



# City of Palo Alto

## City Council Staff Report

(ID # 10306)

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**Report Type: Consent Calendar**

**Meeting Date: 6/3/2019**

**Summary Title: State Homeland Security Grant for Solar Generator**

**Title: Authorization for the the City Manager to Sign a Memorandum of Understanding for a \$200,000 Grant of Funds With the State Homeland Security Grant Program via Santa Clara County for a Solar Generator to Support the Mobile Emergency Operations Center (MEOC)**

**From: City Manager**

**Lead Department: Office of Emergency Services**

### **Recommended Motion**

Staff recommends that Council authorize the City Manager to sign the enclosed Memorandum of Understanding (MOU) on behalf of the City of Palo Alto for a grant of funds made by the County of Santa Clara for the State Homeland Security Grant Program (SHSGP).

### **Discussion**

The County of Santa Clara's Office of Emergency Management (OEM) administers SHSGP for authorized training and equipment and requires awardees sign the MOU to receive reimbursement. The City's Office of Emergency Services (OES) has been awarded \$200,000 from this program to support the procurement of a solar generator to support the Mobile Emergency Operations Center (MEOC) and other critical systems and facilities. The performance period for this grant requires acquisition to be completed no later than May 31, 2020. There is no matching funding requirement for this grant.

### **Resource Impact**

SHSGP grant funding and a corresponding expense appropriation in the amount of \$200,000 has been included in the OES department budget as part of the FY 2020 Proposed Operating Budget, subject to Council approval, to fund the purchase of a solar generator. The City intends to use the competitive solicitation process for this project. Per the SHSGP requirements, the selected vendor will be validated by the County of Santa Clara OEM to verify they are not debarred from such grants.

The Office of Emergency Services (OES) will submit a Fleet Review Form to address ongoing operations and maintenance costs, depending on the type of product and any bundled services that might be included in the selected solution.

**Policy Implications**

This project aligns with City policies. Further, this project supports two City Council 2019 Priorities:

- Climate Change/Sustainability and Climate Action Plan
- Fiscal Sustainability: this has much lower operations and maintenance (O&M) costs vs. fossil fuel generators

**Environmental Review**

The recommendation in this report does not constitute a project requiring review under the California Environmental Quality Act (CEQA).

**Attachments:**

- ATTACHMENT A - Agreement with County of Santa Clara
- Exhibit A - FY 2018 SHSGP Project Funding
- Exhibit B - FY 2018 HSGP Grant Assurances
- Exhibit C - Quarterly Performance and Reporting Requirements
- Exhibit C-1 - Report Template

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND  
THE CITY OF PALO ALTO GRANTING PROGRAM FUNDS FOR THE  
2018 HOMELAND SECURITY GRANT PROGRAM FUNDS**

THIS AGREEMENT is made effective September 1, 2018, by and between the County of Santa Clara (“County”) and the City of Palo Alto (“Palo Alto”) for the allocation and distribution of 2018 State Homeland Security Grant Program funds.

**RECITALS**

WHEREAS, the 2018 State Homeland Security Grant Program (SHSGP, CFDA #97.067) supports the implementation of State Homeland Security Strategies to address the identified planning, organization, equipment, training and exercise needs for acts of terrorism and other catastrophic events, and management and administration of the grant. In addition, SHSGP supports the implementation of the National Preparedness Guidelines, the National Incident Management System (NIMS), and the National Response Network (NRF);

WHEREAS, the State of California (“State”) has designated the County as the Operational Area for purposes of distributing SHSGP funds to the cities, special districts and other entities within the County. An Anti-Terrorism Approval Body (County Approval Authority), comprised of one County Public Health Officer, County Fire Chief, Municipal Fire Chief, County Sheriff, and Chief of Police, has been appointed for the purpose of approving the distribution of SHSGP funds at the Operational Area level;

WHEREAS, on September 1, 2018 the California Office of Emergency Services (“Cal OES”) awarded the County 2018 SHSGP funds in the amount of \$2,016,023. The allocation of the SHSGP funds will be determined by the County Approval Authority in accordance with the grant guidelines.

NOW, THEREFORE, the County and Palo Alto agree as follows:

**THE AGREEMENT**

**Article I. Definitions**

**1. Specific Terms**

- (a) **“Burdened Labor Rate”** shall mean the labor rate including benefits, taxes and other deductions from an employee’s paycheck. This rate does not include vacation benefits.
- (b) **“Palo Alto”** shall mean the City of Palo Alto, its officers, board members, employees, and agents.
- (c) **“County”** shall mean the County of Santa Clara, its officers, board members, employees, and agents.

- (d) **“SHSGP funds”** or **“SHSGP funding”** shall mean the funding Palo Alto receives under this Agreement.
- (e) **“Federal Program Guidance”** shall mean guidance documents issued by the Federal Emergency Management Agency, including the SHSGP Program Funding Opportunity Announcement, for Fiscal Year 2018.
- (f) **“Grant Certifications and Assurances”** shall mean the FY18 SHSGP Agreement Articles, Assurances, Certifications, Terms, and Conditions
- (g) **“Highly Compensated Individual”** shall mean an individual whose income is \$300,000 or more per year.
- (h) **“Prime Recipient”** shall refer to County.
- (i) **“State Guidance”** shall mean the California Supplement to the Federal Program Funding Opportunity Announcement, issued by Cal OES for Fiscal Year 2018.
- (j) **“Sub-Recipient”** shall refer to Palo Alto.

## **2. References to This Agreement**

Any reference to this Agreement shall include: (a) the Agreement; (b) all exhibits, appendices, schedules, and attachments to this Agreement; (c) all statutes, ordinances, regulations, rules, or other documents incorporated by reference into this Agreement; (d) all amendments, modifications, or supplements to this Agreement.

## **Article II. Payment**

### **1. Payment Eligibility**

Unless otherwise approved in advance by the County Office of Emergency Management (OEM) Grants Administrator (hereinafter “grants administrator”), only an actual cash disbursement by Palo Alto for a claimed expense shall be eligible for reimbursement by the County as approved and specified in Exhibit A, SHSGP Project Funding, which is attached and hereby incorporated into this Agreement.

### **2. Amount of Payment**

The County will provide Palo Alto, unless otherwise specified, with the equipment, supplies, and/or other resources as set forth in Exhibit A, SHSGP Project Funding. Specifications for such equipment shall be provided by Palo Alto’s requesting agency to the County for the appropriate procurement process. Palo Alto’s requesting agency will be notified when the procurement process is complete for final approval of equipment prior to the order being placed. If, through previous agreement with the County, Palo Alto is to procure its own equipment, performance milestone dates will apply (refer to Article IV, Section 3(b)).

The County may reallocate SHSGP funds as specified in Article II, section 4 of this Agreement. County does not guarantee a minimum payment to Palo Alto.

Funds in the amount of \$173,473 have been set aside for the training and exercise programs from the SHSGP grant to be allocated during the term of this Agreement. OEM will allocate training and exercise funds to agencies as determined by the Training/Exercise Advisory Group.

