

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

431



FROM: Stanley L. Sniff, Jr., Sheriff-Coroner-PA

SUBMITTAL DATE:
12/14/11

SUBJECT: Adoption of Resolution No. 2011-235 In Support of the FY 2011 California Emergency Management Agency's (Cal-EMA), Operation Stonegarden (OPSG) Grant Program and Authorization to Sign Assurances

RECOMMENDED MOTION: Move that the Board of Supervisors:

1. Adopt Resolution No. 2011-235, which authorizes the Sheriff or designee to submit a grant application for the U.S. Department of Homeland Security Operation Stonegarden through the California Emergency Management Agency (Cal-EMA) for a FY 2011 Operation Stonegarden (OPSG) in the amount of \$390,315; and
2. Authorize the Chair to sign standard Grant Assurance document and initial each page, allowing the County to apply for the grant.

BACKGROUND: (continued on page 2)

BR 12-027

Will Taylor

Stanley L. Sniff, Jr., Sheriff-Coroner-PA
Will Taylor, Director of Administration

FINANCIAL DATA	Current F.Y. Total Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$0	Budget Adjustment:	No
	Annual Net County Cost:	\$0	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

Robert Tremaine

Robert Tremaine

County Executive Office Signature

3.52

FORM APPROVED COUNTY COUNSEL
BY: *Nival R. Kipnis* DATE: *12/14/11*
Departmental Concurrence

Policy

Consent

Dep't Receipt
Per Exec. (Off.)
ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

Adoption of Operation Stonegarden (OPSG) Resolution No. 2011-235

BR 12-027

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Since the events of September 11, 2001, the United States of America has increased attention to the interception of terrorists attempting entry into the United States. Terrorists and other criminals such as human and drug traffickers are regarded by law enforcement as a primary threat to our nation. Operation Stonegarden (OPSG), through intelligence gathering and agency collaboration, seeks to identify methods and enforcement profiles to weaken these types of terrorist activities.

OPSG within Riverside County, California will be conducted by local law enforcement agencies in collaboration with the United States Border Patrol-Yuma Sector during the period of October 1, 2011 to September 30, 2014. The focus of the operation will be to increase law enforcement presence in areas identified through intelligence information as "high-entry" points and routes of egress used by narcotic smuggling and human trafficking organizations, or as central transportation hubs. Through the enforcement of the California Penal Code, Stonegarden officers will act as a second tier of Homeland Security operations in direct support of the National Border Patrol Strategy.

It is the intent of the Yuma Sector Chief Patrol Agent, to increase border security in direct coordination with the Riverside County Sheriff's Department and Blythe Police Department. OPSG does not extend Federal authority to County or Local law enforcement agencies to enforce Federal immigration laws. Riverside County Sheriff's Department and Blythe Police Department will focus on criminal suppression through identified ingress corridors pre-determined by intelligence based planning. Riverside County Sheriff's Department and Blythe Police Department will not enforce immigration violations but will concentrate on enforcing California Penal Codes along said ingress routes.

The Riverside County Sheriff's Department's goal is to achieve maximum deterrence of illegal activity within the borders of Riverside County by apprehending criminals involved in illicit acts and to increase opportunities for the collection of intelligence involving criminal organizations operating within the County. The Sheriff's Department will conduct increased patrol functions on days and at locations as intelligence dictates.

Budget adjustments will be requested upon receipt of the award documents. OPSG funding and equipment will be distributed to the Riverside Sheriff's Department and Blythe Police Department for the purpose of increasing law enforcement presence along major routes of ingress in their area of operation.

The attached resolution and grant application have been approved as to form by County Counsel.

2 Homeland Security Operation Stonegarden

3 RESOLUTION No. 2011-235

4 RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
5 RIVERSIDE AUTHORIZING SUBMITTAL OF GRANT APPLICATION FOR FEDERAL
6 HOMELAND SECURITY OPERATION STONEGARDEN FY 2011 THROUGH THE
7 CALIFORNIA EMERGENCY MANAGEMENT AGENCY (Cal EMA)

8 WHEREAS, the California Emergency Management Agency, on behalf of the federal
9 Department of Homeland Security, requested applications from local governments for the
10 Operation Stonegarden grant program to secure the U.S. border; and

11 WHEREAS, this grant program promotes regional projects involving all local law
12 enforcement agencies; and

13 WHEREAS, the targeted areas near Blythe have been identified as cross state/cross
14 sector routes of ingress/egress with a potential threat to securing the U.S. border; and

15 WHEREAS, the Riverside County Sheriff's Department and the Blythe Police
16 Department have agreed to cooperate to proactively address the need to increase the response
17 to border security issues, enhance capabilities of local operation objectives of National and
18 State Homeland Security Strategies, provide intelligence-based operation, and further increase
19 the coordinated collaborative efforts of federal, state, local and tribal law enforcement agencies.

