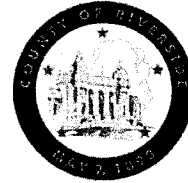


**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM  
3.11  
(ID # 10846)

**MEETING DATE:**

Tuesday, October 1, 2019

**FROM :** DISTRICT ATTORNEY:

**SUBJECT:** DISTRICT ATTORNEY: Ratification of the Grant Agreement for the California Office of Traffic Safety's Alcohol and Drug Impaired Driver Vertical Prosecution Grant Award in the amount of \$370,162 from the California Office of Traffic Safety and Adoption of Resolution No. 2019-207. All Districts [\$370,162; State of California 100%]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify and approve the Grant Agreement for Grant No. DI20014 with the State of California's Office of Traffic Safety's Alcohol and Drug Impaired Driver Vertical Prosecution Grant Program for an award in the amount of \$370,162 for the grant period October 1, 2019 through September 30, 2020.
2. Adopt Resolution No. 2019-207 authorizing the District Attorney or designee to accept said grant award on behalf of the County, including any extensions or amendments thereof, as approved by County Counsel.


**ACTION:**

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Perez and Hewitt  
Nays: None  
Absent: Spiegel  
Date: October 1, 2019  
xc: DA

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

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

| <b>FINANCIAL DATA</b>                            | <b>Current Fiscal Year:</b> | <b>Next Fiscal Year:</b> | <b>Total Cost:</b>                  | <b>Ongoing Cost</b> |
|--|-----------------------------|--------------------------|-------------------------------------|---------------------|
| <b>COST</b>                                      | \$277,621                   | \$92,541                 | \$370,162                           | \$ 0                |
| <b>NET COUNTY COST</b>                           | \$ 0                        | \$ 0                     | \$ 0                                | \$ 0                |
| <b>SOURCE OF FUNDS:</b> State of California 100% |                             |                          | <b>Budget Adjustment:</b> No        |                     |
|  |                             |                          | <b>For Fiscal Year:</b> 19/20-20/21 |                     |

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The California Office of Traffic Safety ("OTS") has awarded the County of Riverside District Attorney's Office a \$370,162 grant for the continuation of the DA's Drug Impaired Driver Vertical Prosecution Program (DUID) in Riverside County.

The Riverside County District Attorney's Office will assign two Deputy District Attorneys (DDA), to vertically prosecute misdemeanor drug impaired driving cases. These DUID prosecutors will handle cases throughout each step of the criminal process, including the review of charges, and courtroom proceedings (including trials) of misdemeanor DUID cases throughout the County

The DUID prosecutors will work with the California District Attorneys Association (CDAA) Traffic Safety Resource Prosecutor Program (TSRP), funded by OTS, to increase capabilities of the prosecutor and the office by obtaining and delivering specialized training. The DUID prosecutors will share information with peers and law enforcement personnel throughout the County and across the State. The Office will accomplish these objectives as a means to prevent impaired driving and reduce drug-involved traffic fatalities and injuries.

The Riverside County District Attorney's Office will host Regional Roundtable Meetings with representatives from law enforcement agencies throughout Riverside County, as well as the regional CDAA TSRP and OTS grant coordinator. Both in-house training for other deputy district attorneys, as well as "investigation protocol" training for law enforcement and DUID prosecutor will be developed and presented in collaboration with the CDAA TSRP Program Coordinators.

In addition, prosecutors assigned to this program will attend specialized training, including DUID prosecution and Vehicular Homicide Seminars sponsored by OTS and CDAA. Tracking the number of cases and disposition of DUID filing requests received by the Riverside County District Attorney's Office, as well as the dispositions and conviction rate on DUID cases will be maintained.

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

Based on an estimated award, the DA's Office budgeted revenue in this category and as a result, will not be requesting a budget modification.

The OTS Grant Agreement and Resolution No. 2019-207 have been reviewed and approved as to form by County Counsel.

**Impact on Residents and Businesses**

All costs under this program will be recovered through grant funding

Attachments:

A - OTS Agreement

B - Resolution No. 2019-207

  
Ryan Carter, Principal Management Analyst 9/24/2019

2 RESOLUTION NO. 2019-207

3 RESOLUTION OF THE BOARD OF SUPERVISORS OF THE  
4 COUNTY OF RIVERSIDE, AUTHORIZING THE DISTRICT ATTORNEY TO ACCEPT  
5 FUNDING UNDER THE STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY'S ALCOHOL  
6 AND DRUG IMPAIRED DRIVER VERTICAL PROSECUTION PROGRAM

7  
8 WHEREAS, the State of California's Office of Traffic Safety (hereinafter referred to as  
9 "OTS") has designated funding available under the Alcohol and Drug Impaired Driver Vertical  
10 Prosecution Programs;

11 WHEREAS, OTS has awarded the County of Riverside District Attorney's Office (the  
12 "DA") a grant of \$370,162 for the continuation of the DA's Drug Impaired Driver Vertical  
13 Prosecution Program (DUID) in Riverside County; and

14 WHEREAS, the DA will use the funding to assign two Deputy District Attorney's to  
15 vertically prosecute misdemeanor drug impaired driving cases.


