

## ITEM 10.G.

### MOORPARK CITY COUNCIL AGENDA REPORT

**TO:** The Honorable City Council

**FROM:** John Brand, Senior Management Analyst *JB*

**DATE:** August 19, 2009 (CC meeting of September 2, 2009)

**SUBJECT:** Consider Resolution Authorizing Submittal of an Emergency Management Performance Grant Application, and Amending Fiscal Year 2009-2010 Budget to Reflect \$9,047.72 in Grant Revenue

#### SUMMARY

The City Council is being asked to consider authorizing submittal of the City's application for an Emergency Management Performance Grant in the amount of \$9,047.72 for the purpose of implementing eligible emergency preparedness activities.

#### BACKGROUND

The federal Department of Homeland Security's Emergency Preparedness and Response Directorate, better known as the Federal Emergency Management Agency (FEMA), provides grants to help state and local governments better prepare for and respond to all hazards, disasters, and emergency situations. The Emergency Management Performance Grant (EMPG) program provides states the flexibility to allocate funds according to risk vulnerabilities and to address the most urgent state and local needs in disaster mitigation, preparedness, response, and recovery. The need to enhance emergency management systems in California was recognized in the Governor's Executive Order (S-02-05) and demonstrated in the lessons learned from the 2005 Katrina and Rita disasters in the south and gulf states. The EMPG program provides an opportunity to achieve greater integration of emergency management systems at all levels of government.

The purpose of the Fiscal Year 2009 Emergency Management Performance Grant (FY09 EMPG) is to support comprehensive emergency management at the state, tribal and local levels and to encourage the improvement of mitigation, preparedness, response, and recovery capabilities for all hazards. Funds provided under the EMPG must be used to support activities that contribute to the Operational Area's capability to prevent, prepare for, mitigate against, respond to, and recover from emergencies and disasters, whether natural

or man-made. Towards this end, the State Office of Emergency Services has established emergency management priorities, goals, and objectives for California. Operational Area activities under this subgrant must be tied to these priorities, goals, and objectives. The goals address five main categories:

1. Partnership and Leadership
2. Planning and Operations
3. Infrastructure and Communication
4. Education, Training, and Exercises
5. Funding and Resources

The FY09 EMPG requires a dollar-for-dollar match. This can be cash or in-kind. The City's required match may be met primarily with in-kind contributions of staff time. Any match in cash would be in for materials, equipment, or supplies included in the FY 2009-2010 budget for Emergency Management.

## **DISCUSSION**

The California Emergency Management Agency has approved the County of Ventura's Fiscal Year 2009 Emergency Management Performance Grant application in the amount of \$177,757. As a member of the Ventura County Operational Area, the city of Moorpark is included as a subgrantee in the County of Ventura's application.

As the Operational Area lead agency, the Ventura County Sheriff's Office of Emergency Services (OES) will retain about half that amount, with the remainder to be divided by 11 (10 cities and the unincorporated areas) on a per capita basis. Moorpark is entitled to receive a total of \$9,047.72. Staff proposes to claim the entire amount available to the City.

The City must adopt a resolution (Attachment "A"); a state resolution form (Attachment "B"); and an Application for Assistance (Attachment "C") to receive the money, which is paid on a reimbursement basis. The City's funding request must be consistent with the state's goals and objectives for the funds. Staff proposes using portions of the EMPG funds to offset the City's General Fund expenditures for its Emergency Management program in the following areas:

1. Hazard Mitigation Plan Update
2. Emergency Operations Center (EOC) and National Incident Management System (NIMS) Staff Training
3. Implementation of Emergency Notifications Override on MPTV 10 Preparedness

The EMPG grant may be used to help pay for eligible expenses listed above and can include

staff training, equipment, and supplies.

**FISCAL IMPACT**

If approved, City General Fund (1000) revenue would increase by \$9,047.72. These funds will offset previously approved General Fund (1000) expenditures for its Emergency Management program.

**STAFF RECOMMENDATION**                      **(ROLL CALL VOTE)**

Approve the grant funding request and adopt Resolution No. 2009-\_\_\_\_\_.

