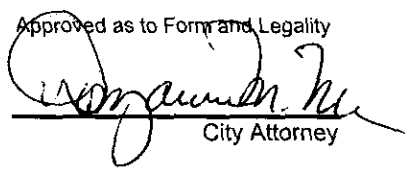


OFFICE OF THE CLERK

2007 JAN 11 PM 0:33

OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

RESOLUTION No. 80384 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH ALAMEDA COUNTY, CITY AND COUNTY OF SAN FRANCISCO, CITY OF SAN JOSE AND SANTA CLARA COUNTY TO ESTABLISH AN APPROVAL AUTHORITY RESPONSIBLE FOR THE DISTRIBUTION OF THE FISCAL YEAR 2006 URBAN AREA SECURITY INITIATIVE GRANT FUNDS

WHEREAS, On January 3, 2006, the U.S. Department of Homeland Security combined Bay Area governmental jurisdictions into one "Super Urban Area Security Initiative (UASI)" region for the purpose of addressing the unique equipment, training, planning, and exercise needs of large, high threat urban areas to enhance emergency response efforts; and

WHEREAS, On June 7, 2006, \$22,656,000.00 was awarded to the Bay Area Super UASI region which includes the City of Oakland, Alameda County, City and County of San Francisco, City of San Jose, and the County of Santa Clara; and

WHEREAS, The city of San Francisco will be the primary grantee and act as Fiscal Agent for the Fiscal Year 2006 UASI grant; and

WHEREAS, An Urban Area Working Group was established to act as an executive steering committee to provide overall governance of the program; and

WHEREAS, An Approval Authority was established to determine how the federal Homeland Security grant funds would be distributed; and

WHEREAS, The State of California's Office of Homeland Security requires the agencies represented on the Approval Authority to enter into a memorandum of understanding that governs the Bay Area Super UASI Approval Authority's distribution of Urban Areas Security Initiative (UASI) funds; now, therefore, be it

RESOLVED: That the City Administrator or her designee is authorized to enter into the memorandum of understanding (MOU) with, Alameda County, City and County of San Francisco, City of San Jose and Santa Clara County for the purpose of distributing federal Urban Areas Security Initiative (UASI) funds, attached to the City Administrator's report accompanying this resolution; and, be it

FURTHER RESOLVED: That the memorandum of understanding approved hereunder shall be reviewed for form and legality by the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 6 2007, 20

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, ~~REID~~, and
PRESIDENT DE LA FUENTE - 7

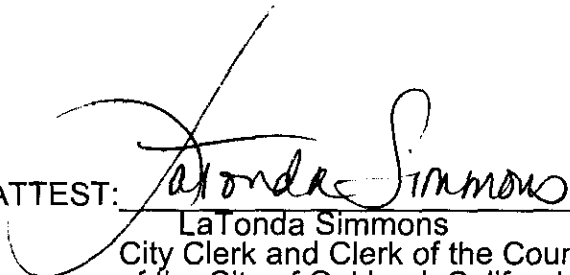
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reid - 1

ATTEST:



LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY AND COUNTY OF SAN FRANCISCO; CITY OF OAKLAND;
CITY OF SAN JOSE; ALAMEDA COUNTY; AND SANTA CLARA COUNTY, CA.

This Memorandum of Understanding ("MOU") dated for convenience of reference as of July 1, 2006, sets forth the agreement of the City and County of San Francisco, California ("San Francisco"), by and through its Mayor's Office and Office of Emergency Services and Homeland Security; the City of Oakland, California ("Oakland"), the City of San Jose, California ("San Jose"), Alameda County, California and Santa Clara County, California, relating to the distribution of federal Urban Areas Security Initiative ("UASI") funds.

THIS MOU is made with reference to the following facts and circumstances:

A. The above named cities and counties (collectively and individually, the "Parties") are committed to providing the highest feasible level of prevention, preparation, response, and recovery to natural disasters and terrorist events.

B. On January 3, 2006, the U.S. Department of Homeland Security announced that it had combined the Parties and other Bay Area governmental jurisdictions into one "Super-UASI" region ("Super-UASI region" or "Urban Area") for the purpose of distribution of federal homeland security grant funds in Fiscal Year 2006 .