16 NOW THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the Board  
17 of Supervisors of the County of Riverside, State of California, in regular session assembled on  
18 October 1, 2019, that the Board of Supervisors of the County of Riverside, located on the first  
19 floor of the County Administrative Center, 4080 Lemon Street, Riverside, California, hereby  
20 authorizes the District Attorney of the County of Riverside or designee, on behalf of the County,  
21 to accept the award and sign and submit the related Grant Agreement, as well as related  
22 contracts, amendments, or extensions with OTS, as approved to form by County Counsel.


23 BE IT FURTHER RESOLVED, DETERMINED, AND ORDERED that the resolution shall  
24 be in effect for a two year period beginning October 1, 2019 and ending September 30, 2021.




25 ROLL CALL:


26 Ayes: Jeffries, Washington, Perez and Hewitt  
27 Nays: None  
28 Absent: Spiegel




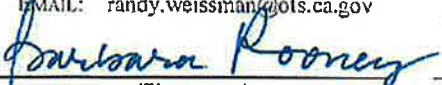
The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

KEOIA R. HARPER, Clerk of said Board  
By:  Deputy



COUNTY COUNSEL  
BY:  SUSANNA N. OH  
DATE 9/18/19

|  |  |
|--|--|
| <b>1. GRANT TITLE</b><br>Alcohol and Drug Impaired Driver Vertical Prosecution Program   |  |
| <b>2. NAME OF AGENCY</b><br>Riverside County   | <b>3. Grant Period</b>   |
| <b>4. AGENCY UNIT TO ADMINISTER GRANT</b><br>Riverside County District Attorneys Office  | From: 10/01/2019<br>To: 09/30/2020   |
| <b>5. GRANT DESCRIPTION</b><br>The County District Attorney's Office (or City Attorney's Office) will assign a specialized team to prosecute alcohol and drug impaired driving cases. The DUI prosecution team will handle cases throughout each step of the criminal process. Prosecution team members will work to increase the capabilities of the team and the office by obtaining and delivering specialized training. Team members will share information with peers and law enforcement personnel throughout the county and across the state. The office will accomplish these objectives as a means to prevent impaired driving and reduce alcohol and drug-involved traffic fatalities and injuries.  |  |
| <b>6. Federal Funds Allocated Under This Agreement Shall Not Exceed:</b> <b>\$370,162.00</b>   |  |
| <b>7. TERMS AND CONDITIONS:</b> The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement: <ul style="list-style-type: none"> <li>• Schedule A – Problem Statement, Goals and Objectives and Method of Procedure</li> <li>• Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)</li> <li>• Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable)</li> <li>• Exhibit A – Certifications and Assurances</li> <li>• Exhibit B* – OTS Grant Program Manual</li> </ul> <p>*Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto.</p> <p>These documents can be viewed at the OTS home web page under Grants: <a href="http://www.ots.ca.gov">www.ots.ca.gov</a>.</p> <p>We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.</p> <p>IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.</p> |  |
| <b>8. Approval Signatures</b>  |  |
| <b>A. GRANT DIRECTOR</b><br>NAME: Brandon Smith      PHONE: (951) 304-5546<br>TITLE: Chief Deputy District Attorney      FAX:<br>ADDRESS: 3960 Orange Street<br>Riverside, CA 92501<br>EMAIL: brsmith@rivcoda.org<br><br>_____<br>(Signature)      9/3/19<br>_____<br>(Date)  | <b>B. AUTHORIZING OFFICIAL OF AGENCY</b><br>NAME: Kelli Catlett      PHONE: (951) 955-5704<br>TITLE: Chief Deputy District Attorney      FAX:<br>ADDRESS: 3960 Orange Street<br>Riverside, CA 92501<br>EMAIL: kcatlett@rivcoda.org<br><br>_____<br>(Signature)      9/15/19<br>_____<br>(Date) |
| <b>C. FISCAL OR ACCOUNTING OFFICIAL</b><br>NAME: Ginika Ezinwa      PHONE: 951-955-8804<br>TITLE: Deputy Director, Administration      FAX: 951-955-0175<br>ADDRESS: 3960 Orange Street<br>Riverside, CA 92501<br>EMAIL: ginikaezinwa@rivcoda.org<br><br>_____<br>(Signature)      9/4/19<br>_____<br>(Date)  | <b>D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY</b><br>NAME: Randy Weissman      PHONE: (916) 509-3030<br>TITLE: Acting Director      FAX: (916) 509-3055<br>ADDRESS: 2208 Kausen Drive Suite 300<br>Elk Grove, CA 95758<br>EMAIL: randy.weissman@ots.ca.gov<br>_____<br>(Signature)      _____<br>_____<br>(Date)  |
| <b>E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY:</b><br>NAME: Carolyn Vu<br>ADDRESS: 2208 Kausen Drive, Suite 300<br>Elk Grove, CA 95758  | <b>9. DUNS INFORMATION</b><br>DUNS #: 037754061<br>REGISTERED ADDRESS: 3960 Orange Street<br>CITY: Riverside      ZIP+4: 92501-3643  |

