

STATE OF TEXAS

§

COUNTY OF HIDALGO

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**INTERLOCAL COOPERATION ACT AGREEMENT  
BETWEEN THE COUNTY OF HIDALGO, TEXAS  
AND THE CITY OF MCALLEN FOR EQUIPMENT/SERVICE SHARING**

This AGREEMENT is made and entered into by and between the County of Hidalgo, a political subdivision of the State of Texas and the City of McAllen ("Participant") pursuant to the authority granted and in compliance with the provisions of the TEXAS INTERLOCAL COOPERATION ACT, (the "Act") Chapter 791, Texas Government Code, as follows:

**WITNESSETH:**

**WHEREAS**, The Lower Rio Grande Valley Development Council ("LRGVDC"), is designated as the local regional agency responsible for the disbursement of grant funds from the U.S. Department of Homeland Security ("DHS") via the State of Texas Department of Emergency Management ("TDEM"), and Hidalgo, Cameron and Willacy counties and the cities within each respective county are members of the LRGVDC; and

**WHEREAS**, the County of Hidalgo, who submitted a grant application on behalf of the County of Hidalgo, Cameron County and Willacy County Divisions of Emergency Management, the City of Brownsville Fire/Police Department, City of Harlingen Fire Department, and the City of McAllen, and was awarded a grant hereinafter referred to as the 2009 LEAP/SHSP Grant or the "Grant", **in the amount of Eight Thirty Four Thousand Two Hundred Twenty Three and 65/100ths (\$834,223.65) from DHS, TDEM and as administered via the LRGVDC, of which certain funds are intended to be used for a region-wide communication system (Lower Rio Grande Valley land mobile radio system, hereinafter "LRGV-LMRS")**;

**WHEREAS**, The Homeland Security Advisory Committee ("HSAC"), is a subcommittee of the LRGVDC and is responsible for identifying areas of weakness as it pertains to local homeland security issues and finding solutions to address those weaknesses. HSAC membership, composed of executive-level agency appointed heads recommend solutions to the LRGVDC Executive Committee and has agreed that all projects that are to be funded with DHS funding must be regional in nature;

**WHEREAS**, the purpose of the Grant awarded is to assist local government agencies in the implementation of a regional communication system or land mobile radio system, allowing for alternative methods of communication for first responders;

**WHEREAS**, the Grant requires County of Hidalgo as the Grant recipient, to comply with certain terms and conditions more particularly described in Exhibit "A" attached hereto

and titled, Governor's Division of Emergency Management 2009 Terms and Conditions (Homeland Security Grant Program "HSGP"), and further requires any sub-recipient or Participant accepting funding from the Grant through a subcontract or agreement to also comply with certain provisions of the terms and conditions stated in the attached Exhibit "A";

**WHEREAS**, the County of Hidalgo and Participant desire to carry out DHS eligible activities and share or transfer equipment pursuant to the Grant as described in the attached Exhibit "B" – Property Transfer Record Agreement.

**WHEREAS**, the equipment and services will be purchased by County of Hidalgo using the County's established and approved purchasing policies and delivered to Hidalgo County. The equipment will be subsequently distributed to the participating agencies (County of Hidalgo, Cameron County, Willacy County, City of Harlingen Fire Department, City of Brownsville Police/Fire Department and City of McAllen hereinafter referred to as "Parties" and/or "Participant(s)" to this Agreement), which will be responsible for the security of the equipment and its maintenance while in the possession of each respective party for the term of the Grant;

**WHEREAS**, the County of Hidalgo intends to transfer certain equipment to the parties as described in the attached Exhibit "C" as a Property Transfer and pursuant to the TDEM guidelines attached hereto as Exhibit "B".

**NOW, THEREFORE**, Hidalgo County and Participant, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. **Legal Authority.** This Agreement is made pursuant to the authority of Chapter 791 of the Texas Local Government Code, and all other constitutional and statutory provisions which may provide authority for any and all of the Parties.
2. **Scope of Agreement.** The Parties agree that the Lower Rio Grande Valley land mobile radio system, "LRGV-LMRS", described in Exhibit "C" will be made readily available, region-wide, for the purpose of communicating between emergency management agencies as requested.
3. **Records and Reports.** All Parties agree to provide and maintain all necessary records and reports that may be necessary for reimbursement of Grant funds, including but not limited to an annual accounting of the Equipment to Hidalgo County for the purposes of Grant reporting through April 15, 2012. Hidalgo County agrees it will provide Grant reporting to the Texas Division of Emergency Management/State Administration Agency as required under the Grant. Failure to maintain records and reports may result in forfeiture of the Participant's designated Grant funds.

All Parties agree to submit to County Auditor's Office, a properly completed SSA/Division of Emergency Management Cost Reimbursement Request and all

supporting documentation, including but not limited to general Ledger Reports, Payroll Distribution Reports, Time Sheets, Activity Logs, Copies of Invoices, and other related information whether or not requested by County on a monthly basis, as necessary.

All Parties agree that all unused Grant funds at the end or termination of this Agreement will be reallocated or reprogrammed by Hidalgo County.

4. **Suspension and Termination.** Participant understands that this Agreement may be suspended or terminated if it materially fails to comply with the provisions of the Agreement.

If Participant fails to fulfill in a timely and proper manner its obligations under the Agreement, or violates any of the Agreement(s) or stipulations of this Agreement, then the County shall provide Participant written notice of such non-performance. Such non-performance may be the basis for immediate termination of this Agreement. Should any breach by the Participant of this Agreement relate to a violation of federal law or regulation that results in TDEM or DHS demanding reimbursement from County or Participant or its successor, the County will terminate the Agreement and seek reimbursement of all funds from Participant. Participant will not be relieved from liability to the County for damages sustained by the County by virtue of any breach of this Agreement by Participant and County may withhold payments to Participant for violations of state, local or federal regulations. Should the County become aware of any activity by Participant, which would jeopardize the County's position with DHS, TDEM, or any other state or federal agency, or which would cause a payback of federal funds, then the County may take appropriate action including injunctive relief against Participant to prevent the transaction as aforesaid. The failure of the County to exercise any right shall in no way constitute a waiver by the County to otherwise demand payment or seek any other relief in law or in equity to which it may be justly entitled.

It is expressly agreed that this Agreement may not be amended except in writing upon the joint action of the governing bodies of both the County and the Participant.

5. **Assets and Services.** Any assets purchased by Hidalgo County with Grant funds shall be procured in the form and manner so required by the County and the applicable laws of the State of Texas (as described in Paragraph 8 below). Any equipment purchased subject to the Grant will remain the property of Hidalgo County and on the County's inventory records until April 15, 2012, at which time the Grant will end.

The County of Hidalgo will transfer equipment and services to the Parties as described in the attached Exhibit "C" subject to the TDEM guidelines and in

accordance with the Property Transfer Record Agreement attached hereto as Exhibit "B".

