

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

---

THIS AGREEMENT is made this OCTOBER 12, 2007 in the City and County of San Francisco, State of California, by and between the COUNTY OF SAN MATEO ("San Mateo") and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("San Francisco"), in its capacity as fiscal agent for the SUASI Approval Authority, as defined below, acting by and through San Francisco's Department of Emergency Management ("DEM").

***RECITALS***

WHEREAS, The United States Department of Homeland Security ("DHS") consolidated the separate San Jose, Oakland, and San Francisco Urban Areas into a combined Bay Area Urban Area ("SUASI Region") for the purposes of application for and distribution of federal Urban Areas Security Initiative ("UASI") Program grant funds; and

WHEREAS, The Bay Area SUASI Region Approval Authority ("Approval Authority") was established as the Urban Area Working Group ("UAWG") for the SUASI Region, to provide overall governance of the homeland security program across the SUASI Region, to coordinate development and implementation of all UASI Program initiatives, and to ensure compliance with all UASI Program requirements; and

WHEREAS, The SUASI General Manager is responsible for implementing and managing the policy and program decisions of the Approval Authority, directing the work of the SUASI Management Team personnel, and performing other duties as determined and directed by the Approval Authority, and

WHEREAS, San Francisco has been designated as the grantee for UASI funds granted by the DHS through the California Governor's Office of Homeland Security ("OHS") to the SUASI Region, with responsibility to establish procedures and execute subgrant agreements for the distribution of UASI grant funds to jurisdictions selected by the Approval Authority to receive grant funding; and

WHEREAS, San Francisco has been designated to serve as the Fiscal Agent for the Approval Authority, and to establish procedures and provide all financial services for distribution of UASI grant funds within the SUASI Region; and

WHEREAS, Pursuant to grant distribution decisions by the Approval Authority, the SUASI Management Team has asked San Francisco to distribute a portion of the regional UASI grant funds to San Mateo on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

## ARTICLE 1 DEFINITIONS

1.1 **Specific Terms.** Unless the context requires otherwise, the following capitalized terms (whether singular or plural) shall have the meanings set forth below:

(a) **“ADA”** shall mean the Americans with Disabilities Act (including all rules and regulations thereunder) and all other applicable federal, state and local disability rights legislation, as the same may be amended, modified or supplemented from time to time.

(b) **“Authorized Expenditures”** shall mean expenditures for those purposes identified and budgeted in Appendix A.

(c) **“Event of Default”** shall have the meaning set forth in Section 7.1.

(d) **“Grant Funds”** shall mean any and all funds allocated or disbursed to San Mateo under this Agreement.

(e) **“Grant Plan”** shall mean the plans, performances, events, exhibitions, acquisitions, personnel, services or other activities or matter described in Appendix A, any budget attached hereto as part of Appendix A, and the Grant Assurances in Appendix B.

(f) **“Indemnified Parties”** shall mean: (i) San Francisco, including DEM and all commissions, departments, agencies, and other subdivisions of San Francisco; (ii) San Francisco’s elected officials, directors, officers, employees, agents, successors, and assigns; and (iii) all persons or entities acting on behalf of the foregoing.

(g) **“Losses”** shall mean any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, fees, expenses and costs of whatsoever kind and nature (including legal fees and expenses and costs of investigation, of prosecuting or defending any Loss described above) whether or not such Loss be founded or unfounded, of whatsoever kind and nature.

(h) **“Reimbursement Request”** shall have the meaning set forth in Section 3.9(a).

1.2 **Additional Terms.** Unless expressly stated otherwise, the terms “as directed,” “as required” or “as permitted” and similar terms shall refer to the direction, requirement, or permission of DEM. Unless expressly stated otherwise, the terms “sufficient,” “necessary” or “proper” and similar terms shall mean sufficient, necessary or proper in the sole judgment of DEM. Unless expressly stated otherwise, the terms “approval,” “acceptable” or “satisfactory” or similar terms shall mean approved by, or acceptable to, or satisfactory to DEM. Unless expressly stated otherwise, the terms “include,” “included” or “including” and similar terms shall be deemed to be followed by the words “without limitation.” Unless expressly stated otherwise, the use of the term “subcontractor,” “successor” or “assign” herein refers only to a subcontractor (“subgrantee”), successor or assign expressly permitted under Article 8.

1.3 **References to this Agreement.** References to this Agreement include: (a) any and all appendices, exhibits, schedules, attachments hereto; (b) any and all statutes, ordinances, regulations or other documents expressly incorporated by reference herein; and (c) any and all amendments, modifications or supplements hereto made in accordance with Section 10.2. References to articles, sections, subsections or appendices refer to articles, sections or

subsections of or appendices to this Agreement, unless otherwise expressly stated. Terms such as “hereunder,” herein or “hereto” refer to this Agreement as a whole.