- |                |                                 |
|----------------|---------------------------------|
| Attachment "A" | EMPG Resolution                 |
| Attachment "B" | State OES Resolution Form       |
| Attachment "C" | EMPG Application For Assistance |

Attachment "A"

RESOLUTION NO. 2009-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AUTHORIZING SUBMITTAL OF AN EMERGENCY MANAGEMENT PERFORMANCE GRANT, AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AGREEMENTS, CONTRACTS, AND REQUESTS FOR PAYMENT, AND AMENDING THE FY 2009-2010 BUDGET TO REFLECT THE GRANT REVENUE

WHEREAS, the Moorpark City Council recognizes that it is in the public interest to implement programs to support homeland security, emergency preparedness, and disaster response; and

WHEREAS, the United States Congress has provided Emergency Management Performance Grant (EMPG) funds that may be used for necessary and essential expenses involved in the development, maintenance, and improvement of state and local emergency management programs; and

WHEREAS, the state of California has been allocated federal EMPG funds and subgranted certain EMPG funds to designated county Operational Areas; and

WHEREAS, the County of Ventura Sheriff's Office of Emergency Services, as lead agency for the Ventura County Operational Area, has designated EMPG funds that are available to the City of Moorpark.

WHEREAS, on July 1, 2009, the City Council adopted the budget for Fiscal Year 2009/2010; and

WHEREAS, a budget amendment of \$9,047.72 in the General Fund (1000) is requested to reflect the grant revenue.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Moorpark authorizes the submittal of an Emergency Management Performance Grant (EMPG) in accordance with grant guidelines established by the Governor's Office of Emergency Services; and

SECTION 2. The City Manager; Assistant City Manager; Senior Management Analyst coordinating Emergency Management Services; or a designee named by the City Manager, is hereby authorized and empowered to execute in the name of the City of Moorpark any actions necessary for the purpose of obtaining federal financial assistance provided by the federal Department of Homeland Security and subgranted through the state of California, including all necessary applications, contracts, payment requests, agreements and amendments for the purposes of securing grant funds and to implement and carry out the purposes specified in the grant application.

SECTION 3. The Fiscal Year 2009-2010 budget is amended to reflect the grant revenue as shown in "Exhibit 1".

SECTION 4. The City Clerk shall certify to the adoption of the resolution and shall cause a certified resolution to be filed in the book of original Resolutions.

PASSED AND ADOPTED this 2<sup>nd</sup> day of September 2009.

\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Deborah S. Traffenstedt, City Clerk

Attachment: Exhibit 1

**EXHIBIT 1**

**BUDGET AMENDMENT FOR GENERAL FUND (1000)  
EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG)  
FY 2009-2010**

**FUND ALLOCATION TO:**

<b>Fund</b>	<b>Account Number</b>	<b>Amount</b>
General Fund	1000-5500	\$ (9,047.72)
		\$ -
Total		\$ (9,047.72)

**DISTRIBUTION OF REVENUE ACCOUNTS:**

<b>Account Number</b>	<b>Current Budget</b>	<b>Revision</b>	<b>Amended Budget</b>
1000-3617	\$ 0.00	\$ 9,047.72	\$ 9,047.72
	\$ -		\$ -
	\$ -		\$ -
	\$ -		\$ -
	\$ -		\$ -
	\$ -		\$ -
Total	\$ 0.00	\$ 9,047.72	\$ 9,047.72

Approved as to Form: 

Attachment "B"

**Governing Body Resolution**

BE IT RESOLVED BY THE City Council  
(Governing Body)

OF THE City of Moorpark THAT  
(Name of Applicant)

the City Manager OR  
(Name or Title of Authorized Agent)

the Assistant City Manager OR  
(Name or Title of Authorized Agent)

the Senior Management Analyst coordinating Emergency Management Services ,  
(Name or Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the named applicant, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining federal financial assistance provided by the federal Department of Homeland Security and subgranted through the State of California.