20 NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Board
21 of Supervisors of the County of Riverside, State of California, in regular session assembled on
22 _____ at 9:00 a.m. in the meeting room of the Board of Supervisors, located on the 1st
23 floor of the County Administrative Center, 4080 Lemon Street, Riverside, CA, approves the filing
24 of an application for the Operation Stonegarden grant in the amount of \$390,315 and;

- 25 1. Certifies that Riverside County understands its legal obligations to the State upon approval
of the Grant;

FORM APPROVED COUNTY COUNSEL
BY:  NEAL R. KIPNIS
DATE: 12/14/11

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2. Authorizes and directs the Sheriff or the Undersheriff or the Assistant Sheriff or the Sheriff's Emergency Response Team Lieutenant as the Authorized Agent to act on the County of Riverside's behalf pertaining to this application, including negotiation and submittal of documents, including applications, agreements, amendments, payment requests and so on, which do not significantly change the grant or the project and are necessary for completion of the project.

California Emergency Management Agency (Cal EMA)

Fiscal Year (FY) 2011 Grant Assurances
(All HSGP Applicants)

Name of Applicant: County of Riverside, Sheriff's Department

Address: 4095 Lemon Street

City: Riverside State: CA Zip Code: 92501

Telephone Number: (951) 955 - 2718 Fax Number: (951) 955 - 2171

E-Mail Address: sbecerra@riversidesheriff.org

As the duly authorized representative of the applicant, I certify that the applicant named above:

1. Will assure that grant funds will support efforts related to providing an integrated mechanism to enhance the coordination of national priority efforts to prevent, respond to, and recover from terrorist attacks, major disasters and other emergencies.
2. 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 U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) and sub-granted through the State of California, Cal EMA.
3. Will assure that grant funds are used for allowable, fair, and reasonable costs only and will not be transferred between grant programs (for example: State Homeland Security Program, Urban Area Security Initiative, Citizen Corps Program, and Metropolitan Medical Response System) or fiscal years.
4. Will comply with any cost sharing commitments included in the FY 2011 Investment Justifications submitted to DHS/FEMA and Cal EMA, where applicable.
5. Will give the federal government, the General Accounting Office, the Comptroller General of the United States, the State of California, the Office of Inspector General, through any authorized representative, access to, and the right to examine, all paper or electronic records, books, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards and/or awarding agency directives.
6. Agrees that funds utilized to establish or enhance state and local 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, follow the federal and state approved privacy policies, and achieve (at a minimum) baseline level of capability as defined by the Fusion Capability Planning Tool.
7. Will provide progress reports, and other such information as may be required by the awarding agency, including the Initial Strategy Implementation Plan (ISIP) within 45 days of the award, and update via the Grant Reporting Tool (GRT) twice each year.
8. Will initiate and complete the work within the applicable time frame after receipt of approval from Cal EMA.

9. Will maintain procedures to minimize the time elapsing between the award of funds and the disbursement of funds.
10. Will comply with all regulations applicable to DHS/FEMA grants, including, but not limited to, 44 CFR, Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments including, but not limited to, all provisions relevant to the payment of interest earned on advances.
11. Will comply with all provisions of 48 CFR, Part 31.2, Federal Acquisition Regulations (FAR), Contracts with Commercial Organizations.
12. 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.
13. Understands and agrees that federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval from DHS/FEMA and Cal EMA.
14. Agrees that, to the extent contractors or subcontractors are utilized, will use small, minority-owned, women-owned, or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
15. Will notify Cal EMA of any developments that have a significant impact on award-supported activities, including changes to key program staff.
16. Will comply, if applicable, with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of structures.
17. Will comply, and will assure the compliance of all agents and contractors, with all federal and state statues relating to civil rights and nondiscrimination. These include, but are not limited, to:
 - a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended, which prohibits discrimination on the basis of race, color or national origin.
 - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibits discrimination on the basis of gender.
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination against individuals with disabilities.
 - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age.
 - e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.
 - f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
 - g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
 - h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing.
 - i. Title 44 Code of Federal Regulations (CFR) Parts 7, 16, and 19 relating to nondiscrimination.
 - j. The requirements of any other nondiscrimination provisions in the specific statute(s) under which the application for federal assistance is being made.
 - k. The nondiscrimination requirements and all other provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1.

