a penalty amount of \$6,000.00; and
- failure to provide a timely notification of asbestos related activities in violation of 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - Case #703062 reviewed February 6, 1997 with a penalty amount of \$8,000.00.

#### IV. NOTICE

By the Certified Letters# 900-969 (dated November 14, 1996); 900-772 (dated December 18, 1996); 900-895 (dated September 25, 1996); 900-825 (dated April 9, 1997); 900-860 (dated April 11, 1997); 900-934 (dated August 15, 1997 - 8 letters), and 900-791 (dated June 30, 1997), Mr. Claren J. Kotrla, Director of the Toxic Substances Control Division, informed Respondent of the Division's intent to assess a total administrative penalty of \$61,100.00. The letters were received by Respondent.

#### V. RESPONSE

Mr. David E. Newman and Mr. Lamberto Balli representing Respondent, responded to the Department's Notice Letters by requesting a settlement conference.

#### VI. SETTLEMENT

On November 11, 1997, a settlement conference was held between representatives of the Division and Respondent. The parties reached a settlement, the terms of which are contained in the "It is Ordered" section of this Order, based on various factors including the desire to avoid litigation.

Respondent agrees to the terms of this Order as evidenced by signing the settlement proposal letter dated March 11, 1997. The following violations and supplementary conditions were agreed upon:

- 25 TAC 295.61(a) - failure to properly complete notification form (Case #608072);
- 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #609028);
- 25 TAC 295.61(j)(4) - failure to pay the required notification fee (Case #609163);
- 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #704047);
- 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #702046);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706024);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706025);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706018);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706019);

- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706022);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706021);
- ~~40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706020); and~~
- 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #703062).

In lieu of the total penalty amount, the Respondent agreed to the following Supplementary Conditions:

1. The City of San Antonio will adopt an ordinance requiring an asbestos survey prior to issuance of a permit for renovation or demolition.
2. The City of San Antonio will provide a copy of their asbestos notification procedure to the Department.
3. A representative from the City of San Antonio will attend one of the next two available 1998 Notification Training Courses offered by the Texas Department of Health, Toxic Substances Control Division.
4. A representative from the City of San Antonio will attend an asbestos inspector / management planner course.

On January 21, 1998, four representatives from the City of San Antonio attended the Notification Training Course, completing this supplementary condition.

Respondent has no objection to this Order being signed by the Commissioner of Health or his delegatee.

## **VII. COMPLETE SETTLEMENT**

The facts contained herein are the complete settlement of all issues regarding the violations described in "IV. Notice" of this Order.

### **A. WAIVER OF HEARING**

In exchange for the execution of this Order, Respondent waives the right to a hearing.

**B. NO WAIVER WITH REGARD TO FUTURE VIOLATIONS**

The Department does not waive the right to enforce future violations committed by Respondent.

**C. COMPLETE UNDERSTANDING**

The Division and Respondent acknowledge that they understand the terms of this settlement, enter into the settlement freely, and agree to the terms.

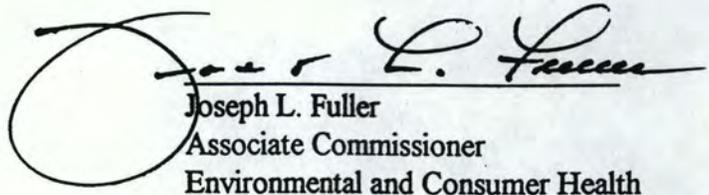
**D. NO RIGHT TO APPEAL**

Respondent waives the right to judicial review of this Order.

**NOW THEREFORE, IT IS ORDERED** that:

1. Respondent conduct the following supplementary conditions in lieu of a penalty amount:
  - A. The City of San Antonio will adopt an ordinance regarding an asbestos survey prior to issuance of a permit for renovation or demolition.
  - B. The City of San Antonio will provide a copy of their asbestos notification procedure to the Department.
  - C. A representative from the City of San Antonio will attend one of the next two available 1998 Notification Training Courses offered by the Texas Department of Health, Toxic Substances Control Division. On January 21, 1998, four representatives from the City of San Antonio attended the Notification Training Course, completing this supplementary condition.
  - D. A representative from the City of San Antonio will attend an asbestos inspector / management planner course.
2. Respondent shall henceforth comply with this Order and with all applicable laws, rules and regulations. Failure to comply will result in additional penalties.

