

File No. 111220

Board Item No. **22**

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date: November 15, 2011

Cmte	Board	
<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form (for hearings)
<input type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

**OTHER**

Completed by: Annette Lonich

Date: November 10, 2011

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document is in the file.

## INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

Time Stamp or  
Meeting Date

I hereby submit the following item for introduction:

- 1. For reference to Committee: \_\_\_\_\_  
An ordinance, resolution, motion, or charter amendment
- 2. Request for next printed agenda without reference to Committee
- 3. Request for hearing on a subject matter at Committee: \_\_\_\_\_
- 4. Request for letter beginning "Supervisor \_\_\_\_\_ inquires..."
- 5. City Attorney request
- 6. Call file from Committee
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File Nos.
- 9. Request for Closed Session
- 10. Board to Sit as A Committee of the Whole
- 11. Question(s) submitted for Mayoral Appearance before the BOS on \_\_\_\_\_

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- |   |  |
|---|--|
| <input type="checkbox"/> Small Business Commission      | <input type="checkbox"/> Youth Commission    |
| <input type="checkbox"/> Ethics Commission              | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Building Inspection Commission |  |

**Note:** For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

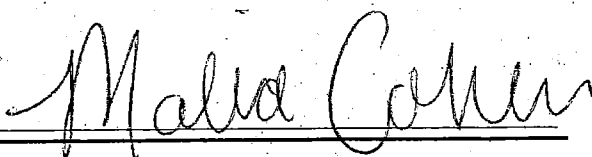
**Sponsor(s):** Cohen

**Subject:** Accept-Expend \$10,000 State Grant for Oil Spill Response Planning

The text is listed below or attached:

Attached

Signature of Sponsoring Supervisor: \_\_\_\_\_



**For Clerk's Use Only:**

1 [Accept-Expend \$10,000 State Grant for Oil Spill Response Planning]

2  
3 **Resolution authorizing the Department of Emergency Management (DEM) to accept and**  
4 **expend retroactively a grant in the amount of \$10,000 from the California Department of**  
5 **Fish and Game for oil spill response planning, for the period July 1, 2011 through June**  
6 **30, 2012.**

7 WHEREAS, The Department of Emergency Management (DEM) is committed to  
8 strengthening the ability of the City and County of San Francisco (City) and its residents to  
9 mitigate, prepare for, respond to, and recover from any disaster; and,

10 WHEREAS, DEM was awarded a grant from the state Department of Fish and Game  
11 (DFG) to improve emergency planning for oil spill response; and,

12 WHEREAS, The grant period runs from July 1, 2011 through June 30, 2012, and,

13 WHEREAS, DEM will use the grant funds on preparation of the Local Oil Spill  
14 Contingency Plan Element to define policies and procedures for the City to respond to an oil  
15 spill on San Francisco Bay, to participate in training and exercises related to oil spill response,  
16 and to reimburse a portion of existing positions at DEM, specifically 5291 Planner III (100  
17 hours) and a 0954 Deputy Director (30 hours); and,

18 WHEREAS, the Annual Salary Ordinance (ASO) includes the grant-funded positions,  
19 so no ASO amendment is required; and,

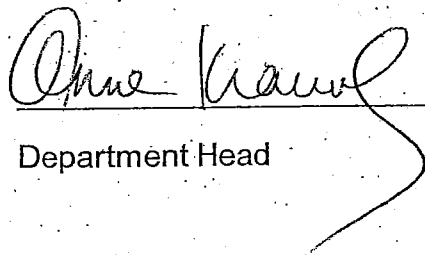
20 WHEREAS, The grant allows indirect costs, and the grant budget includes \$1,444.22 in  
21 indirect costs. A copy of the grant budget is on file with the Clerk of the Board of Supervisors  
22 in File No. 111220, which is hereby declared to be a part of this resolution as if  
23 set forth fully herein; now, therefore be it,

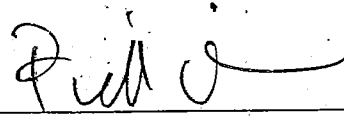
24 **RESOLVED**, That DEM is authorized to accept and expend retroactively the DFG grant  
25 in the amount of \$10,000 consistent with the grant budget; and, be it

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FURTHER RESOLVED, That the DEM Executive Director, or her designee, is authorized to furnish whatever additional information or assurances that DFG may request in connection with this grant, to execute any and all agreements or other documents, and to take any other steps necessary to accept and expend the grant funds.

