



MEMORANDUM OF AGREEMENT

Jurisdiction: City of Los Angeles Harbor Department

Title: FY 13 Urban Area Security Initiative (UASI) Grant Program

City Contract Number _____

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MEMORANDUM OF AGREEMENT NUMBER _____
OF CITY CONTRACTS
BETWEEN
THE CITY OF LOS ANGELES
AND THE CITY OF LOS ANGELES HARBOR DEPARTMENT

THIS SUBRECIPIENT AGREEMENT (“Agreement” or “Contract”) is made and entered into by and between the City of Los Angeles, a municipal corporation (the “City”), and the City of Los Angeles Harbor Department, a proprietary department of the City of Los Angeles (the “Subgrantee” or “Subrecipient”).

WITNESSETH

WHEREAS, the U.S. Department of Homeland Security (“DHS”), through the Grant Programs Directorate within the Federal Emergency Management Agency (“FEMA” and along with DHS, collectively “Grantor”), has provided financial assistance to the Los Angeles/Long Beach Urban Area (“LA/LBUA”) through the Fiscal Year (FY) 2013 Urban Areas Security Initiative Grant Program (“UASI 13” or the “Grant”) in the amount of FiftyFour Million Seven Hundred Three Thousand Nine Hundred Sixty-Nine Dollars, \$54,703,969.00 (“Grant Funds”), such Grant Funds having been awarded by Grantor to the City, as a Core City, for use in the LA/LBUA and such Grant having been accepted by the City Council on November 22, 2013 (C.F. #13-0882); and

WHEREAS, the LA/LBUA consists of the City of Los Angeles, the City of Long Beach, the unincorporated area of the County of Los Angeles, and participating jurisdictions, including the Subrecipient; and

WHEREAS, the Grant is administered for the LA/LBUA by the City of Los Angeles and is overseen by the California Governor’s Office of Emergency Services (“CalOES”); and

WHEREAS, the Grant is being provided to support the development, sustainment and delivery of core capabilities essential to achieving National Preparedness Goal by addressing the unique equipment, training, planning, organization, and exercise needs of the LA/LBUA, and assisting it in building an enhanced and sustainable capacity to prevent, protect against, mitigate, respond to, and recover from acts of terrorism; and

WHEREAS, the City has designated the Office of the Mayor, Office of Homeland Security and Public Safety (“Mayor’s Office”) to provide for the proper monitoring of the funding and administration of the Grant; and

WHEREAS, the Mayor’s Office wishes to disburse UASI 13 Grant Funds allocated to the Subrecipient as a participating jurisdiction in the LA/LBUA in accordance with this Agreement; and

WHEREAS, the City and Subrecipient are desirous of executing this Agreement as authorized by the Los Angeles City Council and the Mayor (C.F.# 13-0882, dated November 22, 2013).

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and the mutual benefits to be derived therefrom, the City and the Subrecipient (each a "Party" and collectively, the "Parties") agree as follows:

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I.
INTRODUCTION

§101. Parties to the Agreement

The Parties to this Agreement are:

- A. The City of Los Angeles, a municipal corporation, having its principal office at 200 N. Spring Street, Los Angeles, California 90012; and
- B. The City of Los Angeles Harbor Department, a municipal corporation, having its principal office at 425 South Palos Verdes Street, San Pedro, California 90731.

§102. Representatives of the Parties and Service of Notices

- A. The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

- 1. The representative of the City of Los Angeles shall be, unless otherwise stated in this Agreement:

Eileen Decker, Deputy Mayor
Office of the Mayor, Homeland Security and Public Safety
200 N. Spring Street, Room 303
Los Angeles, California 90012
Phone: (213) 978-0687
Fax: (213) 978-0718
Eileen.Decker@lacity.org

- 2. The representative of the City of Los Angeles Harbor Department shall be:

Gary Lee Moore, Interim Executive Director
Port of Los Angeles
425 S. Palos Verdes Street
San Pedro, California 90731
Phone: (310) 732-3456
Fax: (310) 831-6936
garyleemoore@portla.org

With a copy to:

Chalon Douglas
Port of Los Angeles
330 S. Centre Street
San Pedro, California 90731
Phone: (310) 732-3272
cdouglas@portla.org

- B. Formal notices, demands and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.
- C. If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accordance with this section, within five (5) business days of said change.

§103. Independent Party

Subrecipient is acting hereunder as an independent party, and not as an agent or employee of the City. No employee of Subrecipient is, or shall be, an employee of the City by virtue of this Agreement, and Subrecipient shall so inform each employee organization and each employee who is hired or retained under this Agreement. Subrecipient shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the City by virtue of this Agreement.

§104. Conditions Precedent to Execution of This Agreement

Subrecipient shall provide copies of the following documents to the City, unless otherwise exempted.

- A. [Intentionally Omitted]
- B. Certifications Regarding Ineligibility, Suspension and Debarment as required by Executive Orders 12549 and 12689 in accordance with §415.A.12 of this Agreement and attached hereto as Exhibit B and made a part hereof. Subrecipient hereby certifies that said Certification so executed is true and correct as of the date of execution of this Agreement.
- C. Certifications and Disclosures Regarding Lobbying in accordance with §415.A.4 of this Agreement and attached hereto as Exhibit C and made a part hereof. Subrecipient shall also file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of the information contained in

any Disclosure Form previously filed by Subrecipient. Subrecipient hereby certifies that said Certification so executed is true and correct as of the date of execution of this Agreement.

- D. Certification Regarding Drug Free Workplace Requirements in accordance with § 415.A.13 of this Agreement and attached hereto as Exhibit D and made a part hereof. Subrecipient hereby certifies that said Certification so executed is true and correct as of the date of execution of this Agreement.

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II.
TERM AND SERVICES TO BE PROVIDED

§201. Time of Performance

The term of this Agreement shall be from September 1, 2013 and end May 31, 2015 (the "Term"); provided, however, that any and all expenditures made by Subrecipient shall be reimbursed by Subrecipient's allocation of Grant Funds pursuant to this Agreement only if such expenditures were made no later than 60 days prior to the end of the Term of this Agreement (the "Expenditure Deadline"). Any and all expenditures made by Subrecipient after the Expenditure Deadline shall not be reimbursed under this Agreement unless, prior to such expenditure, the Mayor's Office, in its sole discretion, has approved in writing the making of such expenditure after the Expenditure Deadline. Subrecipient shall cooperate with any necessary close out activities in connection with its use of the Grant Funds.