6. **Liability for Disallowed Costs.** The Participant understands and agrees that it shall be liable to Hidalgo County for any costs disallowed pursuant to financial and compliance audit(s) of Participant agreement funds. The Participant further understands and agrees that reimbursement to Hidalgo County of such disallowed costs shall be paid by the Participant from funds that were not provided or otherwise made available to Participant pursuant to this Agreement or any other federal contract.

7. **Indemnity Clause and Insurance Requirements.** To the extent permitted by the Texas Constitution and Texas State law, Participant agrees to hold harmless the County its elected officials, officers, employees, consultants, or agents and to indemnify County's elected officials, employees, consultants or agents and to defend county against any and all claims brought against County by elected officials, officers, employees, or agents of Participant or brought by any third person arising in any manner directly or indirectly from Participant's programs, activities or events conducted pursuant to this Agreement to the extent authorized under the law.

Participant shall acquire, maintain and furnish to County a Certificate of Insurance as proof that it has secured and paid for policies of public liability and automobile insurance to cover all operations and services under this Agreement with limits of not less than \$300,000.00 per occurrence, \$300,000.00 aggregate, covering all risks incident to or in connection with the execution, performance, attempted performance or non-performance of this Agreement. This requirement shall be to meet Participant's duty of indemnification under this paragraph.

Each participant further agrees to maintain liability insurance coverage for any equipment in its possession the subject of a "Property Transfer Record Agreement" as described in the TDEM guidelines attached as Exhibit "C" at any time during the Grant period or after expiration of the Grant period.

8. **Procurement.** The Parties agree to conform to their own applicable purchasing laws, regulations, employment policies and procedures with respect to any purchases or employment in relation to the Grant and/or this Agreement.

## 9. MISCELLANEOUS PROVISIONS.

**Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof,

contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflicts exists.

**No Waiver.** No waiver by Hidalgo County of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.

**Entire Agreement.** This Agreement contains the entire contract between the parties hereto, and each party acknowledges that neither has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by Hidalgo County and Participant, and not otherwise.

**Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas.

**Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by electronic mail, or (iii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or (iv) sent by facsimile or at such other addresses to the parties at the addresses set forth below, or (iv) sent by facsimile or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to County:                   County of Hidalgo  
  P.O. Box 1356  
  Edinburg, TX 78539

If to Participant:            Belinda Mercado, IT Department  
  1300 W. Houston  
  McAllen, TX 78501

Each notice, demand, request or communication which shall be delivered to mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

**Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

**Assignment.** This Agreement shall not be assignable by Participant. County may assign this Agreement without the consent of Participant.

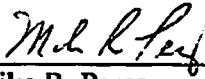
**Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

**Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.

**Authority to Execute.** The execution and performance of this Agreement by Hidalgo County and Participant have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of Hidalgo County and Participant in accordance with its terms.

**WITNESS THE HANDS OF THE PARTIES** effective as of the 21<sup>st</sup> day of June, 2011.

Participant: City of McAllen

  
\_\_\_\_\_  
Mike R. Perez  
City Manager

\_\_\_\_\_  
Ramon Garcia  
Hidalgo County Judge


Attest:


  
\_\_\_\_\_  
Annette Villarreal  
McAllen City Secretary



\_\_\_\_\_  
Arturo Guajardo, Jr.,  
Hidalgo County Clerk

APPROVE AS TO FORM:

  
\_\_\_\_\_  
By: Josie L. Ramirez  
Assistant District Attorney – County Affairs

  
\_\_\_\_\_  
By: Brendan Hall  
Assistant City Attorney

# 2009 TERMS AND CONDITIONS

## Homeland Security Grant Program (HSGP)

FY 2009 HSGP is comprised of four separate grant programs:

- State Homeland Security Program (SHSP)
- Urban Areas Security Initiative (UASI)
- Metropolitan Medical Response System (MMRS)
- Citizen Corps Program (CCP)

### Parties to Sub-recipient Agreement

This Sub-recipient agreement is made and entered into by and between the Texas Division of Emergency Management/State Administrative Agency, an agency of the State of Texas, hereinafter referred to as "TDEM," and the funds recipient, hereinafter referred to as the "Sub-recipient." Furthermore, TDEM and the Sub-recipient are collectively hereinafter referred to as the "Parties." By this Sub-recipient agreement's execution, the Parties have severally and collectively agreed to be bound to the mutual obligations and to the performance and accomplishment of the tasks described in this Sub-recipient agreement. The Sub-recipient Agreement is only an offer until the Sub-recipient returns the signed copy of the 2009 Sub-recipient Agreement in accordance with the date provided in the transmittal letter and in the agreement. The Sub-recipient must also certify to the statements provided in Exhibits B and C by signing and returning a copy of these documents with the Sub-recipient Agreement.

### **Overview, Special Conditions and Performance Standards**

#### **A. Overview.**

##### **State Homeland Security Grant (SHSP)**

The State Homeland Security Program (SHSP) is a core assistance program that provides funds to build capabilities at the State and local levels and to implement the goals and objectives included in State Homeland Security Strategies and initiatives in the State Preparedness Report. SHSP supports the implementation of State Homeland Security Strategies to address the identified planning, organization, equipment, training, and exercise needs for acts of terrorism and other catastrophic events. In addition, SHSP supports the implementation of the National Preparedness Guidelines, the National Incident Management System (NIMS), and the National Response Framework (NRF).

##### **Urban Areas Security Initiative (UASI)**

Urban Areas Security Initiative (UASI) program funds address the unique planning, organization, equipment, training, and exercise needs of high-threat, high-density Urban Areas, and assist them in building an enhanced and sustainable capacity to prevent, protect against, respond to, and recover from acts of terrorism.

##### **Metropolitan Medical Response System (MMRS)**

The MMRS program supports the integration of emergency management, health, and medical systems into a coordinated response to mass casualty incidents caused by any hazard. MMRS Grantees will reduce the consequences of a mass casualty incident during the initial period of a response by having augmented existing local operational response systems before the incident occurs.

##### **Citizen Corps Program (CCP)**

The Citizen Corps mission is to bring community and government leaders together to coordinate the involvement of community members and organizations in emergency preparedness, planning, mitigation, response, and recovery.

## B. Special Conditions

### SHSP

Activities implemented under SHSP must support terrorism preparedness by building or enhancing capabilities that relate to the prevention of, protection from, or response to, and recovery from terrorism in order to be considered eligible. However, many capabilities which support terrorism preparedness simultaneously support preparedness for other hazards. Grantees must demonstrate this dual-use quality for any activities implemented under this program that are not explicitly focused on terrorism preparedness.

The recipient may only fund projects that were included in the FY 2009 State Investment Justifications which were submitted and approved by DHS/FEMA. Use of SHSP funds must be consistent with and supportive of implementation of the State Homeland Security Strategy and State Preparedness Report. Linkages between specific projects undertaken with SHSP funds and strategic goals and objectives will be highlighted through regular mechanisms, including the Biannual Strategy Implementation Report (BSIR)

As defined in the FY 2009 grant guidance, the FY 2009 SHSP will focus on two objectives as the highest priorities. These two objectives are:

1. National Priority: Strengthen Information Sharing and Collaboration Capabilities – Maximizing Information Sharing via the National Network of Fusion Centers;
2. National Priority: Strengthen Medical Surge and Mass Prophylaxis – Developing and Enhancing Health and Medical Readiness and Preparedness Capabilities. These two priorities are in addition to the priorities for all programs under the Homeland Security Grant Program and, if applicable, the Law Enforcement Terrorism Prevention Activities Priorities.

