

APPENDIX B

City of Benicia Fire Department/ Valero Benicia Refinery Fire Department Operational Aid Agreement, July 2015

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**City of Benicia Fire Department
Valero Benicia Refinery Fire Department
Operational Aid Agreement**

This Agreement (“Agreement”) is entered into as of December 18, 2015 (“Execution Date”), by and between the City of Benicia, a municipal corporation (“City” also referred to herein as “Benicia”), and Valero Refining Company-California, a Delaware corporation (“Valero”), is made with reference to the following:

RECITALS:

- A. The City of Benicia and the Valero Benicia Refinery have a longstanding commitment to provide firefighting and other emergency response aid when requested by either party.
- B. Both Fire Departments are recognized by the State of California as meeting training and response requirements for fire, hazmat, and medical emergencies.
- C. The Valero Fire Department maintains specialized response equipment and training to respond to hazardous materials, railcar, and technical rescue emergency situations.
- D. The Departments routinely participate in joint training to share skills and knowledge. In addition there is ongoing coordination and planning for responses in the event of an emergency. Though the capabilities of the two Departments may be different (Benicia is an all risk organization, while Valero is an industrial organization that focuses primarily on petroleum fires, hazmat incidents, and technical rescue) both operate under State and National guidelines. Each party embraces the use of the Incident Command System (ICS) to enhance the effectiveness of joint response and operations.

NOW, THEREFORE, it is mutually agreed by and between and undersigned parties as follows:

1. INCORPORATION OF RECITALS

The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. MUTUAL BENEFIT

Benicia and Valero intend that this Agreement will provide mutual benefits to both parties and agree to continue to participate in the Solano County Local Fire and Rescue Operational Area Mutual Aid Agreement and other areas of cooperation. This remains consistent with the commitments contained within the 2000 Good Neighbor Agreement. This Agreement provides the mutual advantage of protection afforded to each party to this Agreement by assisting in the protection of each party’s people, property and other assets.

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3. RESPONSE PROTOCOLS

A. Emergency Response within the City of Benicia (*inside of the Valero Benicia Refinery*)

- a. The Valero Benicia Refinery will immediately notify the City of Benicia Dispatch of any incident occurring within the refinery that requires the dispatching of Valero Fire apparatus (Station 15 or 16, Fire Stations within the Valero Refinery, Station numbers designated by Solano County).
- b. Upon notification of an incident at the Valero Benicia Refinery, Benicia Fire will automatically be dispatched to the incident with an appropriate level of response. Responding Benicia resources, as well as those responding from other agencies, will stage at the Valero Benicia Refinery Main Gate until such time as they are directed or escorted to the proper incident location. *This is considered a safety procedure and is not intended to restrict Benicia Fire personnel from site access.*
- c. It is intended that incidents within the refinery will be managed under a Unified Command as defined within the California Incident Command System. Unified command is a unified team effort which allows all agencies with jurisdictional responsibility for the incident, either geographical or functional, to manage an incident by establishing a common set of incident objectives and strategies. This is accomplished without losing or abdicating authority, responsibility, or accountability.

d. **Fire or Hazardous Materials Incidents**

- i. The Benicia Fire Department has responsibility for all fire emergencies occurring within the City of Benicia; however both the Valero Refinery and the City of Benicia have values at risk associated with incidents occurring within the refinery. Within the concept of emergency incident management “Values at Risk” include such things as property, structures, physical improvements, natural and culture resources, community infrastructure, and economic, environmental, and social values.
- ii. Under a Unified Command, strategies and tactics will be formulated jointly by Valero Fire and Benicia Fire.
- iii. Implementation of necessary actions will take into consideration the strengths that each department brings to the incident.

e. **Medical/Rescue Incidents**

- i. The Benicia Fire Department provides emergency medical response, including the delivery of Advanced Life Support, to all medical emergencies within the City of Benicia.