C. Instructions from the Office of Grants and Training for the Department of Homeland Security ("Federal Grant Instructions") require that each Urban Area shall establish an Urban Area Working Group ("UAWG") to act as an executive steering committee to provide overall governance of the homeland security program across the regional area encompassed within the defined Urban Area.

D. The Parties constitute the UAWG for the Bay Area Super-UASI region.

E. Federal Grant Instructions require that the UAWG must provide either direct or indirect representation for all the jurisdictions that comprise the Urban Area.

F. Federal Grant Instructions require the UAWG to develop a methodology for allocating funding available through the UASI program.

G. On February 24, 2006, the Parties jointly submitted to the California Office of Homeland Security an investment justification totaling approximately \$333 million for FY 2006 UASI funds; and

H. On May 31, 2006, the U.S. Department of Homeland Security announced that the Bay Area Super-UASI region would receive \$28.3 million for FY 2006.

I. On June 7, 2006, after the California Office of Homeland Security withheld 20% of the above amount, totaling \$5.7 million, a total of \$22.6 million remained for distribution in the Bay Area Super-UASI region.

J. The Parties have committed to cooperating for the purposes of distributing the FY 2006 UASI funds.

ACCORDINGLY, the Parties agree as follows:

1. Establishment of the Bay Area Super-UASI Approval Authority: As of July 1, 2006 the Bay Area Super-UASI Approval Authority ("Approval Authority") is established for the purposes and on the terms and conditions set forth below.
 - a. Membership. The Approval Authority shall consist of members appointed as follows:
 - i. City and County of San Francisco, CA – 2 members
 - ii. City of Oakland, CA – 1 member
 - iii. City of San Jose, CA – 1 member
 - iv. Alameda County, CA – 1 member
 - v. Santa Clara County, CA – 1 member
 - vi. California OES Coastal Region – 1 member for the six months beginning from the effective date of this MOU. This member shall be the OES Coastal Region Director and shall vote only in case of a tie vote by the other members. At the discretion of the Approval Authority, the term of this member may be extended. At that time, and at any point thereafter, in the discretion of the Approval Authority, a member from the California Office of Emergency Services may be substituted for the OES Coastal Region Director.
 - b. Purpose. The purpose of the Approval Authority is to provide overall direction for the spending of UASI federal security grant funds, approve all UASI grant applications, approve all UASI-funded programs, and make the final decisions on distribution of FY 2006 Super-UASI funds.
 - c. Voting Authority. Each member of the Approval Authority shall have one vote on all issues requiring a vote of the Authority under this Agreement. These issues shall include (i) approval of UASI grant applications, (ii) approval of UASI grant funded programs, and (iii) distribution of FY 2006 Super-UASI grant funds.

- d. Decisionmaking. All decisions of the Approval Authority requiring a vote of the Authority as set forth in this Agreement shall require a simple majority of the members of the Authority (i.e., at least four votes).
2. City and County of San Francisco Obligations. During the term of this MOU, San Francisco will provide the following services to the Approval Authority:
 - a. Designate 2 individuals to represent San Francisco as voting members of the Approval Authority.
 - b. Act as the Super-UASI Region point of contact with the state and federal Departments of Homeland Security in connection with grant funding.
 - c. Chair meetings of the Approval Authority.
 - d. Designate staff members of the City and County of San Francisco as appropriate to staff the Approval Authority.
 - e. Act as Fiscal Agent for the Approval Authority, and provide all such financial services are necessary for distribution of FY 2006 UASI grant funds.
 - f. Act as the grantee for funds granted by the state and federal Departments of Homeland Security to the UASI-Region and execute subgrant agreements as decided by the Approval Authority for the distribution of FY 2006 UASI grant funds to jurisdictions within the UASI-Region.
 3. City of Oakland Obligations. During the term of this MOU, Oakland will provide the following services to the Approval Authority:
 - a. Designate 1 individual to represent Oakland as a voting member of the Approval Authority.
 - b. Designate staff members as appropriate to staff the Approval Authority and provide such administrative services as shall be necessary to oversee distribution of FY 2006 UASI grant funds.
 4. City of San Jose Obligations. During the term of this MOU, San Jose will provide the following services to the Approval Authority:
 - a. Designate 1 individual to represent San Jose as a voting member of the Approval Authority.
 - b. Designate staff members as appropriate to staff the Approval Authority and provide such administrative services as shall be necessary to oversee distribution of FY 2006 UASI grant funds.

