

**AGREEMENT BETWEEN THE CITY AND COUNTY OF  
SAN FRANCISCO AND CITY OF SAN JOSE  
FOR THE DISTRIBUTION OF FY 2007 UASI REGIONAL FUNDS**

**FIRST AMENDMENT**

THIS AMENDMENT (this "Amendment") is made as of November 2, 2008, in San Francisco, California, by and between the CITY OF SAN JOSE ("San Jose"), and the City and County of San Francisco, a municipal corporation ("City"), in its capacity as fiscal agent for the SUASI Approval Authority, acting by and through the San Francisco Department of Emergency Management.

**RECITALS**

WHEREAS, City and San Jose have entered into the Agreement (as defined below); and

WHEREAS, City and San Jose desire to modify the Agreement on the terms and conditions set forth herein;

NOW, THEREFORE, San Jose and City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

**a. Agreement.** The term "Agreement" shall mean the "Agreement between the City and County of San Francisco and San Jose for the Distribution of FY 2007 UASI Regional Funds" dated **February 26, 2008** between San Jose and City.

**b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**a. Section 3.2, Maximum Amount of Funds.** Section 3.2 of the Agreement currently reads as follows:

**In no event shall the amount of Grant Funds disbursed hereunder exceed THREE MILLION EIGHT HUNDRED SIXTY THOUSAND Dollars (\$3,860,000)**

**Such Section is hereby amended in its entirety to read as follows:**

**In no event shall the amount of Grant Funds disbursed hereunder exceed FOUR MILLION NINETY EIGHT THOUSAND SIX HUNDRED FIFTY NINE Dollars (\$4,098,659)**

**b. Appendix A, Authorized Expenditures.** Appendix A currently includes three deliverables in Project O and two deliverables in Project F.

**Such Appendix is hereby amended to reflect the following:**

- i) The addition of five projects: Project A- Training and Exercise- for authorized training and exercises, Project E- Critical Infrastructure- for planning, Project H- Information Sharing & Collaboration- for organization, planning and equipment, Project I- Public

Information and Warning- for planning, Project M- EMMA- for planning, and additional deliverables in Project O- Planning.

- ii) The addition of a timeline for all projects to provide San Jose with performance milestones.

A revised Appendix A is attached to this First Amendment and incorporated by reference as though fully set forth herein. The attached Appendix A supersedes all prior versions of Appendix A.

**3. Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

**4. Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, San Jose and City have executed this Amendment as of the date first referenced above.

CITY:

CITY OF SAN JOSE:

SAN FRANCISCO DEPARTMENT OF  
EMERGENCY MANAGEMENT

By:

By:

\_\_\_\_\_  
VICKI HENNESSY  
ACTING EXEC. DIRECTOR

\_\_\_\_\_  
DEANNA SANTANA  
DEPUTY CITY MANAGER

Federal Tax ID #: 94-6000419

Approved as to Form:

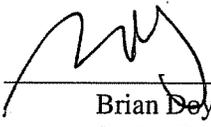
Approved as to Form:

Dennis J. Herrera  
City Attorney

By:

\_\_\_\_\_  
Katharine Hobin Porter  
Deputy City Attorney

By:

  
\_\_\_\_\_  
Brian Doyle  
Senior Deputy City Attorney

\_\_\_\_\_  
Amended Appendices:  
Amended Appendix A, Authorized Expenditures,  
Appendix A, Timelines  
Appendix B- Grant Assurances

**Appendix A — Authorized Expenditures**

ENTITY: SAN JOSE

SUASI Project Title	Solution Area	Program Description	Amount
<u>Project A</u> Training & Exercise	Training	Approved Training Expenses: <b>Reimbursements for UASI grant eligible and Bay Area SUASI pre-approved training expenses.</b> Grant eligible training expenses are published in the FY 2007 Homeland Security Grant Program Guidance. The amount shown is a placeholder should San Jose decide to apply for or seek reimbursement for authorized training. All training expenses must be pre-approved by the Bay Area SUASI Program Manager and must not exceed this amount. (Reimbursement to the SJPD)	Not to exceed: \$100,000
<u>Project A</u> Training & Exercise	Exercise	Approved Exercise Expenses: <b>Reimbursements for UASI grant eligible and Bay Area SUASI pre-approved exercise expenses.</b> Grant eligible exercise expenses are published in the FY 2007 Homeland Security Grant Program Guidance. The amount shown is a placeholder should San Jose decide to apply for or seek reimbursement for authorized exercises. All exercise expenses must be pre-approved by the Bay Area SUASI Program Manager and must not exceed this amount. (Reimbursement to the SJPD)	Not to exceed: \$100,000
<u>Project E</u> Critical Infrastructure	Planning	SUASI Management Team salary and benefits- SJPD Capt. (Reimbursement to the SJPD)	Not to exceed: \$93,453
<u>Project E</u> Critical Infrastructure	Planning	SUASI Travel - must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling (Reimbursement to the SJPD)	Not to exceed: \$5,000