18. In the event that 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, gender, or disability against a recipient of funds, the recipient will forward a copy of the finding to Cal EMA, FEMA and the U.S. Department of Justice Office of Civil Rights, Office of Justice Programs.
19. Will provide an Equal Employment Opportunity Plan, if applicable, to the Department of Justice Office of Civil Rights within 60 days of grant award.
20. Will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq. [P.L. 91-646]) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federally assisted programs. These requirements apply to all interested in real property acquired for project purposes regardless of federal participation in purchases. Will also comply with Title 44 CFR, Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.
21. 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.
22. Will comply with all applicable federal, state, and local environmental and historical preservation (EHP) requirements. Failure to meet federal, state, and local EHP requirements and obtain applicable permits may jeopardize federal funding. Applicant will comply with all conditions placed on any project as the result of the EHP review; any change to the scope of work of a project will require reevaluation of compliance with these EHP requirements.
23. Will comply with all regulations applicable to DHS/FEMA grants including, but not limited to, 44 CFR, Part 10, Environmental Considerations. Applicant will also comply with all state laws, including the California Environmental Quality Act.
24. Agrees not to undertake any project having the potential to impact the EHP resources without the prior written approval of DHS/FEMA and Cal EMA including, but not limited to, ground disturbance, construction, modification to any structure, physical security enhancements, communications towers, any structure over 50 years old, and purchase and/or use of any sonar equipment. The subgrantee must comply with all conditions and restrictions placed on the project as a result of the EHP review. Any construction-related activities initiated without the necessary EHP review and approval will result in a noncompliance finding, and may not be eligible for reimbursement with DHS/FEMA/Cal EMA funding. Any change to the scope of work will require re-evaluation of compliance with the EHP. If ground-disturbing activities occur during the project implementation, the subgrantee must ensure monitoring of the disturbance. If any potential archeological resources are discovered, the subgrantee will immediately cease activity in that area and notify DHS/FEMA, Cal EMA, and the appropriate State Historic Preservation Office.
25. Agrees any construction activities that have been initiated prior to the full environmental and historic preservation review could result in non-compliance finding. Subgrantees must complete the FEMA EHP Screening Form (OMB Number 1660-0115/FEMA Form 024-0-01) and submit it, with all supporting documentation, to Cal EMA for review. The EHP Screening Form is part of an Information Bulletin available at: www.fema.gov/doc/government/grant/bulletins/info329_final_screening_memo.doc. Grantees should submit the FEMA EHP Screening Form for each project as soon as possible upon receiving their grant award.
26. Will ensure that the facilities under its ownership, lease or supervision, which shall be utilized in the accomplishment of this project, are not on the Environmental Protection Agency's (EPAs) List of

Violating Facilities, and will notify Cal EMA and FEMA of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating if a facility to be used in the project is under consideration for listing by the EPA.

27. Will provide any information requested by DHS/FEMA and/or Cal EMA to ensure compliance with applicable laws, including the following:
 - a. Institution of environmental quality control measures under the National Environmental Policy Act, National Historical Preservation Act, Archaeological and Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (11988), Wetlands (11990), Environmental Justice (12898), and Environmental Quality (11514).
 - b. Notification of violating facilities pursuant to EO 11738.
 - c. 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.).
 - d. 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.).
 - e. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523).
 - f. California Environmental Quality Act (CEQA), California Public Resources Code Sections 21080-21098; California Code of Regulations (CCR), Title 14, Chapter 3 Sections 15000-15007.
 - g. 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.
 - h. Applicable provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.), which prohibits the expenditure of most new federal funds within the units of the Coastal Barrier Resources System.
28. Will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, Section 8607.1(e) and CCR Title 19, Sections 2445, 2446, 2447, and 2448.
29. Agrees that all publications created or published with funding under this grant shall prominently contain the following statement: *"This document was prepared under a grant from FEMA's Grant Programs Directorate, U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S. Department of Homeland Security."* The recipient also agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: *"Purchased with funds provided by the U.S. Department of Homeland Security."*
30. Acknowledges that DHS/FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for federal government purposes: a) the copyright in any work developed under an award or sub-award; and b) any rights of copyright to which a recipient or sub-recipient purchases ownership with federal support.
31. The recipient agrees to consult with DHS/FEMA and Cal EMA regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
32. Has requested through the State of California, federal financial assistance to be used to perform eligible work approved in the submitted application for federal assistance and after the receipt of federal financial assistance, through the State of California, agrees to the following:
 - a. Promptly return to the State of California all the funds received, which exceed the approved, actual expenditures as accepted by the federal or state government.