Recommended:

  
Department Head

Approved:   
\_\_\_\_\_

Mayor

Approved:   
\_\_\_\_\_

Controller



**Department of Emergency Management**  
1011 Turk Street, San Francisco, CA 94102

Division of Emergency Communications  
Phone: (415) 558-3800 Fax: (415) 558-3843

Division of Emergency Services  
Phone: (415) 487-5000 Fax: (415) 487-5043



Anne Kronenberg  
Executive Director

Edwin M. Lee  
Mayor

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Amiee Alden, Policy and Planning Manager

DATE: October 24, 2011

SUBJECT: Accept and Expend Resolution for Subject Grant

GRANT TITLE: Local Government Oil Spill Contingency Plan Grant

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Attached please find the original and 4 copies of each of the following:

Proposed grant resolution; original signed by Department, Mayor, Controller

Grant information form, including disability checklist

Grant budget

Grant application

(not included – the state Dept. of Fish and Game does not require an application for this annual grant. All relevant details are in the award letter, attached.)

Grant award letter from funding agency

Special Timeline Requirements:

**Departmental representative to receive a copy of the adopted resolution:**

Name: Amiee Alden Phone: 415-558-3803

Interoffice Mail Address: Dept. of Emergency Management – 1011 Turk Street

Certified copy required Yes

No

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient).

**File Number:** \_\_\_\_\_  
(Provided by Clerk of Board of Supervisors)

**Grant Resolution Information Form**  
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: **Local Government Oil Spill Contingency Plan Grant**

2. Department: **Emergency Management**

3. Contact Person: **Amiee Alden** Telephone: **415-558-3803**

4. Grant Approval Status (check one):

Approved by funding agency

Not yet approved

5. Amount of Grant Funding Approved or Applied for: \$ **10,000**

6a. Matching Funds Required: \$ **0**

b. Source(s) of matching funds (if applicable):

7a. Grant Source Agency: **California Department of Fish and Game**

b. Grant Pass-Through Agency (if applicable):

8. Proposed Grant Project Summary: **to fund local government for participation in meetings, training, and exercises related to planning for oil spill response, as well as to update oil spill response plans.**

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: **July 1, 2011**

End-Date: **June 30, 2012**

10a. Amount budgeted for contractual services:

b. Will contractual services be put out to bid? **No**

c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements?

d. Is this likely to be a one-time or ongoing request for contracting out?

11a. Does the budget include indirect costs?

Yes

No

b1. If yes, how much? \$ **1,444,22**

b2. How was the amount calculated? **Overhead at 16.88%**

c1. If no, why are indirect costs not included?

Not allowed by granting agency

To maximize use of grant funds on direct services

Other (please explain):

c2. If no indirect costs are included, what would have been the indirect costs?

12. Any other significant grant requirements or comments:

**\*\*Disability Access Checklist\*\* (Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Existing Site(s) | <input type="checkbox"/> Existing Structure(s)      | <input type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s)       | <input type="checkbox"/> Rehabilitated Structure(s) | <input type="checkbox"/> New Program(s) or Service(s)      |
| <input type="checkbox"/> New Site(s)                 | <input type="checkbox"/> New Structure(s)           |  |

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments:

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Terrence Daniel

(Name)

Human Resources Manager

(Title)

Date Reviewed:

10-21-11



(Signature Required)

Department Head or Designee Approval of Grant Information Form:

Anne Kronenberg

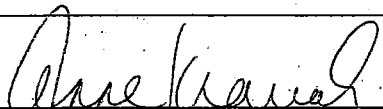
(Name)

Executive Director

(Title)

Date Reviewed:

10-25-11



(Signature Required)