§202. Use of Grant Funds

- A. Subrecipient's allocations and use of funds under this Grant shall comply and be in accordance with, and subject to, the guidance, regulations and requirements set forth in the following: (1) DHS FY 2013 Homeland Security Grant Program Funding Opportunity Announcement ("DHS 13 Guidance"), (2) Grantor Information Bulletins, (3) CalOES 2013 Recipient Handbook ("CalOES 13 Handbook"), (4) CalOES FY 13 Homeland Security Grant Program California Supplement to the Federal Funding Opportunity Announcement and Application Kit ("CalOES 13 Supplement"), (5) CalOES Grant Management Memos ("GMM"), (6) the current editions of the Office of Justice Programs ("OJP") Financial Guide and the DHS Financial Management Guide, (7) Grantor's Grants Management Common Rule as codified in Title 44 Code of Federal Regulations (CFR) Part 13, (8) CalOES FY 13 Grant Assurances, attached hereto as Exhibit E and made a part hereof, (9) DHS Standard Administrative Terms and Conditions set forth in Section 6.1.1 of the DHS Chief Financial Officer financial management policy manual available at <http://www.dhs.gov/xlibrary/assets/cfo-financial-management-policy-manual.pdf> ("DHS Terms and Conditions") and (10) this Agreement. Subrecipient shall use the Grant Funds allocated to it to support the goals and objectives included in the State and/or Urban Area Homeland Security Strategies as well as the investments and projects identified in the Investment Justifications, which were submitted as part of the California FY 2013 Homeland Security Grant Program application. Further, use of the Grant Funds is limited to those investments and projects included in the California FY13 Investment Justifications submitted to DHS/FEMA/CalOES and evaluated through the peer review process. Subrecipient shall comply with any cost sharing commitments included in

such FY13 Investment Justifications, where applicable. Subrecipient agrees that Grant Funds will be used to supplement existing funds for program activities, and will not supplant (replace) funds that have been budgeted for the same purpose through non-federal sources, and, upon request by the City, CalOES and/or Grantor, Subrecipient shall be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Grant Funds. Subrecipient shall assure that the Grant Funds will support efforts related to providing an integrated mechanism to enhance the coordination of national priority efforts to prevent, respond to, and recover from terrorist attacks, major disasters and other emergencies.

Subrecipient hereby certifies that it has the legal authority to apply for the financial assistance given through the Grant and has the institutional, managerial and financial capability to ensure proper planning, management and completion of its projects being funded by the Grant Funds.

Subrecipient shall assure that Grant Funds allocated to it are used for allowable, fair and reasonable costs only and will not be transferred between programs (State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, and Metropolitan Medical Response System) or fiscal years. Subrecipient agrees that it will comply with the provisions and prohibitions regarding duplication of Federal assistance as set forth in 2 CFR Parts 220, 225, 230 and 48 CFR Part 31.2, whereby any cost allocable to a particular federal award or cost objective under the principles provided for in the Grant or this Agreement may not be charged to other federal awards to overcome fund deficiencies. Subrecipient shall also comply with the applicable provisions of the Improper Payments Information Act (IPIA) of 2002 (P.L. 107-300).

Subrecipient shall timely notify City and CalOES of any developments that have a significant impact on Grant Fund supported activities of Subrecipient, including changes to key program staff. Subrecipient shall cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities contemplated by this Agreement.

Subrecipient shall not be delinquent in the repayment of any Federal debt. Examples of relevant debt may be found in OMB Circular A-129, form SF-424, item #17, and include delinquent payroll and other taxes, audit disallowances, and benefit overpayments.

Subrecipient shall comply with the requirement of 31 U.S.C. Section 3729, which sets forth that no subgrantee, recipient or subrecipient of federal

funds or payments shall submit a false claim for payment, reimbursement or advance. In the event of a violation of such requirement, Subrecipient agrees to be subject to the administrative remedies as found in 38 U.S.C. Section 3801-3812, addressing false claims and statements made.

- B. Subrecipient and the City have previously completed a mutually approved Budget/Expenditure Plan as incorporated in the Financial Management Forms Workbook which was approved by CalOES prior to the execution of this Agreement (the "Budget"). The Budget contains detailed listings of items and projects for expenditures under the terms of this Agreement and the Grant, and Subrecipient shall use the funds disbursed under this Agreement only for such items.
1. Any request by Subrecipient to modify the Budget must be made in writing and accompanied by a completed Modification Request Form, attached hereto as Exhibit H. All modification requests must be approved in writing by the City during the Term of this Agreement to be effective.
 2. Budget modification requests must be submitted to the City every 30 days, as needed, pursuant to deadlines set by the City.. Submissions made after the deadline will be returned to the Subrecipient and will not be accepted until the following submission period. The City will notify the Subrecipient in writing if modification requests are inaccurate and/or incomplete. Inaccurate and/or incomplete modification requests shall be returned to the Subrecipient for revision and shall be accepted by the City when modification requests are accurate and complete. Subrecipient shall not expend any funds on modified budget items for which reimbursement by Grant Funds is sought until such modification is approved by the City and CalOES/Grantor.
 3. Final modification requests must be submitted to the City no later than 60 days prior to the end of the Term to provide the City time to meet CalOES/Grantor requirements. At that time, any unexpended funds may be re-directed to other needs across the LA/LBUA. The City will notify Subrecipient, in writing, when unexpended balances may be re-directed.
- C. Subrecipient shall complete a UASI 13 Project Timeline ("Project Timeline") provided by the City to manage its allocation of the Grant Funds. Subrecipient shall provide a completed Project Timeline and any reports requested by the City regarding performance of this Agreement by a date specified by the City. Plans and reports shall be provided in a timely manner. The completion of each milestone and deliverable referenced in the Project Timeline is subject to the prior review and written approval of the City. Subject to prior City approval, Subrecipient shall

update the Project Timeline quarterly, if necessary, and provide such updates to the City in order to monitor and evaluate Subrecipient's performance. Failure to meet any milestones or deadlines as set forth in Subrecipient's Project Timeline may result in the City reducing Grant Funds allocated to the Subrecipient, as more fully set forth in §301 of this Agreement.

- D. [Intentionally Omitted]
- E. Any equipment acquired pursuant to this Agreement shall be authorized, subject to, and in compliance with the CalOES 13 Handbook, CalOES 13 Supplement, GMMs, UASI Authorized Equipment List (<https://www.rkb.us>), Grantor Information Bulletins, DHS Terms and Conditions and DHS 13 Guidance. Subrecipient shall provide the City a copy of its most current procurement guidelines and follow its own procurement requirements as long as they meet the minimum federal requirements, which include, but are not limited to, those regulations set forth in OMB Circulars A-87, A-21, A-21, A-102 A-110, A-122, A-133, Executive Order (E.O.) 12372, the current edition of the DHS Financial Management Guide, and Title 44 CFR Part 13. Subrecipient shall maintain equipment acquired or obtained with Grant Funds in accordance with the provisions set forth in 44 CFR §13.32. Any and all property or equipment purchased in connection with this Agreement shall revert to CalOES if the Grant Funds allocated to the Subrecipient are deobligated/disallowed and/or not promptly repaid as required by applicable Grant regulations.

Any equipment acquired or obtained with Grant Funds:

- 1. Shall be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the LA/LBUA, and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan;
 - 2. Shall be consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.
- F. For the purposes of this subsection, "Equipment" is defined as nonexpendable property that is not consumed or does not lose its identity by being incorporated into another item of equipment, which costs \$5,000 or more per unit, or is expected to have a useful life of one (1) year or more. Items costing less than \$5,000, but falling into the following

categories are also considered Equipment: (1) electronics communications equipment for stationary or vehicular use, including cellular telephones acquired by lease or purchase, and (2) electronic office equipment, including facsimile machines, copiers, electric typewriters, personal computers (monitors and CPU's), terminals and printers.