**ARTICLE 2**  
**ALLOCATION AND CERTIFICATION OF GRANT FUNDS;**  
**LIMITATIONS ON SAN FRANCISCO'S OBLIGATIONS**

2.1 **Risk of Non-Allocation of Grant Funds.** This Agreement is subject to all federal and state grant requirements and guidelines, including DHS and OHS UASI requirements, guidelines and instructions, decisionmaking of the OHS and the Approval Authority, and to the extent applicable the San Francisco Charter. The Approval Authority shall have no obligation to allocate or direct disbursement of funds for this Agreement in lieu of allocations for new or other agreements. San Mateo acknowledges that UASI grant decisions are subject to the discretion of the OHS and Approval Authority. San Mateo assumes all risk of possible non-allocation of funds, and such assumption is part of the consideration for this Agreement.

2.2 **Certification of Controller; Guaranteed Maximum Costs.** No funds shall be available under this Agreement until prior written authorization certified by the San Francisco Controller. In addition, as set forth in Section 21.10-1 of the San Francisco Administrative Code:

(a) San Francisco's obligations hereunder shall not at any time exceed the amount approved by the Approval Authority and certified by the Controller for the purpose and period stated in such certification.

(b) Except as may be provided by San Francisco ordinances governing emergency conditions, San Francisco and its employees and officers are not authorized to request San Mateo to perform services or to provide materials, equipment and supplies that would result in San Mateo performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies specified in this Agreement unless this Agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. San Francisco is not required to pay San Mateo for services, materials, equipment or supplies that are provided by San Mateo that are beyond the scope of the services, materials, equipment and supplies agreed upon herein and which were not approved by a written amendment to this Agreement having been lawfully executed by San Francisco.

(c) San Francisco and its employees and officers are not authorized to offer or promise to San Mateo additional funding for this Agreement that would exceed the maximum amount of funding provided for herein. Additional funding for this Agreement in excess of the maximum provided herein shall require lawful approval and certification by the Controller. San Francisco is not required to honor any offered or promised additional funding that exceeds the maximum provided in this Agreement that requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.

(d) The Controller is not authorized to make payments on any agreement for which funds have not been certified as available in the budget or by supplemental appropriation.

2.3 **SUPERSEDURE OF CONFLICTING PROVISIONS.** IN THE EVENT OF ANY CONFLICT BETWEEN ANY OF THE PROVISIONS OF THIS ARTICLE 2 AND ANY OTHER PROVISION OF THIS AGREEMENT, THE APPLICATION DOCUMENTS OR ANY OTHER

DOCUMENT OR COMMUNICATION RELATING TO THIS AGREEMENT, THE TERMS OF THIS ARTICLE 2 SHALL GOVERN.

### **ARTICLE 3 PERFORMANCE OF THE AGREEMENT**

3.1 **Duration of Term.** The term of this Agreement shall commence on **OCTOBER 12, 2007** and shall end at 11:59 p.m. San Francisco time on **SEPTEMBER 30, 2009**.

3.2 **Maximum Amount of Funds.** In no event shall the amount of Grant Funds disbursed hereunder exceed **ONE MILLION SIX HUNDRED FOUR THOUSAND SEVEN HUNDRED TWELVE Dollars (\$1,604,712)**.

3.3 **Use of Funds.** San Mateo shall use the Grant Funds received under this Agreement for the purposes and in the amounts set forth in Appendix A only, and for no other purpose. San Mateo shall expend the Grant Funds in accordance with the Budget, if any, and shall obtain the prior written approval of the SUASI Management Team before transferring expenditures from one line item to another within any Budget.

3.4 **Grant Assurances; Cooperation with Monitoring.** San Mateo shall comply with all Grant Assurances included in Appendix B. San Mateo shall promptly comply with all standards, specifications and formats of San Francisco and the SUASI Management Team, as they may from time to time exist, related to evaluation, planning and monitoring of the Grant Plan and shall cooperate in good faith with San Francisco and the SUASI Management Team in any evaluation, planning or monitoring activities conducted or authorized by OHS, San Francisco, the Approval Authority, or the SUASI Management Team.

3.5 **Record-Keeping.** San Mateo shall establish and maintain property, programmatic and financial records in accordance with the grant record requirements, and:

(a) Maintain financial management systems that support grant activities in accordance with federal requirements, including but not limited to Title 28, Code of Federal Regulations (CFR), Part 66.20, and DOJ Financial Guide, Part II, Chapter 3.