FORM APPROVED COUNTY COUNSEL  
BY:  SUSANNAH. OH  
DATE: 9/19/19

|   |  |
|---|--|
| <b>1. GRANT TITLE</b><br>Alcohol and Drug Impaired Driver Vertical Prosecution Program  |  |
| <b>2. NAME OF AGENCY</b><br>Riverside County  | <b>3. Grant Period</b>   |
| <b>4. AGENCY UNIT TO ADMINISTER GRANT</b><br>Riverside County District Attorneys Office   | From: 10/01/2019<br>To: 09/30/2020   |
| <b>5. GRANT DESCRIPTION</b><br>The County District Attorney's Office (or City Attorney's Office) will assign a specialized team to prosecute alcohol and drug impaired driving cases. The DUI prosecution team will handle cases throughout each step of the criminal process. Prosecution team members will work to increase the capabilities of the team and the office by obtaining and delivering specialized training. Team members will share information with peers and law enforcement personnel throughout the county and across the state. The office will accomplish these objectives as a means to prevent impaired driving and reduce alcohol and drug-involved traffic fatalities and injuries.   |  |
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| <b>8. Approval Signatures</b>   |  |
| <p><b>A. GRANT DIRECTOR</b><br/> NAME: Brandon Smith      PHONE: (951) 304-5546<br/> TITLE: Chief Deputy District Attorney      FAX:<br/> ADDRESS: 3960 Orange Street<br/> Riverside, CA 92501<br/> EMAIL: brsmith@rivcoda.org</p> <p style="text-align: center;"><br/> _____<br/> (Signature)      <u>9/13/19</u><br/> (Date)</p> <p><b>C. FISCAL OR ACCOUNTING OFFICIAL</b><br/> NAME: Ginika Ezinwa      PHONE: 951-955-8804<br/> TITLE: Deputy Director, Administration      FAX: 951-955-0175<br/> ADDRESS: 3960 Orange Street<br/> Riverside, CA 92501<br/> EMAIL: ginikaezinwa@rivcoda.org</p> <p style="text-align: center;"><br/> _____<br/> (Signature)      <u>9/4/19</u><br/> (Date)</p>  | <p><b>B. AUTHORIZING OFFICIAL OF AGENCY</b><br/> NAME: Kelli Catlett      PHONE: (951) 955-5704<br/> TITLE: Chief Deputy District Attorney      FAX:<br/> ADDRESS: 3960 Orange Street<br/> Riverside, CA 92501<br/> EMAIL: kcatlett@rivcoda.org</p> <p style="text-align: center;"><br/> _____<br/> (Signature)      <u>9/15/19</u><br/> (Date)</p> <p><b>D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY</b><br/> NAME: Randy Weissman      PHONE: (916) 509-3030<br/> TITLE: Acting Director      FAX: (916) 509-3055<br/> ADDRESS: 2208 Kausen Drive Suite 300<br/> Elk Grove, CA 95758<br/> EMAIL: randy.weissman@ots.ca.gov</p> <p style="text-align: center;"><br/> _____<br/> (Signature)      <u>9/13/19</u><br/> (Date)</p> |
| <p><b>E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY</b><br/> NAME: Carolyn Vu<br/> ADDRESS: 2208 Kausen Drive, Suite 300<br/> Elk Grove, CA 95758</p>   | <p><b>9. DUNS INFORMATION</b><br/> DUNS #: 037754061<br/> REGISTERED ADDRESS: 3960 Orange Street<br/> CITY:Riverside      ZIP+4:92501-3643</p>   |

**10. PROJECTED EXPENDITURES**

| FUND  | CFDA   | ITEM/APPROPRIATION | F.Y.  | CHAPTER | STATUTE                                | PROJECTED EXPENDITURES                            |
|---|--------|--------------------|---|---------|--|---|
| 405d AL-20  | 20.616 | 0521-0890-101      | 2019  | 2019    | BA/19                                  | \$370,162.00                                      |
| <b>AGREEMENT TOTAL</b>  |        |                    |   |         |  | <b>\$370,162.00</b>                               |
| <b>AMOUNT ENCUMBERED BY THIS DOCUMENT</b>   |        |                    |   |         |  | <b>\$370,162.00</b>                               |
| <i>I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.</i> |        |                    |   |         |  | <b>PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT</b> |
|   |        |                    |   |         |  | <b>\$ 0.00</b>                                    |
| <b>OTS ACCOUNTING OFFICER'S SIGNATURE</b>   |        |                    | <b>DATE SIGNED</b>  |         | <b>TOTAL AMOUNT ENCUMBERED TO DATE</b> |   |
|    |        |                    |  |         | <b>\$370,162.00</b>                    |   |

## 1. PROBLEM STATEMENT

Riverside County remains the fourth most populous county in the state, with over 2.3 million inhabitants, as well as the fourth largest by landmass (7,200 square miles.) The County's growth rate remains above six percent; well above the population growth rates of Orange, San Bernardino and San Diego counties. Riverside County contains two major Freeway arteries within its borders, Interstate 10 and Interstate 15.

In 2010 NHTSA reported 18 percent of those fatally injured tested positive for at least one drug (over-the-counter, prescription or illicit.) In 2012, the California Office of Traffic Safety indicated 30 percent of all drivers killed in California vehicle crashes in 2010 tested positive for legal or illegal drugs. The number of fatal crash fatalities involving only drugs increased 45 percent between 2010 and 2013. Drug-only crashes accounted for almost 30 percent of all impaired-fatalities, and amounted to over 9 percent of all impaired fatal/injury crashes. The number of crash fatalities involving combo (i.e. alcohol plus drugs) increased by 9 percent over the same period, and approximately 85 percent of alcohol+drug fatal and injury crashes had drivers who were 0.08% BAC or higher.