Authorized personnel budgets are allowable within the County OEM, Central Fire, and County Emergency Medical Services. The personnel budget for these departments will reflect the expenditure authority. Reimbursement for actual cash disbursements will be requested through the County OEM. Based on the preference of the Department/Agency, reimbursement requests may be requested on a monthly or quarterly basis. For County Departments, reimbursements will be made via inter-county transfer. For all others, a County warrant will be issued.

### **3. Maximum Amount Payable**

Subject to the availability of funds and the priorities established by the County Approval Authority, the maximum amount of SHSGP funds payable by the County to Palo Alto under this Agreement must not exceed \$200,000, as allocated by the County Approval Authority.

### **4. Reallocation of SHSGP Grant Funds**

For the purpose of maximizing the resources available for preparedness for acts of terrorism and other catastrophic events within the Operational Area, Palo Alto agrees that the County Approval Authority may reallocate funds under this Agreement to Palo Alto or to another applicant if the County determines that Palo Alto is unable to utilize the amount allocated under this Agreement. The County may base its determination on factors that include, but are not limited to the following: delivery timelines, fund expenditure capabilities, and timeliness of expenditure. The County will notify Palo Alto in writing of any determination to reallocate funds, by issuing a "Notice of Reallocation." SHSGP funds will be put forth to the County Approval Authority for reallocation. Palo Alto agrees that the County has the authority to increase or decrease the maximum amount payable under this Agreement as specified in the Notice of Reallocation document without liability and the County has the authority to amend Exhibit A, "SHSGP Project Funding," accordingly. Upon issuance, the Notice of Reallocation will automatically become part of this Agreement.

## **Article III. Requests for Reimbursement and Reimbursements**

### **1. Required Documentation for Reimbursement**

The SHSGP is a reimbursement grant under which Cal OES disburses reimbursement funds to County, and County disburses reimbursement funds to Palo Alto. No cash advances are permitted under the SHSGP program.

#### **(a) Requests for Equipment**

The following documentation is required for all reimbursement requests for equipment:

- Quote or solicitation documents
- Summary of pricing and chosen vendor
- Documentation that vendor is not on the excluded parties list (<https://www.epls.gov/>) (a print-out of the search result page will suffice)
- Purchase order and/or contract
- Receiving documentation/packing slip
- Invoice
- Proof of payment

All equipment must be approved by the County Approval Authority and must be authorized per the web-based Authorized Equipment List on the Responder Knowledge Base, which is sponsored by Grants & Training and the National Memorial Institute for the Prevention of Terrorism at <https://www.rkb.us/>. (Contact the Grant Manager for a current Authorized Equipment List.)

(b) Subcontracts

If Palo Alto awards subcontracts totaling \$25,000 or more, it must report on any such subcontracts and on Highly Compensated Individuals on the Financial Disclosure Form, Exhibit D, within 30 days of the award. The following information must be included in Palo Alto's report on any sub-award exceeding \$25,000:

- Name of entity receiving award;
- Amount of award;
- Funding agency;
- Catalog of Federal Domestic Assistance program number;
- Award title (descriptive of the purpose of the funding action);
- Location of the receiving entity and primary location of performance including city, state, and federal Congressional district;
- Dun & Bradstreet (D&B) DUNS Number of the receiving entity, and of its parent if applicable; and
- Total compensation and names of receiving entity's five most highly compensated executives if:
  - In the preceding fiscal year, the subcontractor received 80 percent or more, and \$25,000,000 or more, of its gross annual revenue from federal procurement contracts or subcontracts or from federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.230; and
  - The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m(a), 78o(d), or under section 6104 of the Internal Revenue Code of 1986.
  - Palo Alto must report subcontractor executive compensation by the end of the month following the month in which it makes the sub-award. For example, if the sub-award is obligated in any date in April 2018, Palo Alto must report any

required compensation information by May 31, 2018.

Classified information that, in the interest of national security, requires protection against unauthorized disclosure (i.e., information deemed Top Secret, Secret, or Confidential under Executive Order 12958) is exempt from the Prime and Sub-Recipient reporting requirements, as are contracts with individuals.

(c) Sole Source Contracts

Sole source contracts of \$250,000 or more are not allowable under the SHSGP program unless first approved by Cal OES. Palo Alto must obtain sole source request documentation and submit it to the Grants Manager of County's OEM. Upon Palo Alto's completion and submission of the required sole source documentation, County's Grants Manager shall forward all sole source documents to the appropriate Cal OES contact for review and approval. Only after Cal OES approval is given can a sole source procurement be completed and expenditures reimbursed using SHSGP allocated funds. Sole source requests below the \$250,000 threshold must follow Palo Alto's own procurement policies.

(d) Other Requests

The following documentation is required for all reimbursement requests for contractors:

- Quote or solicitation documents
- Executive summary of how contractor was chosen
- Documentation that vendor is not on the excluded parties list (<https://www.sam.gov/>) (a print-out of the search result page will suffice)
- Purchase order and/or contract
- Invoice showing deliverables and milestones completed
- Proof of payment
- Financial Disclosure Form (Exhibit D) if awarded contract exceeds \$25,000

The following documentation is required for reimbursement of Salaries:

- Functional timesheet
- Description of scope of job which includes Homeland Security-related functions
- Burdened Labor Rate
- Payroll reports showing amount paid for each pay period being claimed

The following documentation is required for reimbursement for Training activities:

- Class syllabus
- Class sign-in sheet
- Instructor/consultant contract documents
- Instructor's invoice
- Proof of payment

## **2. Submission of Requests for Reimbursement**

- (a) Palo Alto shall submit reimbursement requests to County's OEM on a quarterly basis. Unless pre-approved by County's OEM Director or designee, all reimbursement requests shall be due fifteen calendar days after the end of the quarter, with the exception of the final expenditure and/or invoice, as indicated below. Any expenditure during the final period identified in the chart below shall be made by April 15, 2021, and any related invoice shall be submitted by April 30, 2021, unless otherwise pre-approved by County's OEM Director or designee, in order to meet 2018 SHSGP deadlines.
- (b) During the term of this Agreement, County is not obligated to honor any request for reimbursement that is submitted after April 30, 2021.