5. Alameda County Obligations. During the term of this MOU, Alameda County will provide the following services to the Approval Authority:
 - a. Designate 1 individual to represent Alameda County as a voting member of the Approval Authority.
 - b. Designate staff members as appropriate to staff the Approval Authority and provide such administrative services as shall be necessary to oversee distribution of FY 2006 UASI grant funds.
6. Santa Clara County Obligations. During the term of this MOU, Santa Clara County will provide the following services to the Approval Authority:
 - a. Designate 1 individual to represent Santa Clara County as a voting member of the Approval Authority.
 - b. Designate staff members as appropriate to staff the Approval Authority and provide such administrative services as shall be necessary to oversee distribution of FY 2006 UASI grant funds.
7. Management Team for the Super-UASI Region. The Approval Authority has the authority to select and remove a General Manager for the Super-UASI program as described under this Agreement. The General Manager shall select a management team. The General Manager and management team shall be employees, consultants or contractors of members of the Approval Authority or Advisory Group. The Fiscal Agent shall designate a member of the management team as the liaison to the Fiscal Agent for the management team.

The management team shall:

- a. Work with the Approval Authority to convene all meetings of the Approval Authority, Advisory Group described in Section 8 below and other Bay Area stakeholders as necessary to obtain input into the Super-UASI grant process.
- b. Serve as liaison between the various working groups and the Advisory Group.
- c. Work with the Advisory Group to make recommendations to the Approval Authority on grant applications for UASI funds.
- d. Work with the Advisory Group to make recommendations to the Approval Authority on the distribution and use of all UASI funds.
- e. Oversee and execute all administrative tasks associated with application for and distribution of grant funds and programs

- f. Oversee all consultants, contractors, and planners who are participating in the projects approved by the Approval Authority.
 - g. Maintain all records associated with the activities of the Approval Authority and the grant application, funding and disbursement process.
8. Advisory Group. The Advisory Group shall consist of representatives of the ten contiguous Bay Area Operational Areas: the counties of Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, Santa Cruz, San Mateo and San Francisco, and the cities of Oakland, San Francisco, San Jose and the OES Coastal Director. The Advisory Group, with the assistance and facilitation of the Management Team, shall:
- a. Make policy and programmatic recommendations to the Approval Authority. In making recommendations, each agency in the Advisory Group has one (1) vote and all recommendations shall be by majority vote.
 - b. Ensure the representation of each individual city, town, or agency within their jurisdiction that has been identified as an entity within the Urban Area.
 - c. Under the general direction of the Approval Authority, select discipline specific and/or geographically determined working groups to make comprehensive assessments and recommendations that address the target capability strengths and weaknesses on a regional basis.
 - d. Coordinate with the following agencies as working groups: the Bay Area Metropolitan Medical Response Systems, the Bay Area Transportation Security Working Group, the Bay Area Citizen Corps Councils, and the Area Maritime Security Committee.
9. Grants and Contracts Awarded Using Federal Funds Received by the Super-UASI Region. All grants and contracts awarded using UASI federal funds received by the Super-UASI region shall conform to all applicable federal grant and contracting requirements. The grants and contracts shall be handled as follows: San Francisco shall be the primary grantee for the state and federal UASI grant funds. The Approval Authority shall decide which jurisdictions in the UASI region shall receive subgrants from San Francisco and San Francisco shall make those subgrants. The jurisdictions designated as subgrantees shall issue contracts for the services or goods described in the subgrants. Prior to issuing a contract, each jurisdiction shall submit to the Approval Authority the Request For Proposal for the contract, and the scope of work in the Request for Proposal shall be subject to approval by the Approval Authority. After approval, each jurisdiction shall select a contractor and issue the contract under its own contracting authority and process.
10. Fiscal Agent. All requests for funding or reimbursement from the Fiscal Agent shall meet guidelines and requirements agreed upon between the Fiscal Agent and

the Parties. The guidelines shall include requirements for record keeping, internal audits, signature authority for approval of reimbursement requests, submission of financial reports, and compliance with professional accounting standards. The Fiscal Agent shall be entitled to reasonable costs for services performed. Periodically, the Fiscal Agent shall submit request for payment, which shall be reviewed and approved by the Approval Authority within thirty (30) days.