(b) Maintain an equipment tracking system that complies with federal requirements, including but not limited to the components identified in 28 CFR Parts 66.32 and 66.33, and DOJ Financial Guide, Part III, Chapter 6.

(c) Retain records in accordance with retention requirements contained in the following: (i) U.S. Department of Homeland Security FY2007 Homeland Security Grant Program: Program Guidance and Application Kit, dated January 2007, including but not limited to Section III.I.1 Administrative Requirements, Freedom of Information Act; and (ii) California Governor's Office of Homeland Security FY2007 Homeland Security Grant Program, California Supplement to Federal Program Guidance and Application Kit, revised June 1, 2007.

3.6 **Procurement Requirements.** San Mateo shall follow its own procurement requirements as long as those requirements comply with all applicable federal statutes, regulations, policies, guidelines and requirements, including those specified in the Grant Assurances, Appendix B, paragraph 26.

3.7 **Certification Requirements.** San Mateo shall ensure that any subgrantees or contractors with which San Mateo enters any agreement that involves expenditure of Grant Funds comply with the certification requirements under 28 C.F.R. part 67, *Government-wide Debarment and Suspension (Non-procurement)*; 28 C.F.R. part 69, *New Restrictions on Lobbying*; and 28 C.F.R. 83, *Government-wide Requirements for Drug-Free Workplace (Grants)*. San Mateo shall independently verify that any subgrantee, contractor or other entity receiving Grant Funds is not debarred by the federal government.

3.8 **Monitoring Grant Performance.** DEM and the SUASI Management Team are both equally and independently authorized to perform periodic reviews of San Mateo's grant performance, including on-site visits and verifications of grant activities. These reviews may include, but are not limited to:

- (a) Eligibility of expenditures;
- (b) Comparing actual grant activities to those approved by the Approval Authority and specified in Appendix A and/or the Budget;
- (c) Ensuring that any advances have been deposited in an interest bearing account and disbursed in accordance with applicable guidelines; and
- (d) Confirming compliance with: Grant Assurances; information provided on performance reports and payment requests; and needs and threat assessments and strategies.

3.9 **Disbursement Procedures.** San Francisco shall disburse Grant Funds to San Mateo as follows:

(a) The SUASI Management Team shall serve as the primary contact for San Mateo regarding any Reimbursement Request. San Mateo shall submit to the SUASI Management Team, in the manner specified for notices pursuant to Article 9, a document ("Reimbursement Request") substantially in the form attached as Appendix C. With each Reimbursement Request, San Mateo shall include documentation verifying expenditures and services, and supporting the reimbursement request, including but not limited to purchase orders, vendor invoices, cancelled checks indicating payment, functional timesheets, and state approvals for training. San Mateo must submit all Reimbursement Requests under this Agreement before the termination of this Agreement as specified in Section 3.1.

(b) San Mateo and the SUASI Management Team shall agree upon a mutually acceptable schedule for San Mateo to submit Reimbursement Requests. In addition, at any time, SUASI Management Team may request that the San Mateo submit a Reimbursement Request within 30 calendar days of the request by the Management Team.

(c) The SUASI Management Team will review all Reimbursement Requests for compliance with all applicable guidelines and requirements. The SUASI Management Team will return to San Mateo any Reimbursement Request that is submitted and not approved by the SUASI Management Team, with a brief statement of the reason for the rejection of the Reimbursement Request.

(d) The SUASI Management Team will submit any Reimbursement Request that is approved by the SUASI Management Team to DEM. DEM shall review the Reimbursement Request for compliance with all applicable guidelines and requirements. DEM shall return to

the SUASI Management Team any Reimbursement Request that is not approved by DEM, with a brief explanation of the reason for the rejection of the Reimbursement Request.

(e) If a rejection relates only to a portion of the expenditures itemized in any Reimbursement Request, DEM shall have no obligation to disburse any Grant Funds for any other expenditures itemized in the Reimbursement Request unless and until San Mateo submits a Reimbursement Request that is in all respects acceptable to the SUASI Management Team and to DEM.

(f) For Reimbursement Requests approved by both the SUASI Management Team and DEM, DEM shall disburse Grant Funds by check payable to San Mateo, sent via U.S. mail in accordance with Article 9, unless DEM otherwise agrees in writing, in its sole discretion. DEM shall make reasonable efforts to disburse Grant Funds to San Mateo within 45 days of DEM's final approval of the Reimbursement Request.