In 2013, Riverside County saw DUI arrests drop below 10,000 per annum, for the first time since 2006. The trend continued into 2014. Yet, Riverside County still retains its ranking as one of the top five counties for DUI arrests in the State of California. Meanwhile, the number and severity of Alcohol-Involved fatalities within the County have continued to rise from 2011-2013. From 2014-2016, Riverside experienced an increase in the number of drug or alcohol influenced collisions, going from 1578 to 2133. During that same time period fatal collisions involving drug or alcohol influenced collisions rose from 43 to 52.

Riverside County began focusing on DUID prosecution on FFY 2013 with the California Legislature's creation of enumerated DUID crimes and a grant for the California Office of Traffic Safety. (OTS grant #AL1359). This inception grant funded a single DUID prosecutor and covered only the Western District of Riverside County. The resulting data collection brought into the light the exceptionally high number of Drug-only (CVC §23152(e)) and Combo (CVC §23152(f)) DUID drivers on the roads in western Riverside. In FFY 2013, 829 filing requests were submitted to the DUID DDA. (More than 2 per calendar day.) 748 of those requests resulted in criminal complaints being files. (Again, more than 2 per day.) In all, the grant prosecutor handled 417 misdemeanor Combo cases and 318 misdemeanor Drug-only cases in FFY 2013. This resulted in a conviction success rate of 42 percent for Drug-only filings and 35 percent for Combo filings.

In FFY 2014, Riverside County received a grant (OTS grant #DI1427) to expand the DUID Prosecution Program to the entire county. The Riverside DA DUID Prosecution Team encompassed three DDAs, one based in each of the judicial-geographical regions of the county. Grant DI1427 saw a 20 percent increase in the number of filing submissions from law enforcement, but a lower rate of submission resulting in actual filings. More importantly, the rate of conviction of DUI-only drivers increased by almost 100% and the rate of conviction for Combo drivers increased by more than 100%, reflecting an improvement in the prosecution abilities of the Riverside District Attorney's Office and validating the objectives of the OTS grants.

FFY2015 saw a changing of the guard at the Riverside District Attorney's Office with the election of the Honorable Michael A. Hestrin and the retirement of Assistant District Attorney and former TSRP Director, Gregor Datig. FFY 2015 evidenced a continuing DUID problem within Riverside County, as well as continued success in hold DUID drivers accountable.

FFY 2016 saw the development of an improved office-wide Case Management System, replacing the 17-year-old DOS based system to improve visibility into cases reviewed sent back for further investigations, thus enabling timelier re-submission of the matter. This system will be operational during FFY 2017. The system should allow tracking the time from arrest to conviction for DUID cases, similar to the data found in DMV DUI MIS Table B3. Significant variation exists in the longevity of DUI cases in Riverside County. DUI in the Southwest Division are completed in less than 100 days, while those in the Eastern Division linger for close to 200 days. One goal of the Riverside DUID Prosecution Team will be to meet or surpass the statewide Median DUI Adjudication Time of 94 days.



During FFY 2016, Riverside County courts implemented a redistricting. This redistricting moved a number of cases, including DUID cases to our Banning Courthouse. The move required the DUID prosecutor assigned to the Southwest region to travel between Banning and Murrieta courts. This geographic challenge impacted the grant as the Southwest prosecutor divided time between the two courts. In the Riverside Judicial District, our grant assigned prosecutors left the office during the year. This caused delay as the newly assigned grant prosecutor had to develop an understanding of a new case load. Despite these challenges, there was a 34% increase in drug cases reviewed and 14% increase in Combo cases. Total volume for drug/combo cases increased 27%.

DUID remained a persistent problem within Riverside County. Proposition 64 allowed legal possession of marijuana separate from the Compassionate Use Act. This change created an increase in DUID. The absence of a per-se standard and public misperception made prosecution more challenging. With an ever-growing population, the negative impact on the motoring public caused by DUID drivers increased.

FFY 2017 marked major changes in DUID prosecution within Riverside County. The grant funding reduced from funding three prosecutors to funding only two. *Birchfield v. North Dakota* dramatically changed the investigation of DUI investigation and prosecution. *Birchfield* impacts California's implied consent advisement. The final part of the DS-367 advisement (that the DMV will suspend your license if you choose not to submit to a blood test) should no longer be a part of a request for consent to provide blood. *Birchfield* triggered evidentiary issues with a number of post-arrest/pre-filing cases, as well as a number of pending cases. Typically reports stated the defendant was given the DS-367 implied consent advisement. Those cases required clarification from the agency. Training updates to law enforcement and prosecutors became a critical part of the day-to-day operations. *Birchfield* resulted in an increase of case rejections as well as an overall slowdown in the movement of cases through the system. Beyond changes in case law, the legislature created a new hurdle to offender accountability. SB 725 (Jackson), signed by the Governor as urgency legislation on August 7, 2017, allows offenders who are veterans to pre-plea diversion of DUI charges, including DUID. Offenders who successfully complete the program will have their charges dismissed. A reduction in grant funding further challenged prosecutors in this area. The number of DUID cases submissions continued to increase, evidencing a continued demand for specialized prosecution.