Signed and ordered this 27<sup>th</sup> day of October, 1998.

  
Joseph L. Fuller  
Associate Commissioner  
Environmental and Consumer Health



## Texas Department of Health

William R. Archer III, M.D.  
Commissioner of Health

<http://www.tdh.state.tx.us>

Patti J. Pitterson, M.D., M.P.H.  
Executive Deputy Commissioner

1100 West 49th Street  
Austin, Texas 78756-3199  
512/458-7111

March 11, 1998

Mr. Greg Hammer  
City of San Antonio Environmental Services  
7402 S. New Braunfels  
San Antonio, Texas 78203  
Facsimile: (210) 207-4406

RE: Settlement Conference - Case No.'s: 608072, 609028, 609163, 702046, 703062, 704047,  
706018, 706019, 706020, 706021, 706022, 706023,  
706024, & 706025

Dear Mr. Hammer:

On November 13, 1997, an informal settlement conference was conducted for the above noted cases. In lieu of the original proposed penalty amounts for these cases, the City of San Antonio has agreed to the following four supplementary conditions:

**Supplementary Condition #1: The City of San Antonio will adopt an ordinance requiring an asbestos survey prior to issuance of a permit for renovation or demolition.**

**Supplementary Condition #2: The City of San Antonio will provide a copy of their asbestos notification procedures to the Department.**

**Supplementary Condition #3: A representative from the City of San Antonio will attend one of the next two available 1998 Notification Training Courses offered by the Texas Department of Health, Toxic Substances Control Division.**

**Supplementary Condition #4: A representative from the City of San Antonio will attend an asbestos inspector / management planner course.**

A review of the documentation provided to the Texas Department of Health (the Department) indicates that the supplementary conditions #2, #3, and #4 have been met. The adoption of the city ordinance, supplementary condition #1, will be completed 6 months after the date of this settlement letter and upon City Council approval of the Agreed Order.

Mr. Hammer  
March 11, 1998  
Page 2

Per the request of the City of San Antonio, an example of a similar ordinance adopted by another city has been forward to the City of San Antonio.

Please note that an Agreed Order will follow at a later date after this letter is signed and returned to the Department. It has also been noted that the City of San Antonio has requested two months to review the Agreed Order to have the City Council act upon it before returning it to the Department.

You must respond within 10 days of receipt of this letter by either agreeing to the settlement offer or requesting, in writing, a hearing. If no response is received, the Notices of Violations will proceed to a Default Order for the full amounts of the violations.

If you are in agreement with the supplementary conditions, please sign below and either mail, or send to me by facsimile this letter. The Department facsimile number is (512) 834-6644.

Sincerely,

Bill Billingsley  
Bill G. Billingsley, R.S.  
Enforcement Specialist

[Signature]  
Representative from City of San Antonio (Signature)

Date: 3/11/98

John L. German  
Print Name

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete Items 1 and/or 2 for additional services.
- Complete Items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Bill G. Billingsley, R.S.  
 Enforcement Specialist  
 Texas Department of Health  
 1100 West 49th Street  
 Austin, Texas 78756-3199

4a. Article Number

Z 292 205 517

4b. Service Type

- Registered  Certified
- Express Mail  Insured
- Return Receipt for Merchandise  COD

7. Date of Delivery

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

102595-97-B-0179

Domestic Return Receipt

Thank you for using Return Receipt Service.