1. Equipment shall be used by Subrecipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the Equipment may be used in other activities currently or previously supported by a Federal agency.
2. Subrecipient shall make Equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency.
3. An equipment ledger, attached hereto as Exhibit G, shall be maintained for each item of Equipment acquired for the program. This record must be updated quarterly and forwarded to the City along with completed reimbursement request forms (Exhibit J), when applicable. Records must be retained pursuant to the current edition of the DHS Financial Management Guide, and Title 44 CFR Part 13 and all other applicable Grantor regulations. For each piece of equipment, the record shall include:
 - (a) The line item number and project number as stated in the Budget
 - (b) The equipment description as stated in the Budget
 - (c) The Authorized Equipment Listing number (AEL) found at <http://www.rkb.mipt.org>
 - (d) The AEL title
 - (e) The invoice number
 - (f) The vendor
 - (g) Total cost (prime vendor)
 - (h) Total cost (general)
 - (i) Cash request #

(j) Acquired date

(k) ID Tag #

(l) The condition and disposition of the equipment, indicating whether it is new or used

(m) The deployed location, including the address and/or name of the facility where the equipment is located

(n) The name and contact information to whom the equipment is assigned.

(o) Environmental and Historical Preservation (EHP) Notes

4. All equipment obtained under this Agreement shall have an LA/LBUA identification decal affixed to it, and, when practical, shall be affixed where it is readily visible. Subrecipient also agrees that, when practicable, any equipment purchased with Grant Funds shall be prominently marked as follows: "*Purchased with funds provided by the U.S. Department of Homeland Security.*"
5. A physical inventory of the Equipment shall be taken and the results reconciled with the Equipment records at least once every year.
6. Subrecipient must obtain a performance bond for any equipment item over \$250,000; or any vehicle, aviation or watercraft (regardless of the cost) financed with UASI grant funds.
7. Requests for aviation equipment must be made in writing and accompanied by a completed Aviation Equipment Request form, attached hereto as Exhibit K.
8. Requests to establish or enhance Emergency Operation Centers (EOCs) must be made in writing and accompanied by a completed Establish/Enhance EOC Request form, attached hereto as Exhibit K.
9. Requests to establish or enhance the LA/LBUA Joint Regional Intelligence Center (JRIC) must be made in writing and accompanied by a completed Establish/Enhance JRIC Request form, attached hereto as part of Exhibit K.
10. EOC Aviation or Watercraft, and EHP Request forms must be approved by CalOES in writing during the term of this Agreement. Request forms must be submitted to the City by April 3, 2014. Purchases may not be made nor may the project commence until

Request forms are submitted to and approved by the City. The City will notify the Subrecipient in writing if Request forms are inaccurate and/or incomplete. Inaccurate and/or incomplete Request forms shall be returned to the Subrecipient for revision and shall be accepted by the City when Request forms are accurate and complete.

11. If applicable, Subrecipient must meet the deadline for the any equipment items listed in its Project Timeline, as approved by the City.
 12. Notwithstanding anything to the contrary in this Agreement, Equipment must meet all mandatory regulatory and/or Grantor adopted standards to be eligible for purchase using Grant Funds. In addition, Subrecipient shall be responsible for obtaining and maintaining all necessary certifications and licenses for the requested Equipment.
- G. Any training, planning, or organizational activities paid or any exercise undertaken pursuant to this Agreement shall be authorized, subject to, and in compliance with the CalOES 13 Handbook, CalOES 13 Supplement, GMMs, Grantor Information Bulletins, DHS Terms and Conditions and DHS 13 Guidance. A catalogue of Grantor approved and sponsored training courses is available at http://www.firstrespondertraining.gov/odp_webforms. Subrecipient must have a City approved, tangible deliverable for all planning projects. Plans and reports for all organizational activities shall be in the form requested by the City, and shall be provided in a timely manner. Detailed Homeland Security Exercise and Evaluation Program Guidance is available at <http://hseep.dhs.gov>. Reference materials and additional details are available at <http://www.oes.ca.gov>.
- H. Funds utilized to establish or enhance state and local fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines, follow the Federal and State approved privacy policies, and achieve (at a minimum) a baseline level of capability as defined by the Fusion Capability Planning Tool.
- I. As required by CalOES, the City shall provide Subrecipient with an electronic, interactive, Financial Management Forms Workbook, based on the pro forma template, incorporated herein by reference. Subrecipient shall continuously maintain the Project Management Workbook to access, complete and update the following documents:
- (1) Reimbursement Checklist
 - (2) Reimbursement Request Form

- (3) Equipment Ledger
- (4) Training Roster
- (5) Exercise Roster
- (6) Planning Roster

- J. Any and all requests for Sole Source procurements or contracts must be approved by the City and CalOES prior to Subrecipient entering into such contract. Such request shall be made on a Sole Source Request Form, as attached hereto as Exhibit I. Any such request may be denied by City and CalOES in their sole discretion.
- K. Any Grant Funds allocated to the Subrecipient which are used for the improvement of real property must be promptly repaid following deobligation/disallowment of such costs. CalOES shall have the right to place a lien on any such improved real property for any amounts owed in connection with such deobligation/disallowment.
- L. Subrecipient agrees that any equipment, products, exercise, training, planning and organizational activities or any other services purchased, or the costs of which are reimbursed by, Grant Funds shall comply with any and all technological and/or interoperability specifications and standards as may be approved by the LA/LBUA region, and such products, services or activities not so compliant shall be not eligible for reimbursement by Grant Funds. A list of technological standards currently approved by the LA/LBUA region is attached as Exhibit L. Subrecipient shall further ensure that it retains from its contractors, subcontractors, and vendors all rights related to inventions, copyrightable materials, and data as set forth in Section 416 of this Agreement.

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III.
PAYMENT

§301. Payment of Grant Funds and Method of Payment

- A. The City of Los Angeles shall disburse to Subrecipient its allocated Grant amount of One Hundred Thousand Dollars (\$100,000.00) to be used for purchase of equipment, planning, exercises, organizational activities, and training as described in Section 202 above. Such Grant amount represents the amount allocated to Subrecipient in the FY 13 UASI grant budget as approved by the Grantor. The disbursement of such funds shall be made on a reimbursement basis only.

Subrecipient shall maintain procedures to minimize the time elapsing between the award of Grant Funds and the expenditure of funds to be reimbursed by such Grant Funds.