- ii. Valero Fire personnel will provide initial response services to these types of emergencies and will transfer medical care responsibility, as appropriate, upon the arrival of Benicia Fire resources.

B. Emergency Response within the City of Benicia (*outside of the Valero Benicia Refinery*)

a. **Medical Emergencies**

- i. Valero Fire will immediately upon request from Benicia Fire, within Valero's capabilities of available personnel and equipment, dispatch a first responder unit to medical emergencies outside of the refinery.
- ii. This response would be requested in circumstances where Benicia Fire's response is delayed due to obstructions within the response route to the areas immediately surrounding the Valero Refinery.

b. **Structure Fires**

- i. Valero Fire will immediately upon request from Benicia Fire, within Valero's capabilities of available personnel and equipment, dispatch a firefighting apparatus to structure fire emergencies outside of the refinery.
- ii. This response would be requested in circumstances where Benicia Fire's response is delayed due to obstructions within the response route to the areas immediately surrounding the Valero Refinery.
- iii. Valero Fire will immediately upon request from Benicia Fire, within Valero's capabilities of available personnel and equipment, dispatch a firefighting apparatus to significant structure fire emergencies throughout the City of Benicia.
- iv. The Valero Fire Department specializes in exterior firefighting so any assistance would be in the form of foam or large water pumping and delivery devices. The Valero Fire Department will not participate in any interior firefighting.

c. **Vehicle Fires**

- i. Valero Fire will immediately upon request from Benicia Fire, within Valero's capabilities of available personnel and equipment, dispatch a firefighting apparatus to vehicle fire emergencies outside of the refinery.
- ii. This response would be requested in circumstances where Benicia Fire's response is delayed due to obstructions within the response route to the areas immediately surrounding the Valero Refinery.

d. Vegetation Fires

- i. Valero Fire will immediately upon request from Benicia Fire, within Valero's capabilities of available personnel and equipment, dispatch a firefighting apparatus to vegetation fire emergencies outside of the refinery.
- ii. This response would be requested in circumstances where Benicia Fire's response is delayed due to obstructions within the response route to the areas immediately surrounding the Valero Refinery.
- iii. Valero Fire will immediately upon request from Benicia Fire, within Valero's capabilities of available personnel and equipment, dispatch a firefighting apparatus to 2nd alarm vegetation fire emergencies throughout the City of Benicia.

e. Other Emergencies (Hazmat, technical rescue transportation incidents (tank truck rollover, etc.)

- i. Benicia Dispatch will contact the on-duty Shift Superintendent (24/7) and put in a request for response. Fulfillment of these requests will be made within Valero's capabilities of available personnel and equipment.

f. Petrochemical Mutual Organization Mutual Aid

The Valero Benicia Refinery is also a member of the Bay Area Petrochemical Mutual Aid Organization (PMAO). That organization provides coordination of emergency response equipment that is available to its members for response to larger incidents that might exceed the capability of local responders. As a PMAO member, Valero Fire has access to these additional assets (foam, large delivery devices, and large pumping capacity) that could also be directed to an emergency outside of the Valero Benicia Refinery.

4. FURNISHING AID

When a local emergency cannot be met with the equipment and personnel of either party hereto, that party may request from the other party, equipment and personnel to deal with said emergency. Each party agrees that their resources may be used as active participants in mitigating the emergency or providing emergency stand-by services.

5. RESOURCE CAPABILITY

No party to this Agreement shall be required to meet an aid request if that party's personnel or resources would be unable to meet their own fire protection and other emergency services needs if said request was filled.

