



Council Meeting: February 23, 2010

SUBJECT: Appropriation of Emergency Management Performance Grant Funds and Approval of Budget Modification No. 21

BACKGROUND

The Federal Emergency Management Administration [FEMA] provides grant funding each year to states through the Emergency Management Performance Grant [EMPG]. The purpose of EMPG is to assist with the enhancement, sustainment and improvement of state, local, and tribal emergency management programs. FEMA provides EMPG funding to support the key components of a comprehensive national emergency management system for disasters and emergencies that may result from natural disasters and accidental or man-caused events. Activities conducted using EMPG funding should relate directly to the four elements of emergency management: prevention, protection, response, and recovery

The State of California distributes funding to counties (Operational Areas) based on population and on potential threats. As a sub-grantee of Santa Clara County, the Department of Public Safety (DPS) is eligible to receive EMPG Grant funds to support prevention and preparedness goals.

EXISTING POLICY

4.1 Law Enforcement Sub-Element

Goal 4.1A: Provide a safe and secure environment for people and property in the community.

Action Statement 4.1A.1d: Maintain, train and equip special response teams for extraordinary or extremely hazardous emergency incidents.

Goal 4.1B: Provide community oriented services that are responsive to citizen's needs in traditionally non-criminal areas.

Policy 4.1D.2: Provide effective and efficient management of Public Safety resources in order to meet the needs of: The community, the internal organization, and those mandated by regional, State, and Federal agencies.

Action Statement 4.1D.2b: Develop proposals and apply for appropriate governmental grants.

DISCUSSION

Emergency Management Performance Grant (EMPG)

For FY 2009, the Governor's Emergency Management Administration [CalEMA] awarded the County an Emergency Management Performance Grant in the amount of \$294,110 for the purpose of managing emergency planning. The City was allocated, on a per capita basis, a sum of \$23,155.

Of this allocation, DPS has identified expenditures to utilize the funds for the enhancement of Sunnyvale's preparedness efforts. DPS is currently working with 2008 EMPG funds to enhance the capabilities of the Community Emergency AM Radio Broadcast System. It is anticipated that this will be completed in February of 2010.

A key component of the broadcast system is community notification. DPS and the Department of Public Works, Traffic and Transportation Department Division are working together to utilize the messaging capabilities of existing digital radar signs that have been installed in neighborhoods around the city. This requires the creation of a Wi-Fi and/or radio network that will allow DPS and Traffic & Transportation staff to remotely place digital messages on the sign boards. These messages will be designed to instruct the public to tune to the broadcast system for information. 2009 EMPG funding in the amount of \$23,155 will be applied to the completion of the radio network notification system.

FISCAL IMPACT

EMPG grant guidelines allow funds to be used for either program improvements or to offset program expenditures. Staff is recommending that the 2009 EMPG funding be used for the completion of the City's radio network notification system. Budget Modification No. 21 has been prepared to appropriate \$23,155 in EMPG funding to a new project.

**Budget Modification No. 21
FY 2009/2010**

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Revenues</u>			
Santa Clara County - EMPG	\$0	\$23,155	\$23,155
<u>Expenditures</u>			
New Project - 2009 EMPG Augmentation	\$0	\$23,155	\$23,155

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Approve Budget Modification No. 21 to appropriate EMPG funds.

2. Do not approve Budget Modification No. 21 to appropriate EMPG funds.

RECOMMENDATION

Staff recommends Alternative #1: Approve Budget Modification No. 21 to appropriate the EMPG monies for the local emergency preparedness efforts.

Reviewed by:

Don Johnson, Director, Public Safety
Prepared by: Douglas Moretto, Captain

Reviewed by:

Mary J. Bradley, Director, Finance

Approved by:

Gary M. Luebbers
City Manager

Attachments:

- A. 2009 EMPG Memorandum of Understanding

**AGREEMENT BETWEEN THE COUNTY OF SANTA CLARA AND
THE CITY OF SUNNYVALE GRANTING PROGRAM FUNDS FOR THE FISCAL YEAR
2009 EMERGENCY MANAGEMENT PERFORMANCE GRANT**

THIS AGREEMENT is made effective July 1, 2009, by and between the County of Santa Clara ("County") and the City of Sunnyvale ("City") for the allocation and distribution of FY 2009 Emergency Management Performance Grant funds.