3.10 **Disallowance.** San Mateo agrees that if it claims or receives reimbursement from DEM for an expenditure that is later disallowed by the state or federal government, San Mateo shall promptly refund the disallowed amount to DEM upon DEM's request. At its option, DEM may offset all or any portion of the disallowed amount against any other payment due to San Mateo hereunder. Any such offset with respect to a portion of the disallowed amount shall not release San Mateo from San Mateo's obligation hereunder to refund the remainder of the disallowed amount.

#### **ARTICLE 4 REPORTING REQUIREMENTS; AUDITS**

4.1 **Regular Reports.** San Mateo shall provide, in a prompt and timely manner, financial, operational and other reports, as requested by DEM, in form and substance satisfactory to DEM. Such reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages, to the maximum extent possible.

4.2 **Notification of Defaults or Changes in Circumstances.** San Mateo shall notify the SUASI Management Team and DEM immediately of (a) any Event of Default or event that, with the passage of time, would constitute an Event of Default; and (b) any change of circumstances that would cause any of the representations and warranties contained in Article 5 to be false or misleading at any time during the term of this Agreement.

4.3 **Books and Records.** San Mateo shall establish and maintain accurate files and records of all aspects of the Grant Plan and the matters funded in whole or in part with Grant Funds during the term of this Agreement. Without limiting the scope of the foregoing, San Mateo shall establish and maintain accurate financial books and accounting records relating to Authorized Expenditures and to Grant Funds received and expended under this Agreement, together with all invoices, documents, payrolls, time records and other data related to the matters covered by this Agreement, whether funded in whole or in part with Grant Funds. San Mateo shall maintain all of the files, records, books, invoices, documents, payrolls and other data required to be maintained under this Section in a readily accessible location and condition for a period of not less than five (5) years after final disbursement under this Agreement or until any final audit has been fully completed, whichever is later.

4.4 **Inspection and Audit.** San Mateo shall make available to the SUASI Management Team and to DEM, and to SUASI Management Team and DEM employees and authorized representatives, during regular business hours all of the files, records, books, invoices,

documents, payrolls and other data required to be established and maintained by San Mateo under Section 4.3. San Mateo shall permit the SUASI Management Team and DEM, and SUASI Management Team and DEM employees and authorized representatives, to inspect, audit, examine and make excerpts and transcripts from any of the foregoing. The rights of the SUASI Management Team and DEM pursuant to this Section shall remain in effect so long as San Mateo has the obligation to maintain such files, records, books, invoices, documents, payrolls and other data under this Article 4.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

San Mateo represents and warrants each of the following as of the date of this Agreement and at all times throughout the term of this Agreement:

5.1 **No Misstatements**. No document furnished or to be furnished by San Mateo to the SUASI Management Team or to DEM in connection with this Agreement, any Reimbursement Request or any other document relating to any of the foregoing, contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

5.2 **Eligibility to Receive Federal Funds**. By executing this Agreement, San Mateo certifies that San Mateo is not suspended, debarred or otherwise excluded from participation in federal assistance programs. San Mateo acknowledges that this certification of eligibility to receive federal funds is a material term of the Agreement.

## **ARTICLE 6 INDEMNIFICATION AND GENERAL LIABILITY**

6.1 **Indemnification**. San Mateo shall indemnify, protect, defend and hold harmless each of the Indemnified Parties from and against any and all Losses arising from, in connection with or caused by San Mateo's performance of this Agreement, including, but not limited to, the following: (a) a material breach of this Agreement by San Mateo; (b) a material breach of any representation or warranty of San Mateo contained in this Agreement; (c) any personal injury or death caused, directly or indirectly, by any act or omission of San Mateo or its employees, subgrantees or agents; (d) any loss of or damage to property caused, directly or indirectly, by any act or omission of San Mateo or its employees, subgrantees or agents; (e) the use, misuse or failure of any equipment or facility used by San Mateo, or by any of its employees, subgrantees or agents, regardless of whether such equipment or facility is furnished, rented or loaned to San Mateo by an Indemnified Party; (f) any tax, fee, assessment or other charge for which San Mateo is responsible under Section 10.4; or (g) any infringement of patent rights, copyright, trade secret or any other proprietary right or trademark of any person or entity in consequence of the use by any Indemnified Party of any goods or services furnished to such Indemnified Party in connection with this Agreement. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and San Francisco's costs of investigating any claims against San Francisco.