A personnel cap of up to 50% of total program funds may be used for personnel and personnel-related activities as directed by the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412). In general, the use of Homeland Security Grant Program grant funding to pay for staff and/or contractor regular time or overtime/backfill is considered a personnel cost.

Since a separate LETPP grant program for Law Enforcement Terrorism Prevention Activities was not created for FY 2009, the State is required to ensure that local and state sub-grantees expend at least 25 percent of their SHSP award funds towards law enforcement terrorism prevention-oriented planning, organization, training, exercise, and equipment activities.

### UASI

Allocations and use of grant funding must support and be coordinated with the goals and objectives included in the State and/or Urban Area Homeland Security Strategies. The recipient may only fund projects that were included in the FY 2009 Urban Area Investment Justifications which were submitted and approved by DHS/FEMA. The recipient agrees that funds utilized to establish or enhance designated state and Urban Area fusion centers must support the development of a statewide fusion process that corresponds with the Global Justice/Homeland Security Advisory Council (HSAC) Fusion Center Guidelines and the National Strategy for Information Sharing, and achievement of a baseline level of capability as defined by Global's Baseline Capabilities for State and Major Urban Area Fusion Centers, a supplement to the Fusion Center Guidelines, located at <http://www.it.ojp.gov/documents/baselinecapabilitiesa.pdf>. The recipient agrees to fund any multi-state or multi-urban area Investments that were included in the FY2009 Investment Justification that was submitted to GPD and received a bonus in the effectiveness analysis.

A personnel cap of up to 50% of total program funds may be used for personnel and personnel-related activities as directed by the Personnel Reimbursement for Intelligence Cooperation and Enhancement (PRICE) of Homeland Security Act (Public Law 110-412). In general, the use of Homeland Security Grant Program grant funding to pay for staff and/or contractor regular time or overtime/backfill is considered a personnel cost.

### MMRS

MMRS is a local grant which will require each MMRS Jurisdiction establish a single Point of Contact (POC) who will serve as the responsible contact for MMRS implementation, activities, and procurement for the jurisdiction as lead and in coordination with a Jurisdictional MMRS Steering Committee. The POC and MMRS Steering Committee will integrate local emergency management, health and medical systems with their Federal and State counterparts through a locally established multi-agency, collaborative planning framework; promote regional coordination of mutual aid with neighboring localities; regularly validate the jurisdictions local emergency response capability to a mass casualty incident by means of an exercise or other validation means; collaborate with local, regional, and State health and medical partners, such as Medical Reserve Corps Units and Citizen Corps Councils, as well as leverage other

Federal programs, such as the U.S. Department of Health and Human Services Assistant Secretary for Preparedness and Response (DHHS-ASPR) Hospital Preparedness Program and Emergency Systems for Advance Registration of Volunteer Health Professionals (ESAR-VHP), Center for Disease Control and Prevention Cities Readiness Initiative and Strategic National Stockpile, to coordinate and support plans, processes and strategies related to, but limited to: Continuity of Government; Continuity of Operations; Equipment and Supplies Procurement; Fatality Management; Forward Movement of Patients; Hospital Evacuation; Interoperable Communications; Patient Tracking; Pharmaceutical and Medical Supply Management and Distribution; Public Education; Outreach and Information; Recruiting Volunteers; and Training; ensure the "MMRS Leadership" is fully represented on the Urban Area Working Group in cases where a MMRS grant is awarded and a UASI program exists; ensure all neighboring MMRS subgrantees actively and demonstratively collaborate to develop a regional plan that supports the MMRS mission in that region in cases where MMRS subgrantees are located adjacent to one another and implement an Investment Justification that clearly identifies the size of the populations included in the planning and operational areas supported by the MMRS grant. The Metropolitan Medical Response System (MMRS) provides funds to build capabilities at the State and local levels to implement the goals and objectives included in State Homeland Security Strategies and initiatives in the State Preparedness Report. MMRS supports the implementation of State Homeland Security Strategies to address the identified planning, organization, equipment, training, and exercise needs for acts of terrorism and other catastrophic events. In addition, MMRS supports the implementation of the National Preparedness Guidelines, the National Incident Management System (NIMS), and the National Response Framework (NRF).

Activities implemented under MMRS must support terrorism preparedness by building or enhancing capabilities that relate to the prevention of, protection from, or response to, and recovery from terrorism in order to be considered eligible. However, many capabilities which support terrorism preparedness simultaneously support preparedness for other hazards. Grantees must demonstrate this dual-use quality for any activities implemented under this program that are not explicitly focused on terrorism preparedness.

Use of MMRS funds must be consistent with and supportive of implementation of the State Homeland Security Strategy and State Preparedness Report. Linkages between specific projects undertaken with MMRS funds and strategic goals and objectives will be highlighted through regular mechanisms, including the Biannual Strategy Implementation Report (BSIR)

As defined in the FY 2009 grant guidance, the FY 2009 MMRS will focus on two objectives as the highest priorities. These two objectives are:

1. National Priority: Strengthen Information Sharing and Collaboration Capabilities – Maximizing Information Sharing via the National Network of Fusion Centers;
2. National Priority: Strengthen Medical Surge and Mass Prophylaxis – Developing and Enhancing Health and Medical Readiness and Preparedness Capabilities. These two priorities are in addition to the priorities for all programs under the Homeland Security Grant Program and, if applicable, the Law Enforcement Terrorism Prevention Activities Priorities.

#### CCP

The sub-recipient must register their Citizen Corps Council on the Citizen Corps website <http://www.citizencorps.gov> and manage their program and information on the site. Citizen Corps Councils must include representatives of emergency management, homeland security, law enforcement, fire service, medical services/public health or their designee, elected officials, the private sector, private non-profits, non-governmental organizations and advocacy groups for special needs populations. In addition, representatives from existing Citizen Corps programs, such as Volunteers in Police Service (VIPS), Medical Reserve Corps (MRC), Community Emergency Response Team (CERT), Neighborhood Watch, and Fire Corps should be included on the Citizen Corps Council. Where applicable, a Metropolitan Medical Response System representative should also be included on the Citizen Corps Council.

**All allocations and use of funds under this grant must be in accordance with the FY 2009 HSGP Guidelines and Application Kit found at - <http://www.fema.gov/government/grant/hsgp/index.shtm>.** All award Sub-recipients are required to have read, understood and accepted the FY 2009 HSGP Guidance and Application Kit as binding.

C. **Standard of Performance.** The Sub-recipient shall perform all activities and projects entered into the SAA web-based grants management system approved by its Council of Governments (COG) and by the State Administrative Agency (SAA). The Sub-recipient shall perform all activities in accordance with all terms, provisions and requirements set forth in this Sub-recipient agreement and the:

1. Applicable Laws and Regulations, hereinafter referred to as "Exhibit A";
2. Certifications, hereinafter referred to as "Exhibit B"; and

3. Certification Regarding Lobbying for Sub-recipient Agreements, Grants, Loans, and Cooperative Agreements, hereinafter referred to as "Exhibit C".