RECITALS

WHEREAS, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale, the Towns of Los Gatos, Los Altos Hills, and the County of Santa Clara, are parties to the 1994 Operational Area Interim Agreement; and

WHEREAS, the Emergency Preparedness Council ("EPC") is the advisory body of the Santa Clara Operational Area in matters affecting disaster preparedness throughout the Operational Area. EPC membership includes an elected city council member from each city in the Operational Area, one member of the Water District and one member of the Santa Clara County Board of Supervisors; and

WHEREAS, the County Emergency Services/Civil Defense Ordinance empowers the EPC to serve as the Santa Clara County Operational Area Council ("OAC") with governing body authority to carry out the responsibilities of the OAC and to make funding allocation decisions for the Emergency Management Performance Grants; and

WHEREAS, on June 15, 2009, the Governor's Office of Emergency Services awarded the County a Fiscal Year 2009 Emergency Management Performance Grant of \$294,110.00 for the purpose of managing emergency planning;

NOW, THEREFORE, this AGREEMENT is to allocate the sum of \$23,154.73 (a portion of the grant funds, allocated on a per capita basis, Exhibit A), from the County to the City, so that the City may implement programs as provided under this Agreement and specified in the Emergency Management Performance Grant guidelines for subgrant recipients, Exhibit B. Projects must follow the Program Narrative, Exhibit C, submitted with the FY09 EMPG application submittal. The performance period for this grant expires on June 30, 2010.

The County and City agree as follows:

THE AGREEMENT

Article I. Payment and Request for Reimbursement

1. Amount of Payment.

Fiscal Year 2009 Emergency Management Performance Grant funds will be disbursed pursuant to the state formula for each city. The County will reimburse to the City, funds that the City expends, under Fiscal Year 2009 Emergency Management Performance Grant. The amount for the City of Sunnyvale will not exceed \$23,154.73, unless additional funds become available under the Fiscal Year 2009 Emergency Management Performance Grant following the execution of this agreement. If additional funds are allocated, an amendment to this MOU will follow.

2. Request for Reimbursement

The EMPG is a matching funds grant. All requests for reimbursement should be accompanied by a spreadsheet, Exhibit F, indicating the 50% city match and the EMPG allowable amount up to the allocated amount of each city.

All equipment must be authorized per the web-based Authorized Equipment List (AEL) on the Responder Knowledge Base (RKB) which is sponsored by Grants & Training and the National Memorial Institute for the Prevention of Terrorism (MIPT) at <https://www.rkb.us/>.

The following documentation is required for all reimbursement requests for equipment:

- Quote or Solicitation Documents
- Summary of pricing and chosen vendor
- Documentation that vendor is not on the excluded parties list (<https://www.epls.gov/>)
- Purchase or and/or Contract
- Receiving documentation/Packing slip
- Invoice
- Proof of Payment

For reimbursement of Salaries:

- Functional Timesheet (Exhibit E)
- Description of scope of job which includes Emergency Management functions
- Payroll reports showing amount paid for each pay period being claimed

For reimbursement for Training activities:

- Class Syllabus
- Class sign-in sheet
- Instructor/Consultant contract documents
- Instructor's invoice
- Proof of Payment

Article II. Use of Funds

1. Scope of Services

(a) The City will use the funds granted under this Agreement only for the purpose of implementing applicable programs under the Fiscal Year 2009 Emergency Management Performance Grant, as indicated in Exhibit A, Program Narrative.

(b) The City will use the funds granted under this Agreement in a manner consistent with:

- (1) the applications submitted by the County to the State for the grants under this Agreement;
- (2) the grant guidance issued by the State for the grants under this Agreement; and
- (3) the notifications issued by the State for the approval of the grants under this Agreement.

(c) The documents described in Article II.1(b)(1-3) of this Agreement are on file with the County and the granting agencies of the State, and are hereby incorporated into this Agreement.

2. Performance Period

The performance period for this grant expires on June 30, 2010.

3. Master Grant Obligations.

(a) The City agrees to comply with all applicable requirements and assurances contained in the State Grant Requirements. The City may designate vendors or sub grantees to fulfill these obligations.

(b) If any provisions of this Agreement conflict with the State Grant Requirements, the provisions of the State Grant Requirements will control.

4. Reporting

(a) The City will prepare progress reports for the duration of the term of this Agreement. The reports must include the status of all activities, including equipment purchases (if applicable).

(b) The reports are due to the County representative identified in Article V.1 as follows:

Performance Reporting Period (July 1, 2009- December 31, 2009) - due by January 9, 2009
Final Performance Reporting Period (January 1, 2010- June 30, 2010) - due by July 9, 2010

(c) The County will provide the City with a report template, (Exhibit D) and the City will utilize the template.