11. Indemnification. In lieu of and notwithstanding the pro rata risk allocation that might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all Losses (as defined below) incurred by a Party in connection with this MOU or the activities contemplated by this MOU shall not be shared pro rata but instead the Parties agree that pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, including, without limitation, their officers, board members, employees and agents, harmless from any Losses imposed for injury (as defined by Government Code Section 810.8) arising in connection with the negligent acts or omissions or willful misconduct of the indemnifying party, including, without limitation, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such Party under this Agreement. No Party, including, without limitation, any officer, board member, employee or agent thereof, shall be responsible for any Losses occurring by reason of the negligent acts or omissions or willful misconduct of other Parties hereto, including, without limitation, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other Parties under this Agreement. For purposes of this Section, Losses shall mean any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages to the extent arising from third party claims), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses (including, without limitation, reasonable attorneys' fees and costs, and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.
12. Term and Termination. This MOU shall take effect on the Effective Date as described in Section 16 below and shall extend until December 31, 2008, unless sooner terminated as provided below (the "Term"). The Term of this MOU may be renewed for additional terms upon the mutual written agreement of the Parties.
 - a. Any Party may terminate this MOU in the event that another breaches a material provision hereof and that Party does not cure the breach complained of within thirty (30) days following receipt of written notice of the breach.
13. Jurisdiction and Venue. The laws of the State of California shall govern the interpretation and performance of this MOU. Venue for any litigation relating to the formation, interpretation or performance of this MOU shall be in San Francisco, CA.

14. Modification. This MOU may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this MOU.
15. Interpretation. This MOU shall be deemed to have been prepared equally by all Parties and its individual provisions shall not be construed or interpreted more favorably for one Party on the basis that the other Parties prepared it.
16. Effective Date. This MOU shall become effective as of the date first referenced above, upon approval by the governing bodies of each of the Parties.
17. Complete Agreement. This is a complete agreement and supersedes any prior oral or written agreements of the Parties.
18. Miscellaneous.

a. Any notices required hereunder shall be given as follows:

If to the City and County of San Francisco, to:

Laura Phillips
1011 Turk Street
San Francisco, CA 94102
(415) 558-3800
Laura.phillips@sfgov.org

Annemarie Conroy
1011 Turk Street
San Francisco, CA 94102
(415) 558-2704
annemarie.conroy@sfgov.org

If to the City of Oakland, to:

Renee A. Domingo, Director of Emergency Services
1605 Martin Luther King Jr. Way, 2nd Floor
Oakland, CA 94612
(510) 238-3939
RADomingo@oaklandnet.com

If to the City of San Jose, to:

Kimberly Shunk, Emergency Preparedness Director
855 N. San Pedro St. #404
San Jose, CA 95110-1718
(408) 277-4595

kimberly.shunk@sanjoseca.gov

If to Alameda County, to:

Richard T. Lucia, Undersheriff
Alameda County Sheriff's Office
1401 Lakeside Drive 12th Floor
Oakland, CA 94612
(510) 272-6868 Office
rlucia@acgov.org

If to Santa Clara County, to:

Robert Fracoli, OES Director (Acting)
55 W. Younger Avenue
San Jose, CA 95110
(408) 808-7802
bob.fracoli@oes.sccgov.org

If to State of California, to:

Richard K. Eisner, FAIA, Regional Administrator
Governor's Office of Emergency Services
Coastal Region and
CISN & Earthquake Program
1300 Clay Street, Suite 400
Oakland, California 94612
(510) 286-0888
rich_eisner@oes.ca.gov

- b. Notices shall be deemed given when received if given in person, by facsimile or by electronic means (if a record of receipt is kept by the sending party showing the date and time of receipt) or three (3) days following deposit in the United States Mail, postage prepaid, to the address set forth above. Either party may change the address for notice by giving notice of the change to the other party in writing.

The individuals executing this MOU represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

The undersigned approve the terms and conditions of this MOU.

City and County of San Francisco, California

Signature: _____

By: _____

Title: _____

Date: _____

Signature: _____

By: _____

Title: _____

Date: _____

City of Oakland, California

Signature: _____

By: _____

Title: _____

Date: _____

City of San Jose, California

Signature: _____

By: _____

Title: _____

Date: _____

Alameda County, California

Signature: _____

By: _____

Title: _____

Date: _____

Santa Clara County, California

Signature: _____

By: _____

Title: _____

Date: _____

State of California

Signature: _____

By: _____

Title: _____

Date: _____