- B. Subrecipient shall prepare, maintain and provide to the City invoices requesting payment as well as purchase orders, proof of delivery, proof of payment and payroll records, timesheets, receipts and any other supporting documentation necessary to fully and accurately describe the expenditure of funds for which reimbursement from Grant Funds is sought under this Agreement. All such supporting documentation shall satisfy applicable Federal, State and City audit and review standards and requirements. Such documentation shall be prepared at the sole expense and responsibility of the Subrecipient, and the City will not reimburse the Subrecipient for any costs incurred for such preparation. The City may request, in writing, changes to the content and format of such documentation at any time, and the City reserves the right to request additional supporting documentation to substantiate costs incurred at any time. In addition, each reimbursement request shall be accompanied by the Reimbursement Request Form (Exhibit J) and Equipment Ledger (Exhibit G), Training Roster (Exhibit G), Planning Roster (Exhibit G) and/or Exercise Roster (Exhibit G), as applicable, detailing the expenditures made by Subrecipient as authorized by Section 202 above. For equipment for which Subrecipient is requesting reimbursement, an equipment ledger (Exhibit G) and all appropriate back-up documentation must be attached to the reimbursement form, including invoices and supporting documentation, including proof of payment and proof of delivery. For training and exercise reimbursements, Subrecipient must include a copy of the class training roster (Exhibit G) or class exercise roster (Exhibit G) verifying training attendees, proof that a CalOES tracking number has been assigned to the course, and supporting documentation, including timesheets and payroll registers for all training attendees.

1. The Grantor seeks to encourage Regional Projects, where two or more jurisdictions or Urban Areas join together on a given project for the common good of the region. For regional project reimbursements, Subrecipient must include approval from the lead agency for all submitted invoices.
 2. Reimbursement requests must be submitted to the City monthly. Final reimbursement requests for the grant period must be submitted to the City no later than 30 days prior to the end of the Term. The City will notify the Subrecipient in writing if reimbursement requests are inaccurate and/or incomplete. Inaccurate and/or incomplete reimbursement requests shall be returned to the Subrecipient for revision and shall be accepted by the City when reimbursement requests are accurate and complete.
- C. Payment of final invoices shall be withheld by the City until the City has determined that Subrecipient has turned in all supporting documentation and satisfied the requirements of this Agreement.
- D. If applicable, Subrecipient must account separately for all interest income earned from the Grant Funds. In accordance with Grantor regulations and 44 CFR Part 13, interest earned on Grant Funds must be reported and returned to the City. Subrecipient will maintain records of and account for any interest earned, if applicable, on Grant Funds. If applicable, Subrecipient shall promptly return to the City all Grant Funds received which exceed the approved, actual expenditures as accepted by CalOES and Grantor. In the event the amount of the Grant Funds allocated to Subrecipient is reduced, the reimbursement payable to the Subrecipient will be reduced accordingly.
- E. It is understood that the City makes no commitment to fund this Agreement beyond the terms set forth herein. Funding for all periods of this Agreement is subject to the continuing availability to the City of federal funds for this program from the Grantor. The Agreement may be terminated immediately upon written notice to Subrecipient of such loss or reduction of Federal grant funds.
- F. The City reserves the right at any time to modify the amount of Grant Funds allocated to the Subrecipient in this Agreement in the event that the Subrecipient does not meet milestone spending deadlines or other project milestones for their contemplated projects as set forth in Subrecipient's Project Timeline. The Subrecipient will be notified in writing of such modifications made to its allocation of Grant Funds for failure to meet milestones or deadlines set forth in its Project Timeline. Such modifications include, but are not limited to, suspension, termination or

reduction of Grant Funds allocated to the Subrecipient. In addition, Subrecipient shall promptly repay to City any unapproved expenditures relating to such modifications.

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IV.
STANDARD PROVISIONS

§401. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Agreement have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against either party. The word "Subrecipient" herein and in any amendments hereto includes the party or parties identified in this Agreement. The singular shall include the plural. If there is more than one Subrecipient as identified herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

§402. Applicable Law, Interpretation and Enforcement

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, the County and City of Los Angeles, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Agreement shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. Subrecipient shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement.

In any action arising out of this Agreement, Subrecipient consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state and federal courts located in Los Angeles County, California.

If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining parts, terms or provisions of this Agreement shall not be affected thereby.

§403. Integrated Agreement

This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for herein.

§404. Excusable Delays

In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension.

Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes, freight embargoes or delays in transportation; to the extent that they are not caused by the party's willful or negligent acts or omissions and to the extent that they are beyond the party's reasonable control.

§405. Breach

Except for excusable delays as described in §404 herein, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

§406. Prohibition Against Assignment or Delegation

Subrecipient may not, unless it has first obtained the written permission of the City:

- A. Assign or otherwise alienate any of its rights hereunder, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

§407. Permits

Subrecipient and its directors, officers, agents, employees and contractors/subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for Subrecipient's performance hereunder and shall pay any fees required therefor. Subrecipient shall immediately notify the City of any suspension, termination, lapses, non-renewals or restrictions of licenses, permits, certificates, or other documents.

§408. Nondiscrimination and Affirmative Action

Subrecipient shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California, the County and the City of Los Angeles. In performing this Agreement, the Subrecipient shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, mental disability, marital status, domestic partner status, or medical condition. The Subrecipient shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). Any subcontract entered into by the Subrecipient relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

§409. Bonds

Duplicate copies of all bonds, which may be required hereunder, shall conform to City requirements established by charter, ordinance or policy and all federal requirements regarding the use of Grant Funds and shall be filed with the Office of the City Administrative Officer, Risk Management for its review in accordance with Los Angeles Administrative Code Sections 11.47 through 11.56.

§410. Indemnification

Each of the parties to this Agreement is a public entity. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities, solely by reason of such entities being parties to an Agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it or upon any of its officers, agents, or employees by law, for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each party indemnifies and holds harmless the other party solely by virtue of said Section 895.2. The provision of Section 2778 of the California Civil Code is made a part hereto as if fully set forth herein. Subrecipient certifies that it has adequate self insured retention of funds to meet any obligation arising from this Agreement.

- A. Pursuant to Government Code Sections 895.4 and 895.6, the parties shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by any negligent or wrongful act or omission occurring in the performance of this Agreement.

- B. Each party indemnifies and holds harmless the other party for any loss, costs, or expenses that may be imposed upon such other party by virtue of Government Code section 895.2, which imposes joint civil liability upon public entities solely by reason of such entities being parties to an agreement, as defined by Government Code section 895.
- C. In the event of third-party loss caused by negligence, wrongful act or omission by both Parties, each party shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed or judicially determined. The provisions of Civil Code Section 2778 regarding interpretation of indemnity agreements are hereby incorporated

§411. Conflict of Interest

- A. Subrecipient shall establish safeguards to prohibit employees from using their positions for a purpose that constitutes, or presents the appearance of, personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business, or other ties. Subrecipient covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any subcontract supported (in whole or in part) by Federal funds where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for themselves or others such as family business, etc.; or where such person knows or should have known that:
 - 1. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract;
 - 2. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
 - 3. The participation of such person would be prohibited by 44 CFR §13.36, the California Political Reform Act, California Government Code §87100 et seq. if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.
- B. Definitions:
 - 1. The term "immediate family" includes but is not limited to domestic partners and/or those persons related by blood or marriage, such as husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law.