(d) The City will notify the County representative identified in Article V.1, within 15 days, when the City has completed all performance obligations for these grants.

5. Disallowances

(a) During the term of this Agreement, County is not obligated to honor any request for reimbursement that is submitted more than three months following the date of the service for which payment is requested.

(b) Final invoice will be due ten days before the expiration date of the Performance Period of the grant (as indicated in Article II.2 above and in paragraph 5 of the Recitals). County will not process any claims submitted after this date.

Article III Term and Termination

1. Term of Agreement

This Agreement is effective from July 1, 2009 through the date that the County receives notification from Governor's Office of Emergency Services that the County's Fiscal Year 2009 Emergency Management Performance Grants have been closed out.

2. Termination

- a. Either party may terminate this Agreement for cause upon written notice to the other; cause includes, but is not limited to a material breach of this Agreement, or a violation of any applicable laws.
- b. Opportunity to cure. The non-breaching party shall give written notice of the breach to the breaching party, specifying the breach. The breaching party shall not be deemed in default hereunder and the non-breaching party shall not institute proceedings or exercise any remedies against the breaching party unless the breach has not been cured, corrected or remedied within thirty (30) days after the giving of such notice of breach or within such longer period as may be reasonably required to cure, correct or remedy the breach, provided the breaching party has commenced such cure, correction or remedy within such thirty (30) day period and diligently and continuously pursues such cure, correction or remedy.

- c. If Agreement is terminated, the City shall return funding in accordance with grant guidelines.

Article IV. Liabilities

1. Mutual Indemnification

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the County and the City agree that pursuant to Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

Article V. Miscellaneous

1. Notice

All notices required by this Agreement will be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth below or at such other address as the party may designate in writing:

To the City:

John Geinger
City of Sunnyvale Public Safety Department
700 All America Way
Sunnyvale, CA 94088

To the County:

Diane Stambaugh
Administrative Services & Grants Manager
County of Santa Clara Office of Emergency Services
55 W. Younger Ave., Suite 450
San Jose, CA 95110

2. Compliance and Nondiscrimination

The parties will comply with all applicable Federal, State, and local laws and regulations. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973 (Sections 503 and 504), the California Fair Employment and Housing Act (Government Code sections 12900 et seq.), and California Labor Code sections 1101 and 1102. The parties will not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor will the parties discriminate in the provision of services provided under this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

3. County No-Smoking Policy

Contractor and its employees, agents and subcontractors, shall comply with the County's No Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

4. Governing Law

This Agreement has been executed and delivered in, and will be construed and enforced in accordance with, the laws of the State of California.

5. Assignment

The parties may not assign this Agreement or the rights and obligations hereunder without the specific written consent of the other.

6. Entire Agreement

This document represents the entire Agreement between the parties with respect to the subject matter hereof. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of this Agreement are merged into this Agreement.

7. Amendments

This Agreement may only be amended by an instrument signed by the parties.

8. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

9. Severability

If any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid or unenforceable, the same will either be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

10. Waiver

No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a party must be in writing, and shall apply to the specific instance expressly stated.

11. Conflict of Interest

In accepting this Agreement, City covenants that is presently has no interest and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of services under this Agreement. City is responsible for assuring compliance of its subcontractors, if any, with the requirements of this provision.

12. Certified Resolution of Signature Authority

Upon request of Santa Clara County, City will deliver to Santa Clara County a copy of the resolution(s) authorizing execution, delivery and performance of this Agreement, certified as true, accurate and complete by the appropriate authorized representative of City.

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Signed:

COUNTY OF SANTA CLARA

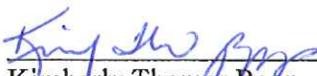
CITY OF SUNNYVALE

By  11/5/09
Gary Graves Date
Acting County Executive

By  9-23-09
Gary Luebbers Date
City Manager

Approved as to Form and Legality:

Approved as to Form and Legality:

 02 NOV 2009
Kimberly Thomas Rapp Date
Deputy County Counsel

 9/21/09
for City Attorney Date

- Exhibit A FY08 Per Capita Distribution Worksheet
- Exhibit B Grant Guidance
- Exhibit C Program Narrative
- Exhibit D Report Template
- Exhibit E Functional Timesheet Template
- Exhibit F City Reimbursement Worksheet