<u>Project F</u> Interoperable Communications	Equipment	Funding allocated for interoperable communications equipment and for ECOMM project completion. (Reimbursement to the SJPD)	Not to exceed: \$2,154,748
<u>Project F</u> Interoperable Communications	Planning	Management and planning for the completion of E-COMM. Reimbursement for salary and benefits (Reimbursement to the SJPD)	Not to exceed: \$200,164
<u>Project F</u> Interoperable Communications	Planning	SUASI Management Team salary and benefits. (Reimbursement to the SJPD)	Not to exceed: \$24,397
<u>Project F</u> Interoperable Communications	Planning	SUASI Travel - must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling (Reimbursement to the SJPD)	Not to exceed \$2,500
<u>Project H</u> Information Sharing & Collaboration	Organization	SB Terrorism Early Warning Group (TEWG) Planning Team Lead salary and benefits (Reimbursement to the SJPD)	Not to exceed: \$251,400
<u>Project H</u> Information Sharing & Collaboration	Planning	SB Terrorism Early Warning Group (TEWG) Travel – must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling. (Reimbursement to the SJPD)	Not to exceed: \$10,000
<u>Project H</u> Information Sharing & Collaboration	Planning	SUASI Management Team salary and benefits. SJPD Capt (Reimbursement to the SJPD)	Not to exceed: \$93,453
<u>Project H</u> Information Sharing & Collaboration	Equipment	Fusion Center Equipment and supplies. (Reimbursement to the SJPD)	Not to exceed: \$1,500
<u>Project H</u> Information Sharing & Collaboration	Planning	SUASI Travel - must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling (Reimbursement to the SJPD)	Not to exceed: \$5,000
<u>Project I</u> Public Information and Warning	Planning	SUASI Management Team salary and benefits (Reimbursement to the SJPD)	Not to exceed: \$24,397
<u>Project M</u> EMMA	Planning	SUASI Management Team salary and benefits (Reimbursement to the SJPD)	Not to exceed: \$24,397

<u>Project M</u> EMMA	Planning	SUASI Travel - must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling (Reimbursement to the SJPD)	Not to exceed: \$2,250
<u>Project O</u> Regional Collaboration	Planning	Program management, Contractual Services: <ol style="list-style-type: none"> <li>1. engineering survey for prospective shelters</li> <li>2. professional services contract for pan flu planning</li> <li>3. professional services contract for disaster shelters for vulnerable populations</li> <li>4. professional services contract for shelter survey training to compliment shelter plan for special needs populations</li> <li>5. professional services contracts to develop survey on barriers to seismic mitigation</li> <li>6. amend Volunteer Center contract to increase scope of work</li> </ol> (Reimbursement to OES)	Not to exceed: \$521,839
<u>Project O</u> Regional Collaboration	Planning	SUASI Travel - must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling (Reimbursement to SJPD)	Not to exceed: \$6,000
<u>Project O</u> Regional Collaboration	Equipment	Authorized Equipment (Reimbursement to OES)	Not to exceed: \$478,161
		TOTAL ALLOCATION	NOT TO EXCEED: \$4,098,659