#### **Article IV. Use of Funds**

##### **1. Master Grant Obligations**

- (a) Palo Alto shall comply with the SHSGP Federal Program Guidance, the State Guidance, and the Grant Certifications and Assurances, attached as Exhibit B. Palo Alto shall require any sub-grantee, contractor, or other entity receiving SHSGP funds through or from Palo Alto to execute a copy of the Grant Certifications and Assurances, and shall be responsible for ensuring that sub-grantee, contractor, or other entity complies with the Grant Certifications and Assurances.
- (b) Palo Alto shall comply with all other applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; and any other conditions imposed by Cal OES or by this Agreement, provided that if any provisions of this Agreement conflict with any State requirements, the State requirements will control. Palo Alto shall ensure that any sub-grantee, contractor, or other entity receiving SHSGP funds through or from Palo Alto complies with all applicable statutes, regulations, executive orders, requirements, policies, guides, guidelines, information bulletins, Cal OES grant management memos, and instructions; the terms and conditions of the grant award; and any other conditions imposed by Cal OES or by this Agreement.
- (c) Palo Alto shall establish and maintain administrative, programmatic and fiscal management records in accordance with federal and state requirements, and:
  - i. Maintain financial management systems that support grant activities in accordance with federal and state requirements, including but not limited to requirements in 44 Code of Federal Regulations ("C.F.R.") Part 13.20, and the Office of Justice Programs Financial and Administrative Guide for Grants, Part II, Chapter 3.
  - ii. The County shall provide and affix equipment tracking numbers for all equipment purchased through its procurement process. Using the County-issued tracking number, Palo Alto shall maintain an equipment tracking ledger that tracks the equipment within Palo Alto and complies with federal and state requirements, including but not limited to requirements in 44 C.F.R., Parts 13.32 and 13.33, and the Office of Justice Programs Financial and Administrative Guide for Grants, Part III,

## Chapter 6.

- (d) By executing this Agreement, Palo Alto certifies that it is not debarred, suspended, or otherwise ineligible to receive SHSGP funds. In addition, Palo Alto shall ensure and independently verify that any sub-grantee, contractor, or other entity receiving SHSGP funds through or from Palo Alto complies with federal and state requirements, including but not limited to requirements in 44 C.F.R., Parts 13.32 and 13.33, and the Office of Justice Programs Financial and Administrative Guide for Grants, Part III, Chapter 6, and is not debarred, suspended, or otherwise excluded from participation in the SHSGP program. Palo Alto shall maintain documentary proof of this verification in its files.

### **2. Scope of Services**

- (a) If Palo Alto has been allocated funding for a project, Exhibit A, “SHSGP Project Funding,” will serve as the basis for the project. A further detailed description may be necessary and will be requested by the County if needed to be incorporated by reference herein. If future funding is allocated, Palo Alto shall provide a detailed description of the approved project to be attached hereto and incorporated by reference herein.
- (b) Palo Alto shall use the funds granted under this Agreement in a manner consistent with:
  - i. The applications submitted by the County to the State for the grant under this Agreement;
  - ii. The grant guidelines issued by the State for the grant under this Agreement; and
  - iii. The notifications issued by the State of the approval of the grant under this Agreement
- (c) The documents described in Exhibit B of this Agreement (collectively the “State Grant Requirements”) are on file with the County and the granting agencies of the State, and are hereby incorporated into this Agreement. Palo Alto hereby acknowledges that it has received a copy of the State Grant Requirements.
- (d) Palo Alto shall use the funds granted under this Agreement only for the purpose of implementing applicable initiatives under the 2018 SHSGP program, as indicated in Exhibit A, “SHSGP Project Funding”. Palo Alto shall not use the funds granted under this Agreement for any other purpose. Incumbents filling positions funded by the 2018 SHSGP program shall work at a location inside of the Santa Clara County Operational Area, and the work of grant-funded personnel must be solely focused on threats to the Santa Clara County Operational Area. County will not disburse funds to or otherwise pay Palo Alto for services that do not address a terrorism nexus, or for materials, equipment, or supplies provided by Palo Alto that are beyond the scope of the services, materials, equipment, or supplies agreed upon in this Agreement or a lawfully executed written amendment.

### **3. Performance and Reporting Requirements**

- (a) Performance reports indicating the status of outstanding projects are due to the County Grants Administrator on a quarterly basis as follows:

(b) The following dates represent the Grant Performance Period for the SHSGP program:

- Performance Period 1 (September 1, 2018 – December 31, 2018) – due by January 15, 2019
- Performance Period 2 (January 1, 2019 – March 31, 2019) – due by April 15, 2019
- Performance Period 3 (April 1, 2019 – June 30, 2019) – due by July 15, 2019
- Performance Period 4 (July 1, 2019 – September 30, 2019) – due by October 15, 2019
- Performance Period 5 (October 1, 2019 – December 31, 2019) – due by January 15, 2020
- Performance Period 6 (January 1, 2020 – March 31, 2020) – due by April 15, 2020
- Performance Period 7 (April 1, 2020 – June 30, 2020) – due by July 15, 2020
- Performance Period 8 (July 1, 2020 – September 30, 2020) – due by October 15, 2020
- Performance Period 9 (October 1, 2020 – December 31, 2020) – due by January 15, 2021
- Performance Period 10 (January 1, 2021 – March 31, 2021) – due by April 30, 2021

- (c) The County will provide Palo Alto with a report template (Exhibit C, “Performance Report”), and Palo Alto will utilize the template to complete the performance submittal to the County.
- (d) Payments made by the County to Palo Alto are conditioned upon the timely receipt of applicable, accurate and complete reports, including supporting document, to be submitted by Palo Alto.
- (e) Palo Alto will notify the County representative identified in Article VII, Section I, within 15 days, when Palo Alto has completed all performance obligations for these grants.
- (f) Palo Alto will provide single audit reports to the County by July 31<sup>st</sup> of each fiscal year.

## **Article V. Term and Termination**

### **1. Term of Agreement**

This Agreement is effective from September 1, 2018 through May 31, 2021.

### **2. Availability of Funds**

- (a) The parties acknowledge and agree that this Agreement is dependent upon the availability of county, regional, State and/or federal funding.
- (b) Budgetary Contingency: This Agreement is contingent upon the appropriation of sufficient funding by County for the products and services covered by this Agreement. If funding is

reduced or eliminated by County for the products or services covered by this Agreement, County has the option to either terminate this Agreement with no liability occurring to County or to offer an amendment to this Agreement indicating the reduced amount.

- (c) The obligations of County to make payments in accordance with the provisions of this Agreement may be delayed, reduced or terminated as a result of any delay, reduction, or change in allocation or allotment in funding to County from federal, State or other regional funding sources.

#### **4. Termination**

- (a) Termination for Convenience. County shall have the option, in its sole discretion, to terminate this Agreement at any time without cause upon written notice to Palo Alto. The written notice shall specify the date on which termination shall become effective, which shall be no less than seven (7) days from the date of the notice.
- (b) Termination for Cause. Either party may terminate this Agreement for cause upon written notice to the other party. The written notice shall specify the date on which termination shall become effective, which shall be no less than thirty (30) days from the date of the notice. Termination for cause includes, but is not limited to, a material breach of this Agreement, a violation of any applicable laws, or failure to comply with applicable SHSGP guidelines.
- (c) Opportunity to Cure. In the event of termination for material breach of this Agreement, the non-breaching party shall give written notice of the breach to the breaching party, specifying the breach/cause. The breaching party shall not be deemed in default and the non-breaching party shall not institute proceedings or exercise any remedies against the breaching party unless the breach has not been cured, corrected or remedied within thirty (30) days after the breaching party's receipt of the notice of breach, or within such longer period as may be reasonably required to cure, correct or remedy the breach, provided the breaching party has commenced its cure, correction or remedy within the thirty (30) day period and diligently and continuously pursues that cure, correction or remedy.
- (d) If this Agreement is terminated, Palo Alto shall return SHSGP funding in accordance with SHSGP program guidelines.