2. The term "financial or other interest" includes but is not limited to:
 - a. Any direct or indirect financial interest in the specific contract, including a commission or fee, a share of the proceeds, prospect of a promotion or of future employment, a profit, or any other form of financial reward.
 - b. Any of the following interests in the subcontractor ownership: partnership interest or other beneficial interest of five percent or more; ownership of five percent or more of the stock; employment in a managerial capacity; or membership on the board of directors or governing body.
- C. The Subrecipient further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a sub agreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).
- D. The Subrecipient shall not subcontract with a former director, officer, or employee within a one year period following the termination of the relationship between said person and the Subrecipient.
- E. Prior to obtaining the City's approval of any subcontract, the Subrecipient shall disclose to the City any relationship, financial or otherwise, direct or indirect, of the Subrecipient or any of its officers, directors or employees or their immediate family with the proposed subcontractor and its officers, directors or employees.
- F. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the City of Los Angeles, State of California, and Federal regulations regarding conflict of interest.
- G. The Subrecipient warrants that it has not paid or given and will not pay or give to any third person any money or other consideration for obtaining this Agreement.
- H. The Subrecipient covenants that no member, officer or employee of Subrecipient shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.
- I. The Subrecipient shall incorporate the foregoing subsections of this Section into every agreement that it enters into in connection with this project and shall substitute the term "subcontractor" for the term "Contractor" and "sub subcontractor" for "Subcontractor".

§412. Restriction on Disclosures

Any reports, analysis, studies, drawings, information, or data generated as a result of this Agreement are to be governed by the California Public Records Act (California Government Code §6250 et seq.).

§413. Minority, Women, and Other Business Enterprise Outreach Program

It is the policy of the City to provide minority business enterprises (MBEs), women business enterprises (WBEs) and all other business enterprises an equal opportunity to participate in the performance of all contracts and subcontracts, including procurement, construction and personal services. In accordance with CalOES/Grantor directives, Subrecipient agrees that, to the extent contractors or subcontractors are utilized, Subrecipient shall use small, minority, women-owned, or disadvantaged business concerns and contractors or subcontractors to the extent practicable and shall take the affirmative steps as set forth in 44 CFR §13.36(e).

§414. Publications and Use of Grantor Markings

All publications created or published with funding under this Grant shall prominently contain the following statement: "*This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security.*" Subrecipient shall comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part by Grant Funds.

Subrecipient shall obtain Grantor approval prior to using Grantor seal(s), logos, crests or reproductions of flags or likenesses of Grantor agency officials, including the use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

§415. Compliance with State and Federal Statutes and Regulations

A. Statutes and Regulations Applicable To All Grant Contracts

Subrecipient shall comply with all applicable requirements of Federal, State, County and City of Los Angeles laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement and the Grant. Subrecipient shall comply with state and federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Subrecipient shall

comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement and the Grant. When reference is made in the provisions set forth in this Section 415 with regards to laws, rules and regulations “as applicable” (or a variation thereof) to the Subrecipient, it shall be construed to mean “as applicable” to the Subrecipient as a subgrantee of the Grant. These requirements include, but are not limited to:

1. Office of Management and Budget (OMB) Circulars and Forms

Subrecipient shall comply with OMB Circulars, as applicable: OMB Circular A-21 (Cost Principles for Educational Institutions); OMB Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments); OMB Circular A-102 (Grants and Cooperative Agreements with State and Local Governments); Common Rule, Subpart C for public agencies or OMB Circular A-110 (Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations); OMB Circular A-122 (Cost Principles for Non-Profit Organizations); OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations); OMB Standard Form 424B Assurances – Non-construction Programs.

2. Single Audit Act

If Federal funds are used in the performance of this Agreement, Subrecipient shall adhere to applicable rules and regulations of the Single Audit Act, 31 USC §7501 et seq.; City Council action dated February 4, 1987 (C.F. No. 84 2259 S1); and any administrative regulation or field memos implementing such Act.

3. Americans with Disabilities Act

Subrecipient hereby certifies that it will comply, as applicable, with the requirements of Titles I, II and III of the Americans with Disabilities Act of 1990 (“ADA”), 42 USC §§ 12101 et seq., and its implementing regulations, including Subtitle A, Title II of the ADA. Subrecipient will provide, as applicable, reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the ADA. Subrecipient will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any contract entered into by the Subrecipient (or any subcontract thereof), relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

4. Political and Sectarian Activity Prohibited

- a. Subrecipient shall comply with all applicable lobbying prohibitions and laws, including those found in 31 U.S.C. §1352, *et seq.*, and agrees that none of the funds, materials, property or services funded or reimbursed under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office, or to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action concerning the award or renewal of any federal contract, grant, loan or cooperative agreement. Subrecipient shall not use any funds provided under this Agreement, directly or indirectly, to support the enactment, defeat, repeal, modification or adoption of any law, regulation, pending legislation, pending regulation, or policy (pending or otherwise), at any level of government. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.
- b. Concurrent with the execution of this Agreement, Subrecipient shall submit to the City a Certification Regarding Lobbying and a Disclosure Form in accordance with 31 U.S.C. §1352. A copy of the Certificate is attached hereto as Exhibit C and incorporated herein. No funds will be released to Subrecipient until the Certification is filed.
- c. Subrecipient shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by Subrecipient. Subrecipient shall require that the language of this Certification be included in the award documents for all sub-awards at all tiers and that all subcontractors shall certify and disclose accordingly.

5. Reports, Records Inspection and Investigations

- a. At any time during normal business hours and as often as the Grantor, CalOES, the City, the Federal government, the General Accounting Office, the Comptroller General of the United States, the State of California and the Office of Inspector General may deem necessary, Subrecipient shall make available for examination all of its records with respect to all matters covered by this Agreement. Subrecipient

hereby gives the Grantor, CalOES, the City, the Federal government, the General Accounting Office, the Comptroller General of the United States, the State of California and the Office of Inspector General, through any authorized representative, access to, and the right to examine, audit and make excerpts or transcripts of, all paper or electronic records, books, or documents related to the Grant Funds and all matters covered by this Agreement, including, but not limited to all Subrecipient's invoices, materials, payrolls, records of personnel, conditions of employment and other data. The access and inspections rights set forth herein shall include access to applicable facilities, personnel and other individuals and information as may be necessary and as required by the Grantor or CalOES, through any authorized representative, or as required by applicable law, Grant regulations and guidance.

- b. Subrecipient agrees to submit timely, complete and accurate reports to appropriate Grantor, CalOES and City representatives as may be requested and maintain appropriate backup documentation to support such reports. Subrecipient shall comply with all other special reporting, assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities funded by Grant Funds.
- c. Subrecipient shall cooperate with any compliance review or complaint investigation conducted by the Grantor, CalOES and/or the City in connection with Subrecipient's use of Grant Funds.
- d. Subrecipient shall require any of its subgrantees, contractors, successors, transferees, and assignees to acknowledge and agree to comply with the provisions governing Grantor, CalOES and the City's access to records, accounts, documents, information, facilities and staff as set forth in this Section 415(A)(5).
- e. The provisions of this Section shall survive the termination of this Agreement.