- b. In the event the approved amount of the grant is reduced, 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 will return all interest earned, in excess of \$100 per Federal Fiscal Year.
33. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 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).
34. Will comply with provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
35. Will comply, if applicable, with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
36. Understands and agrees that the applicant, grantees, subgrantees, recipients, sub-recipients, employees of the applicant, grantees, subgrantees, recipients and subrecipients, may not:
- a. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - b. Procure a commercial sex act during the period of time that the award is in effect; or
 - c. Use forced labor in the performance of the award or subawards under the award.

Applicant understands and agrees that Cal EMA and/or DHS/FEMA may unilaterally terminate any award, without penalty, if the subgrantee that is a private entity:

- d. Is determined to have violated a prohibition identified in paragraph 35, subsections a, b, or c; or
- e. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph 35 subsection a, b, or c through conduct that is either:
 - i. associated with performance under this award; or
 - ii. imputed to the authorized agent or subrecipient using the standards and due process for imputing the conduct of an individual to an organization provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government wide Department and Suspension (Non-procurement)," as implemented by DHS/FEMA at 2 CFR, Part 3000.

And further understands that subgrantees and subrecipients must:

- f. Inform Cal EMA immediately of any information received from any source alleging a violation of a prohibition in paragraph 35 subsection a, b, or c;
- g. FEMA's right to terminate unilaterally as described in paragraph 35 implements section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 USC 7104(g)). The right of FEMA and Cal EMA to terminate this award unilaterally is in addition to all other remedies for noncompliance that are available under this award.

- h. For purposes of this term:
 - i. "Employee" means either:
 - i. an individual employed by the subgrantee or subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. another person engaged in the performance of the project or program under this award and not compensated by the subgrantee or subrecipient, including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 - ii. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.
 - iii. "Private entity" means any entity other than a state, local government, Indian Tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25, and includes non-profit organizations, including any non-profit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian Tribe at 2 CFR 175.25(b), and for-profit organizations.
 - iv. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 USC 7102).
37. Will comply, if applicable, with the Laboratory Animal Welfare Act of 1966 (P. L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
38. Will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.
39. Agrees that "Classified national security information," as defined in Executive Order (EO) 12958, as amended, means information that has been determined pursuant to EO 12958 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.
40. Agrees that no funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information if the award recipient has not been approved for and has access to such information.
41. Agrees that where an award recipient, grantee, subrecipient, or subgrantee has been approved for and has access to classified national security information, no funding under this award shall be used to support a contract, subaward, or other agreement for goods or services that will include access to classified national security information by the contractor, subawardee, or other entity without prior written approval from the DHS Office of Security, Industrial Security Program Branch (ISPB), or, an appropriate official within the federal department or agency with whom the classified effort will be performed. Such contracts, subawards, or other agreements shall be processed and administered in accordance with the DHS "Standard Operating Procedures, Classified Contracting by States and Local Entities," dated July 7, 2008; EOs 12829, 12958, 12968, as amended; the National Industrial Security Program Operating Manual (NISPOM); and/or other applicable implementing directives or instructions. All security requirement documents are located at: <http://www.dhs.gov/xopnbiz/grants/index.shtm>.

42. Understands that immediately upon determination by the award recipient that funding under this award will be used to support such a contract, subaward, or other agreement, and prior to execution of any actions to facilitate the acquisition of such a contract, subaward, or other agreement, the award recipient shall contact ISPB, or the applicable federal department or agency, for approval and processing instructions.

DHS Office of Security ISPB contact information:
Telephone: 202-447-5346
E-mail: DD254AdministrativeSecurity@dhs.gov

Mail: Department of Homeland Security
Office of the Chief Security Officer
ATTN: ASD/Industrial Security Program Branch
Washington, DC 20528

43. Agrees with the requirements regarding Data Universal Numbering System (DUNS) Numbers, meaning if recipients are authorized to make subawards under this award, they must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive or make a subaward to any entity unless the entity has provided its DUNS number.

- a. For purposes of this award term, the following definitions will apply:

- i. "Data Universal Numbering System (DUNS)" number means the nine digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
- ii. "Entity", as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C, as a Governmental organization, which is a state, local government, or Indian Tribe; or a foreign public entity; or a domestic or foreign nonprofit organization; or a domestic or foreign for-profit organization; or a federal agency, but only as a sub-recipient under an award or subaward to a non-federal entity.
- iii. "Subaward" means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient. It does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations") and may be provided through any legal agreement, including an agreement that you consider a contract.
- iv. "Subrecipient" means an entity that receives a subaward from you under this award; and is accountable to you for the use of the federal funds provided by the subaward.

44. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Section 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for federally-assisted construction sub-agreements.