**Appendix A — Timelines**

ENTITY: SAN JOSE

<b>SUASI Project Title</b>	<b>Deliverable Dates</b>	<b>Program Description</b>	<b>Amount</b>
<u>Project A</u> Training & Exercise	6/30/09	Approved Training Expenses: Invoices for all training expenses must be submitted by no later than 6/30/09 (Reimbursement to the SJPJ)	Not to exceed: \$100,000
<u>Project A</u> Training & Exercise	6/30/09	Approved Exercise Expenses: Invoices for all exercise expenses must be submitted by no later than 6/30/09 (Reimbursement to the SJPJ)	Not to exceed: \$100,000
<u>Project E</u> Critical Infrastructure	8/24/08-6/30/09	SUASI Management Team salary and benefits- SJPJ Capt. for the period 8/24/08-6/30/09 (Reimbursement to the SJPJ)	Not to exceed: \$93,453
<u>Project E</u> Critical Infrastructure	6/30/09	SUASI Management Team Travel- must be pre-approved prior to scheduling. All invoices must be submitted by 6/30/09. (Reimbursement to the SJPJ)	Not to exceed: \$5,000
<u>Project F</u> Interoperable Communications	3/31/09	Funding allocated for interoperable communications equipment and for ECOMM project completion. All equipment must be purchased and paid for by 3/31/09 (Reimbursement to the SJPJ)	Not to exceed: \$2,154,748
<u>Project F</u> Interoperable Communications	3/8/08-6/30/09	Management and planning for the completion of E-COMM. Reimbursement for salary and benefits. (Reimbursement to the SJPJ)	Not to exceed: \$200,164
<u>Project F</u> Interoperable Communications	3/8/08- 7/12/08	SUASI Management Team salary and benefits for the period 3/8/08- 7/12/08 (Reimbursement to the SJPJ)	Not to exceed: \$24,397
<u>Project F</u> Interoperable Communications	3/8/08-12/31/08	SUASI Travel - must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling (Reimbursement to the SJPJ)	Not to exceed \$2,500
<u>Project H</u> Information Sharing & Collaboration	4/20/08-6/30/09	SB Terrorism Early Warning Group (TEWG) Planning Team Lead salary and benefits (Reimbursement to the SJPJ)	Not to exceed: \$251,400

<u>Project H</u> Information Sharing & Collaboration	4/20/08-6/30/09	SB Terrorism Early Warning Group (TEWG) Travel – must be preapproved by the SUASI Director of Strategy and Compliance or designee prior to scheduling. (Reimbursement to the SJPD)	Not to exceed: \$10,000
<u>Project H</u> Information Sharing & Collaboration	8/24/08-6/30/09	SUASI Management Team salary and benefits SJPD Capt. for the period 8/24/08-6/30/09 (Reimbursement to the SJPD)	Not to exceed: \$93,453
<u>Project H</u> Information Sharing & Collaboration	4/20/08-6/30/09	Equipment and supplies (Reimbursement to the SJPD)	Not to exceed: \$1,500
<u>Project H</u> Information Sharing & Collaboration	6/30/09	SUASI Management Team Travel- must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling, and completed and invoiced by 6/30/09. (Reimbursement to the SJPD)	Not to exceed: \$5,000
<u>Project I</u> Public Information and Warning	3/8/08- 7/12/08	SUASI Management Team salary and benefits(Reimbursement to the SJPD)	Not to exceed: \$24,397
<u>Project M</u> EMMA	3/8/08- 7/12/08	SUASI Management Team salary and benefits(Reimbursement to the SJPD)	Not to exceed: \$24,397
<u>Project M</u> EMMA	3/8/08-7/12/08	SUASI Management Team Travel- must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling, and completed and invoiced by 6/30/09(Reimbursement to the SJPD)	Not to exceed: \$2,250
<u>Project O</u> Regional Collaboration	6/30/09	Program management, Contractual Services: <ol style="list-style-type: none"> <li>1. engineering survey for prospective shelters</li> <li>2. professional services contract for pan flu planning</li> <li>3. professional services contract for disaster shelters for vulnerable populations</li> <li>4. professional services contract for shelter survey training to compliment shelter plan for special needs populations</li> <li>5. professional services contracts to develop survey on barriers to seismic mitigation</li> <li>6. amend Volunteer Center contract to increase scope of work</li> </ol> (Reimbursement to OES)	Not to exceed: \$521,839

Project O Regional Collaboration	6/30/09	SUASI Management Team Travel- must be pre-approved by the SUASI Director of Strategy and Compliance or designee prior to scheduling, and completed and invoiced by 6/30/09(Reimbursement to the SJPD)	Not to exceed: \$6,000
Project O Regional Collaboration	3/31/09	Authorized Equipment (Reimbursement to OES)	Not to exceed: \$478,161
		TOTAL ALLOCATION	NOT TO EXCEED: \$4,098,659

**Descriptions of authorized expenditures under the Solution Areas of PLANNING, ORGANIZATION, TRAINING, EQUIPMENT & EXERCISE are in the following documents:**