6. Records Maintenance

Records, in their original form, shall be maintained in accordance with requirements prescribed by the City and CalOES/Grantor with respect to all matters covered on file for all documents specified in

this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Such records shall be retained for a period of five (5) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. The City may, at its discretion, take possession of, retain and audit said records. Records, in their original form pertaining to matters covered by this Agreement, shall at all times be retained within the County of Los Angeles unless authorization to remove them is granted in writing by the City. Subrecipient shall establish a proper accounting system in accordance with generally accepted accounting standards and/or CalOES/Grantor directives. The provisions of this Section shall survive the termination of this Agreement.

7. Subcontracts and Procurement

Subrecipient shall comply with applicable State, Federal and Subrecipient standards in the award of any subcontracts, including complying with the provisions set forth in 44 CFR §13.36. For purposes of this Agreement, subcontracts shall include but not be limited to purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.

Subrecipient shall ensure that the terms of this Agreement with the City are incorporated into all subcontract agreements. Subrecipient shall submit all Subcontractor Agreements to the City for review prior to the release of any funds to the subcontractor. Subrecipient shall withhold funds to any subcontractor agency that fails to comply with the terms and conditions of this Agreement and their respective subcontract agreement.

8. Labor

- a. Subrecipient shall comply, as applicable, with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System Personnel Administration (5 CFR 900, Subpart F).
- b. Subrecipient shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), the Contract Work Hours and Safety Standards Act (40 U.S.C.

§§327-333), regarding labor standards for federally-assisted construction subagreements, and the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

- c. Subrecipient shall comply, as applicable, with the Federal Fair Labor Standards Act (29 U.S.C. § 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.
- d. None of the funds shall be used to promote or deter union/labor organizing activities in accordance with California Government Code §16645 et seq.

9. Civil Rights

Subrecipient shall comply, and will assure the compliance of all its agents and contractors, with all applicable Federal and State statutes relating to civil rights and nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended, which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681- 1683, and 1685-1686, 44 CFR Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination against individuals with disabilities; (d) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to non-discrimination in the sale, rental, financing and advertising of dwellings, or in the provision of services in connection therewith, as implemented by the Department of Housing and Urban Development at 24 CFR Part 100; (i) Title 44 Code of Regulations (CFR) Parts 7, 16, and 19 relating to nondiscrimination; (j) the requirements of any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; (k) the

nondiscrimination requirements and all other provisions of the current edition of the OJP Financial and Administrative Guide for Grants, M7100.1; and (I) P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

In the event any court or administrative agency makes a finding of discrimination on the grounds of race, color, religion, national origin (including limited English proficiency), gender, age, familial status or disability against Subrecipient, or the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient will forward a copy of the complaint and findings to the City and the Grantor/CalOES. The United States shall have the right to seek judicial enforcement of the obligations set forth herein. If, during the past three years, the Subrecipient has been accused of any such discrimination, the Subrecipient shall provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the City, the Grantor/CalOES, and the DHS Office of Civil Rights and Civil Liberties.

Subrecipient will comply with the requirements of Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency). Subrecipient shall take reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to its programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Subrecipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. Assistance and information regarding LEP obligations may be found at <http://www.lep.gov>.

10. Environmental

- a. Subrecipient shall comply, or has already complied, with the applicable requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §4601 et seq. [P.L. 91-646]) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. Subrecipient shall also comply, as applicable, with Title 44 CFR Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted programs.

- b. Subrecipient shall comply, as applicable, with, and provide any information requested by DHS/FEMA/CalOES to ensure compliance with, the following laws: (a) the requirements of the National Environmental Policy Act (NEPA), as amended (42 U.S.C. §4331 et seq.) and Executive Orders (EO) 11514 and 12898; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990 and 44 CFR Part §9; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) requirements of the Clean Air Act of 1970 and the Clean Water Act of 1977 (42 U.S.C. §§7401 et seq.) and Executive Order 11738; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93205); (i) the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. §4001 et seq.) which requires recipients of Federal funds in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is ten thousand dollars (\$10,000) or more; (j) requirements of Section 1306(c) of the National Flood Insurance Act of 1968, as amended (44 CFR Part §63); and (k) 44 CFR Part §10, Environmental Considerations.
- c. Subrecipient shall comply with all applicable Federal, State, and local environmental and historical preservation (EHP) requirements. Failure to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding. Subrecipient shall comply with all applicable conditions placed on any project as the result of the EHP review, and any change to the scope of work of a project will require re-evaluation of compliance with these EHP requirements. Subrecipient agrees not to undertake any project funded by the Grant having the potential to impact the EHP resources without prior written approval of City and DHS/FEMA/CalOES, including, but not limited to, ground disturbance, construction, modification to any structure, communications towers, physical security enhancements, any structure over 50 years old, and purchase and/or use of any sonar equipment. Any construction related activities initiated prior to full EHP review may result in a noncompliance finding. Subrecipient

must complete the DHS/FEMA EHP Screening Form (OMB Number 1660-0115/FEMA Form 024-0-01) and submit it, with all supporting documentation, to City and CalOES for processing by the DHS/FEMA Grant Program Directorate EHP. If ground-disturbing activities occur during the project implementation, the Subrecipient must ensure monitoring of the disturbance. If any potential archaeological resources are discovered, the Subrecipient will immediately cease activity in that area and notify the City and DHS/FEMA/CalOES and the appropriate State Historic Preservation Office.

- d. Subrecipient shall comply, as applicable, with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- e. Subrecipient shall comply, as applicable, with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- f. Subrecipient shall comply, as applicable, with the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) which restores and maintains the chemical, physical and biological integrity of the Nation's waters.
- g. Subrecipient shall ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of Subrecipient's projects funded by the Grant are not on the Environmental Protection Agency's (EPA) List of Violating Facilities, and it will notify the City and DHS/FEMA/CalOES of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
- h. Subrecipient is, and shall be in compliance with the applicable provisions of the California Environmental Quality Act (CEQA), Public Resources Code §21000 et seq. and California Code of Regulations, Title 14, Chapter 3 Section 15000-15007.
- i. Subrecipient shall comply, as applicable, with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).

- j. Subrecipient shall comply with applicable provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 U.S.C. 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.

11. Preservation

Subrecipient shall comply, as applicable, with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

12. Suspension and Debarment

Subrecipient shall comply, as applicable, with Federal Register, Volume 68, Number 228, regarding Suspension and Debarment, and Subrecipient shall submit a Certification Regarding Debarment required by Executive Order 12549 and 12689 and any amendment thereto (attached hereto as Exhibit B and made a part hereof). Said Certification shall be submitted to the City concurrent with the execution of this Agreement and shall certify that neither Subrecipient nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department head or agency. Subrecipient shall require that the language of this Certification be included in the award documents for all sub-award at all tiers and that all subcontractors shall certify accordingly. Subrecipient shall not make any award or permit any award (subcontract or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension."