2018 saw continued challenges for prosecutors of DUID driving. As California moves towards the commercialized use of marijuana, we see more issues with DUID involving marijuana. Poly-substance combinations of marijuana, alcohol, and or other drugs (prescription and non-prescription) create new challenges. The end of the year saw another criminal justice reform measure (mental health diversion) create still more challenges for prosecution. Despite these challenges, our assigned grant prosecutors pressed cases to trial, served as instructors for the Traffic College, conducted numerous briefings and community presentations, and changed policy. Significantly, they worked with California Highway Patrol to change their provider for blood analysis to allow for quantitative analysis of marijuana results. This greatly improves our ability to prosecute cases from the agency. On the challenge side, jail overcrowding and court congestion creates a situation where cases go to warrant or are otherwise delayed in resolution. This results in a gap between the cases filed and guilty pleas. Additionally, lack of clerical staffing delays the "closing out" of misdemeanor cases, resulting in low or under-reporting of guilt findings.

To effectively combat and suppress DUID driving requires a 4-part approach. First, law enforcement officers working in tandem with DUID prosecutors must develop and implement ongoing skills and training necessary for a successful investigation and arrest of offenders. Second, prosecutors must possess the necessary training to successfully prosecute DUID cases. Third, prosecutors must participate in community awareness programs to educate the community on the dangers of DUID. Fourth, prosecutors and law enforcement must develop and maintain systems to adapt to the ongoing challenges in this arena. This 4-part approach is critical to addressing the rise in DUID.

**2. PERFORMANCE MEASURES**

**A. Goals:**

1. Improve the prosecution knowledge and expertise of DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combination cases.
2. Increase the number of DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combination cases filed and prosecuted.

**B. Objectives:**

1. Issue a press release announcing the kick-off of the grant by November 15. The kick-off press releases and media advisories, alerts, and materials must be emailed to the OTS

**Target Number**

1

|   |   |
|---|---|
| Public Information Officer at <a href="mailto:pio@ots.ca.gov">pio@ots.ca.gov</a> , and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.  |   |
| 2. Create or expand a "Vertical Prosecution Program" with the City Attorney or District Attorney's Office by November 30. The program will facilitate the prosecution of all DUI drug cases, all DUI alcohol and drug combination cases, and if applicable, all felony DUI alcohol cases with death or injury.  | 1 |
| 3. Designate prosecutor position(s) and investigator position(s) to the DUI caseload to prosecute DUI Alcohol and DUI Drug cases. The individual(s) will be dedicated solely to this assignment allowing them to gain expertise in the investigation and prosecution of DUI Alcohol and DUI Drug cases. While employed by the City Attorney's or District Attorney's Office, the individual(s) in the grant-funded DUI Vertical Prosecutor position(s) should remain the same throughout the term of the grant.   | 2 |
| 4. Develop and implement a system for gathering, tracking, and reporting all DUI case reviews, filings, and outcomes in the county/city by December 31, differentiating between: 1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination  | 1 |
| 5. Report on all DUI case reviews, filings and outcomes in the county or city throughout the grant, differentiating between: 1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination Alcohol and Drug cases.  | 1 |
| 6. Partner with the California Traffic Safety Resource Prosecutor Training Network to provide comprehensive training in the prosecution of DUI Alcohol and DUI Drug cases with an effort to reach prosecutors and investigators.  | 4 |
| 7. Send the funded prosecutor(s) to trainings/meetings sponsored by OTS and/or the California Traffic Safety Resource Prosecutor Training Network.  | 2 |
| 8. Coordinate and host four regional roundtable law enforcement meetings (one each quarter, with telephone conference capabilities) to provide information on the DUI Vertical Prosecution Program, interact with law enforcement to identify means to improve DUI investigation and prosecution, and assess technical assistance needs for training on DUI investigation and court testimony. OTS staff, local law enforcement, CHP and probation staff should be included in the roundtable. Agenda and minutes should be produced and distributed. All four meetings for the year should be scheduled in the first quarter of the grant.   | 4 |
| 9. Coordinate with local law enforcement agencies on the development of an on-call response protocol for the investigation of fatal and major injury DUI vehicle collisions, and to report on response activities   | 1 |
| 10. Participate in at least one DUI saturation ride-along and attend/observe at least one DUI checkpoint. Note: The funded vertical prosecutor(s) and investigator should participate within the first quarter of the grant. Saturation patrol ride-along and checkpoint observation may be combined into one evening.  | 2 |
| 11. Respond to at least one fatal DUI collision investigation scene. Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.   | 1 |
| <b>3. METHOD OF PROCEDURE</b>   |   |
| <b>A. Phase 1 – Program Preparation (1<sup>st</sup> Quarter of Grant Year)</b>  |   |
| <ul style="list-style-type: none"> <li>• Recruit and hire all staff for the grant.</li> <li>• Procure all materials necessary to implement the grant.</li> <li>• Identify dates and schedule the four Roundtable Meetings (one each quarter with telephone conference capabilities). Notify the OTS coordinator of the dates. Meetings are meant to provide information on the DUI Vertical Prosecution Program, interact with law enforcement to identify means to improve DUI investigation and prosecution, and assess technical assistance needs for training on DUI investigation and court testimony. OTS staff, TSRP staff, local law enforcement, CHP and probation staff should be included in the roundtable. Agenda and minutes should be produced and distributed. All four meetings for the year should be scheduled in the first quarter of the grant.</li> <li>• Develop protocols to be used to measure the success of the DUI Prosecution Program.</li> <li>• Conduct training for all program staff outlining the goals and objectives of the project.</li> <li>• Refer cases for prosecution to the grant-funded Deputy District/City Attorney(s).</li> <li>• Transfer all pending DUI cases which qualify under this program so that vertical prosecution may begin.</li> </ul> |   |