D. **Failure to Perform.** In the event the Sub-recipient fails to implement the project(s) entered into The SAA web-based grants management system, or comply with any of this Sub-recipient agreement's provisions, in addition to the remedies specified in this Sub-recipient agreement, the Sub-recipient is liable to TDEM for an amount not to exceed the award amount of this Sub-recipient agreement and may be barred from applying for or receiving additional DHS/FEMA grant program funds or any other federal program funds administered by TDEM until repayment to TDEM is made and any other compliance or audit finding is satisfactorily resolved.

#### **TDEM Obligations**

A. **Measure of Liability.** TDEM shall be liable for actual and reasonable costs incurred by the Sub-recipient during the Sub-recipient agreement period for performances rendered under this Sub-recipient agreement by the Sub-recipient, subject to the limitations set forth in this Section. TDEM shall not be liable to the Sub-recipient for any costs incurred by the Sub-recipient that are not allowable costs.

B. **Sub-recipient Agreement Funds Defined and Limit of Liability.** The term "Sub-recipient agreement funds" as used in this Sub-recipient agreement means funds provided by TDEM under the DHS/FEMA grant programs. The term "Sub-recipient's funds" or match funds as used in this Sub-recipient agreement means funds provided by the Sub-recipient.

Notwithstanding any other provision of this Sub-recipient agreement, the total of all payments and other obligations incurred by TDEM under this Sub-recipient agreement shall not exceed the Total Award Amount listed on the cover page of the Sub-recipient agreement.

C. **Excess Payments.** The Sub-recipient shall refund to TDEM any sum of Sub-recipient agreement funds that has been paid to the Sub-recipient by TDEM or that TDEM determines has resulted in overpayment to the Sub-recipient that TDEM determines has not been spent by the Sub-recipient in accordance with this Sub-recipient agreement. No refund payment(s) may be made from local, state or federal grant funds unless repayment with grant funds is specifically permitted by statute or regulation. The Sub-recipient shall make such refund to TDEM within thirty (30) days after TDEM requests such refund.

#### **Suspension**

Notwithstanding the provisions of Chapter 2251, Texas Government Code, in the event the Sub-recipient fails to comply with any of this Sub-recipient Agreement's terms, TDEM may, upon written notification to the Sub-recipient, suspend this Sub-recipient agreement in whole or in part, withhold payments to the Sub-recipient and prohibit the Sub-recipient from incurring additional obligations of Sub-recipient agreement funds.

#### **Termination**

A. **TDEM's Right to Terminate.** TDEM shall have the right to terminate this Sub-recipient agreement, in whole or in part, at any time before the end of the Performance Period, whenever TDEM determines that the Sub-recipient has failed to comply with any of this Sub-recipient agreement's terms. TDEM shall notify the Sub-recipient in writing prior to the thirtieth (30<sup>th</sup>) day preceding the termination of such determination and include:

1. the reasons for such termination;
2. the effective date of such termination; and
3. in the case of partial termination, the portion of the Sub-recipient agreement to be terminated.

B. **Parties' Right to Terminate.** In addition to TDEM's right to terminate specified in Subsection A of this section, both Parties shall have the right to terminate this Sub-recipient agreement, in whole or in part, when the Parties agree that the continuation of the activities funded under this Sub-recipient agreement would not produce beneficial results commensurate with the further expenditure of Sub-recipient agreement funds. The Parties shall agree, in writing, upon the termination conditions, including the effective date of termination and in the case of partial termination, the portion of the Sub-recipient agreement to be terminated.

#### **Conflict of Interest**

The Sub-recipient shall operate in a manner to avoid any potential conflict of interest, real or apparent, and comply with the related requirements of the Uniform Grant Management Standards (UGMS).

A. **Financial Interest Prohibited.** A conflict of interest may arise when the employee, officer or agent; any member of his or her immediate family; his or her partner; or, any organization that employs, or is about to employ any of the above, has a financial or other interest in the firm or person selected to perform a subcontract pursuant to this Sub-recipient agreement. The Sub-recipient shall ensure that no employee, officer, or agent of the Sub-recipient shall participate in the

selection, in the award or administration of a subcontract supported by Sub-recipient agreement funds pursuant to this Sub-recipient agreement and comply with Chapter 171, Texas Local Government Code.

B. Other Prohibited Interests. In all cases not governed by Subsection A of this Section and except for eligible administrative or personnel costs, no person who is an employee, agent, consultant, officer, elected official, appointed official of the Sub-recipient or of a subcontractor of the Sub-recipient who exercises or have exercised any functions or responsibilities with respect to the activities assisted under this Sub-recipient agreement or any other DHS/FEMA Sub-recipient agreement who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, have an interest in or benefit from the activity or have any interest in any Sub-recipient agreement, subcontract or agreement with respect to the activities or the proceeds either for themselves or those with whom they have family or business ties during their tenure or for one year thereafter.

C. Inclusion in Subcontracts. The Sub-recipient shall include the substance of this Section in all subcontracts.

### **Monitoring**

TDEM reserves the right to perform periodic office-based and/or on-site monitoring of the Sub-recipient's compliance with this Sub-recipient agreement's terms and conditions and of the adequacy and timeliness of the Sub-recipient's performance pursuant to this Sub-recipient agreement. After each monitoring visit, TDEM shall provide the Sub-recipient with a written report of the monitor's findings. If the monitoring report notes deficiencies in the Sub-recipient's performance under this Sub-recipient agreement's terms, the monitoring report shall include requirements for the timely correction of such deficiencies by the Sub-recipient. Failure by the Sub-recipient to take action specified in the monitoring report may be cause for this Sub-recipient agreement's suspension or termination pursuant to the Suspension and/or Termination Sections above.

### **Audit**

A. Audit of Federal and State Funds. The Sub-recipient shall arrange for the performance of an annual financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement as required by the Single Audit Act (OMB Circular A – 133; 44 C.F.R. 13.26) and as outlined in Exhibit A. The Sub-recipient will also comply, as applicable, with Texas Government Code, Chapter 783, 1 TAC 5.141.et.seq. and the Uniform Grant Management Standards (UGMS), State Uniform Administrative Requirements for Grants and Cooperative Agreements.

B. TDEM's Right to Audit. Notwithstanding Subsection A of this Section, TDEM reserves the right to conduct a financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement. The Sub-recipient agrees to permit TDEM or its authorized representative to audit the Sub-recipient's records and to obtain any documents, materials or information necessary to facilitate such audit.

C. Sub-recipient's Liability for Disallowed Costs. The Sub-recipient understands and agrees that it shall be liable to TDEM for any costs disallowed pursuant to financial and compliance audit(s) of Sub-recipient agreement funds. The Sub-recipient further understands and agrees that reimbursement to TDEM of such disallowed costs shall be paid by the Sub-recipient from funds that were not provided or otherwise made available to the Sub-recipient pursuant to this Sub-recipient agreement or any other federal contract.

