

ORIGINAL

AGREEMENT FOR PURCHASE OF 700 MHZ PORTABLE RADIOS
TO ESTABLISH A COUNTYWIDE EMERGENCY
COMMUNICATIONS SYSTEM USING
PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS
GRANT FUNDING

SUB-RECIPIENT: CITY OF COSTA MESA

Santa Ana Contract Number _____

Agreement Number: _____

AGREEMENT FOR PURCHASE OF RADIO EQUIPMENT
FOR FY07 PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS (PSIC)

THIS AGREEMENT is made and entered into this _____ day of _____, 2009, by and between, the City of Santa Ana ("GRANT ADMINISTRATOR") and the City of Costa Mesa ("SUBRECIPIENT"). The entities are sometimes hereinafter referred to as "PARTIES".

WITNESSETH

WHEREAS, the Federal Department of Homeland Security (DHS), in conjunction with the Office of Emergency Communication (OEC) and the Federal Emergency Management Agency (FEMA) has established the FY07 Public Safety Interoperable Communications (PSIC) grant program to assist public safety agencies in the acquisition of, deployment of, or training for use of interoperable communications systems; and

WHEREAS, the California Office of Homeland Security has been designated the state agency to administer PSIC grant funds; and

WHEREAS, GRANT ADMINISTRATOR, acting through the Santa Ana Police Department in its capacity as the lead agency for the Anaheim/Santa Ana Urban Area, is an authorized Planning Area for the PSIC Grant Program. As such, GRANT ADMINISTRATOR is authorized to apply for and administer PSIC Grant Funds obtained through the State of California Office of Homeland Security, in accordance with the California Statewide Interoperability Executive Committee (CALSIEC) guidelines (hereinafter referred to as "the Grant"), to enhance regional interoperable communications.

WHEREAS, Operational Areas (OA) not designated as Planning Areas are eligible for PSIC funding, through a designated Planning Area; and

WHEREAS, this financial assistance is administered by the GRANT ADMINISTRATOR and is overseen by the California Office of Homeland Security (OHS); and

WHEREAS, this financial assistance is being provided to assist public safety agencies in the acquisition of, deployment of or training in the use of regional interoperable communications systems; and

WHEREAS, the SUBRECIPIENT desires to submit a PSIC Grant Project through GRANT ADMINISTRATOR; and

WHEREAS, GRANT ADMINISTRATOR has agreed to act as the SUBRECIPIENT'S representative subgrantee; and

WHEREAS, CALSIEC has designated the Chief of Police and the Santa Ana Police Department, Homeland Security Division ("UASI Grant Office") to provide for emergency preparedness and interoperable communications; and

WHEREAS, the UASI Grant Office now wishes to distribute FY07 PSIC Grant Funds to develop a 700 MHz system throughout Orange County, as further detailed in this Agreement ("Agreement");

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

TERM AND SERVICES TO BE PROVIDED

§101. Time of Performance

The term of this Agreement shall commence on October 1, 2008 and end on March 31, 2010 or upon the final disbursement of the Grant Amount (as defined in Section 201) and any additional period of time as is required to complete any necessary close out activities. Said term is subject to the provisions herein.

§102. Use of Grant Funds

The GRANT ADMINISTRATOR and SUBRECIPIENT intend to develop a countywide interoperable communications system to operate on the 700 MHz band. The funds for the radio equipment will be available through this Agreement. The County of Orange has contracted with Motorola, Inc., to sell the radio equipment through the GRANT ADMINISTRATOR to public safety agencies in Orange County, at the price set forth in Exhibit A. The County of Orange will provide programming of equipment purchased pursuant to this Agreement, at SUBRECIPIENT'S expense.

- A. Each SUBRECIPIENT may purchase authorized 700 MHz equipment in the quantities set forth in Exhibit A, attached hereto and incorporated by this reference, in accordance with grant guidelines. SUBRECIPIENT shall provide a match of twenty percent (20%) of total project cost (i.e. \$100 PSIC Funds + 20% match = \$125). If a SUBRECIPIENT is unable to purchase the number of radios allocated pursuant to Exhibit A, GRANT ADMINISTRATOR may reallocate those numbers in order to make maximum use of the funds available.
- B. SUBRECIPIENT agrees that any 700 MHz equipment purchased through PSIC grant funding, will be programmed by County, at SUBRECIPIENT's sole expense, to operate with all other 700 MHz equipment which is part of this Agreement.