6.2 **Duty to Defend; Notice of Loss**. San Mateo acknowledges and agrees that its obligation to defend the Indemnified Parties under Section 6.1: (a) is an immediate obligation, independent of its other obligations hereunder; (b) applies to any Loss which actually or potentially falls within the scope of Section 6.1, regardless of whether the allegations asserted

in connection with such Loss are or may be groundless, false or fraudulent; and (c) arises at the time the Loss is tendered to San Mateo by the Indemnified Party and continues at all times thereafter. The Indemnified Party shall give San Mateo prompt notice of any Loss under Section 6.1 and San Mateo shall have the right to defend, settle and compromise any such Loss; provided, however, that the Indemnified Party shall have the right to retain its own counsel at the expense of San Mateo if representation of such Indemnified Party by the counsel retained by San Mateo would be inappropriate due to conflicts of interest between such Indemnified Party and San Mateo. An Indemnified Party's failure to notify San Mateo promptly of any Loss shall not relieve San Mateo of any liability to such Indemnified Party pursuant to Section 6.1, unless such failure materially impairs San Mateo's ability to defend such Loss. San Mateo shall seek the Indemnified Party's prior written consent to settle or compromise any Loss if San Mateo contends that such Indemnified Party shares in liability with respect thereto.

6.3 **Incidental and Consequential Damages.** Losses covered under this Article 6 shall include any and all incidental and consequential damages resulting in whole or in part from San Mateo's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that any Indemnified Party may have under applicable law with respect to such damages.

6.4 **LIMITATION ON LIABILITY OF SAN FRANCISCO.** CITY'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF GRANT FUNDS ACTUALLY DISBURSED HEREUNDER. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS AGREEMENT OR ANY OTHER DOCUMENT OR COMMUNICATION RELATING TO THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE GRANT FUNDS, THE GRANT PLAN OR ANY ACTIVITIES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

## **ARTICLE 7 EVENTS OF DEFAULT AND REMEDIES**

7.1 **Events of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Agreement:

(a) **False Statement.** Any statement, representation or warranty contained in this Agreement, in any Reimbursement Request, or in any other document submitted to the SUASI Management Team or to DEM under this Agreement is found by the SUASI Management Team or by DEM to be false or misleading.

(b) **Failure to Perform Other Covenants.** San Mateo fails to perform or breaches any provision or covenant of this Agreement to be performed or observed by San Mateo as and when performance or observance is due and such failure or breach continues for a period of ten (10) days after the date on which such performance or observance is due.

(c) **Failure to Comply with Applicable Laws.** San Mateo fails to perform or breaches any of the terms or provisions of Article 12.

(d) **Voluntary Insolvency.** San Mateo (i) is generally not paying its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for



relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of San Mateo or of any substantial part of San Mateo's property or (v) takes action for the purpose of any of the foregoing.

(e) **Involuntary Insolvency.** Without consent by San Mateo, a court or government authority enters an order, and such order is not vacated within ten (10) days, (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to San Mateo or with respect to any substantial part of San Mateo's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of San Mateo.

7.2 **Remedies Upon Event of Default.** Upon and during the continuance of an Event of Default, DEM may do any of the following, individually or in combination with any other remedy:

(a) **Termination.** DEM may terminate this Agreement by giving a written termination notice to San Mateo and, on the date specified in such notice, this Agreement shall terminate and all rights of San Mateo hereunder shall be extinguished. In the event of such termination, DEM will pay San Mateo for Authorized Expenditures in any Reimbursement Request that was submitted and approved by the SUASI Management Team and by DEM prior to the date of termination specified in such notice.

(b) **Withholding of Grant Funds.** DEM may withhold all or any portion of Grant Funds not yet disbursed hereunder, regardless of whether San Mateo has previously submitted a Reimbursement Request or whether the SUASI Management Team and/or DEM has approved the disbursement of the Grant Funds requested in any Reimbursement Request. Any Grant Funds withheld pursuant to this Section and subsequently disbursed to San Mateo after cure of applicable Events of Default shall be disbursed without interest.

(c) **Return of Grant Funds.** DEM may demand the immediate return of any previously disbursed Grant Funds that have been claimed or expended by San Mateo in breach of the terms of this Agreement, together with interest thereon from the date of disbursement at the maximum rate permitted under applicable law.

7.3 **Remedies Nonexclusive.** Each of the remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The remedies contained herein are in addition to all other remedies available to DEM at law or in equity by statute or otherwise and the exercise of any such remedy shall not preclude or in any way be deemed to waive any other remedy.