D. Sub-recipient's Facilitation of Audit. The Sub-recipient shall take such action to facilitate the performance of such audit(s) conducted pursuant to this Section as TDEM may require of the Sub-recipient. The Sub-recipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Sub-recipient and the requirement to cooperate is included in any subcontract it awards.

### **Reimbursement**

Sub-recipient agrees to make no request for reimbursement prior to return of this agreement signed by the authorized Sub-recipient representative. Sub-recipient also agrees to make no request for reimbursement for goods or services procured by Sub-recipient prior to the performance period start date of this agreement.

A. Request for Advance or Reimbursement. The Sub-recipient shall submit to TDEM, a properly completed Local Purchase Submission Cover Sheet as often as actually needed. TDEM retains the authority to approve or deny amount requested and shall not make disbursement of any such payment until TDEM has reviewed and approved such a request. The Local Purchase Submission Cover Sheet shall be supported by documentation as required by the SAA, currently referenced on the SAA web-based grants management system, and may be revised in subsequent policy updates.

B. Request for Advance Funds and Transfer of Funds. The Sub-recipient's requests for an advance of Sub-recipient agreement funds shall be limited to the minimum amounts needed for effective operation of their project(s) under this Sub-recipient agreement and shall be timed as closely as possible to be in accord with actual cash requirements. The

Sub-recipient shall establish procedures to minimize the time elapsing between the transfer of funds from TDEM to the Sub-recipient and shall ensure that such funds are disbursed within fifteen (15) days unless extenuating circumstances can be documented.

C. Payment Contingent. Notwithstanding the provisions of Subsection A of this Section, payments under this Sub-recipient agreement are contingent upon the Sub-recipient's performance of its contractual obligations.

D. Source Documentation Requirement: Sub-recipients must provide proof of payment documentation with all reimbursement requests submitted for processing. The following is a list of acceptable proof of payment documents:

- o Copy of cancelled check
- o Screen print of General Ledger account showing funds have been encumbered
- o Credit Card Statement showing purchase of the items
- o Payroll journal for individuals showing rate of pay and hours worked
- o Copy of invoice stamped "paid" with the date, vendor initials and check number for reference

### **National Incident Management System (NIMS) and the Incident Command System (ICS)**

Sub-recipients must have adopted and be implementing the National Incident Management System (NIMS) and the Incident Command System (ICS) at the local level. NIMS compliance for 2009 must be achieved by completing required actions outlined by FEMA and TDEM.

For a more detailed description of these requirements, as well as other NIMS implementation requirements, see <http://www.fema.gov/emergency/nims/CurrentYearGuidance.shtml>

### **NIMSCAST Requirements**

To be eligible to receive FY 2009 DHS funding, local primary jurisdictions and tribes must have achieved 100% compliance with the FY 2008 NIMS compliance objectives and metrics in the NIMSCAST by January 30, 2009.

All State and territory grantees were required to submit their compliance assessment via the NIMSCAST by September 30, 2008 in order to be eligible for FY 2009 preparedness programs.

Additional information on achieving NIMS compliance is available through the FEMA National Integration Center (NIC) Incident Management Systems Integration (IMSI) Division at <http://www.fema.gov/emergency/nims/>.

### **Other Requirements**

A. During the performance period of this grant, Sub-recipients must maintain an emergency management plan at the Intermediate Level of planning preparedness or higher, as prescribed by TDEM. This may be accomplished by a jurisdiction maintaining its own emergency management plan or participating in an inter-jurisdictional emergency management program that meets the required standards. If TDEM identifies deficiencies in the Sub-recipient's plan, Sub-recipient will correct deficiencies within 60 days of receiving notice of such deficiencies from TDEM.

B. Projects identified in the SAA web-based grant management system must identify and relate to the goals and objectives indicated by the applicable approved project investments for the period of performance of the grant.

C. During the performance period of this grant, Sub-recipient agrees that it will participate in a legally-adopted county and/or regional mutual aid agreement.

D. During the performance period, the Sub-recipient must register as a user of the Texas Regional Response Network (TRRN) and identify all major resources such as vehicles and trailers, equipment costing \$5,000 or more and specialized teams/response units equipped and/or trained using grant funds (i.e. hazardous material, decontamination, search and rescue, etc.). This registration is to ensure jurisdictions or organizations are prepared to make grant funded resources available to other jurisdictions through mutual aid.

E. Sub-recipients must submit Fiscal Year 2009 Indirect Cost Allocation Plan signed by Cognizant Agency. Plan should be forwarded to the SAA along with the Planning and Administration Grant Budget Form.

F. Council of Governments (COG) will follow guidelines listed in the SAA FY 09 COG Statement of Work.

H. The State's 24 planning regions are voluntary associations of local governments organized pursuant to state law as regional planning commissions, councils of government, development councils, and area councils. It is recognized that

one of the major functions of state planning regions as homeland security grant Sub-recipients is to perform a wide variety of planning and some program administration for both their region and on behalf of the cities and counties within the region that may also be homeland security grant Sub-recipients.

### **Closing the Grant**

A. The Sub-recipient must have expended all grant funds and submitted expenditure reimbursement requests and any invoices by the end of the performance period listed on the sub-recipient agreement.

B. TDEM/SAA will close a sub-award after receiving Sub-recipient's final performance report indicating that all approved work has been completed and all funds have been disbursed, completing a review to confirm the accuracy of the reported information, and reconciling actual costs to awards modifications and payments. If the close out review and reconciliation indicates that the Sub-recipient is owed additional funds, TDEM/SAA will send the final payment automatically to the Sub-recipient. If the Sub-recipient did not use all the funds received, TDEM/SAA will issue a Grant Adjustment Notice (GAN) to recover the unused funds.

C. TDEM/SAA will unilaterally close out this grant if sub-recipient does not reconcile account and sign closeout GAN by the 60th day after the sub-recipient performance period ends.

### **Restrictions, Disclaimers and Notices**

A. Approval of this award does not indicate approval of any consultant rate in excess of \$450 per day. A detailed justification must be submitted to and approved by TDEM/SAA prior to obligation or expenditure of such funds. U.S. Department of Justice Financial Guide (Part III Chapter 15) <http://www.ojp.usdoj.gov/financialguide/>

B. In cases where local funding is established by COGs, release of funds by TDEM is contingent upon regional funding allocation approval by the Sub-recipient's COG governing board.

C. Notwithstanding any other agreement provisions, the parties hereto understand and agree that TDEM's obligations under this agreement are contingent upon the receipt of adequate funds to meet TDEM's liabilities hereunder. TDEM shall not be liable to the Sub-recipient for costs under this Agreement which exceed the amount specified in the Notice of Sub-recipient Award.

D. Notice. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express, to the other party at its respective address set forth below or to such other address as one party shall give notice of to the other from time to time hereunder. Mailed notices shall be deemed to be received on the third business day following the date of mailing. Notices sent by overnight courier shall be deemed received the following business day.