- C. Each SUBRECIPIENT shall provide any reports requested by GRANT ADMINISTRATOR regarding the performance of the Agreement. Reports shall be in the form requested by GRANT ADMINISTRATOR, and shall be provided in a timely manner.
- D. Unless otherwise stated in program guidance, any equipment acquired pursuant to this Agreement shall meet all mandatory regulations and/or DHS-adopted standards to be eligible for purchase using grant funds.

Any equipment acquired or obtained with Grant Funds:

1. Shall be made available under the California Disaster and Civil Defense Master Mutual Aid Agreement in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the applicant;
2. Shall be consistent with needs as identified by the California Statewide Interoperability Executive Committee (CALSIEC) and deployed in conformance with CALSIEC policies;
3. Shall be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan;
4. Shall be used by SUBRECIPIENT in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer useful for the original program or project, the Equipment may be used in other activities currently or previously supported by a Federal agency.
5. Shall be made available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency.
6. Shall be recorded on a ledger. This record must be updated bi-annually and forwarded to GRANT ADMINISTRATOR. The record shall include: (a) description of the item of Equipment, (b) manufacturer's model and serial number, (c) Federal Stock number, national stock number, or other identification number; (d) the source of acquisition of the Equipment, including the award number, (e) date of acquisition; (f) the per unit acquisition cost of the Equipment,

(g) records showing maintenance procedures to keep the Equipment in good running order, and (h) location and condition of Equipment. Records must be retained pursuant to 28 C.F.R. Part 66.42.

7. All equipment obtained pursuant to this Agreement will be inscribed with an Orange County identification number.
8. A physical inventory of the Equipment shall be taken and the results reconciled with the Equipment records at least once every year. Inventory shall also be taken prior to any UASI, State or Federal monitor visits.
9. SUBRECIPIENT shall exercise due care to preserve and safeguard equipment acquired with grant funds from damage or destruction and shall provide regular maintenance and such repairs for said equipment as necessary, in order to keep said equipment continually in good working order. Such maintenance and servicing shall be the sole responsibility of SUBRECIPIENT, who shall assume full responsibility for maintenance and repair of the equipment throughout the life of said equipment.

II
PAYMENT

§201. Payment of Grant Funds and Method of Payment

- A. GRANT ADMINISTRATOR will reimburse SUBRECIPIENT for purchase of authorized 700 MHz equipment in the quantity set forth in Exhibit A, attached hereto and incorporated by this reference, in accordance with grant guidelines.
- B. SUBRECIPIENT shall provide quarterly invoices to GRANT ADMINISTRATOR requesting payment and all supporting documentation. Each reimbursement request shall be accompanied by the Reimbursement Request for Grant Expenditures detailing the expenditures made by SUBRECIPIENT, as set forth in Exhibit D, attached hereto. For 700 MHz equipment for which SUBRECIPIENT is requesting reimbursement, all appropriate back-up documentation must be attached to the reimbursement form, including invoices, proof of payment and packing slips.
- C. Payment of final invoice shall be withheld by GRANT ADMINISTRATOR until the SUBRECIPIENT has turned in all supporting documentation and completed the requirements of this Agreement.
- D. It is understood that GRANT ADMINISTRATOR makes no commitment to fund this Agreement beyond the terms set forth herein.
- E. Funding for all periods of this Agreement is subject to the continuing availability of federal funds for this program. The Agreement may be terminated immediately upon written notice to SUBREICIPIENT of a loss, or reduction, of federal grant funds.

§301. Representatives of the Parties and Service of Notices

- A. The representatives of the Parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as set forth on the signature page of this Agreement.
- B. Formal notices, demands and communications to be given hereunder by any Party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.
- C. If the name or address of the person designated to receive the notices, demands or communications is changed, written notice shall be given, in accord with this section, within five (5) business days of said change.