- Develop a training protocol for law enforcement agencies within the county, and start a process of coordinating all reporting, investigation, and referral of cases that qualify under the grant. **Media Requirements**
- Issue a press release announcing the kick-off of the grant by November 15, but no earlier than October 1. If unable to meet the November 15 date, communicate reasons to your OTS Coordinator. The kick-off press releases and any related media advisories, alerts, and materials must be emailed for approval to the OTS Public Information Officer at [pio@ots.ca.gov](mailto:pio@ots.ca.gov), and copied to your OTS Coordinator, 14 days prior to the issuance date of the release.

**B. Phase 2 – Program Operations (Throughout Grant Year)**

- Prosecution will be on-going. The Deputy District/City Attorney(s) will review DUI cases from all law enforcement agencies in the county/city.
- Training for law enforcement personnel, District Attorney Investigators and other Deputy District/City Attorneys will begin and continue throughout the program.
- Prosecutor(s) will:
  - a) Work to secure convictions (as justice requires) and appropriate sentences that reflect the public safety risk posed by the offender.
  - b) Mentor trial attorneys on how to successfully try high-risk DUI offenders.
  - c) Host Quarterly Roundtable meetings with law enforcement personnel, TSRP and OTS Coordinator.
  - d) Work with the TSRP to obtain and deliver high quality DUI prosecution training programs to non-grant-funded prosecutors.
  - e) Work with the TSRP to obtain and deliver high quality DUI investigation, report writing and courtroom testimony training programs to law enforcement personnel (police officers, deputies, District Attorney Investigators and crime lab scientists).
  - f) Attend training programs that cover evaluation and preparation of DUI drug cases, marijuana, prescription drugs, drug trends, people’s experts, defense challenges, cross-examination of experts, SFST evidence, jury considerations and toxicology evidence, and incorporate this information into DUI trainings for attorneys and law enforcement personnel.
  - g) Send the funded vertical prosecutor(s) and investigator to the NHTSA “Advanced Roadside Impaired Driving Enforcement” (ARIDE) 16 hour POST-Certified training, if not already trained. Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.

**Media Requirements**

- Send all grant-related activity press releases, media advisories, alerts and general public materials to the OTS Public Information Officer (PIO) at [pio@ots.ca.gov](mailto:pio@ots.ca.gov), with a copy to your OTS Coordinator. The following requirements are for grant-related activities and are different from those regarding any grant kick-off release or announcement.
  - If an OTS-supplied, template-based press release is used, there is no need for pre-approval, however, the OTS PIO and Coordinator should be copied when at the same time as the release is distributed to the press.
  - If an OTS-supplied template is not used, or is substantially changed, a draft press release shall be sent to the OTS PIO for approval. Optimum lead-time would be 10 days prior to the release distribution date, but should be no less than 5 working days prior to the release distribution date.
  - Press releases reporting the immediate and time-valued results of grant activities such as enforcement operations are exempt from the recommended advance approval process, but still should be copied to the OTS PIO and Coordinator when the release is distributed to the press.
  - Activities such as warrant or probation sweeps and court stings that could be compromised by advanced publicity are exempt from pre-publicity, but are encouraged to offer embargoed media coverage and to report the results.
- Use the following standard language in all press, media, and printed materials: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Email the OTS PIO at [pio@ots.ca.gov](mailto:pio@ots.ca.gov) and copy your OTS Coordinator at least 30 days in advance, a short description of any significant grant-related traffic safety event or program so OTS has sufficient notice to arrange for attendance and/or participation in the event.
- Submit a draft or rough-cut of all printed or recorded material (brochures, posters, scripts, artwork, trailer graphics, etc.) to the OTS PIO at [pio@ots.ca.gov](mailto:pio@ots.ca.gov) and copy your OTS Coordinator for approval 14 days prior to the production or duplication.

- Space permitting, include the OTS logo, on grant-funded print materials; consult your OTS Coordinator for specifics and format-appropriate logos.
- Contact the OTS PIO or your OTS Coordinator, sufficiently far enough in advance of need, for consultation when deviation from any of the above requirements might be contemplated

**C. Phase 3 – Data Collection & Reporting (Throughout Grant Year)**

- Invoice Claims (due January 30, April 30, July 30, and October 30)
- Quarterly Performance Reports (due January 30, April 30, July 30, and October 30)
  - Collect and report quarterly, appropriate data that supports the progress of goals and objectives.
  - Provide a brief list of activity conducted, procurement of grant-funded items, and significant media activities. Include status of grant-funded personnel, status of contracts, challenges, or special accomplishments.
  - Provide a brief summary of quarterly accomplishments and explanations for objectives not completed or plans for upcoming activities.
  - Collect, analyze and report statistical data relating to the grant goals and objectives.