Public Works/Env. Services

Z 292 205 517

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	Bill G. Billingsley, R.S.
Street & Number	1100 West 49th Street
Post Office, State, & ZIP Code	Austin, Texas 78756-3199
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, April 1995

Fold at line over top of envelope to the right of the return address

CERTIFIED

Z 292 205 517

MAIL

CITY OF SAN ANTONIO  
Public Works Department

CONSENT AGENDA  
ITEM NO. 18

Interdepartmental Correspondence Sheet

TO: Mayor and City Council through the City Manager

FROM: John L. German, P.E., Director of Public Works

COPIES: Christopher J. Brady; Environmental Services; File

SUBJECT: Ordinance Approving an Agreed Order with the Texas Department of Health

DATE: December 23, 1998

**Summary and Recommendations**

This ordinance authorizes the City Manager, or his designee, to approve the terms and conditions of the Agreed Order with the Texas Department of Health for notification violations related to the Texas Asbestos Health Protection Rules. The Order is a settlement reducing administrative penalties from \$61,000.00 to zero dollars (\$0.00) providing that the four supplementary conditions are met.

Staff recommends approval of this ordinance.

**Background Information**

From September 1996, through August 1997, the City received notices of violations alleging improper or insufficient notification of asbestos related activities. The violations resulted from deficiencies which occurred during demolition operations performed by the City in 1995, 1996, and 1997. Deficiencies were all related to the notification of asbestos related activities as required by the Texas Asbestos Health Protection Rules. The administrative penalties for these violations totaled \$61,100.00. The Texas Department of Health (TDH) and City staff have negotiated a settlement of the alleged violations. An Agreed Order has been proposed reducing the administrative penalties to zero dollars (\$0.00) providing that four supplementary conditions are met. These supplementary conditions require:

1. The City to provide a copy to TDH of the City's asbestos notification procedures;
2. A representative from the City to attend one of the 1998 Notification Training Courses offered by TDH, Toxic Substances Control Division;
3. A representative from the City to attend an Asbestos Inspector / Management Planner course;
4. The City to adopt an ordinance requiring an asbestos survey be performed prior to issuance of a permit for demolition or renovation of a commercial structure, and in special cases, some residential structures.

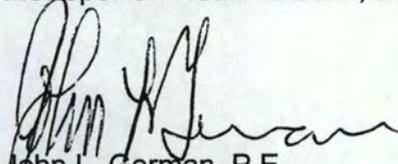
Conditions #1, #2, and #3 have been met, and an ordinance fulfilling condition #4 has been developed for adoption following approval of the Agreed Order. The Agreed Order (Docket No. D725-1998-0200) and proposed settlement offer are attached for reference.

**Policy Analysis:**

Approval of this ordinance will be consistent with City Council policy to address environmental concerns as expeditiously as possible and to abide by state and federal environmental regulations.

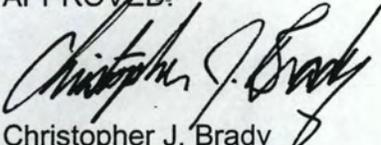
**Coordination:**

This request for ordinance has been coordinated with the Building Inspections Department, Metropolitan Health District, and City Attorney's Office.

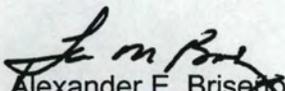


John L. German, P.E.  
DIRECTOR OF PUBLIC WORKS

APPROVED:



Christopher J. Brady  
ASSISTANT TO THE CITY MANAGER



Alexander E. Briseno  
CITY MANAGER

Attachments

DOCKET NO. D725-1998-0200

CASES #: 608072, 609028, 609163, 704047, 702046, 706024, 706025,  
706018, 706019, 706022, 706021, 706020, and 703062

IN THE MATTER OF	§	BEFORE THE TEXAS
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CITY OF SAN ANTONIO	§	DEPARTMENT OF HEALTH
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SAN ANTONIO, TEXAS	§	AUSTIN, TEXAS

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- failure to provide a timely notification of asbestos related activities in violation of 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - Case #703062 reviewed February 6, 1997 with a penalty amount of \$8,000.00.

#### IV. NOTICE

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- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706025);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706018);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706019);

- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706022);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706021);
- 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #706020); and
- 25 TAC 295.61(c) and 40 CFR Part 61, Subpart M, 61.145(b) - failure to provide a timely notification of asbestos related activities (Case #703062).