Chief  
Division of Emergency Management  
State Administrative Agency  
PO Box 4087  
Austin, TX 78773-0220

### **Uniform Administrative Requirements, Cost Principals and Audit Requirements**

Except as specifically modified by law or this Sub-recipient agreement's provisions, the Sub-recipient shall administer the award through compliance with all applicable Laws and Regulations. A non-exclusive list is provided below

#### **A. Administrative Requirements**

1. 44 C.F.R. Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;
2. 2 C.F.R. Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (OMB Circular A-110).

#### **B. Cost Principles**

1. 2C.F.R. Part 225, Cost Principles for State, Local and Tribal Governments (OMB Circular A-87)
2. 2C.F.R. Part 220, Cost Principals for Education Institutions (OMB Circular A-21)
3. 2C.F.R. Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122)
4. Federal Acquisition Regulations (FAR) Subpart 31.2, Contracts with Commercial Organizations

### **Retention and Accessibility of Records**

A. Retention of Records. The Sub-recipient shall maintain fiscal records and supporting documentation for all expenditures of Sub-recipient agreement funds pursuant to the applicable OMB Circular and this Sub-recipient agreement. The Sub-recipient shall retain these records and any supporting documentation for the greater of three (3) years from the completion of this project's public objective, including program requirements and financial obligations, or the period of time required by other applicable laws and regulations as described in Exhibit A.

B. Access to Records. The Sub-recipient shall give the United States Department of Homeland Security (DHS), the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by the Sub-recipient pertaining to this Sub-recipient agreement including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by the Sub-recipient. The Sub-recipient agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552, Texas Government Code.

C. Inclusion in Subcontracts. The Sub-recipient shall include the substance of this Section in all subcontracts.

### **Subcontracts**

A. TDEM's Approval of Subcontract and Liability. The Sub-recipient may subcontract for performances described in this Sub-recipient agreement without obtaining TDEM's prior written approval.

B. Sub-recipient Liability. In no event shall any provision of this Section be construed as relieving the Sub-recipient of the responsibility for ensuring that the performances rendered under all subcontracts comply with all of this Sub-recipient agreement's terms as if such performances rendered were rendered by the Sub-recipient. TDEM's approval under this Section does not constitute adoption, ratification or acceptance of the Sub-recipient's or a subcontractor's performance.

C. Applicable Law. The Sub-recipient shall comply with 44 C.F.R. § 13.1-13.52 and all applicable federal and state laws outlined in Exhibit A and local laws, regulations and ordinances related to making procurements under this Sub-recipient agreement.

### **Legal Authority**

A. Signatory Authority. The Sub-recipient assures and guarantees that the Sub-recipient possesses the legal authority to enter into this Sub-recipient agreement, receive Sub-recipient agreement funds and to perform the services the Sub-recipient has obligated itself to perform pursuant to this Sub-recipient agreement.

B. Authorized Representative. The person or persons signing and executing this Sub-recipient agreement on the Sub-recipient's behalf do warrant and guarantee that he, she or they have been duly authorized by the Sub-recipient to execute this Sub-recipient agreement on the Sub-recipient's behalf and to validly and legally bind the Sub-recipient to all contractual terms, performances and provisions.

### **Notice of Litigation and Claims**

The Sub-recipient shall give TDEM immediate notice in writing of:

1. any action, including any proceeding before an administrative agency, filed against the Sub-recipient arising out the performance of any subcontract under this Sub-recipient agreement; and
2. any claim against the Sub-recipient, the cost and expense of which the Sub-recipient may be entitled to be reimbursed by DHS/FEMA grant programs.

Except as otherwise directed by TDEM, the Sub-recipient shall furnish immediately to TDEM copies of all documentation received by the Sub-recipient with respect to such action or claim.

### **Indemnification**

To the extent permitted by law, the Sub-recipient agrees to hold TDEM harmless and to indemnify TDEM from and against any and all claims, demands and causes of action of every kind and character that may be asserted by any party occurring or in any way incident to, arising out of or in connection with the services to be performed by the Sub-recipient pursuant to this Sub-recipient agreement.

## Changes and Amendments

A. Written Amendment. Except as specifically provided otherwise in this Sub-recipient agreement, any alterations, additions or deletions to this Sub-recipient agreement's terms shall be made through Grant Adjustment Notices generated by the SAA web-based grants management system and executed by the Parties.

B. Authority to Amend. During the period of this Sub-recipient agreement's performance TDEM and/or FEMA may issue policy directives that serve to establish, interpret or clarify this Sub-recipient agreement's performance requirements. Such policy directives shall be promulgated by TDEM or FEMA in the form of Information Bulletins and shall have the effect of qualifying this Sub-recipient agreement's terms and shall be binding upon the Sub-recipient as if written in the Sub-recipient agreement.

C. Effect of Changes in Federal and State Laws. Any alterations, additions, or deletions to this Sub-recipient agreement's terms that are required by the changes in federal and state laws or regulations are automatically incorporated into this Sub-recipient agreement without written amendment to this Sub-recipient agreement and shall become effective on the date designated by such law or regulation. Federal Emergency Management Agency (FEMA) periodically publishes Information Bulletins to release, update, amend or clarify grants and programs which it administers. FEMA's National Preparedness Directorate Information Bulletins can be accessed at <http://www.ojp.usdoj.gov/odp/docs/bulletins.htm> and are incorporated by reference into this sub-grant.

## Headings

Headings and captions of this Sub-recipient agreement's sections and paragraphs are only for convenience and reference. These headings and captions shall not affect or modify this Sub-recipient agreement's terms or be used to interpret or assist in the construction of this Sub-recipient agreement.

## Oral and Written Agreements

A. Prior Agreements. All oral and written agreements between the Parties relating to this Sub-recipient agreement's subject matter that were made prior to Date of Execution have been reduced to writing and are contained in this Sub-recipient agreement.

B. Exhibits. The exhibits enumerated and denominated in the agreement are hereby made a part of this Sub-recipient agreement and constitute promised performances by the Sub-recipient in accordance with the Sub-recipient agreement and the Exhibits.

C. Commissioner's Signature. This Sub-recipient agreement is not effective unless signed by the Chief of TDEM or by his authorized designee.

## Waiver

Any right or remedy provided for in this Sub-recipient agreement provision shall not preclude the exercise of any other right or remedy under this Sub-recipient agreement or under any provision of law, nor shall any action taken or failure to take action in the exercise of any right or remedy be deemed a waiver of any other rights or remedies at any time.

## Venue

For purposes of litigation pursuant to this Sub-recipient agreement, venue shall lie in Travis County, Texas, and be governed by Texas Statute.

## EXHIBIT A

### THE APPLICABLE LAWS AND REGULATIONS

The Sub-recipient shall comply with OMB Circular A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and 44 C.F.R. Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Sub-recipients shall also comply with 2C.F.R. Part 215, Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, 2C.F.R. Parts 225, State and Local Governments, Part 220, Educational Institutions; and Part 230, Non-Profit Organizations. Compliance with Federal Acquisition Regulation Sub-part 31.2, Contracts with Commercial organizations is required. Sub-recipient shall also comply with all other federal, state, and local laws and regulations applicable to this Sub-recipient agreement's activities and performances rendered by the Sub-recipient including but not limited to the laws and the regulations promulgated hereunder and specified in State Administrative Agency Information Bulletins, Texas Uniform Grants Management Standards (UGMS) and Paragraph A through M of this Exhibit.