§302. Independent Party

Each SUBRECIPIENT is acting hereunder as an independent party, and not as an agent or employee of GRANT ADMINISTRATOR. No employee of any SUBRECIPIENT is, or shall be an employee of the GRANT ADMINISTRATOR by virtue of this Agreement, and each SUBRECIPIENT shall so inform each employee organization and each employee who is hired or retained under this Agreement. No SUBRECIPIENT shall represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the CITY OF SANTA ANA.

§303. Conditions Precedent to Execution of This Agreement

- A. Each SUBRECIPIENT shall provide executed copies of the Grant Assurances in accordance with section 413C of this Agreement attached hereto as Exhibit B and made part hereof.
- B. Each SUBRECIPIENT shall certify that is has sufficient funds to provide the required match and to complete the project.

IV
STANDARD PROVISIONS

§401. Construction of Provisions and Titles Herein

All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against either party.

§402. Applicable Law, Interpretation and Enforcement

Each SUBRECIPIENT's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the local

government having jurisdiction over said party. This Agreement shall be enforced and interpreted under the laws of the State of California.

If any part, term or provision of this Agreement shall be held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining portions of provisions shall not be affected thereby.

§403. Integrated Agreement

This Agreement sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. This Agreement may be amended only by a written instrument executed by the parties hereto.

§404. Excusable Delays

In the event that performance on the part of any party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder shall include, but not be limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes, freight embargoes or delays in transportation; to the extent that they are not caused by the Party's willful or negligent acts or omissions and to the extent that they are beyond the Party's reasonable control.

§405. Breach

Except for excusable delays, if any Party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

§406. Prohibition Against Assignment or Delegation

No SUBRECIPIENT may, unless it has first obtained the written permission of GRANT ADMINISTRATOR:

- A. Assign or otherwise alienate any of its rights hereunder; or
- B. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

§407. Permits

SUBRECIPIENT, its officers, agents and employees shall obtain and maintain all permits and licenses necessary to SUBRECIPIENT's performance hereunder and shall pay any fees required therefore. Each SUBRECIPIENT further certifies to immediately notify GRANT ADMINISTRATOR of any suspension, termination, lapses, non-renewals or restrictions of licenses, certificates, or other documents.

§408. Nondiscrimination and Affirmative Action

SUBRECIPIENT shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America and the State of California. In performing this Agreement, SUBRECIPIENT shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, mental disability, marital status, domestic partner status or medical condition. SUBRECIPIENT shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

If required, SUBRECIPIENT shall submit an Equal Employment Opportunity Plan ("EEO Plan") to the DOJ Office of Civil Rights ("OCR") in accordance with guidelines listed at <http://www.ojp.usdoj.gov/ocr/eeop.html>,

§409. Bonds

SUBRECIPIENT must purchase a performance bond for any equipment item over \$250,000 or any vehicle (including aircraft or watercraft) financed with PSIC grant funds.

§410. Indemnification

Each of the parties to this Agreement is a public entity. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California, imposing certain tort liability jointly upon public entities, solely by reason of such entities being parties to an Agreement as defined by Section 895 of said Code, the parties hereto, as between themselves, pursuant to the authorization contained in Section 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it or upon any of its officers, agents, or employees by law, for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each party indemnifies and holds harmless the other party solely by virtue of said Section 895.2. The provision of Section 2778 of the California Civil Code is made a part hereto as if fully set forth herein. The Parties hereto certify that each has adequate self insured retention of funds to meet any obligation arising from this Agreement.