Passed and approved this 2<sup>nd</sup> day of September , 2009

**Certification**

I, \_\_\_\_\_, duly appointed and  
(Name)  
\_\_\_\_\_ of the \_\_\_\_\_  
(Title) (Governing Body)

do hereby certify that the above is a true and correct copy of a resolution passed and approved by  
the \_\_\_\_\_ of the City of Moorpark on the  
(Governing body) (Name of Applicant)  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Official Position)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Attachment "C"**  
**FY 2009 EMERGENCY MANAGEMENT PERFORMANCE GRANT**  
**APPLICATION FOR ASSISTANCE**

**APPLICANT:** City of Moorpark  
*Jurisdiction*

**CONTACT INFORMATION:**

799 Moorpark Avenue  
*Mailing Address*

John Brand, Senior Management Analyst  
*Name/Title*

Moorpark, CA 93021  
*City, State, Zip Code*

(805) 517-6248  
*Area Code/Office Telephone Number*

jbrand@ci.moorpark.ca.us  
*E-mail Address*

<b>Maximum Amount Allowed</b>	<b>\$9,047.72</b>
<b>Amount Requested Per Budget Worksheet</b>	<b>\$9,047.72</b>

**APPLICATION CHECKLIST:** All of the following items must be included with this subgrant application package.

Application for Assistance  
 Program Narrative  
 Budget Worksheet

Governing Body Resolution  
 Grant Assurances

**CERTIFICATION AND SIGNATURE OF AUTHORIZED AGENT**

*I hereby certify I am vested with the authority, and have the approval of the jurisdiction, to enter into this subgrant award agreement; and all funds received pursuant to this agreement will be spent exclusively on the purposes specified. The grant recipient signifies acceptance of this grant award and agrees to administer the subgrant in accordance with the laws, regulations, guidance documents that apply to this grant program; the CalEMA Recipient Subgrant Guide for Local Governments; and the CalEMA audit requirements.*

\_\_\_\_\_  
*Signature of Authorized Agent*

Steven Kueny, City Manager  
*Printed Name*

City Manager  
*Title*

\_\_\_\_\_  
*Date*

**FOR VCSD OES USE ONLY**

**APPLICATION REVIEWED/SUBGRANT AWARD APPROVED BY:** \_\_\_\_\_  
*Reviewer Signature*

**APPLICATION REVIEWED/SUBGRANT AWARD APPROVED ON:** \_\_\_\_\_  
*Date*

**SUBGRANT PERFORMANCE PERIOD:** July 01, 2009 to March 31, 2010

**OES ID#** 111-00000      **CFDA#** 97.042      **AWARD#** 2009-0015

Attachment "C"  
PROGRAM NARRATIVE

---

**OVERVIEW:**

The City of Moorpark continues its commitment to emergency preparedness and disaster response with equipment, training, and community outreach. The City requests EMPG funds to support City Local Hazard Mitigation Plan, staff training including CPR, AED operation, first aid, and an EOC tabletop exercise and response drill. Additionally, EMPG funds may be used for public outreach as the city implements an emergency notification system for its government access channel that can be activated offsite by authorized staff. The City is anticipating a Homeland Security Emergency Management Performance Grant for \$9,280 in FY 2008-2009 to support some of these expenditures.

GOAL/OBJECTIVE	ACTIVITY	TASK/S TO BE COMPLETED
B – 1, 3	Update Local Hazard Mitigation Plan	August 2009 – Committee Kickoff September 2009 – Develop Draft December – Review draft Update January 2010 – Final Plan Adoption by City Council
B – 1 D – 1,2,3	EOC and NIMS Training	February – EOC tabletop
B – 1, 2	Implement Emergency Notification override of MPTV 10 City TV channel, including off-site activation	December 2009 – Develop Emergency message slides March 2010 – Test launch system

Attachment "C"  
BUDGET WORKSHEET

---

Double click on the chart below to open it as an Excel spreadsheet.