#### **Article VI. Indemnification and Liabilities**

##### **1. Indemnification by Palo Alto**

In lieu of and notwithstanding the pro rata risk allocation that might otherwise be imposed between the parties under Government Code section 895.6, County and Palo Alto agree instead that under Government Code section 895.4, Palo Alto shall fully indemnify and hold County, its officers, board members, employees, and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of Palo Alto, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to Palo Alto under

this Agreement. This indemnity shall include, without limitation, reasonable attorneys' fees, consultants and experts and related costs, and County's cost of investigating any claim.

## **2. Duty to Defend**

Palo Alto acknowledges and agrees that its obligation to defend County under Article V.1: (a) is an immediate obligation, independent of its other obligations under this Agreement; and (b) applies to any claim, expense, cost, damage, or liability falling within the scope of Article V.1, regardless of whether the allegations made in connection with that claim, expense, cost, damage, or liability may be groundless, false, or fraudulent. County shall provide Palo Alto with prompt notice of any claim, expense, cost, damage, or liability under Article V.1 and Palo Alto shall have the right to defend, settle, or compromise that claim, expense, cost, damage, or liability, provided, however, that County shall have the right to retain its own counsel at Palo Alto's expense if representation of County by counsel retained by Palo Alto would result in a conflict of interest, and that Palo Alto shall obtain County's prior written consent to settle or compromise if Palo Alto contends that County shares in any liability. County's failure to notify Palo Alto promptly of any claim, expense, cost, damage, or liability shall not relieve Palo Alto of liability to County under Article V.1 unless that failure materially impairs Palo Alto's ability to defend against the claim, expense, cost, damage, or liability.

## **3. Limitation on Liability**

County, its officers, board members, employees, and agents shall not be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of Palo Alto, its officers, board members, employees, or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to Palo Alto under this Agreement.

County's obligations under this Agreement shall be limited to the aggregate amount of SHSGP funds actually disbursed. Notwithstanding any other provision in this Agreement or any other document or communication between County and Palo Alto relating to this Agreement, in no event shall County be liable for any damages arising out of or in connection with this Agreement, the SHSGP funds, Palo Alto's Spend Plan, or any activities performed in connection with this Agreement.

## **Article VII. Miscellaneous**

### **1. Notice**

All notices required by this Agreement shall be deemed given when provided in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:

To Palo Alto:

**Kenneth Dueker, Director, Palo Alto Office of Emergency Services**

City of Palo Alto  
275 Forest Ave.  
Palo Alto, CA 94301

To County:

Michelle Sandoval  
Grant and Administrative Services Manager  
County of Santa Clara Office of Emergency Management  
55 W. Younger Ave., Suite 450  
San Jose, CA 95110

**2. Compliance with all Laws, Including Nondiscrimination, Equal Opportunity, and Wage Theft Prevention**

- (a) Compliance with All Laws. Palo Alto shall comply with all applicable Federal, State, and local laws, regulations, rules, and policies (collectively, “Laws”), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.
- (b) Compliance with Non-Discrimination and Equal Opportunity Laws: Palo Alto shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County’s policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Palo Alto shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Palo Alto discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.
- (c) Compliance with Wage and Hour Laws: Palo Alto shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local minimum wage, prevailing wage, or living wage Laws.
- (d) Definitions: For purposes of this Subsection H, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government

agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual's sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the Palo Alto's Office of Equality Assurance.

- (e) **Prior Judgments, Decisions or Orders against Contractor:** By signing this Agreement, Palo Alto affirms that it has disclosed any final judgments that (A) were issued in the five years prior to executing this Agreement by a court, an investigatory government agency, arbiter, or arbitration panel and (B) found that Palo Alto violated an applicable wage and hour law or pay equity law. Palo Alto further affirms that it has satisfied and complied with – or has reached Agreement with the County regarding the manner in which it will satisfy – any such final judgments.
- (f) **Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract:** If at any time during the term of this Agreement, Palo Alto receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Palo Alto shall promptly satisfy and comply with any such Final Judgment. Palo Alto shall inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM) of any relevant Final Judgment against it within 30 days of the Final Judgment becoming final or of learning of the Final Judgment, whichever is later. Palo Alto shall also provide any documentary evidence of compliance with the Final Judgment within 5 days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 W. Hedding Street, East Wing, 11th Floor, San José, CA 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.
- (g) **Access to Records Concerning Compliance with Pay Equity Laws:** In addition to and notwithstanding any other provision of this Agreement concerning access to Palo Alto's records, Palo Alto shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, Palo Alto shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records that are related to the purpose of this Section, except where prohibited by federal or state laws, regulations or rules. County's access to such records and facilities shall be permitted at any time during Palo Alto's normal business hours upon no less than 10 business days' advance notice.
- (h) **Pay Equity Notification:** Palo Alto shall (1) at least once in the first year of this Agreement and annually thereafter, provide each of its employees working in California and each person applying to Palo Alto for a job in California (collectively, "Employees and Job Applicants") with an electronic or paper copy of all applicable pay equity Laws or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of Palo Alto's Employees and Job Applicants.

- (i) **Material Breach:** Failure to comply with any part of this Section shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. County may, among other things, take any or all of the following actions:
  - 1. Suspend or terminate any or all parts of this Agreement.
  - 2. Withhold payment to Palo Alto until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law.
  - 3. Offer Palo Alto an opportunity to cure the breach.
- (j) **Subcontractors:** Palo Alto shall impose all of the requirements set forth in this Section on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

### **3. County No-Smoking Policy**

Palo Alto and its employees, agents and subcontractors shall comply with County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where County is the sole occupant, and (3) in all County vehicles.

### **4. Food and Beverage Standards**

Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by Palo Alto with County funds for County-sponsored meetings or events.

If food is to be provided, healthier food options shall be offered. "Healthier food options" include (1) fruits, vegetables, whole grains, and low-fat and low-calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans-fat per serving. Whenever possible, Palo Alto shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high-calorie desserts; (3) attempt to accommodate special dietary and cultural needs; and (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and Palo Alto should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans-fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County's nutritional criteria are: (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, for which sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored nonfat or 1% low-fat dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8-ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and (6)

other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8-ounce serving. Sugar-sweetened beverages shall not be provided.

## **5. Governing Law**

This Agreement has been executed and delivered in, and shall be construed and enforced in accordance with, the laws of the State of California.

## **6. Assignment**

The parties may not assign this Agreement or the rights and obligations hereunder without the specific written consent of the other.