A. CIVIL RIGHTS - Title VI of the Civil Rights Act of 1964, as amended. (42 U.S.C. § 2000d et seq.); (44 C.F.R. 7.1)  
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+2957+3++%28civil%20ri>  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_07/44cfr7\\_07.html](http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr7_07.html)

B. HANDICAP AND ARCHITECTURAL BARRIERS - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); (44 C.F.R. 16.101)  
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t29t32+363+0++%28Handicap%29> ;  
<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=16&SECTION=101&TYPE=TEXT> ;  
The Sub-recipient shall ensure that the plans and specifications for construction of, improvements to, or the renovation of buildings, related to this project have been received by the Texas Department of Licensing and Regulation (TDLR) concerning the elimination of architectural barriers encountered by persons with disabilities as specified in Chapter 469, Texas Government Code. <http://www.statutes.legis.state.tx.us/?link=GV>

C. ENVIRONMENTAL LAW AND AUTHORITIES - In accordance with the provisions of law cited in 44 C.F.R. § 10.8, the responsible entity shall assume the environmental responsibilities for projects under programs cited in §10.1, and in doing so shall comply with the provisions of the National Environmental Policy Act of 1969, as amended and the Council on Environmental Quality regulations contained in 40 C.F.R. parts 1500 through 1508.  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_07/40cfr1501\\_07.html](http://www.access.gpo.gov/nara/cfr/waisidx_07/40cfr1501_07.html) ; (44 C.F.R. 10.1)  
[http://edocket.access.gpo.gov/cfr\\_2007/octqtr/44cfr10.1.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/44cfr10.1.htm)

D. LABOR STANDARDS - The Davis-Bacon Act, as amended (40 U.S.C. § 3142)  
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t37t40+1723+1++%28%29%20%20A> ;  
The Contract Work Hours & Safety Standards Act (40 U.S.C. § 3702)  
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t37t40+1765+1++%28%29%20%20A> ;  
The Copeland "Anti-Kickback" Act (18 U.S.C. § 874)  
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t17t20+511+0++%28%29%20%20AN>

E. FREEDOM OF INFORMATION ACT - (5 U.S.C. 552); (44 C.F.R. 5.1)  
[http://edocket.access.gpo.gov/cfr\\_2007/octqtr/44cfr5.1.htm](http://edocket.access.gpo.gov/cfr_2007/octqtr/44cfr5.1.htm) ;  
[http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t05t08+26+0++%28information%](http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t05t08+26+0++%28information%28)

F. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 - If the Sub-recipient is a governmental entity, it must comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and (Federal Assurance) - (42 U.S.C. 4601); (44 C.F.R. 25.1)  
<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=25&SECTION=1&TYPE=TEXT>  
<http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t41t42+4568+1++%28%29%20%20A>

G. FAITH-BASED ACTIVITIES - Executive Order 13279 of December 12, 2002 - Equal Protection of the Laws for Faith-Based and Community Organizations, (67 Fed. Reg. 77141) <http://edocket.access.gpo.gov/2002/pdf/02-31831.pdf>

H. NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AND THE INCIDENT COMMAND SYSTEM (ICS) - Sub-Recipients must have adopted and be implementing the National Incident Management System (NIMS) and the Incident Command System (ICS) at the local level. <http://www.fema.gov/emergency/nims>

I. PROGRAM INCOME - If a Sub-recipient is approved for an advance, the funds must be deposited in a separate interest bearing account and are subject to the rules outlined in the Uniform Rule 28C.F.R. Part 66, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, at [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/28cfr66\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/28cfr66_03.html) and the Uniform Rule 28C.F.R. Part 70, Uniform Administrative Requirements for Grants and Agreements (including sub-awards) with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations, at [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/28cfr70\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/28cfr70_03.html). Sub-recipients must report any interest earned to TDEM/SAA. Any interest earned in excess of \$100 must, on a quarterly basis, be remitted to:

United States Department of Health and Human Services  
Division of Payment Management Services  
P.O. Box 6021  
Rockville, MD 20852

J. AUDITS - The Sub-recipient shall arrange for the performance of an annual financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement under the Single Audit Act (OMB Circular A – 133; 44 C.F.R. 13.26)

<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=13&SECTION=26&TYPE=TEXT> ;  
[http://www.dhs.gov/xopnbiz/grants/gc\\_1162481125903.shtm](http://www.dhs.gov/xopnbiz/grants/gc_1162481125903.shtm)

K. GRANT ADMINISTRATION - The Sub-recipient will also comply with Texas Government Code, Chapter 783, <http://www.statutes.legis.state.tx.us/?link=GV> ; and the Uniform Grant Management Standards (UGMS), State Uniform Administrative Requirements for Grants and Cooperative Agreements, [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=T&app=9&p\\_dir=N&p\\_rloc=111847&p\\_floc=&p\\_ploc=1&pg=2&p\\_tac=&ti=1&pt=1&ch=5&rl=141](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=T&app=9&p_dir=N&p_rloc=111847&p_floc=&p_ploc=1&pg=2&p_tac=&ti=1&pt=1&ch=5&rl=141)

Sub-recipients must also comply with 44, C.F.R., Part 13, [http://www.access.gpo.gov/nara/cfr/waisidx\\_07/44cfr13\\_07.html](http://www.access.gpo.gov/nara/cfr/waisidx_07/44cfr13_07.html) ; with 2C.F.R. Part 215 [http://www.access.gpo.gov/nara/cfr/waisidx\\_08/2cfrv1\\_08.html#215](http://www.access.gpo.gov/nara/cfr/waisidx_08/2cfrv1_08.html#215) , 2C.F.R. Part 225, Part 220 and Part 230.

L. PROPERTY ADMINISTRATION – TAC Title 1, Part 5, Chapter 116, [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=3&ti=1&pt=5](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=3&ti=1&pt=5)

M. PUBLICATIONS – 44 C.F.R., Section 13.34  
<http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=44&PART=13&SECTION=34&TYPE=TEXT>

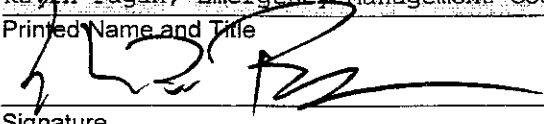
1. Sub-recipient acknowledges that FEMA National Preparedness Directorate reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (1) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a recipient or Sub-recipient purchases ownership with Federal support. The Recipient agrees to consult with NPD regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

2. The Sub-recipient agrees that all publications created with funding under this grant shall prominently contain the following statement: "This Document was prepared under a grant from the National Preparedness Directorate, United States Department of Homeland Security. Point of view or opinions expressed in the document are those of the authors and do not necessarily represent the official position or policies of U.S. Department of Homeland Security."