**4. METHOD OF EVALUATION**

Using the data compiled during the grant, the Grant Director will complete the “Final Evaluation” section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary of the grant’s accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.

**5. ADMINISTRATIVE SUPPORT**

This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.

| FUND NUMBER | CATALOG NUMBER (CFDA) | FUND DESCRIPTION                 | TOTAL AMOUNT |
|-------------|-----------------------|----------------------------------|--------------|
| 405d AL-20  | 20.616                | Impaired Driving Countermeasures | \$370,162.00 |

| COST CATEGORY                          | CFDA   | TOTAL COST TO GRANT |
|--|--------|---------------------|
| <b>A. PERSONNEL COSTS</b>              |        |                     |
| <u>Straight time</u>                   |        |                     |
| Deputy District Attorney III A         | 20.616 | \$132,163.00        |
| Benefit-Deputy District Attorney III A | 20.616 | \$52,918.00         |
| Deputy District Attorney III B         | 20.616 | \$132,163.00        |
| Benefit-Deputy District Attorney III B | 20.616 | \$52,918.00         |
| <u>Overtime</u>                        |        |                     |
|  |        | \$0.00              |
| Category Sub-Total                     |        | \$370,162.00        |
| <b>B. TRAVEL EXPENSES</b>              |        |                     |
|  |        | \$0.00              |
|  |        | \$0.00              |
| Category Sub-Total                     |        | \$0.00              |
| <b>C. CONTRACTUAL SERVICES</b>         |        |                     |
|  |        | \$0.00              |
| Category Sub-Total                     |        | \$0.00              |
| <b>D. EQUIPMENT</b>                    |        |                     |
|  |        | \$0.00              |
| Category Sub-Total                     |        | \$0.00              |
| <b>E. OTHER DIRECT COSTS</b>           |        |                     |
|  |        | \$0.00              |
| Category Sub-Total                     |        | \$0.00              |
| <b>F. INDIRECT COSTS</b>               |        |                     |
|  |        | \$0.00              |
| Category Sub-Total                     |        | \$0.00              |
| <b>GRANT TOTAL</b>                     |        | <b>\$370,162.00</b> |