## **7. Entire Agreement**

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

## **8. Amendments**

This Agreement may only be amended by an instrument signed by the parties.

## **9. Counterparts; Contract Execution**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed Agreement, or an electronically signed Agreement, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the County.

## **10. Severability**

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same shall either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

## **11. Waiver**

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

**12. Conflict of Interest**

In accepting this Agreement, Palo Alto covenants that is presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of services under this Agreement. Palo Alto is responsible for assuring compliance of its subcontractors, if any, with the requirements of this provision.

**13. Certified Resolution of Signature Authority**

Upon request of County, Palo Alto shall deliver to County a copy of the resolution(s) authorizing execution, delivery and performance of this Agreement, certified as true, accurate and complete by the appropriate authorized representative of Palo Alto.

**Signed:**

COUNTY OF SANTA CLARA

CITY OF PALO ALTO

By \_\_\_\_\_  
Garry Herceg  
Deputy County Executive

\_\_\_\_\_  
Date

By \_\_\_\_\_  
Ed Shikada  
City Manager

\_\_\_\_\_  
Date

Approved as to Form and Legality:

Approved as to Form and Legality:

\_\_\_\_\_  
Kavita Narayan  
Lead Deputy County Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Molly Stump  
City Attorney

\_\_\_\_\_  
Date

**Enclosures**

- Exhibit A      2018 SHSGP Project Funding
- Exhibit B      Grant Assurances
- Exhibit C      Quarterly Reporting Requirements and Report Template

FY2018 SHSGP Allocation  
10/18/2017

Grant Program	Funding	Staffing Costs	Training	Exercise	Planning	Equipment	TOTAL	Balance
SHSGP	\$ 2,011,669.00			\$ -		\$ -	\$ -	\$ 2,011,669.00
<b>Grant Cap</b>								
50% maximum								
Personnel Costs	\$ 1,005,834.00			\$ -			\$ -	\$ 1,005,834.00
<b>Grant Minimum Requirement</b>								
25% minimum								
SHSGP/LE**	\$ 502,917.00					\$ 62,205.00	\$ 62,205.00	-\$440,712.00

Staffing Costs		Training Costs		Exercise Costs		Planning Activities		Equipment Costs	
M&A	\$ 100,130.00								
T/E Coordinator	\$ 160,000.00								
EMS CMTF	\$ 182,000.00								
Fire CMTF	\$ 227,494.00								
<hr/>		<hr/>		<hr/>		<hr/>		<hr/>	
Total Staffing Costs	\$ 669,624.00	Training Sub-Total	\$ -	Exercise Sub-Total	\$ -	Total Planning	\$ -	Equipment Sub-Total	\$ -
<hr/>		<hr/>		<hr/>		<hr/>		<hr/>	
LE Staffing	\$ -	Personnel Costs	\$ -	Personnel Costs	\$ -	LE Equipment	\$ -		\$ -
<hr/>		<hr/>		<hr/>		<hr/>		<hr/>	

FY18 State Homeland Security Grant Program Approved Projects

Line Item #	Discipline	Agency	Funding Category	Project Description	Allocated Amount
1	Staffing/ M&A	Office of Emergency Services Michelle Sandoval, SHSGP Program Manager	M/A/ Planning	Staffing - 1/2 time salary cost for Management & Administration of Homeland Security Grant Program (Grants Program Manager)	\$100,130.00
2	Staffing	Office of Emergency Services Michelle Sandoval, SHSGP Program Manager	M/A/ Planning	Staffing - 1.0 FTE SHSGP Training and Exercise/Equipment Coordinator	\$160,000.00
3	Staffing/ EMS	EMS Michael Cabano, All Hazards Program Manager	Planning	Staffing - 1.0 All Hazards Program Manager (EMS/Public Health)	\$182,000.00
4	EMS	EMS Michael Cabano, All Hazards Program Manager	Equipment	(300) EMS Scott Air-Purifying Respirator Cartridge Project	\$21,500.00
5	EMS	EMS Michael Cabano, All Hazards Program Manager	Equipment	Ballistic Protection for Medical-Health Responders - 100 Sets	\$77,000.00
6	Staffing/ Fire	Santa Clara County Fire Douglas Young, Battalion Chief	Planning	Staffing - 1.0 All Hazards Coordinator (FIRE)	\$227,494.00
7	Fire	Santa Clara County Fire Douglas Young, Battalion Chief	Equipment	USAR Trailer Equipment Cache (update)	\$219,092.00

FY18 State Homeland Security Grant Program Approved Projects

Line Item #	Discipline	Agency	Funding Category	Project Description	Allocated Amount
8	Fire	San Jose Fire Joe Crivello, Battalion Chief/USAR Program Mgr	Equipment	Personal Watercraft, Trailer, and Associated Equipment	\$89,400.00
9	Law	Sheriff's Office Dustin Davis, Mutual Aid Coordinator, Sergeant	Equipment	Special Teams Communications Ear Pro Hearing Protection (34)	\$39,236.00
10	Law	Sheriff's Office Dustin Davis, Mutual Aid Coordinator, Sergeant	Equipment	EOD 10 Bomb Suits (2)	\$88,139.00
11	Law	Sheriff's Office Dustin Davis, Mutual Aid Coordinator, Sergeant	Equipment	Transit Explosive Detection Canines (2)	\$62,205.00
12	Law	San Jose Police Department Scott Johnson, Lieutenant	Equipment	SJPD Vehicle Incursion Barrier (6)	\$270,000.00
13	Law	San Jose Police Department Steve Guggiana, Sergeant Air Support Unit	Equipment	SJPD Air Support Unit Night Vision Goggle Equipment (6)	\$92,000.00
14	Law	Palo Alto OES/Police Department Kenneth Dueker, Director	Equipment	Solar Generator Trailer	\$200,000.00
15	All	Santa Clara County OES Karla Espartero/Michelle Sandoval	Training	Operational Area Training	\$187,827.00
					\$2,016,023.00

FY18 Homeland Security Grant Program Training Exercise Requests

Agency/Contact Info	Funding Category	Requested Amount	Ongoing/New Project	Identified in Multi-Year Training and Exercise Plan
Santa Clara County Training	Training	\$ 215,410.00	New	Yes
Santa Clara County Exercise	Exercise	\$ 83,313.00	New	Yes
		\$ 298,723.00		