- *FY 2007 Homeland Security Grant Program, Program Guidance and Application Kit*  
[http://www.homeland.ca.gov/pdf/fy07\\_hsgp\\_guidance.pdf](http://www.homeland.ca.gov/pdf/fy07_hsgp_guidance.pdf)
- *California Supplement to Federal Program Guidance and Application Kit*  
[http://www.homeland.ca.gov/pdf/FY07\\_HSGP-StateSupplement6-1-07.pdf](http://www.homeland.ca.gov/pdf/FY07_HSGP-StateSupplement6-1-07.pdf)
- *Authorized Equipment List*  
<https://www.rkb.us/>
- **All equipment purchased under this Agreement must match the SUASI 2007 Grant Application Workbook. Any modification to the inventory list in that Workbook must receive prior written approval from by the Bay Area SUASI Program Manager.**
- **No Management and Administration expenses are allowed.**

## Appendix B-- Grant Assurances

Name of Authorized Agent: Deanna Santana  
Address: 200 E. Santa Clara Street  
City: San Jose State: CA Zip Code: 95113  
Telephone Number: (408) 535-8100  
Fax Number: (408) 920-7007  
E-Mail Address: deanna.santana@sanjoseca.gov

As the duly authorized representative of San Jose, I certify that San Jose:

1. Has the legal authority to apply for and receive federal assistance, and has the institutional, managerial and financial capability to ensure proper planning, management and completion of the grant provided by the federal Department of Homeland Security and sub-granted through the State of California.
2. Will assure that grant funds are only used for allowable, fair, and reasonable costs.
3. Will give the federal government, the General Accounting Office, the Comptroller General of the United States, the State of California, through any authorized representative, access to and the right to examine all paper or electronic records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or awarding agency directives.
4. Will provide progress reports and such other information as may be required by the awarding agency, the Approval Authority, SUASI Management Team and DEM.
5. Will initiate and complete the work under this Agreement within the applicable time frame after receipt of approval of the awarding agency, the Approval Authority, SUASI Management Team or DEM.
6. 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 for themselves or others, particularly those with whom they have family, business or other ties.
7. Will comply, if 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.
8. Will comply with all federal statutes relating to 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), 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 on the basis of handicaps;
  - 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. Sections 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 nondiscrimination in the sale, rental or financing of housing;
  - i. Title 28, Code of Federal Regulations, Part 42, Subparts C, D, E and G;
  - j. Title 28, CFR, Part 35;
  - k. Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made, and
  - l. The requirements on any other nondiscrimination statute(s) that may apply to the Agreement.
9. Will comply, or has already complied, with the 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 interested in real property acquired for project purposes regardless of federal participation in purchases.
10. Will comply, if applicable, with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234), which requires recipients 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.
11. Will comply with environmental standards that may be prescribed pursuant to the following:
- a. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
  - b. Notification of violating facilities pursuant to EO 11738;
  - c. Protection of wetlands pursuant to EO 11990;

- 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. Conformity of federal actions to State (Clean Air) Implementation Plans under Section FY06 Homeland Security Grant Program Page 45 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.);
  - g. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and
  - h. Protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
  - i. California Environmental Quality Act (CEQA). California Public Resources Code Sections 21080-21098. California Code of Regulations, Title 14, Chapter 3 Section 15000-15007.
12. Will comply 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.
  13. Will assist the awarding agency, the Approval Authority, SUASI Management Team and DEM in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
  14. Will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, Section 8607.1(e) and O.K. Title 19, Sections 2445, 2446, 2447 and 2448.
  15. Has requested through the State of California, the Approval Authority, and San Francisco, federal financial assistance to be used to perform eligible work approved in the Approval Authority's and San Jose's application for federal assistance. Will, after the receipt of federal financial assistance, through the State of California, agree to do the following:
    - a. Promptly return to the State of California all the funds received that exceed the approved, actual expenditures as accepted by the federal or state government.
    - b. In the event the approved amount of the grant is reduced, promptly refund the reimbursement applicable to the amount of the reduction to the State of California.
    - c. Separately account for interest earned on grant funds, and return all interest earned, in excess of \$100 per federal fiscal year.
  16. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
  17. Will comply with provisions of the Hatch Act (5 U.S.C. Sections 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.

18. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
19. Will comply, if applicable, with the Laboratory Animal Welfare Act of 1966 (P. L. 89-544, as amended, 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 supported by this award of assistance.  
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20. Will comply with the minimum wage and maximum hour provisions of 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.
21. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Section 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for federally assisted construction sub-agreements.
22. Will not make any award or permit any award (subgrant 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."
23. Certifies that:
  - a. No federal appropriated funds have been paid or will be paid, by or on behalf of San José, 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 the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
  - b. If any funds other than federal appropriated funds have been paid or will be paid, by or on behalf of San Jose, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or an employee of Congress, or employee of a Member of Congress in connection with the federal grant or cooperative agreement, San Jose shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," 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 subgrants, subcontract(s), and contracts under grants, loans and cooperative agreements, and that all subrecipients shall certify and disclose accordingly.
  - d. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
24. Agrees that equipment acquired or obtained with grant funds:
  - a. Will be made available under 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 applicant.