In lieu of the total penalty amount, the Respondent agreed to the following Supplementary Conditions:

1. The City of San Antonio will adopt an ordinance requiring an asbestos survey prior to issuance of a permit for renovation or demolition.
2. The City of San Antonio will provide a copy of their asbestos notification procedure to the Department.
3. -- A representative from the City of San Antonio will attend one of the next two available 1998 Notification Training Courses offered by the Texas Department of Health, Toxic Substances Control Division.
4. A representative from the City of San Antonio will attend an asbestos inspector / management planner course.

On January 21, 1998, four representatives from the City of San Antonio attended the Notification Training Course, completing this supplementary condition.

Respondent has no objection to this Order being signed by the Commissioner of Health or his delegatee.

## **VII. COMPLETE SETTLEMENT**

The facts contained herein are the complete settlement of all issues regarding the violations described in "IV. Notice" of this Order.

### **A. WAIVER OF HEARING**

In exchange for the execution of this Order, Respondent waives the right to a hearing.

**B. NO WAIVER WITH REGARD TO FUTURE VIOLATIONS**

The Department does not waive the right to enforce future violations committed by Respondent.

**C. COMPLETE UNDERSTANDING**

The Division and Respondent acknowledge that they understand the terms of this settlement, enter into the settlement freely, and agree to the terms.

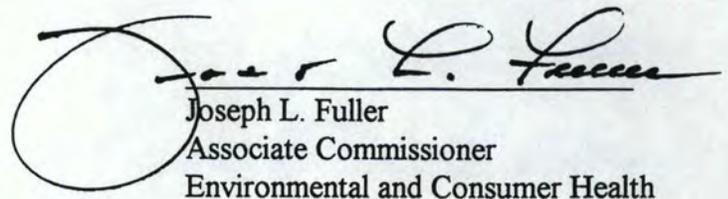
**D. NO RIGHT TO APPEAL**

Respondent waives the right to judicial review of this Order.

**NOW THEREFORE, IT IS ORDERED** that:

1. Respondent conduct the following supplementary conditions in lieu of a penalty amount:
  - A. The City of San Antonio will adopt an ordinance regarding an asbestos survey prior to issuance of a permit for renovation or demolition.
  - B. The City of San Antonio will provide a copy of their asbestos notification procedure to the Department.
  - C. A representative from the City of San Antonio will attend one of the next two available 1998 Notification Training Courses offered by the Texas Department of Health, Toxic Substances Control Division. On January 21, 1998, four representatives from the City of San Antonio attended the Notification Training Course, completing this supplementary condition.
  - D. A representative from the City of San Antonio will attend an asbestos inspector / management planner course.
2. Respondent shall henceforth comply with this Order and with all applicable laws, rules and regulations. Failure to comply will result in additional penalties.

Signed and ordered this 27<sup>th</sup> day of October, 1998.

  
Joseph L. Fuller  
Associate Commissioner  
Environmental and Consumer Health



## Texas Department of Health

William R. Archer III, M.D.  
Commissioner of Health

<http://www.tdh.state.tx.us>

Patti J. Patterson, M.D., M.P.H.  
Executive Deputy Commissioner

1100 West 49th Street  
Austin, Texas 78756-3199  
512/458-7111

March 11, 1998

Mr. Greg Hammer  
City of San Antonio Environmental Services  
7402 S. New Braunfels  
San Antonio, Texas 78203  
Facsimile: (210) 207-4406

RE: Settlement Conference - Case No.'s: 608072, 609028, 609163, 702046, 703062, 704047,  
706018, 706019, 706020, 706021, 706022, 706023,  
706024, & 706025

Dear Mr. Hammer:

On November 13, 1997, an informal settlement conference was conducted for the above noted cases. In lieu of the original proposed penalty amounts for these cases, the City of San Antonio has agreed to the following four supplementary conditions:

**Supplementary Condition #1: The City of San Antonio will adopt an ordinance requiring an asbestos survey prior to issuance of a permit for renovation or demolition.**

**Supplementary Condition #2: The City of San Antonio will provide a copy of their asbestos notification procedures to the Department.**

**Supplementary Condition #3: A representative from the City of San Antonio will attend one of the next two available 1998 Notification Training Courses offered by the Texas Department of Health, Toxic Substances Control Division.**

**Supplementary Condition #4: A representative from the City of San Antonio will attend an asbestos inspector / management planner course.**

A review of the documentation provided to the Texas Department of Health (the Department) indicates that the supplementary conditions #2, #3, and #4 have been met. The adoption of the city ordinance, supplementary condition #1, will be completed 6 months after the date of this settlement letter and upon City Council approval of the Agreed Order.