FY18 Homeland Security Grant Program EMS/Public Health Requests

Line Item #	Discipline	Agency/Contact Info	Funding Category	Project Description	Requested Amount	Ongoing/ New Project	Regional/ Mutual Aid Deployable	Priority Within Discipline	Comments
3	EMS	EMS Michael Cabano, All Hazards Program Manager (408) 794-0625 michael.cabano@ems.sccgov.org	Planning	Staffing - 1.0 All Hazards Program Manager (EMS/Public Health)	\$ 182,000.00	Ongoing	Yes		Counts toward Personnel Cap
4	EMS	EMS Michael Cabano, All Hazards Program Manager (408) 794-0625 michael.cabano@ems.sccgov.org	Equipment	EMS Scott Air-Purifying Respirator Cartridge Project (300)	\$ 21,500.00	New	Yes		
5	EMS	EMS Michael Cabano, All Hazards Program Manager (408) 794-0625 michael.cabano@ems.sccgov.org	Equipment	Ballistic Protection for Medical- Health Responders - 100 Sets	\$ 77,000.00	Ongoing	Yes		
6	PH	PH Michael Cabano, All Hazards Program Manager (408) 794-0625 michael.cabano@ems.sccgov.org	Equipment	MiSeq-Next Generation Sequencing Lab Machine	\$ -	New	Yes		Cancelled
<b>Project Request Total</b>					<b>\$ 280,500.00</b>				

FY18 Homeland Security Grant Program Law Requests

Line Item #	Discipline	Agency/Contact Info	Funding Category	Project Description	Requested Amount	Ongoing/ New Project	Regional/Mutual Aid Deployable	Priority Within Discipline	Comments
13	Law	Sheriff's Office Dustin Davis, Mutual Aid Coordinator, Sergeant (408) 808-4770 dustin.davis@sheriff.sccgov.org	Equipment	BERLA iVe (vehicle system forensic tool)	\$ 15,000.00	New	Yes		
14	Law	Sheriff's Office Dustin Davis, Mutual Aid Coordinator, Sergeant (408) 808-4770 dustin.davis@sheriff.sccgov.org	Equipment	Special Teams Communications Ear Pro Hearing Protection (34)	\$ 39,236.00	New	Yes		
15	Law	Sheriff's Office Dustin Davis, Mutual Aid Coordinator, Sergeant (408) 808-4770 dustin.davis@sheriff.sccgov.org	Equipment	EOD 10 Bomb Suits (2)	\$ 88,139.00	New	Yes		
16	Law	Dustin Davis, Mutual Aid Coordinator, Sergeant (408) 808-4770 dustin.davis@sheriff.sccgov.org	Equipment	Bomb Squad Equipment Transport	\$ 84,199.00	New	Yes		
17	Law	Sheriff's Office Dustin Davis, Mutual Aid Coordinator, Sergeant (408) 808-4770 dustin.davis@sheriff.sccgov.org	Equipment	Transit Explosive Detection K9s (2)	\$ 62,205.00	New	Yes		
18	Law	San Jose Police Department Scott Johnson, Lieutenant (408) 391-0144 3289@sanjoseca.gov	Equipment	SJPD Vehicle Incursion Barrier (6)	\$ 270,000.00	New	Yes		
19	Law	San Jose Police Department Steve Guggiana, Sergeant Air Support Unit (408) 993-8682 steven.guggiana@sanjoseca.gov	Equipment	SJPD Air Support Unit Medevac (Patient Transport) Equipment	\$ 71,765.00	New	Yes		
20	Law	San Jose Police Department Steve Guggiana, Sergeant Air Support Unit (408) 993-8682 steven.guggiana@sanjoseca.gov	Equipment	SJPD Air Support Unit Night Vision Goggle Equipment (6)	\$ 138,000.00	New	Yes		

FY18 Homeland Security Grant Program Law Requests

21	Law	San Jose Police Department Michael Wentling, Sergeant Bomb Squad (408) 277-4122 3044@sanjoseca.gov	Equipment	SJPD Preventative Radiation Nuclear Detection (PRND) Neutron Measurement (13)	\$ 50,000.00	New	Yes	
22	Law	San Jose Police Department Michael Wentling, Sergeant Bomb Squad (408) 277-4122 3044@sanjoseca.gov	Equipment	SJPD Heavy Duty Remote Opening and Rescue Tool	\$ 40,000.00	New	Yes	
23	Law	San Jose Police Department Steve Guggiana, Sergeant Air Support Unit (408) 993-8682 steven.guggiana@sanjoseca.gov	Equipment	SJPD Air Support Unit Rescue Hoist	\$ 285,000.00	New	Yes	
24	Law	San Jose Police Department Michael Wentling, Sergeant Bomb Squad (408) 277-4122 3044@sanjoseca.gov	Equipment	SJPD Specialized Vehicle	\$ 450,000.00	New	Yes	
25	Law	San Jose Police Department Christopher Sciba, Sergeant (408) 690-9741 christopher.sciba@sanjoseca.gov	Equipment	MERGE Rappel and Breaching Training Tower	\$ 546,245.00	New	Yes	
26	Law	San Jose Police Department Jeff Profio, Lieutenant MERGE/K9/Bomb Squad (408) 839-4275 jeff.profio@sanjoseca.gov	Equipment	SJPD Unmanned Aerial Vehicle (4)	\$ 10,000.00	New	Yes	Surveillance Technology; Aviation Request approval
27	Law	Palo Alto OES/Police Department Kenneth Dueker, Director (650) 329-2419 oes@cityofpaloalto.org	Equipment	Solar Generator Trailer	\$ 200,000.00	New	Yes	
28	Law	Santa Clara County Sheriff's Office/SVRIA Heather Plamondon for Wesley Chong (408) 615-5571 hplamondon@svria.org	Equipment	SVRIA Coplink College Connection(s)	\$ 144,800.00	New	Yes	
		<b>Project Request Total</b>			<b>\$ 2,494,589.00</b>			



**Standard Assurances  
For All Cal OES Federal Grant Programs**

**As the duly authorized representative of the Applicant, I hereby certify** that the Applicant has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay any non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application, within prescribed timelines.

**I further acknowledge that the Applicant is responsible for reviewing and adhering to all requirements within the:**

- (a) Applicable Federal Regulations (see below);
- (b) Federal Program Notice of Funding Opportunity (NOFO);
- (c) California Supplement to the NOFO; and
- (d) Federal and State Grant Program Guidelines.

**Federal Regulations**

Government cost principles, uniform administrative requirements, and audit requirements for federal grant programs are set forth in Title 2, Part 200 of the Code of Federal Regulations (C.F.R.). Updates are issued by the Office of Management and Budget (OMB) and can be found at <http://www.whitehouse.gov/omb/>.

**Significant state and federal grant award requirements (some of which appear in the documents listed above) are set forth below. The Applicant hereby agrees to comply with the following:**

**1. Proof of Authority**

The Applicant will obtain written authorization from the city council, governing board, or authorized body in support of this project. This written authorization must specify that the Applicant and the city council, governing board, or authorized body agree:

- (a) To provide all matching funds required for the grant project and that any cash match will be appropriated as required;
- (b) Any liability arising out of the performance of this agreement shall be the responsibility of the Applicant and the city council, governing board, or authorized body;
- (c) Grant funds shall not be used to supplant expenditures controlled by the city council, governing board, or authorized body, and
- (d) The official executing this agreement is, in fact, authorized to do so.

This Proof of Authority must be maintained on file and readily available upon request.