- b. Is consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.
  - c. Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement 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.
25. Agrees that funds awarded under this grant will be used to supplement existing funds for program activities, and will not supplant (replace) non-federal funds.
  26. Will comply with all applicable Federal statutes, regulations, policies, guidelines and requirements, including OMB Circulars A-21, A-87, A102, A-110, A-122, and A-133, E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements contained in Title 28, Code of Federal Regulations, Part 66 or 70, that govern the application, acceptance and use of Federal funds for this federally-assisted project.
  27. Will comply, and assure the compliance of all its subgrantees and contractors, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789(d), or the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provision of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1, and all other applicable Federal laws, orders, circulars, or regulations.
  28. Will comply with provisions of 28 CFR applicable to grants and cooperative agreements, including:
    - a. Part 18, Administrative Review Procedures;
    - b. Part 20, Criminal Justice Information Systems;
    - c. Part 22, Confidentiality of Identifiable Research and Statistical Information;
    - d. Part 23, Criminal Intelligence Systems Operating Policies;
    - e. Part 30, Intergovernmental Review of Department of Justice Programs and Activities;
    - f. Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services;
    - g. Part 38, Equal Treatment of Faith-based Organizations;
    - h. Part 63, Floodplain Management and Wetland Protection Procedures;
    - i. Part 42, Nondiscrimination/Equal Employment Opportunities Policies and Procedures;
    - j. Part 61, Procedures for Implementing the National Environmental Policy Act;
    - k. Part 64, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs;
    - l. Part 66, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

- m. Part 67, Government-Wide Debarment and Suspension (Non-Procurement);
  - n. Part 69, New Restrictions on Lobbying;
  - o. Part 70, Uniform Administrative Requirements for Grants and Cooperative Agreements (including sub-awards) with Institutions of Higher Learning, Hospitals and other Non-Profit Organizations; and
  - p. Part 83, Government-Wide Requirements for a Drug Free Workplace (grants).
29. Will ensure that the facilities under its ownership, lease or supervision that shall be utilized in the accomplishment of this project are not listed in the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal Grantor agency, the SUASI Management Team and DEM 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.
  30. Will comply with Subtitle A, Title II of the Americans with Disabilities Act (ADA) 1990.
  31. Will, in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds or race, color, religion, national origin, sex, or disability against a recipient of funds, forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs, to the SUASI Management Team and DEM.
  32. Will provide an Equal Employment Opportunity Plan, if applicable, to the Department of Justice Office of Civil Rights within 60 days of grant award.
  33. Will comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
  34. Will comply, if applicable, with the provision 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.
  35. Will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this program.
  36. Understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of grant funds.
  37. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, as defined at 28 CFR Part 67, Section 67.510:
    - A. Certifies that San Jose and its principals:
      - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
      - (2) Have not within a three-year period preceding this Agreement 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;

- (3) 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 (A)(2) of this certification; and
- (4) Have not within a three-year period preceding this Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. If unable to certify to any of the statements in this certification, San Jose shall attach an explanation to this Agreement.

38. As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620

A. Certifies that it will or will continue to provide a drug-free workplace by:

- (1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in San Jose's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (2) Establishing an on-going drug-free awareness program to inform employees about:
  - (a) The dangers of drug abuse in the workplace;
  - (b) San Jose's policy of maintaining a drug-free workplace;
  - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);
- (4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will
  - (a) Abide by the terms of the statement; and
  - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (5) Notifying the SUASI Management Team and DEM, in writing, within 10 calendar days after receiving notice under subparagraph (4)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to:

Department of Justice, Office of Justice Programs,  
ATTN: Control Desk,  
633 Indiana Avenue, N.W., Washington, D.C. 20531.

Notice shall include the identification number(s) of each affected grant;

- (6) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (4)(b), with respect to any employee who is so convicted
  - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6).

As the duly authorized representative of San Jose, I hereby certify that San Jose will comply with the above certifications.

The undersigned represents that he/she is authorized by San Jose to enter into this agreement for and on behalf of San Jose.

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

Printed Name of Authorized Agent: Deanna Santana

Title: Deputy City Manager Date: \_\_\_\_\_