Mr. Hammer  
March 11, 1998  
Page 2

Per the request of the City of San Antonio, an example of a similar ordinance adopted by another city has been forward to the City of San Antonio.

Please note that an Agreed Order will follow at a later date after this letter is signed and returned to the Department. It has also been noted that the City of San Antonio has requested two months to review the Agreed Order to have the City Council act upon it before returning it to the Department.

You must respond within 10 days of receipt of this letter by either agreeing to the settlement offer or requesting, in writing, a hearing. If no response is received, the Notices of Violations will proceed to a Default Order for the full amounts of the violations.

If you are in agreement with the supplementary conditions, please sign below and either mail, or send to me by facsimile this letter. The Department facsimile number is (512) 834-6644.

Sincerely,

Bill Billingsley  
Bill G. Billingsley, R.S.  
Enforcement Specialist

[Signature]  
Representative from City of San Antonio (Signature)

Date: 3/11/98

John L. German  
Print Name

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
  
**Mr. Bill G. Billingsley, R.S.**  
**Enforcement Specialist**  
**Texas Department of Health**  
**1100 West 49th Street**  
**Austin, Texas 78756-3199**

4a. Article Number  
**Z 292 205 517**

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

**X**

PS Form 3811, December 1994

102595-97-8-0179

Domestic Return Receipt

Thank you for using Return Receipt Service.

**Public Works/Env. Services**

Z 292 205 517

US Postal Service

**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	<b>Bill G. Billingsley, R.S.</b>
Street & Number	<b>1100 West 49th Street</b>
Post Office, State, & ZIP Code	<b>Austin, Texas 78756-3199</b>
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, April 1995

Fold at line over top of envelope to the right of the return address

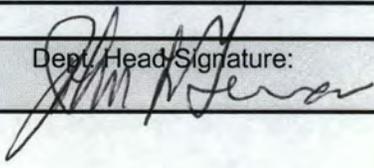
**CERTIFIED**

Z 292 205 517

**MAIL**

Approval Finance Budget [ ] [ ] Legal Coordinator [ ] [ ]	<b>CITY OF SAN ANTONIO</b> <b>Request For Ordinance/Resolution</b>	Date Considered: Consent [ ] Individual [ ] Item No. <b>18</b> Ord. No
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Date: <b>December 23, 1998</b>	Department <b>Public Works</b>	Contact Person/Phone <b>David E. Newman 207-8987</b>
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Date Council Consideration Requested: <b>January 7, 1999</b>	Deadline for Action: <b>ASAP</b>	Dept. Head Signature: 
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**SUMMARY OF ORDINANCE**

**Ordinance Approving an Agreed Order with the Texas Department of Health**

This ordinance authorizes the City Manager, or his designee, to approve the terms and conditions of the Agreed Order with the Texas Department of Health for notification violations related to the Texas Asbestos Health Protection Rules. The Order is a settlement reducing administrative penalties from \$61,000.00 to zero dollars (\$0.00) providing that the four supplementary conditions are met.

Other Depts., Boards, Committees Involved (please specify):
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Contract signed by other party    Yes [ ]    No [ ]
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<b>FISCAL DATA (If Applicable)</b>	<b>Budgetary Implications</b>
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Fund No.:	Amt. Expended:	Funds/Staffing Budgeted    Yes [ ]    No [ ]
Activity No.:	SID No. <b>none</b>	Positions Currently Authorized    Yes [ ]    No [ ]
Index Code:	Project No.:	Impact on future O&M
Object Code		If positions added, specify class and no.

**Comments:**