## **2. Period of Performance**

The Applicant will initiate work after approval of the award and complete all work within the period of performance specified in the grant.

## **3. Lobbying and Political Activities**

As required by Section 1352, Title 31 of the United States Code (U.S.C.), for persons entering into a contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan, the Applicant certifies that:

- (a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting 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 this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Applicant will also comply with provisions of 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.

Finally, the Applicant agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation or policy without the express written approval from the California Governor's Office of Emergency Services (Cal OES) or the federal awarding agency.

## **4. Debarment and Suspension**

As required by Executive Orders 12549 and 12689, and 2 C.F.R. § 200.213 and codified in 2 C.F.R. Part 180, Debarment and Suspension, the Applicant will provide protection against waste, fraud, and abuse by debarring or suspending those persons deemed irresponsible in their dealings with the federal government. The Applicant certifies that it and its principals, subgrantees, recipients or subrecipients:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and
- (d) Have not within a three-year period preceding this application had one or more public transaction (federal, state, or local) terminated for cause or default.

Where the Applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

#### **5. Non-Discrimination and Equal Employment Opportunity**

The Applicant will comply with all federal statutes relating to non-discrimination. These include, but are not limited to, the following:

- (a) Title VI of the Civil Rights Act of 1964 (Public Law (P.L.) 88-352 and 42 U.S.C. § 2000d et. seq.) which prohibits discrimination on the basis of race, color, or national origin and requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services;
- (b) Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex in any federally funded educational program or activity;
- (c) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794), which prohibits discrimination against those with disabilities or access and functional needs;
- (d) Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability and requires buildings and structures be accessible to those with disabilities and access and functional needs (42 U.S.C. §§ 12101-12213);
- (e) Age Discrimination Act of 1975, (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (f) Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd—2), relating to confidentiality of patient records regarding substance abuse treatment;
- (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), relating to nondiscrimination in the sale, rental or financing of housing as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)— be designed and constructed with certain accessible features (See 24 C.F.R. § 100.201);

- (h) Executive Order 11246, which prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identification or national origin;
- (i) Executive Order 11375, which bans discrimination on the basis of race, color, religion, sex, sexual orientation, gender identification, or national origin in hiring and employment in both the United States federal workforce and on the part of government contractors;
- (j) California Public Contract Code § 10295.3, which prohibits discrimination based on domestic partnerships and those in same sex marriages;
- (k) DHS policy to ensure the equal treatment of faith-based organizations, under which all applicants and recipients must comply with equal treatment policies and requirements contained in 6 C.F.R. Part 19;
- (l) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
- (m) The requirements of any other nondiscrimination statute(s) which may apply to the application.

In addition to the items listed in (a) through (m), the Applicant will comply with California's Fair Employment and Housing Act (FEHA). FEHA prohibits harassment and discrimination in employment because of ancestry, familial status, race, color, religious creed (including religious dress and grooming practices), sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, genetic information, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (California Government Code §§12940, 12945, 12945.2), military and veteran status, and/or retaliation for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions.

## **6. Drug-Free Workplace**

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), the Applicant certifies that it will maintain a drug-free workplace and a drug-free awareness program as outlined in the Act.

## **7. Environmental Standards**

The Applicant will comply with state and federal environmental standards, which may be prescribed pursuant to the following, as applicable:

- (a) California Environmental Quality Act (CEQA) (California Public Resources Code §§ 21000- 21177), to include coordination with the city or county planning agency;
- (b) CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, §§ 15000- 15387);
- (c) Federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.), which establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters;
- (d) Federal Clean Air Act of 1955 (42 U.S.C. § 7401) which regulates air emissions from stationary and mobile sources;

- (e) Institution of environmental quality control measures under the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190); the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; and Executive Order 12898 which focuses on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities;
- (f) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- (g) Executive Order 11514 which sets forth national environmental standards;
- (h) Executive Order 11738 instituted to assure that each federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each federal agency empowered to extend federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act Executive Order 11990 which requires preservation of wetlands;
- (i) The Safe Drinking Water Act of 1974, (P.L. 93-523);
- (j) The Endangered Species Act of 1973, (P.L. 93-205);
- (k) 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.);
- (l) Conformity of Federal Actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
- (m) 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.

The Applicant shall not be: 1) in violation of any order or resolution promulgated by the State Air Resources Board or an air pollution district; 2) subject to a cease and desist order pursuant to § 13301 of the California Water Code for violation of waste discharge requirements or discharge prohibitions; or 3) determined to be in violation of federal law relating to air or water pollution.

## **8. Audits**

For subrecipients expending \$750,000 or more in federal grant funds annually, the Applicant will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and Title 2 of the Code of Federal Regulations, Part 200, Subpart F Audit Requirements.

## **9. Access to Records**

In accordance with 2 C.F.R. § 200.336, the Applicant will give the awarding agency, the Comptroller General of the United States and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award. The Applicant will require any subrecipients, contractors, successors, transferees and assignees to acknowledge and agree to comply with this provision.

## 10. Conflict of Interest

The Applicant will 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.

## 11. Financial Management

### False Claims for Payment

The Applicant will comply with 31 U.S.C §§ 3729-3733 which sets forth that no subgrantee, recipient, or subrecipient shall submit a false claim for payment, reimbursement or advance.

## 12. Reporting - Accountability

The Applicant agrees to comply with applicable provisions of the Federal Funding Accountability and Transparency Act (FFATA) (P.L. 109-282), specifically (a) the reporting of subawards obligating \$25,000 or more in federal funds and (b) executive compensation data for first-tier subawards. This includes the provisions of FFATA, which includes requirements for executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information.

## 13. Whistleblower Protections

The Applicant also must comply with statutory requirements for whistleblower protections at 10 U.S.C. § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. § 4304 and § 4310.

## 14. Human Trafficking

The Applicant will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a subrecipient from: (1) engaging in trafficking in persons during the period of time that the award is in effect; (2) procuring a commercial sex act during the period of time that the award is in effect; or (3) using forced labor in the performance of the award or subawards under the award.

## 15. Labor Standards

The Applicant will comply with the following federal labor standards:

- (a) The Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), as applicable, and the Copeland Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally-assisted construction contracts or subcontracts, and
- (b) The Federal Fair Labor Standards Act (29 U.S.C. § 201 et al.) as they apply to employees of institutes of higher learning (IHE), hospitals and other non-profit organizations.

## 16. Worker's Compensation

The Applicant must comply with provisions which require every employer to be insured to protect workers who may be injured on the job at all times during the performance of the work of this Agreement, as per the workers compensation laws set forth in California Labor Code §§ 3700 et seq.