6. TANK CARS

If and when the Valero Benicia Refinery Crude by Rail project ("CBR Project") receives all necessary governmental approvals and begins operation, Valero agrees to use tank cars which will be delivered to the unloading rack in Benicia that meet or exceed the standard as defined by the American Association of Railroads as a CPC-1232 Tank Car Specification. The parties agree as follows: (a) this covenant protects the public and the environment along hundreds of miles of rail

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track from the risks associated with derailment and release of crude oil, and the fires and explosions that could result therefrom; (b) the City relied upon this covenant in making determinations under the California Environmental Quality Act when it considered the CBR Project; (c) because the covenant is unique, monetary damages would be wholly inadequate to compensate the City for any breach of the covenant; and (d) in the event of a breach or the City has evidence of an intended breach by Valero, the City will have no adequate remedy at law. Based on these facts and conclusions, Valero agrees that the City may enforce Valero's covenant to use tank cars that meet or exceed the CPC-1232 Tank Car Specification through an action for specific performance and/or injunctive relief, in addition to any and all other remedies that may be available to the City at law or in equity. Valero further agrees to waive, in any action by the City to for specific performance and/or injunctive relief, the defense that a remedy at law would be adequate.

7. REAL TIME DISPATCH

If and when the Valero Benicia Refinery Crude by Rail project receives all necessary governmental approvals and begins operation, Valero shall implement the following protocol:

In the event of an emergency during a train crossing to the Valero property, Valero shall immediately notify the Benicia Dispatch and shall inform Benicia Dispatch of the expected train crossing schedule and alternate routes to access the Park Road and Bayshore Road industrial areas during the event that a train blocks Park Road.

In order to inform Benicia Dispatch of a train crossing during an emergency, Valero shall provide, install, and maintain camera(s) at specified location(s) determined by the City, with coordination from Valero. The camera shall meet the City's standards and have a real-time connection to Benicia Dispatch. The camera connection will signal to Benicia Dispatch that emergency responders shall use East 2nd Street as the identified alternative route to the Park Road and Bayshore Road industrial areas. East 2nd Street provides direct access to area and the Opticom system in place at all signalized intersections. The camera must be installed and operational prior to commencement of the Project or certificate of occupancy.

In order to minimize potential impacts associated with utilizing the alternative route, Valero shall provide the necessary devices for the City's emergency response vehicles that are not equipped for the Opticom system. The emergency response vehicles identified to receive a device shall be those without the necessary device as of the date this Agreement is executed. Valero shall be responsible for the maintenance of the camera during the life of the Project.

8. SEVERABILITY

If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

9. GOVERNING LAW AND CHOICE OF FORUM

This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Solano County.

10. THIRD PARTY CLAUSE

This Agreement is exclusive to the parties and shall not be construed as, or deemed to be, an agreement for the benefit of any third party or parties not subject to this Agreement, and no third party or parties shall have any right of action hereunder for any cause whatsoever. Any services performed or expenditures made in connection with furnishing mutual aid under this Agreement by any party shall be conclusively deemed to be for the direct protection and benefit of the party.

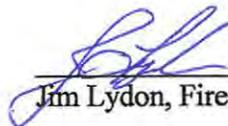
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day, month and year first above written.

CITY OF BENICIA



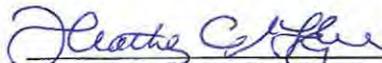
Brad Kilger, City Manager



Jim Lydon, Fire Chief

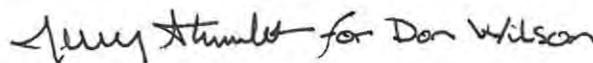
Date: 12-18-15

APPROVED AS TO FORM:

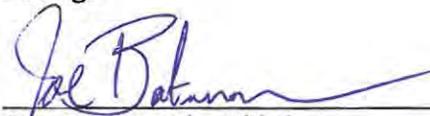


Heather McLaughlin, City Attorney

VALERO BENICIA REFINERY



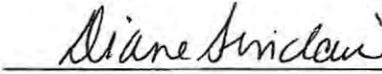
Don Wilson, Vice-President & General Manager



Joe Bateman, Fire Chief

Date: 12-18-15

APPROVED AS TO FORM:



Diane Sinclair, Special Counsel