13. Drug-Free Workplace

Subrecipient shall comply, as applicable, with the Federal Drug-Free Workplace Act of 1988, 41 U.S.C. §701 et. seq., 44 CFR Part 17, 2 CFR 3001, and the California Drug-Free Workplace Act of 1990, Government Code §§ 8350-8357. Subrecipient shall execute and submit to the City concurrent with the execution of this Agreement the Certification Regarding Drug Free Workplace Requirements attached hereto as Exhibit D and made a part hereof. Failure to comply with these requirements may be cause for debarment.

14. Miscellaneous

Subrecipient shall comply, as applicable, with the Animal Welfare Act of 1966, as amended (P.L. 89-544, 7 U.S.C. §§2131 et seq.), pertaining to the care, handling and treatment of warm blooded animals held for research, teaching, or other activities.

Subrecipients must establish appropriate policies and procedures for the humane care and use of animals based on the Guide for the Care and Use of Laboratory Animals and comply with the Public Health Service Policy and Government Principles Regarding the Care and Use of Animals. Pursuant to the Consolidated Appropriations Act of 2008 (P.L. 110-161) grant funds must not be used in contravention of the federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of Title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) or subtitle A of Title I of the Energy Policy Act of 2005 (including the amendments made thereby), nor shall Grant Funds be used in contravention of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

B. Statutes and Regulations Applicable To This Particular Grant

Subrecipient shall comply with all applicable requirements of state and federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this particular Grant program. Subrecipient shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Title 44 Code of Federal Regulations (CFR) Subchapters A, B and C; EO 12372; Current edition of the OJP *Financial Guide* (M7100.1); Current edition of the DHS Financial Management Guide; DOJ Office for Civil Rights Regulations; Title 2 CFR Parts 215, 225, 220, and 230; Federal Acquisition Regulations (FAR), 48 CFR Part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations; DHS 13 Guidance; CalOES 13 Supplement; CalOES 13 Handbook; CalOES FY 13 Grant Assurances (attached hereto as Exhibit E); Grantor Information Bulletins; and GMMs.
2. Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code Chapter 7 of Division 1 of Title 2, § 8607.1(e) and CCR Title 19, §§ 2445-2448.
3. Technology Requirement:

(a) Subrecipient shall use the latest National Information Exchange Model (NIEM) specifications and guidelines regarding the use of Extensible Markup Language (XML) for all projects funded by this Grant. Further information about the required use of NIEM specifications and guidelines is available at www.niem.gov.

(b) For any information technology system funded by Grant Funds under this Agreement, Subrecipient shall ensure that such project complies with 28 CFR Part 23, *Criminal Intelligence Systems Operating Policies*, if such regulation is determined to be applicable.

(c) Subrecipient shall comply with Homeland Security Presidential Directive (HSPD)-5, *Management of Domestic Incidents*. Subrecipient agrees and acknowledges that the adoption of the National Incident Management System (NIMS) is a requirement to receive Grant Funds under this Agreement.

4. In accordance with section 6 of the Hotel and Motel Fire Safety Action of 1990, 15 U.S.C. §2225a, Subrecipient shall ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. §2225.

5. Subrecipient shall comply with the applicable provisions of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. §7104, 2 CFR §175). Subrecipient understands and agrees that it, and any of its subrecipients, employees or subgrantees that are private entities, may not:

(a) Engage in severe forms of trafficking in persons during the period of time that this Grant award is in effect;

(b) Procure a commercial sex act during the period of time that the Grant award is in effect; or

(c) Use forced labor in the performance of the award or subaward under this Grant award.

Subrecipient understands and agrees that the City, CalOES and/or Grantor may unilaterally terminate this Grant award to Subrecipient, without penalty, if Subrecipient:

(d) Is determined to have violated a prohibition identified in this paragraph 5, subparagraph a, b, or c; or

(e) Has an employee who is determined by an agency official authorized to terminate this Grant award to have violated any such prohibition through conduct that is either

(i) associated with performance under this Grant award; or

(ii) imputed to the Subrecipient or its authorized agent using the standards and due process for imputing the conduct of an individual to an organization provided in 2 CFR Part 180, as implemented by Grantor at 2 CFR Part 3000.

Subrecipient further understands and agrees that:

(f) It must inform the City and CalOES immediately of any information received from any source alleging a violation of a prohibition in this paragraph 5, subparagraph a, b or c;

(g) Grantor's right to terminate unilaterally as described in this paragraph 5 implements Section 106(g) of the TVPA, and that the right of the City, CalOES and Grantor to terminate this Grant award and Agreement unilaterally is in addition to all other remedies for noncompliance that are available under this Grant.

(h) For purposes of this paragraph 5:

(i) "Employee" means either:

i. an individual employed by the Subrecipient who is engaged in the performance of the project or program under this award; or

ii. another person engaged in the performance of the project or program under this Grant award and not compensated by Subrecipient, including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

(ii) "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

(iii) "Private entity" means any entity other than a state, local government, Indian Tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25, and includes non-profit

organizations, including any non-profit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian Tribe at 2 CFR 175.25(b), and for-profit organizations.

(iv) “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at Section 103 of the TVPA, as amended.

6. “Classified national security information,” as defined in Executive Order (EO) 12958, as amended, means information that has been determined pursuant to EO 12958 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form. Subrecipient shall not use any Grant Funds to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information if the Subrecipient has not been approved by the Grantor for and has access to such information. In the event Subrecipient has been so approved for and has access to such information, Subrecipient shall not use any Grant Funds to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information by the contractor, subawardee, or other entity without prior written approval from the DHS Office of Security, Industrial Security Program Branch (ISPB), or an appropriate official within the federal department or agency with whom the classified effort will be performed. Such contracts, subawards, or other agreements shall be processed and administered in accordance with the DHS “Standard Operating Procedures, Classified Contracting by States and Local Entities,” dated July 7, 2008; Eos 12829, 12958, 12968, as amended; the National Industrial Security Program Operating Manual (NISPOM); and/or other applicable implementing directives or instructions. All security requirement documents are located at: <http://www.dhs.gov/xopnbiz/grants/index.shtm>. Upon determination by Subrecipient that Grant Funds will be used to support such a contract, subaward, or other agreement, and prior to execution of any actions to facilitate the acquisition of such contract, subaward, or other agreement, Subrecipient shall contact the City and ISPB, or the applicable federal department or agency, for approval and processing instructions.
7. Subrecipient shall ensure that any of its potential subrecipients of Grant Funds has provided its Data Universal Numbering System (DUNS) number.