§411. Conflict of Interest

- A. Each SUBRECIPIENT covenants that none of its directors, officers, employees, or agents shall participate in selecting, or administering any subcontract supported (in whole or in part) by Federal funds where such person is a director, officer, employee or agent of the subcontractor; or where the selection of subcontractors is or has the appearance of being motivated by a desire for personal gain for themselves or others such as family business, etc.; or where such person knows or should have known that:
1. A member of such person's immediate family, or domestic partner or organization has a financial interest in the subcontract;
 2. The subcontractor is someone with whom such person has or is negotiating any prospective employment; or
 3. The participation of such person would be prohibited by the California Political Reform Act, California Government Code §87100 et seq. if such person were a public officer, because such person would have a "financial or other interest" in the subcontract.
- B. SUBRECIPIENT further covenants that no officer, director, employee, or agent shall solicit or accept gratuities, favors, anything of monetary value from any actual or potential subcontractor, supplier, a party to a sub agreement, (or persons who are otherwise in a position to benefit from the actions of any officer, employee, or agent).
- C. SUBRECIPIENT shall not subcontract with a former director, officer, or employee within a one year period following the termination of the relationship between said person and the Contractor.
- D. For further clarification of the meaning of any of the terms used herein, the parties agree that references shall be made to the guidelines, rules, and laws of the State of California, and Federal regulations regarding conflict of interest.
- E. SUBRECIPIENT warrants that it has not paid or given and will not pay or give to any third person any money or other consideration for obtaining this Agreement.
- F. SUBRECIPIENT covenants that no member, officer or employee of SUBRECIPIENT shall have interest, direct or indirect, in any contract or subcontract or the proceeds thereof for work to be performed in connection with this project during his/her tenure as such employee, member or officer or for one year thereafter.

§412. Restriction on Disclosures

Any reports, analysis, studies, drawings, information, or data generated as a result of this Agreement are to be governed by the California Public Records Act (California Government Code Sec. 6250 et seq.).

§413. Statutes and Regulations Applicable To All Grant Contracts

A. SUBRECIPIENT shall comply with all applicable requirements of state, federal, county and local laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement, including state and federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. SUBRECIPIENT shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, in addition to those certifications set forth in the "Grant Assurances", attached hereto as Exhibit B and incorporated in full by this reference, the following:

1. Single Audit Act

If Federal funds are used in the performance of this Agreement, SUBRECIPIENT shall adhere to the rules and regulations of the Single Audit Act, 31 USC Sec. 7501 et seq.; and any administrative regulation or field memos implementing the Act.

2. Americans with Disabilities Act

SUBRECIPIENT hereby certifies that it will comply with the Americans with Disabilities Act 42, USC §§ 12101 et seq., and its implementing regulations. SUBRECIPIENT will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. SUBRECIPIENT will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the SUBRECIPIENT, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

3. Political and Sectarian Activity Prohibited

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Neither shall any funds provided under this Agreement be used for any purpose designed to support or defeat any pending legislation or administrative regulation. None of the funds provided pursuant to this Agreement shall be used for any sectarian purpose or to support or benefit any sectarian activity.

If this Agreement provides for more than \$100,000.00 in grant funds, SUBRECIPIENT shall submit to GRANT ADMINISTRATOR a Certification Regarding Lobbying and a Disclosure Form, if required, in accordance with 31 USC 1352. A copy of the Certificate is attached hereto as Exhibit C. No funds will be released to SUBRECIPIENT until the Certification is filed.

SUBRECIPIENT shall file a Disclosure Form at the end of each calendar quarter in which there occurs any event requiring disclosure or which materially affects the accuracy of any of the information contained in any Disclosure Form previously filed by SUBRECIPIENT. SUBRECIPIENT shall require that the language of this Certification be included in the award documents for all sub-awards at all tiers and that all subcontractors shall certify and disclose accordingly.

4. Records Inspection

At any time during normal business hours and as often as GRANT ADMINISTRATOR, the U.S. Comptroller General and/or the Auditor General of the State of California may deem necessary, SUBRECIPIENT shall make available for examination all of its records with respect to all matters covered by this Agreement. The U.S. Comptroller General, the Auditor General of the State of California and/or GRANT ADMINISTRATOR, shall have the authority to audit, examine and make excerpts or transcripts from records, including SUBRECIPIENT's invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

SUBRECIPIENT agrees to provide any reports requested by GRANT ADMINISTRATOR regarding performance of the Agreement.

5. Records Maintenance

Records, in their original form, shall be maintained in accordance with requirements prescribed by GRANT ADMINISTRATOR with respect to all matters covered on file for all documents specified in this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Such records shall be retained for a period of three (3) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. GRANT ADMINISTRATOR may, at its discretion, take possession of, retain and audit said records.