## **ARTICLE 8 ASSIGNMENTS**

8.1 **No Assignment by San Mateo.** San Mateo shall not, either directly or indirectly, assign, transfer, hypothecate, subcontract or delegate all or any portion of this Agreement or any rights, duties or obligations of San Mateo hereunder without the prior written consent of DEM; provided, however, that those subcontracts specifically referenced in Appendix A shall

not require the consent of DEM. This Agreement shall not, nor shall any interest herein, be assignable as to the interest of San Mateo involuntarily or by operation of law without the prior written consent of DEM. A change of ownership or control of San Mateo or a sale or transfer of substantially all of the assets of San Mateo shall be deemed an assignment for purposes of this Agreement.

8.2 **Agreement Made in Violation of this Article.** Any agreement made in violation of Section 8.1 shall confer no rights on any person or entity and shall automatically be null and void.

8.3 **San Mateo Retains Responsibility.** San Mateo shall in all events remain liable for the performance by any assignee, subgrantee or contractor of all of the covenants terms and conditions contained in this Agreement.

## **ARTICLE 9 NOTICES AND OTHER COMMUNICATIONS**

9.1 **Requirements.** Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications hereunder shall be in writing, shall be addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via facsimile (if a facsimile number is provided below):

If to DEM or San Francisco:

San Francisco Department of Emergency Management  
1011 Turk Street  
San Francisco, CA 94102  
Attn: Executive Director  
Facsimile No.: (415) 558-3864

If to the SUASI Management Team:

SUASI Management Team  
1011 Turk Street  
San Francisco, CA 94102  
Attn: Director of Strategy and Compliance  
Facsimile No.: (415) 503-2098

If to San Mateo:

SHERIFF'S OFFICE OF EMERGENCY SERVICES  
400 COUNTY CENTER  
REDWOOD CITY, CA 94063  
Attn: MIKE SENA  
Facsimile No.: (415) 436-7484

9.2 **Effective Date.** All communications sent in accordance with Section 9.1 shall become effective on the date of receipt. Such date of receipt shall be determined by: (a) if mailed, the return receipt, completed by the U.S. postal service; (b) if sent via hand delivery, a receipt executed by a duly authorized agent of the party to whom the notice was sent; or (c) if sent via facsimile, the date of telephonic confirmation of receipt by a duly authorized agent of the party

to whom the notice was sent or, if such confirmation is not reasonably practicable, the date indicated in the facsimile machine transmission report of the party giving such notice.

9.3 **Change of Address**. From time to time any party hereto may designate a new address or recipient for notice for purposes of this Article 9 by written notice to the other party and the SUASI Management Team.

## **ARTICLE 10 MISCELLANEOUS**

10.1 **No Waiver**. No waiver by DEM or San Francisco of any default or breach of this Agreement shall be implied from any failure by the Approval Authority, SUASI Management Team, DEM or San Francisco to take action on account of such default if such default persists or is repeated. No express waiver by DEM or San Francisco shall affect any default other than the default specified in the waiver and shall be operative only for the time and to the extent therein stated. Waivers by DEM or San Francisco of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by DEM or San Francisco of any action requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

10.2 **Modification**. This Agreement 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 Agreement.

10.3 **Governing Law; Venue**. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

10.4 **San Mateo to Pay All Taxes**. San Mateo shall pay to the appropriate governmental authority, as and when due, any and all taxes, fees, assessments or other governmental charges, including possessory interest taxes and California sales and use taxes, levied upon or in connection with this Agreement, the Grant Plan, the Grant Funds or any of the activities contemplated by this Agreement.

10.5 **Headings**. All article and section headings and captions contained in this Agreement are for reference only and shall not be considered in construing this Agreement.

10.6 **Entire Agreement**. This Agreement sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. The following Appendices are attached to and a part of this Agreement:

- Appendix A, Authorized Expenditures
- Appendix B, Grant Assurances
- Appendix C, Form of Reimbursement Request

10.7 **Certified Resolution of Signatory Authority**. Upon request of San Francisco, San Mateo shall deliver to San Francisco a copy of the corporate resolution(s) authorizing the execution, delivery and performance of this Agreement, certified as true, accurate and complete by the appropriate authorized representative of San Mateo.

10.8 **Severability**. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

10.0 **Successors; No Third-Party Beneficiaries**. Subject to the terms of Article 8, the terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns and, in the case of Article 6, the Indemnified Parties) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

10.10 **Survival of Terms**. The obligations of San Mateo and the terms of the following provisions of this Agreement shall survive and continue following expiration or termination of this Agreement: Sections 4.3 and 4.4, Article 6, this Article 10, and the Grant Assurances of Appendix B.