| <b>BUDGET NARRATIVE</b>   |                | <b>QUANTITY</b> |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
|---|----------------|-----------------|-----------------|--------|----------|--------|----------|--------|------------|--------|----------|--------|------|--------|---------|--------|------|--------|---------------|--------|--------------|----------------|----------|
| <p><b>PERSONNEL COSTS</b><br/>                     Deputy District Attorney III A - Hours for prosecutor dedicated to vertically prosecute all felony cases involving driving under the influence of alcohol and/or drugs. Hours may include wages or authorized absences, such as annual leave and sick leave, provided they are accrued during the grant term. The prosecutors will attend training provided by the Traffic Safety Resource Prosecutor Program and deliver training to law enforcement, investigators and other attorneys within the District Attorney's Office.</p> <p>1 x \$63.54 x 2080 = \$132,163</p>  | <p>2,080</p>   |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <p>Benefit-Deputy District Attorney III A - Unemployment 0.202%</p> <table style="width: 100%; border-collapse: collapse;"> <tr><td>Retirement</td><td style="text-align: right;">21.598%</td></tr> <tr><td>Social Security</td><td style="text-align: right;">5.719%</td></tr> <tr><td>Medicare</td><td style="text-align: right;">1.450%</td></tr> <tr><td>LGTD Ins</td><td style="text-align: right;">0.604%</td></tr> <tr><td>Health Ins</td><td style="text-align: right;">7.152%</td></tr> <tr><td>Def Comp</td><td style="text-align: right;">0.986%</td></tr> <tr><td>Life</td><td style="text-align: right;">0.070%</td></tr> <tr><td>Optical</td><td style="text-align: right;">0.122%</td></tr> <tr><td>OPEB</td><td style="text-align: right;">0.040%</td></tr> <tr><td>Worker's Comp</td><td style="text-align: right;">2.097%</td></tr> <tr><td><b>Total</b></td><td style="text-align: right;"><b>40.039%</b></td></tr> </table> | Retirement     | 21.598%         | Social Security | 5.719% | Medicare | 1.450% | LGTD Ins | 0.604% | Health Ins | 7.152% | Def Comp | 0.986% | Life | 0.070% | Optical | 0.122% | OPEB | 0.040% | Worker's Comp | 2.097% | <b>Total</b> | <b>40.039%</b> | <p>1</p> |
| Retirement  | 21.598%        |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Social Security   | 5.719%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Medicare  | 1.450%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| LGTD Ins  | 0.604%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Health Ins  | 7.152%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Def Comp  | 0.986%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Life  | 0.070%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Optical   | 0.122%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| OPEB  | 0.040%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Worker's Comp   | 2.097%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <b>Total</b>  | <b>40.039%</b> |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <p>Deputy District Attorney III B - Hours for prosecutor dedicated to vertically prosecute all felony cases involving driving under the influence of alcohol and/or drugs. Hours may include wages or authorized absences, such as annual leave and sick leave, provided they are accrued during the grant term. The prosecutors will attend training provided by the Traffic Safety Resource Prosecutor Program and deliver training to law enforcement, investigators and other attorneys within the District Attorney's Office.</p> <p>1 x \$63.54 x 2080 = \$132,163</p>  | <p>2,080</p>   |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <p>Benefit-Deputy District Attorney III B - Unemployment 0.202%</p> <table style="width: 100%; border-collapse: collapse;"> <tr><td>Retirement</td><td style="text-align: right;">21.598%</td></tr> <tr><td>Social Security</td><td style="text-align: right;">5.719%</td></tr> <tr><td>Medicare</td><td style="text-align: right;">1.450%</td></tr> <tr><td>LGTD Ins</td><td style="text-align: right;">0.604%</td></tr> <tr><td>Health Ins</td><td style="text-align: right;">7.152%</td></tr> <tr><td>Def Comp</td><td style="text-align: right;">0.986%</td></tr> <tr><td>Life</td><td style="text-align: right;">0.070%</td></tr> <tr><td>Optical</td><td style="text-align: right;">0.122%</td></tr> <tr><td>OPEB</td><td style="text-align: right;">0.040%</td></tr> <tr><td>Worker's Comp</td><td style="text-align: right;">2.097%</td></tr> <tr><td><b>Total</b></td><td style="text-align: right;"><b>40.039%</b></td></tr> </table> | Retirement     | 21.598%         | Social Security | 5.719% | Medicare | 1.450% | LGTD Ins | 0.604% | Health Ins | 7.152% | Def Comp | 0.986% | Life | 0.070% | Optical | 0.122% | OPEB | 0.040% | Worker's Comp | 2.097% | <b>Total</b> | <b>40.039%</b> | <p>1</p> |
| Retirement  | 21.598%        |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Social Security   | 5.719%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Medicare  | 1.450%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| LGTD Ins  | 0.604%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Health Ins  | 7.152%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Def Comp  | 0.986%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Life  | 0.070%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Optical   | 0.122%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| OPEB  | 0.040%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| Worker's Comp   | 2.097%         |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <b>Total</b>  | <b>40.039%</b> |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <p><b>TRAVEL EXPENSES</b><br/>-</p>   |                |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <p><b>CONTRACTUAL SERVICES</b><br/>-</p>  |                |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |
| <p><b>EQUIPMENT</b></p>   |                |                 |                 |        |          |        |          |        |            |        |          |        |      |        |         |        |      |        |               |        |              |                |          |

|   |  |
|---|--|
| -   |  |
| <b>OTHER DIRECT COSTS</b>   |  |
| -   |  |
| <b>INDIRECT COSTS</b>   |  |
| -   |  |
| <p><b>STATEMENTS/DISCLAIMERS</b></p> <p><b>Program Income default statement:</b><br/>There will be no program income generated from this grant.</p> <p><b>Salaries default statement:</b><br/>Salaries may include wages, salaries, special compensations, or authorized absences such as annual leave and sick leave provided the cost for the individual employee is (a) reasonable for the services rendered, and (b) follows an appointment made in accordance with state or local laws and rules and meets federal requirements.</p> <p><b>Supplanting default statement:</b><br/>Any non-grant funded vacancies created by reassignment to a grant-funded position must be filled at the expense of the grantee agency.</p> |  |

**CERTIFICATIONS AND ASSURANCES**  
**HIGHWAY SAFETY GRANTS**  
**(23 U.S.C. CHAPTER 4 AND SEC. 1906, PUB. L. 109-59, AS AMENDED)**

Failure to comply with applicable Federal statutes, regulations, and directives may subject Grantee Agency officials to civil or criminal penalties and/or place the State in a high-risk grantee status in accordance with 49 CFR §18.12.

The officials named on the grant agreement, certify by way of signature on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but are not limited to, the following:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended
- 49 CFR Part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 23 CFR Part 1300—Uniform Procedures for State Highway Safety Grant Programs

**NONDISCRIMINATION**

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;



- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

“During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

- To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding

recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and

- To insert this clause, including paragraphs (a) through (e), in every subcontract and sub agreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

**POLITICAL ACTIVITY (HATCH ACT)**

(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

**CERTIFICATION REGARDING FEDERAL LOBBYING**

(applies to subrecipients as well as States)

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 any 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 sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**RESTRICTION ON STATE LOBBYING**

(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

(applies to subrecipients as well as States)

**Instructions for Primary Tier Participant Certification (States)**

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions**

- (1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

- (b) Have not within a three-year period preceding this proposal 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/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **Instructions for Lower Tier Participant Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200.  
You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**BUY AMERICA ACT**

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

**PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE**

(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

**LAW ENFORCEMENT AGENCIES**

All subrecipient law enforcement agencies shall comply with California law regarding profiling. Penal Code section 13519.4, subdivision (e), defines "racial profiling" as the "practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped." Then, subdivision (f) of that section goes on to provide, "A law enforcement officer shall not engage in racial profiling."