Records, in their original form pertaining to matters covered by this Agreement, shall at all times be retained within the County of Orange unless authorization to remove them is granted in writing by GRANT

ADMINISTRATOR.

6. Subcontracts and Procurement

SUBRECIPIENT shall comply with the federal standards in the award of any subcontracts. For purposes of this Agreement, subcontracts shall include but not be limited to purchase agreements, rental or lease agreements, third party agreements, consultant service contracts and construction subcontracts.

SUBRECIPIENT shall ensure that the terms of this Agreement with GRANT ADMINISTRATOR are incorporated into all Subcontractor Agreements.

B. Statutes and Regulations Applicable To This Particular Grant

SUBRECIPIENT shall comply with all applicable requirements of state and federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this particular grant program. SUBRECIPIENT shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

1. Title 28 Code of Federal Regulations (CFR) Part 66; EO 12372; Department of Justice (DOJ) Office of Judicial Programs (OJP) Office of the Comptroller, U.S. Department of Homeland Security, Preparedness Directorate Financial Management Guide; U.S. Department of Homeland Security, Office of Grants and Training, FY 2007 Homeland Security Grant Program – Program Guidance and Application Kit; ODP WMD Training Course Catalogue; and DOJ Office for Civil Rights.

Provisions of 28 CFR applicable to grants and cooperative agreements, including Part 18, Administrative Review Procedures; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services; Part 38, Equal Treatment of Faith-based Organizations; Part 42, Nondiscrimination/Equal employment Opportunities Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; Part 64, Floodplain Management and Wetland

Protection Procedures; Federal laws or regulations applicable to Federal Assistance Programs; Part 69, New Restrictions on Lobbying; Part 70, Uniform Administrative Requirements for Grants

and Cooperative Agreements (including sub-awards) with Institutions of Higher Learning, Hospitals and other Non-Profit Organizations; and Part 83, Government- Wide Requirements for a Drug Free Workplace (grants).

2. Noncompliance

SUBRECIPIENT understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of grant funds, and repayment by SUBRECIPIENT to GRANT ADMINISTRATOR of any unlawful expenditures.

C. Compliance with Grant Assurances

To obtain the Grant Funds, the Grantor required GRANT ADMINISTRATOR to sign certain promises regarding the way the Grant Funds would be spent ("Grant Assurances"), attached hereto as Exhibit B. By signing these Grant Assurances, GRANT ADMINISTRATOR became liable to the Grantor for any funds that are used in violation of the grant requirements. SUBRECIPIENT shall be liable to the Grantor for any funds the Grantor determines SUBRECIPIENT used in violation of these Grant Assurances. SUBRECIPIENT shall indemnify and hold harmless GRANT ADMINISTRATOR for any sums the Grantor determines SUBRECIPIENT used in violation of the Grant Assurances.

§414. Federal, State and Local Taxes

Federal, State and local taxes shall be the responsibility of SUBRECIPIENT as an independent party and not as a SANTA ANA employee.

§415. Inventions, Patents and Copyrights

A. Reporting Procedure for Inventions

If any project produces any invention or discovery (Invention) patentable or otherwise under title 35 of the U.S. Code, including, without limitation, processes and business methods made in the course of work under this Agreement, the SUBRECIPIENT shall report the fact and disclose the Invention promptly and fully to GRANT ADMINISTRATOR. GRANT ADMINISTRATOR shall report the fact and disclose the Invention to the Grantor. Unless there is a prior agreement between GRANT ADMINISTRATOR and the Grantor, the Grantor shall determine whether to seek protection on the Invention. The Grantor shall determine how the rights in the Invention, including rights under any patent issued thereon, will be allocated and administered in order to protect the public interest consistent with the policy ("Policy") embodied in the Federal Acquisition Regulations System, which is based on Ch. 18 of title 35 U.S.C. Sections 200 et seq. (Pub. L. 95-517, Pub. L. 98-620, 37 CFR part 401); Presidential Memorandum on Government Patent Policy to the Heads of the Executive Departments and Agencies, dated 2/18/1983; and Executive Order 12591,

4/10/87, 52 FR 13414, 3 CFR, 1987 Comp., p. 220 (as amended by Executive Order 12618, 12/22/87, 52 FR 48661, 3 CFR, 1987 Comp., p. 262). SUBRECIPIENT hereby agrees to be bound by the Policy, and will contractually require its personnel to be bound by the Policy.