10.11 **Further Assurances**. From and after the date of this Agreement, San Mateo agrees to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the transactions contemplated by this Agreement and to carry out the purpose of this Agreement in accordance with this Agreement.

## **ARTICLE 11 INSURANCE**

11.1 **Types and Amounts of Coverage**. Without limiting San Mateo's liability pursuant to Article 6, San Mateo shall maintain in force, during the full term of this Agreement, insurance in the following amounts and coverages:

(a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than one million dollars (\$1,000,000) each accident.

(b) Commercial General Liability Insurance with limits not less than one million dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations.

(c) Commercial Automobile Liability Insurance with limits not less than one million dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

11.2 **Additional Requirements for General and Automobile Coverage**. Commercial General Liability and Business Automobile Liability insurance policies shall:

(a) Name as additional insured City and its officers, agents and employees.

(b) Provide that such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought, except with respect to limits of liability.

11.3 **Additional Requirements for All Policies.** All policies shall provide at least thirty (30) days' advance written notice to City of cancellation or reduction in coverage mailed to City's address for notices pursuant to Article 9.

11.4 **Required Post-Expiration Coverage.** Should any of the insurance required hereunder be provided under a claims-made form, San Mateo shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three (3) years beyond the expiration or termination of this Agreement, to the effect that, should occurrences during the term hereof give rise to claims made after expiration or termination of the Agreement, such claims shall be covered by such claims-made policies.

11.5 **General Annual Aggregate Limit/Inclusion of Claims Investigation or Legal Defense Costs.** Should any of the insurance required hereunder be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

11.6 **Evidence of Insurance.** Before commencing any operations under this Agreement, San Mateo shall furnish to City certificates of insurance, and additional insured policy endorsements, in form and with insurers satisfactory to City, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon City's request. Before commencing any operations under this Agreement, San Mateo shall do the following: (a) furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above, and (b) furnish complete copies of policies promptly upon City request.

11.7 **Effect of Approval.** Approval of any insurance by City shall not relieve or decrease the liability of San Mateo hereunder.

11.8 **Authority to Self-Insure.** Nothing in this Agreement shall preclude San Mateo from self-insuring all or part of the insurance requirements in this Article. However, San Mateo shall provide proof of self-insurance, in a form acceptable to San Francisco, in the amounts of each line of self-insurance.

## **ARTICLE 12 COMPLIANCE**

12.1 **Nondiscrimination.** In the performance of this Agreement, San Mateo agrees not to discriminate against any employee, San Francisco employee working with San Mateo or any subgrantee of San Mateo, applicant for employment with San Mateo or subgrantee of San Mateo, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or

association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

12.2 **Conflict of Interest.** Through its execution of this Agreement, San Mateo acknowledges that it is familiar with the provisions of Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify DEM if it becomes aware of any such fact during the term of this Agreement.

12.3 **Compliance with ADA.** San Mateo acknowledges that, pursuant to the ADA, programs, services and other activities provided by a public entity to the public, whether directly or through a grantee or contractor, must be accessible to the disabled public. San Mateo shall not discriminate against any person protected under the ADA in connection with all or any portion of the Grant Plan and shall comply at all times with the provisions of the ADA.

12.4 **Prohibition on Political Activity with City Funds.** In accordance with San Francisco Administrative Code Chapter 12.G, San Mateo may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. San Mateo agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by San Francisco's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, San Francisco may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit San Mateo from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider San Mateo's use of profit as a violation of this section.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

CITY AND COUNTY OF SAN FRANCISCO:

COUNTY OF SAN MATEO:

SAN FRANCISCO DEPARTMENT OF  
EMERGENCY MANAGEMENT

By:

By:

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

\_\_\_\_\_  
ADRIENNE TISSIER  
PRESIDENT, BOARD OF SUPERVISORS

Federal Tax ID #: 94-6000532

**Approved as to Form:**

**Approved as to Form:**

Dennis J. Herrera  
City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

By: \_\_\_\_\_  
Deputy County Counsel

## Appendix A — Authorized Expenditures

ENTITY: SAN MATEO

SUASI Project Title	Solution Area	Program Description	Amount
<u>Project A</u> Training and Exercises	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 the San Mateo Fusion Center 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.	Not to exceed: \$100,000
<u>Project E</u> Critical Infrastructure	Organization	Critical Infrastructure Personnel - Salary and benefits for 8.25 positions	Not to exceed: \$738,806
<u>Project H</u> Info Sharing and Collaboration	Organization	West Bay Terrorism Early Warning Group (TEWG) Sheriff representative salary, fringe benefits, and premium pay totaling \$236,290 and overtime in the amount of \$21,325. All overtime charges are for Counter-terrorism assignments only and must be pre-approved by the TEWG Supervisor.	Not to exceed: \$257,615
<u>Project H</u> Info Sharing and Collaboration	Equipment	Fusion Center Equipment and supplies. Purchase equipment and supplies as per the Financial Management Workbook. All equipment must be purchased and paid for by 3/31/09 with invoices submitted no later than 6/30/09	Not to exceed: \$508,291
		TOTAL ALLOCATION:	NOT TO EXCEED \$1,604,712