45. Agrees that:

- a. 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

- b. If any other funds 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 an employee of Congress, or employee of a Member of Congress in connection with the federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - c. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers including subgrants, contracts under grants and cooperative agreements, and subcontract(s) and that all sub recipients shall certify and disclose accordingly.
 - d. 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.
46. Agrees that equipment acquired or obtained with grant funds:
- a. Will be made available pursuant to applicable terms of 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, 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.
 - b. Is consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.
47. Agrees that funds awarded under this grant will be used to supplement existing funds for program activities, and will not supplant (replace) non-federal funds.
48. Will comply with all applicable federal statutes, regulations, policies, guidelines and requirements, including OMB Circulars A102 and A-133, E.O. 12372 and the current Administrative Requirements, Cost Principles, and Audit Requirements.
49. Will comply with all provisions of 2 CFR, including: Part 215 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110); Part 225 Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87); Part 220 Cost Principles for Educational Institutions (OMB Circular A-21); Part 230 Cost Principles for Non-Profit Organizations (OMB Circular A-122).
50. Will comply with Subtitle A, Title II of the Americans with Disabilities Act (ADA) 1990.
51. Agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
52. Will comply with Federal Acquisition Regulations (FAR), part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations.
53. Will comply with the financial and administrative requirements set forth in the current edition of the DHS Financial Management Guide.
54. Agrees that all allocations and use of funds under this grant will be in accordance with the FY 2011 Homeland Security Grant Program Guidance and Application Kit, and the California Supplement to the

FY 2011 Homeland Security Grant Program Guidance and Application Kit. All allocations and use of funds under this grant will be in accordance with the Allocations, and use of grant funding must support the goals and objectives included in the state and/or Urban Area Homeland Security Strategies as well as the investments identified in the Investment Justifications which were submitted as part of the California FY 2011 Homeland Security Grant Program application. Further, use of FY 2011 funds is limited to those investments included in the California FY 2011 Investment Justifications submitted to DHS/FEMA and Cal EMA and evaluated through the peer review process.

55. Will not make any award or permit any award (subgrant or contract) to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under EOs 12549 and 12689, "Debarment and Suspension".
56. As required by EO 12549, Debarment and Suspension, and implemented at 44 CFR Part 17, for prospective participants in primary covered transactions, 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 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 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.
57. Agrees to comply with the Drug-Free Workplace Act of 1988, and 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:
 - i. The dangers of drug abuse in the workplace;
 - ii. The grantee's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - c. Making it a requirement that each employee 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:
 - i. Abide by the terms of the statement; and
 - ii. 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 Cal EMA, in writing, within 10 calendar days after receiving notice under subparagraph (d)(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to:

Department of Justice, Office of Justice Programs
ATTN: Control Desk
633 Indiana Avenue, N.W.
Washington, DC 20531

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)(ii), with respect to any employee who is so convicted.
 - i. 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
 - ii. 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 paragraph 57 subsections (a), (b), (c), (d), (e), and (f).
58. Will comply with all applicable requirements of all other federal and state laws, EOs, regulations, program and administrative requirements, policies and any other requirements governing this program.
59. Understands the reporting of subawards and executive compensation rules, including first tier subawards to Cal EMA.
- a. Applicability: unless you are exempt as provided in subsection (d) of this paragraph, subrecipient must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009).
 - b. Where and when to report: you must report each obligating action described in the following paragraphs to Cal EMA. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2011, the obligation must be reported by no later than December 31, 2011.)
 - c. What to report: You must report the information about each obligating action that the submission instructions posted in Information Bulletin 350, to Cal EMA.
 - d. Reporting Total Compensation of Recipient Executives: You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if:
 - i. The total federal funding authorized to date under this award is \$25,000 or more;
 - ii. In the preceding fiscal year, you received 80 percent or more of your annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S.

Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

- iv. Subrecipient Executives. Unless you are exempt as provided above, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if in the subrecipient's preceding fiscal year, the subrecipient received 80 percent or more of its annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and the public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.) You must report subrecipient executive total compensation to Cal EMA by the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

60. Exemptions to Paragraph 59 include: If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report on subawards, and the total compensation of the five most highly compensated executives of any subrecipient.

- a. Definitions associated with paragraph 59 include:

- i. "Executive" means officers, managing partners, or any other employees in management positions.
- ii. "Total compensation" means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - Salary and bonus.
 - Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - Above-market earnings on deferred compensation which is not tax-qualified.
 - Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

61. Understands that failure to comply with any of the above assurances may result in suspension, termination, or reduction of grant funds.

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: John Tavaglione

Title: Chair, Board of Supervisors Date: _____

FORM APPROVED COUNTY COUNSEL
BY: *Neal R. Kipnis* *2/21/11*
NEAL R. KIPNIS DATE