B. Rights to Use Inventions

The State of California shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Invention developed under this Agreement.

C. Copyright Policy

1. The State of California shall have an unencumbered right, and a non-exclusive, irrevocable, royalty-free license, to use, manufacture, improve upon, and allow others to do so for all government purposes, any Material developed under this Agreement or any Copyright purchased under this Agreement.
2. SUBRECIPIENT shall comply with 24 CFR 85.34.

D. Obligations Binding on Subcontractors

SUBRECIPIENT shall require all subcontractors to comply with the obligations of this section by incorporating the terms of this section into all subcontracts.

V

DEFAULTS, SUSPENSION, TERMINATION, AND AMENDMENTS

§501. Defaults

Should SUBRECIPIENT fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, GRANT ADMINISTRATOR reserves the right to terminate the Agreement, reserving all rights under state and federal law.

§502. Amendments

Any change in the terms of this Agreement shall be incorporated into this Agreement by a written amendment properly executed and signed by the person authorized to bind the parties thereto.

SUBRECIPIENT agrees to comply with all future Directives, or any rules, amendments or requirements promulgated affecting this Agreement.

VI
ENTIRE AGREEMENT

§601. Complete Agreement

This Agreement contains the full and complete Agreement between GRANT ADMINISTRATOR and SUBRECIPIENT. Neither verbal agreement nor conversation with any officer or employee of GRANT ADMINISTRATOR or any SUBRECIPIENT shall affect or modify any of the terms and conditions of this Agreement.

§602. Number of Pages and Attachments

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes sixteen (16) pages and four (4) Exhibits which constitute the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

GRANT ADMINISTRATOR

SUBRECIPIENT

CITY OF SANTA ANA, a municipal Corporation of the State of California

CITY OF COSTA MESA, a municipal Corporation of the State of California

By: _____
DAVID N. REAM
City Manager

By: _____
(NAME)
(Title) City Manager

Date: _____

Date: February, 2009

ATTEST:

ATTEST:

By: _____
Patricia E. Healy, Clerk of the Council

By: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Laura Sheedy, Assistant City Attorney

By: _____
Kimberly Hall Barlow
City Attorney

RECOMMENDED FOR APPROVAL:

RECOMMENDED FOR APPROVAL:

By: _____
Paul M. Walters
Chief of Police

Notice: Santa Ana Police Department
Homeland Security Division
Sgt. Henry Esparza
60 Civic Center Plaza
P.O. Box 1981
Santa Ana, CA 92702

Notice:

EXHIBIT A

PSIC GRANT PORTABLE RADIO ALLOCATION

The following Organizations may purchase up to the quantity of radios shown.

City of Anaheim (PD & FD)	134
City of Brea (PD & FD)	20
City of Buena Park (PD)	60
City of Costa Mesa (PD & FD)	64
City of Cypress (PD)	16
City of Fullerton (PD & FD)	62
City of Fountain Valley (PD)	19
City of Garden Grove (PD & FD)	68
City of Huntington Beach (FD)	68
City of Irvine (PD)	35
City of Los Alamitos (PD)	7
City of Laguna Beach (PD & FD)	31
City of La Palma (PD)	5
City of La Habra (PD & FD)	24
City of Newport Beach (PD)	46
City of Orange (FD)	10
City of Placentia (PD)	17
City of Santa Ana (PD & FD)	120
City of Seal Beach (PD)	11
City of Tustin (PD)	33
City of Westminster (PD)	30
Cal State Univ. Fullerton (PD)	8
Univ. Calif. Irvine (PD)	10
Orange County Fire Authority	264
Orange County Sheriff	108
OCSD Contract Cities	
Aliso Viejo	2
Dana Point	6
Laguna Hills	4
Laguna Niguel	5
Laguna Woods	3
Lake Forest	11
Mission Viejo	10
Rancho Santa Margarita	3
San Clemente	9
San Juan Capistrano	3
Stanton	6
Villa Park	1
Metro Net Fire JPA	2

Equipment Description, Pricing, and Ordering Details

ASTRO Digital XTS 5000 700/800 MHz Portable Radio Package

This radio has 850 channel capacity, a large backlit display, 3 soft keys for quick access to features, 4-way navigation button, 3 position toggle switch, 2 position concentric switch, 4x3 alphanumeric keypad, status icons including battery power indicator. Comes with Intrinsically safe, 1750 mAH IMPRES battery and OC-recommended 1/2 wave antenna. This special package also includes a single-unit IMPRES desk charger.