8. Subrecipient shall comply with Grantor guidelines regarding the handling of Personally Identifiable Information (PII), as required by OMB M-07-16 and as set forth in DHS Handbook for Safeguarding Sensitive PII, which can be found at http://www.dhs.gov/xlibrary/assets/privacy/privacy_guide_spil_handbook.pdf. In collecting PII, Subrecipient shall have a publicly-available privacy policy that describes what PII it collects, how it plans to use the PII, whether it shares PII with third parties, and how individuals may have their PII corrected where appropriate. Subrecipient may find DHS Privacy Impact Assessments, guidance and templates online at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_guidance_june2010.pdf and at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_template.pdf, respectively.
9. Subrecipient shall comply with the applicable requirements of the Federal regulations at 45 CFR Part §46 and DHS Management Directive 026-04 regarding the protection of human subjects in research.
10. Subrecipient shall comply with the applicable requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§175-175c.
11. Subrecipient shall comply with the applicable requirements of the Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers for international air transportation of people and property to the extent that such service is available.
12. Subrecipient shall comply with the requirements that project activities supported with Grant Funds and carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits or approvals are obtained.
13. Subrecipient shall comply with the applicable requirements of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), as amended by Section 6202(a) of the Government Funding Transparency Act of 2008 (P.L. 110-252), and as clarified in Grantor Information Bulletin #350 and GMM #350, regarding disclosure of subawards and executive compensation.

C. Noncompliance

Subrecipient understands that failure to comply with any of the above assurances or the Grant Assurances attached hereto as Exhibit E may result in suspension, termination or reduction of Grant Funds, and repayment by Subrecipient to City of any unlawful expenditures. Subrecipient shall be liable to the Grantor for any funds the Grantor determines that Subrecipient used in violation of these Grant Assurances and Subrecipient shall indemnify and hold harmless the City for any sums the Grantor determines Subrecipient used in violation of the Grant Assurances. The provisions of this paragraph shall survive termination of this Agreement.

§416. Inventions, Patents and Copyrights

A. Reporting Procedure for Inventions

If any project of Subrecipient funded under this Agreement produces any invention or discovery (“Invention”) patentable or otherwise under Title 35 of the U.S. Code, including, without limitation, processes and business methods made in the course of work under this Agreement, Subrecipient shall report the fact and disclose the Invention promptly and fully to the City. The City shall report the fact and disclose the Invention to the Grantor/CalOES. Unless there is a prior agreement between the City and Grantor/CalOES, Grantor/CalOES shall determine whether to seek protection on the Invention. Grantor/CalOES shall determine how the rights in the Invention, including rights under any patent issued thereon, will be allocated and administered in order to protect the public interest consistent with the policy (“Policy”) embodied in the Federal Acquisition Regulations System, which is based on Ch. 18 of Title 35 U.S.C. Sections 200 et seq. (Pub. L. 95-517, Pub. L. 98-620, 37 CFR part 401); Presidential Memorandum on Government Patent Policy to the Heads of the Executive Departments and Agencies, dated 2/18/1983); and Executive Order 12591, 4/10/87, 52 FR 13414, 3 CFR, 1987 Comp., p. 220 (as amended by Executive Order 12618, 12/22/87, 52 FR 48661, 3 CFR, 1987 Comp., p. 262). Subrecipient hereby agrees to be bound by the Policy, will contractually require its personnel to be bound by the Policy, and will consult with Grantor/CalOES regarding allocation of any patent rights that arise from, or are purchased with, Grant Funds.

B. Rights to Use Inventions

City and Grantor/CalOES shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Invention developed under this Agreement.

C. Copyright Policy

Unless otherwise provided by the terms of the Grantor or of this Agreement, when copyrightable material (“Material”) is first produced or developed as part of a project funded by Grant Funds, the Grantor, at Grantor’s discretion, may copyright the Material. If the Grantor declines to copyright the Material, the Grantor shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to reproduce, display, publish, disseminate, perform, prepare derivative works or otherwise use, and authorize others to use, for all government purposes: (a) any Material so produced or developed and (b) any rights of copyright to which Subrecipient purchases ownership with Grant Funds. Subrecipient shall affix the applicable copyright notices of 17 U.S.C. §401 or §402 and an acknowledgement of government sponsorship (including Grant award number) to any Material first produced or developed under this Grant.

D. Rights to Data

The Grantor shall have unlimited rights or copyright license to any data first produced or delivered under this Agreement or to any scientific, technical, or other copyright work based on or containing data first produced under this Agreement, including those works published in academic, technical or professional journals, symposia proceedings, or similar works. “Unlimited rights” means the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform and display publicly, or permit others to do so; as required by 48 CFR 27.401. Where the data are not first produced under this Agreement or are published copyrighted data with the notice of 17 U.S.C. Section 401 or 402, the Grantor acquires the data under a copyright license as set forth in 48 CFR 27.404(f)(2) instead of unlimited rights. (48 CFR 27.404(a)).

E. Obligations Binding on Subcontractors

Subrecipient shall require all its contractors and subcontractors funded by Grant Funds to comply with the obligations of this section by incorporating the terms of this section into all contracts and subcontracts. In addition, Subrecipient shall ensure that all its contractors, subcontractors and vendors funded by Grant Funds be contractually obligated to give the rights set forth in this Section 416 to the Subrecipient as well as the Grantor.

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V.
DEFAULTS, AMENDMENTS, AND AGREEMENT

§501. Defaults

Should Subrecipient fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, the City reserves the right to terminate the Agreement, reserving all rights under state and federal law.

§502. Amendments

Any change in the terms of this Agreement, including changes in the services to be performed by Subrecipient, and any increase or decrease in the amount of compensation/allocation which are agreed to by the City and Subrecipient shall be incorporated into this Agreement by a written amendment properly executed and signed by the person authorized to bind the parties thereto. Subrecipient agrees to comply with all future City Directives, or any rules, amendments or requirements promulgated by the City affecting this Agreement.

§503. Complete Agreement

This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for herein and neither verbal agreement nor conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement. This Agreement is executed in Two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes Forty (40) pages and Twelve (12) Exhibits which constitute the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the City and Subrecipient have caused this Agreement to be executed by their duly authorized representatives.

<p>APPROVED AS TO FORM AND LEGALITY: MICHAEL N. FEUER, City Attorney</p> <p>By _____ Deputy City Attorney</p> <p>Date _____</p>	<p>For: THE CITY OF LOS ANGELES ERIC GARCETTI, Mayor</p> <p>By _____ Eric Garcetti, Mayor Homeland Security and Public Safety, Mayor's Office</p> <p>Date _____</p>
<p>ATTEST:</p> <p>HOLLY L. WOLCOTT, Interim City Clerk</p> <p>By _____ Deputy City Clerk</p> <p>Date _____</p>	
<p>APPROVED AS TO FORM AND LEGALITY: MICHAEL N. FEUER, City Attorney JANNA SIDLEY, General Counsel</p> <p>By <u><i>Michael Feuer</i></u> Deputy City Attorney</p> <p>Date <u><i>April 23, 2014</i></u></p>	<p>For: The City of Los Angeles Harbor Department, a proprietary department of the City of Los Angeles, acting by and through its Board of Harbor Commissioners</p> <p>By _____</p> <p>Date _____</p>
<p>ATTEST:</p> <p>By _____ Board Secretary</p> <p>Date _____</p>	

City Business License Number: _____
 Internal Revenue Service ID Number: _____
 Council File/OARS File Number: 13-0882 Date of Approval _____
 City Contract Number: _____