**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 A — Timelines**

ENTITY: SAN MATEO

<b>SUASI Project Title</b>	<b>Solution Area</b>	<b>Program Description</b>	<b>Amount</b>
<u>Project A</u> Training and Exercises	6/30/09	Approved Training Expenses: Invoices for all training expenses must be submitted by no later than 6/30/09	Not to exceed: \$100,000
<u>Project E</u> Critical Infrastructure	11/1/08-6/30/09	Critical Infrastructure Personnel - Salary and benefits for 8.25 positions for the period 11/1/08 - 6/30/09	Not to exceed: \$738,806
<u>Project H</u> Info Sharing and Collaboration	4/1/08-6/30/09	West Bay TEWG - Sheriff representative salary, benefits, premium and overtime pay for the period 4/1/08-6/30/09	Not to exceed: \$257,615
<u>Project H</u> Info Sharing and Collaboration	3/31/09	Fusion Center Equipment and supplies. Purchase equipment and supplies as per the Financial Management Workbook. All equipment must be purchased and paid for by 3/31/09 with invoices submitted no later than 6/30/09	Not to exceed: \$508,291
		TOTAL ALLOCATION:	NOT TO EXCEED \$1,604,712

## Appendix B -- Grant Assurances

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

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

Fax Number: (\_\_\_\_\_) \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

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

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 statues 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 Mateo'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. FY06 Homeland Security Grant Program Page 46
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 Mateo, 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 Mateo, 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 Mateo 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 Mateo 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 Mateo 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 Mateo'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 Mateo'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 Mateo, I hereby certify that San Mateo will comply with the above certifications.

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

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

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

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

**Appendix C -- Form of Reimbursement Request**

**REIMBURSEMENT REQUEST**

\_\_\_\_\_, 2008

SUASI Management Team  
1011 Turk Street  
San Francisco, CA 94102

Re: FY 07 UASI Grants Reimbursement Request

Pursuant to Section 3.9 of the Agreement Between the City and County of San Francisco and San Mateo for the Distribution of FY 2007 UASI Regional Funds (the "Agreement"), dated OCTOBER 12, 2007 between the County of San Mateo ("San Mateo") and the City and County of San Francisco ("San Francisco"), San Mateo hereby requests reimbursement as follows:

Total Amount of  
Reimbursement  
Requested in this  
Request:                   \$ \_\_\_\_\_

Maximum Amount of  
Funds Specified in  
Section 3.2 of the  
Agreement:               \$ \_\_\_\_\_

Total of All Funds  
Disbursed Prior to this  
Request:                   \$ \_\_\_\_\_

San Mateo certifies that:

- (a) The total amount of funds requested pursuant to this Funding Request will be used to reimburse San Mateo for Authorized Expenditures, which expenditures are set forth on the attached Schedule 1, to which are attached true and correct copies of all required documentation of such expenditures.
- (b) After giving effect to the disbursement requested pursuant to this Reimbursement Request, the Funds disbursed as of the date of this disbursement will not exceed the maximum amount set forth in Section 3.2 of the Agreement.

(c) The representations and warranties made in the Agreement are true and correct in all material respects as if made on the date hereof;

(d) No Event of Default has occurred and is continuing; and

(e) The undersigned is an officer of San Mateo authorized to execute this Reimbursement Request on behalf of San Mateo.

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

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

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

## SCHEDULE 1 TO REQUEST FOR REIMBURSEMENT

The following is an itemized list of Authorized Expenditures for which reimbursement is requested:

<b>Payee</b>	<b>Amount</b>	<b>Description</b>
--------------	---------------	--------------------

The following are attached as part of this Schedule 1:

- (i) An invoice for each item of expenditure for which reimbursement is requested;
- (ii) The front and the back of canceled checks or other written evidence documenting the payment of each invoice;
- (iii) For expenditures which are wages or salaries, payroll registers containing a detailed breakdown of earnings and withholdings, together with both sides of canceled payroll checks evidencing payment thereof (unless payment has been made electronically).