ITEM	MODEL/OPTION	DESCRIPTION
1	H18UCH9PW7N	ASTRO Digital XTS 5000 Model III Portable
1	Q806	ASTRO Digital CAI Operation
1	H38	Enhanced Smartzone Operation
1	Q625	DES, DES-XL, DES-OFB Encryption UCM
1	Q159	Encryption Hardware
1	H14	Add: ID Display
1	Q393	Battery, FM Intrinsically Safe, IMPRES, NiMH 1750 mAH (NNTN4436)
ITEM	MODEL/OPTION	DESCRIPTION
1	WPLN 4111	IMPRES Smart Single Unit Desk Charger

Radio Unit Price (equipped as above)	\$3,993.38
Single Unit Desk Charger	113.85
Sales Tax (7.75%)	318.31
<u>Estimated Freight Cost (per single package)</u>	<u>20.00</u>

Total Package Price **\$4,445.54**

Purchaser will order desired quantity per list on page 1 from Motorola Sales Representative, and will pay full price upon invoice from Motorola. When payment has been made, purchaser will forward copy of Purchase Order, Invoice, Packing List, and Proof of Payment along with the Reimbursement Request Form (Exhibit D) to the address shown on the Reimbursement Request Form.

NOTE: Programming of radios is required and will be done by Orange County Sheriff's Communications Div. at Purchaser's expense.

**Office of Homeland Security
FY07 PSIC Grant Assurances**

By signing this agreement the SUB-RECIPIENT certifies the following:

1. Has the legal authority to apply for federal assistance, and has the institutional, managerial and financial capability to ensure proper planning, management and completion of the grant provided by the State of California and administered by the California Department of Homeland Security (OHS).
2. Will assure that grant funds are only used for allowable, fair, and reasonable costs.
3. Will give the State of California generally and OHS in particular, through any authorized representative, access to and the right to examine all paper or electronic records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or OHS directives.
4. Will provide progress reports and such other information as may be required by OHS.
5. Will initiate and complete the work within the applicable time frame after receipt of OHS approval.
6. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business or other ties.
7. Will comply with all California and federal statutes relating to nondiscrimination. These include but are not limited to
 - a. Title VI of the Civil Rights Act of 1964 (42U.S.C. 2000 et seq.), as amended, which prohibits discrimination on the basis of race, color or national origin;
 - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex;
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) which prohibits discrimination on the basis of handicaps;
 - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age;
 - e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255) as amended, relating to nondiscrimination on the basis of drug abuse;
 - f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-2), as amended, relating to confidentiality of alcohol and drug abuse patient records;

- h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
 - i. Title 28, Code of Federal Regulations, Part 42, Subparts C, D, E and G;
 - j. Title 28, CFR, Part 35;
 - k. Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made, and
 - l. The requirements on any other nondiscrimination statute(s) which may apply to the application.
8. Will comply, if applicable, with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
9. Will comply with applicable environmental standards which may be prescribed pursuant to California or Federal law. These may include, but are not limited to, the following:
- a. California Environmental Quality Act (CEQA). California Public Resources Code Sections 21080-21098. California Code of Regulations, Title 14, Chapter 3 Sections 15000-15007.
 - b. institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
 - c. notification of violating facilities pursuant to EO 11738;
 - d. protection of wetlands pursuant to EO 11990;
 - e. evaluation of flood hazards in floodplains in accordance with EO 11988;
 - f. 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.);
 - g. conformity of federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.);
 - h. protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and
 - i. protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
10. Will comply, if applicable, 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.
11. Will assist OHS, as appropriate, in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and preservation of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq).
12. Will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code §§ 8607 et seq. and CCR Title 19, Sections 2445, 2446, 2447 and 2448.