## 17. Property-Related

If applicable to the type of project funded by this federal award, the Applicant will:

- (a) Comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (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 purchase;
- (b) Comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires subrecipients 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 \$10,000 or more;
- (c) Assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.); and
- (d) Comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4831 and 24 CFR Part 35) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

## 18. Certifications Applicable Only to Federally-Funded Construction Projects

For all construction projects, the Applicant will:

- (a) Not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of the project;
- (b) Comply with the requirements of the awarding agency with regard to the drafting, review and approval of construction plans and specifications; and
- (c) Provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

**19. Use of Cellular Device While Driving is Prohibited**

Applicants are required to comply with California Vehicle Code sections 23123 and 23123.5. These laws prohibit driving motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication. Drivers are also prohibited from the use of a wireless telephone without hands-free listening and talking, unless to make an emergency call to 911, law enforcement, or similar services.

**20. California Public Records Act and Freedom of Information Act**

The Applicant acknowledges that all information submitted in the course of applying for funding under this program, or provided in the course of an entity’s grant management activities that are under Federal control, is subject to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the California Public Records Act, California Government Code section 6250 et seq. The Applicant should consider these laws and consult its own State and local laws and regulations regarding the release of information when reporting sensitive matters in the grant application, needs assessment, and strategic planning process.

**HOMELAND SECURITY GRANT PROGRAM - PROGRAM SPECIFIC ASSURANCES / CERTIFICATIONS**

**21. Reporting Accusations and Findings of Discrimination**

If during the past three years the recipient has been accused of discrimination on any basis the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS Financial Assistance Office and the DHS Office for Civil Rights and Civil Liberties (CRCL) by e-mail at [CRCL@hq.dhs.gov](mailto:CRCL@hq.dhs.gov) or by mail at U.S. Department of Homeland Security, Office for Civil Rights and Civil Liberties, Building 410, Mail Stop #0190, Washington, D.C. 20528.

In the courts or administrative agencies make a finding of discrimination on grounds of race, color, national origin (including LEP), sex, age, disability, religion, or familial status against the recipient, or the recipients settle a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Financial Assistance Office and the CRCL by e-mail or mail at the addresses listed above.

The United States has the right to seek judicial enforcement of these obligations.

**22. Acknowledgment of Federal Funding from DHS**

All recipients must acknowledge their use of 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 with federal funds.

**23. Activities Conducted Abroad**

All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

**24. Best Practices for Collection and Use of Personally Identifiable Information (PII)**

DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. All recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template a useful resource respectively.

**25. Copyright**

All recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

**26. Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

**27. Energy Policy and Conservation Act**

All recipients must comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

**28. Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

**29. Fly America Act of 1974**

All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

**30. Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, all Applicants must 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, as amended, 15 U.S.C. § 2225a.

### **31. Non-supplanting Requirement**

All recipients who receive federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

### **32. Patents and Intellectual Property Rights**

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

### **33. SAFECOM**

All recipients who receive federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

### **34. Terrorist Financing**

All recipients must comply with Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

### **35. Reporting of Matters Related to Recipient Integrity and Performance**

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

### **36. USA Patriot Act of 2001**

All recipients must comply with 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.

### **37. Use of DHS Seal, Logo, and Flags**

All recipients must obtain permission from their DHS Financial Assistance Office, prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

**IMPORTANT**

The purpose of the assurance is to obtain federal and state financial assistance, including any and all federal and state grants, loans, reimbursement, contracts, etc. The Applicant recognizes and agrees that state financial assistance will be extended based on the representations made in this assurance. This assurance is binding on the Applicant, its successors, transferees, assignees, etc. Failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.

All appropriate documentation, as outlined above, must be maintained on file by the Applicant and available for Cal OES or public scrutiny upon request. Failure to comply with these requirements may result in suspension of payments under the grant or termination of the grant or both and the subrecipient may be ineligible for award of any future grants if the Cal OES determines that any of the following has occurred: (1) the recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

All of the language contained within this document must be included in the award documents for all subawards at all tiers. All recipients are bound by the Department of Homeland Security Standard Terms and Conditions 2018, Version 8.1, hereby incorporated by reference, which can be found at: <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

**The undersigned represents that he/she is authorized to enter into this agreement for and on behalf of the Applicant.**

Subrecipient: \_\_\_\_\_

Signature of Authorized Agent: \_\_\_\_\_

Printed Name of Authorized Agent: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

### Quarterly Performance and Reporting Requirements

Quarterly performance reports indicating the status of FY 2018 State Homeland Security Grant Program (SHSGP) projects are due to the County Grants Administrator, Michelle Sandoval.

The following dates represent the Grant Performance Period for the SHSGP program:

- Performance Period 1 (September 1, 2018 – December 31, 2018) – quarterly performance report due January 15, 2019
- Performance Period 2 (January 1, 2019 – March 31, 2019) – quarterly performance period report due April 15, 2019
- Performance Period 3 (April 1, 2019 – June 30, 2019) – quarterly performance period report due July 15, 2019
- Performance Period 4 (July 1, 2019 – September 30, 2019) – quarterly performance period report due October 15, 2019
- Performance Period 5 (October 1, 2019 – December 30, 2019) – quarterly performance period report due January 15, 2020
- Performance Period 6 (January 1, 2020 – March 31, 2020) – quarterly performance period report due April 15, 2020
- Performance Period 7 (January 1, 2020 – March 31, 2020) – quarterly performance period report due April 15, 2020
- Performance Period 8 (April 1, 2020 – June 30, 2020) – quarterly performance period report due July 15, 2020
- Performance Period 9 (July 15, 2020 – September 30, 2020) – quarterly performance period report due October 15, 2020
- Performance Period 10 (October 1, 2020 – December 30, 2020) – quarterly performance period report due January 15, 2021
- Performance Period 11 (January 1, 2021 – March 31, 2021) – quarterly performance period report due April 30, 2021

**Performance Report**  
**FISCAL YEAR 2018 Homeland Security Grant Program**

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Reporting Sub-recipient: \_\_\_\_\_

Performance Period: from \_\_\_\_\_ to \_\_\_\_\_  
(see Agreement with County for Performance Period Report due date)

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Mailing Instructions: Please complete the performance report and return it by **the appropriate due date as indicated**: (see Agreement with County for Performance Period Report due dates)

Santa Clara County Office of Emergency Services  
Attention: Michelle Sandoval  
55 West Younger Ave, Suite 450  
San Jose CA, 95110

Questions regarding the completion of this performance report should be directed to Santa Clara County Office of Emergency Services (408) 808-7811. Questions can also be sent via email to [michelle.sandoval@oes.sccgov.org](mailto:michelle.sandoval@oes.sccgov.org). Reports can be faxed to (408)294-4689, with a hard copy of the report mailed to the above address.

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***Part I –Sub-recipient Contact Information***

Authorized person who is responsible for completing this form:

Name \_\_\_\_\_

Title \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

E-mail \_\_\_\_\_

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**Part II – Project Activities**

Directions: Complete the following items to reflect activities completed on your project during this reporting period.

1. Project Title: \_\_\_\_\_

2. Please explain the actions/processes being taken and estimated completion date.

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**Part III –Signature of Preparer**

I certify that I have prepared this report with the most timely and accurate information available.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_