Equipment Expenses	
Exercise Expenses	
Operating Expenses	\$ 9,047.72
Personnel Expenses	
Training Expenses	
TOTAL	\$ 9,047.72

**Attachment "C"**  
**Governing Body Resolution**

BE IT RESOLVED BY THE City Council  
(Governing Body)

OF THE City of Moorpark THAT  
(Name of Applicant)

the City Manager OR  
(Name or Title of Authorized Agent)

the Assistant City Manager OR  
(Name or Title of Authorized Agent)

the Senior Management Analyst coordinating Emergency Management Services ,  
(Name or Title of Authorized Agent)

*is hereby authorized to execute for and on behalf of the named applicant, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining federal financial assistance provided by the federal Department of Homeland Security and subgranted through the State of California.*

Passed and approved this 2<sup>nd</sup> day of September , 2009

**Certification**

I, Deborah S. Traffenstedt , duly appointed and  
(Name)

Administrative Services Director and City Clerk of the City of Moorpark  
(Title) (Governing Body)

do hereby certify that the above is a true and correct copy of a resolution passed and approved by

the City Council of the City of Moorpark on the  
(Governing body) (Name of Applicant)

2<sup>nd</sup> day of September , 2009

Administrative Services Director and City Clerk  
(Official Position)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

## Attachment "C"

### FY 2009 Emergency Management Performance Grant Assurances, Certifications, Terms, and Conditions

#### ASSURANCES

The applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-87, A-102, A-133; Executive Order 12372 (intergovernmental review of federal programs); and 44 C.F.R. pt.13 (administrative requirements for grants and cooperative agreements). The applicant also specifically assures and certifies that:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. 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.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 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).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) 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) §§ 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 non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

## Attachment "C"

7. Will comply, or has already complied, with the requirements of Titles II and 111 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-33.3), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93234) 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 which 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 (Clear Air) Implementation Plans under Section 176(c) of the Clear 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).
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 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 protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. 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.
15. Will comply 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.

## Attachment "C"

16. Will comply 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.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 or OMB Circular No. A-133, Audits of Institutions of Higher Learning and other Non-profit Institutions.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

### CERTIFICATIONS

#### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

#### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31,

## Attachment "C"

U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### 2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT):

As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR, Part 17:

#### A. The applicant certifies that it 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 application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (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 application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

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

### 3. CERTIFICATIONS REGARDING DRUG-FREE WORKPLACE REQUIREMENTS: This certification commits the applicant to compliance with the certification requirements under 44 CFR, Part 17 *Government-wide Requirements for Drug-Free Workplace (Grants)*.

#### A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about—
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and

## Attachment "C"

- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) 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 (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
  - (1) Abide by the terms of the statement; and
  - (2) 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;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
  - (1) 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
  - (2) 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;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

#### 4. SWEATFREE CODE OF CONDUCT:

- a. All applicants contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the subgrant have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The applicant further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.
- b. The applicant agrees to cooperate fully in providing reasonable access to the applicant's records, documents, agents or employees, or premises if reasonably required by authorized officials of the

## Attachment "C"

contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

5. **DOMESTIC PARTNERS:** For subgrants executed or amended after July 1, 2004, the applicant may elect to offer domestic partner benefits to the applicant's employees in accordance with Public Contract Code section 10295.3. However, the applicant cannot require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

### **TERMS AND CONDITIONS**

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST:** Applicant needs to be aware of the following provisions regarding current or former state employees. If subgrantee has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

#### *Current State Employees (Public Contract Code §10410):*

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

#### *Former State Employees (Public Contract Code §10411):*

- 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If applicant violates any provisions of above paragraphs, such action by applicant shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION:** Applicant needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to

**Attachment "C"**

undertake self-insurance in accordance with the provisions, and applicant affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. **AMERICANS WITH DISABILITIES ACT:** Applicant assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
4. **APPLICANT NAME CHANGE:** An amendment is required to change the applicant's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
5. **RESOLUTION:** A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
6. **AIR OR WATER POLLUTION VIOLATION:** Under the State laws, the applicant shall not be:
  - (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
  - (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
  - (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and applicant may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the applicant has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective jurisdiction to the assurances and certifications listed above.

<i>Jurisdiction (Printed)</i> City of Moorpark	
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i> Steven Kueny, City Manager	
<i>Date Executed</i>	