**Governor's Division of Emergency Management  
 State Administrative Agency  
 Homeland Security Grant Program  
 Property Transfer Record Agreement**

Transferred From: Hidalgo County Emergency Management  
 Name of Organization (Homeland Security Grant Sub-Recipient)  
1615 S. Closner, Ste. G Edinburg, TX 78539  
 Street/Mailing Address, City, County, Zip  
Oscar Montoya, Emergency Management Coordinator  
 Printed Name and Title

Signature \_\_\_\_\_ Date \_\_\_\_\_

Transferred To: City of McAllen  
 Name of Organization (Homeland Security Grant Sub-Recipient)  
1300 Houston Avenue McAllen, TX 78501  
 Street/Mailing Address, City, County, Zip  
Kevin Pagan, Emergency Management Coordinator  
 Printed Name and Title  
  
 Signature \_\_\_\_\_ Date 6-14-11

This is to certify that the property described below was acquired by the expenditure of:  
2009 SHSP/LEAP GRANT

(name and year of grant)

funds awarded to the above named Homeland Security Grant Sub-Recipient(Grantor). The jurisdiction/organization receiving the property (Grantee) certifies that they have knowledge of the laws, rules and regulations of the aforementioned grant for the year of the award. The Grantee further certifies that they agree to be bound by all the contract covenants and exhibits to the Grantor's Sub-Recipient agreement and any modifications or amendments to that agreement as if they were written here. The Grantor and Grantee further certify that they are duly authorized and empowered by their governing body to enter into this agreement. The Grantor further certifies that the Grantee has complied with all State and Federal eligibility requirements.

Property being transferred

Item description: 2-Expandable Site SubSystem  
 Item Control Number: \_\_\_\_\_  
 Serial Number/VIN: \_\_\_\_\_  
 Model Number: GRR 8000  
 Acquisition Date: \_\_\_\_\_  
 Unit Cost: \$91,835.74

This form is provided for the benefit of grant administration. GDEM/SAA cannot advise sub-recipients about the legality of any specific property transfers. Sub-recipients should consult with their own legal counsel concerning compliance with all relevant laws, including state and local requirements.

# List of Equipment

City of McAllen (McAllen-Flemingo Tower)

QTY	MODEL	ITEM	HGAC UNIT	HGAC EXTENDED
1	SQM01SUM7054A	GRT 8000 EXPANDABLE SITE SUB-SYSTEM	\$ 5,100.00	\$ 5,100.00
1	CA00855AA	ADD: 700/800 MHZ MID POWER	\$ 5,355.00	\$ 5,355.00
1	X301AE	ADD: QTY (1) GTR 8000 BASE RADIO	\$10,115.00	\$10,115.00
1	X591AE	ENH: ASTRO 25 SITE REPEATER SW	\$ 9,095.00	\$ 9,095.00
1	CA00862AA	ADD: SITE & CABINET RMC W/CAPABILITY OF 7-24BRS	\$ 1,785.00	\$ 1,785.00
1	CA00880AA	ADD: EXPANSION 6 PORT CAVITY COMBINER	\$ 7,140.00	\$ 7,140.00
1	CA1058AA	ADD: 700/800 PHASING HARNESS	\$ 850.00	\$ 850.00
2	CA00884AA	ADD:QTY (1) XHUB	\$ 2,975.00	\$ 5,950.00
1	X882H	ADD: 7.5 FT OPEN RACH, 48RU	\$ 420.75	\$ 420.75
10	L1700	CABLE: 3/8" SUPERFLEX POLY JKT PER FOOT	\$ 1.71	\$ 17.10
2	DSFITBMC	3/4" BNC MALE CONNECTOR	\$ 20.48	\$ 40.96
2	DDN9769	3/4" TYPE N MALE CONNECTOR FOR FSJ1-50A CABLE	\$ 24.53	\$ 49.06
		TOTAL		\$45,917.87

City of McAllen (Linn/San Manuel)

QTY	MODEL	ITEM	HGAC UNIT	HGAC EXTENDED
1	SQM01SUM7054A	GRT 8000 EXPANDABLE SITE SUB-SYSTEM	\$ 5,100.00	\$ 5,100.00
1	CA00855AA	ADD: 700/800 MHZ MID POWER	\$ 5,355.00	\$ 5,355.00
1	X301AE	ADD: QTY (1) GTR 8000 BASE RADIO	\$10,115.00	\$10,115.00
1	X591AE	ENH: ASTRO 25 SITE REPEATER SW	\$ 9,095.00	\$ 9,095.00
1	CA00862AA	ADD: SITE & CABINET RMC W/CAPABILITY OF 7-24BRS	\$ 1,785.00	\$ 1,785.00
1	CA00880AA	ADD: EXPANSION 6 PORT CAVITY COMBINER	\$ 7,140.00	\$ 7,140.00
1	CA1058AA	ADD: 700/800 PHASING HARNESS	\$ 850.00	\$ 850.00
2	CA00884AA	ADD:QTY (1) XHUB	\$ 2,975.00	\$ 5,950.00
1	X882H	ADD: 7.5 FT OPEN RACH, 48RU	\$ 420.75	\$ 420.75
10	L1700	CABLE: 3/8" SUPERFLEX POLY JKT PER FOOT	\$ 1.71	\$ 17.10
2	DSFITBMC	3/4" BNC MALE CONNECTOR	\$ 20.48	\$ 40.96
2	DDN9769	3/4" TYPE N MALE CONNECTOR FOR FSJ1-50A CABLE	\$ 24.53	\$ 49.06
		TOTAL		\$45,917.87

Entity Name . . . . . McAllen  
 Entity ID . . . . . 9667  
 Contract Type / ID . . . LIAB / 12 10-01-10 to 10-01-11

**LIABILITY DECLARATIONS OF COVERAGE**

**GENERAL LIABILITY**

Limits of Liability	: \$ 2,000,000	Each Occurrence
Sudden Events Involving Pollution	: \$ 2,000,000	Each Occurrence
	: \$ 4,000,000	Annual Aggregate
Deductible	: \$ 10,000	Each Occurrence
Annual Contribution	: \$ 80,003	Effective : 10-01-10
Billable Contribution	: \$ 80,003	Anniversary: 10-01-11

**LAW ENFORCEMENT LIABILITY**

Limits of Liability	: \$ 2,000,000	Each Occurrence
	: \$ 4,000,000	Annual Aggregate
Deductible	: \$ 25,000	Each Occurrence
Annual Contribution	: \$ 135,858	Effective : 10-01-10
Billable Contribution	: \$ 135,858	Anniversary: 10-01-11

**ERRORS & OMISSIONS LIABILITY**

\* \* \* \* Coverage Not Selected \* \* \* \*

**TOTAL CONTRIBUTION**

Total Billable Contribution : \$	215,861	Contract Effective : 10-01-10
		Contract Anniversary: 10-01-11

Coverage is continuous until cancelled. Contributions are subject to adjustment each year on the anniversary date based on updated exposure information and changes in rating.