13. Will:
 - a. Promptly return to the State of California all the funds received which exceed the approved, actual expenditures as accepted by OHS.
 - b. In the event the approved amount of the grant is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California.
 - c. Separately account for interest earned on grant funds, and use all interest toward the project as approved by OHS.

14. Will comply, if applicable, 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).

15. Will comply with provisions of 28 CFR applicable to grants and cooperative agreements, including:
 - a. Part 18, Administrative Review Procedures;
 - b. Part 20, Criminal Justice Information Systems;
 - c. Part 22, Confidentiality of Identifiable Research and Statistical Information;
 - d. Part 23, Criminal Intelligence Systems Operating Policies;
 - e. Part 30, Intergovernmental Review of Department of Justice Programs and Activities;
 - f. Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services;
 - g. Part 38, Equal Treatment of Faith-based Organizations;
 - h. Part 63, Floodplain Management and Wetland Protection Procedures;
 - i. Part 42, Nondiscrimination/Equal Employment Opportunities Policies and Procedures;
 - j. Part 61, Procedures for Implementing the National Environmental Policy Act;
 - k. Part 64, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.
 - l. Part 66, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
 - m. Part 67, Government-Wide Debarment and Suspension (Non-Procurement)
 - n. Part 69, New Restrictions on Lobbying
 - o. Part 70, Uniform Administrative Requirements for Grants and Cooperative Agreements (including sub-awards) with Institutions of Higher Learning, Hospitals and other Non-Profit Organizations.
 - p. Part 83, Government-Wide Requirements for a Drug Free Workplace (grants)

16. Will comply with Subtitle A, Title II of the Americans with Disabilities Act (ADA) 1990.

17. Will, in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to OHS.

18. Will comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
19. Will comply with all applicable requirements of all other California and Federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this program.
20. Understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of grant funds.

A. The applicant certifies that it and its principals:

(a) 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;

(b) 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;

(c) 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 (1)(b) of this certification; and

(d) 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.

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

The undersigned represents that he/she is authorized by the above named applicant to enter into this agreement for and on behalf of the said applicant.

Signature of Authorized Agent: 

Printed Name of Authorized Agent: Alan Roeder

Title: City Manager

Date: February 2009

EXHIBIT C
CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans
and Cooperative Agreements

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

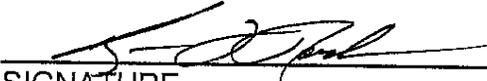
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection 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.
4. 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 that \$10,000 and not more than \$100,000 for each such failure.

AGREEMENT NUMBER

CONTRACTOR/BORROWER/AGENCY

Allan Roeder, City Manager

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE



SIGNATURE

February 2009

DATE

EXHIBIT D

REIMBURSEMENT REQUEST FOR GRANT EXPENDITURES

**Santa Ana Urban Areas Security Initiative/
Public Safety Interoperable Communications Grant
Reimbursement Request for Grant Expenditures**

Mail Reimbursement Request to:
request

This is the final reimbursement

<input type="checkbox"/> FY07 PSIC Santa Ana Police Department Attn: Sgt. Enrique Esparza, Grant Coordinator 60 Civic Center Plaza P.O. Box 1981 Santa Ana, CA 92702
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Agency / City Requesting Reimbursement	
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Total Amount Requested: (Attach copies of supporting invoices)	\$
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Under penalty of perjury, I certify that:

- I am an authorized officer of the claimant herein.
- This claim is in all respects true, correct, and all expenditures were made in accordance with applicable laws, rules, regulations and grant conditions and assurances.
- All attached invoices for items and/or services have been received in full.

Authorized Agent

Printed Name	Phone Number
Title	E-Mail Address
Mailing Address	Fax Number
City, State, Zip Code	
Signature (Please sign in blue ink.)	Date

For Santa Ana UASI/PSIC Grant Coordinator Use Only							
Approved for Processing:					Date:		
Request Tracking Number:				Account #:			
Grant:	PSIC	Grant Year:		Project:		Solution Area	
Special Instructions / Comments							