**GRANT AGREEMENT (LGOSCP)**

**GRANT AGREEMENT NUMBER**

**P1175019**

**DEPARTMENT OF FISH AND GAME  
LOCAL GOVERNMENT OIL SPILL CONTINGENCY PLAN GRANT**

1. This Grant Agreement is entered into between the State Agency and the Grantee named below:

STATE AGENCY'S NAME

**Department of Fish and Game**

GRANTEE'S NAME

**City & County of San Francisco, Department of Emergency Management**

2. The term of this **July 01, 2011** through **June 30, 2012**  
Grant Agreement is:

3. The maximum amount of **\$10,000.00**  
this Grant Agreement is: **Ten thousand dollars and no cents.**

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of this Grant Agreement:

- |  |           |
|--|-----------|
| Exhibit A – Scope of Work                    | 3 Page(s) |
| Exhibit B – Invoicing and Payment Provisions | 3 Page(s) |
| *Exhibit C – General Terms and Conditions    | GTC 610   |
| Exhibit D – DFG Additional Provisions        | 5 Page(s) |
| Exhibit I – Travel Reimbursement Information | 2 Page(s) |

\* Hereby incorporated by reference and made part of this Grant Agreement as if attached hereto ([www.ois.dgs.ca.gov/standard+language](http://www.ois.dgs.ca.gov/standard+language)).

**IN WITNESS WHEREOF, this Grant Agreement has been executed by the parties hereto.**

**GRANTEE**

GRANTEE'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

**City & County of San Francisco, Department of  
Emergency Management**

DATE SIGNED (Do not type)

**7/14/11**

BY (Authorized signature)

PRINTED NAME AND TITLE OF PERSON SIGNING

**Rob Dugeon, Deputy Director**

ADDRESS

**1011 Turk Street, San Francisco, CA 94102**

**STATE OF CALIFORNIA**

STATE AGENCY'S NAME

**Department of Fish and Game**

DATE SIGNED (Do not type)

BY (Authorized signature)

PRINTED NAME AND TITLE OF PERSON SIGNING

**Helen Carriker, Deputy Director, Administration**

ADDRESS

**1416 9<sup>th</sup> Street, 12<sup>th</sup> Floor, Sacramento, CA 95814**

Exempt from Department of General Services review/approval pursuant to:

GC 8670.35 (b)



**EXHIBIT A  
SCOPE OF WORK  
LOCAL GOVERNMENT OIL SPILL CONTINGENCY PLAN GRANT**

**1. PROJECT PURPOSE**

This Grant agreement (Grant) is entered into between the Department of Fish and Game (DFG), represented by the Office of Spill Prevention and Response (OSPR) and the City and County of San Francisco, Department of Emergency Management (Grantee).

The purpose of this grant is to provide funding to local governments (coastal cities & counties) for their participation in the Area Contingency Plan (ACP) meetings, training, drills, oil spill contingency plan element and the update of local hazardous materials plan.

**2. PROJECT OFFICIALS**

Cindy Murphy shall be the designated Local Government Oil Spill Contingency Plan (LGOSCP) Program Grant Manager for OSPR under this Grant. The LGOSCP Grant Manager may be changed at any time by OSPR by providing a ten (10) day advance written notice to the Grantee.

Susan Christensen shall be the designated Grantee's Project Manager under this Grant. The Grantee's Project Manager may be changed at any time by the Grantee by providing a ten (10) day advance written notice to OSPR

Direct all program and project related inquiries to:

**Department of Fish and Game**  
OSPR - Marine Safety Branch  
Attention: Cindy Murphy  
Address: 1700 K Street, Suite 250  
Sacramento, CA 95811  
Phone: (916) 324-6250  
Fax: (916) 327-0907  
Email: [cmurphy@ospr.dfg.ca.gov](mailto:cmurphy@ospr.dfg.ca.gov)

**City and County of San Francisco**  
Department of Emergency Management  
Attention: Susan Christensen  
Address: 1011 Turk Street  
San Francisco, CA 94102  
Phone: (415) 487-5011  
Fax: ()  
Email: [susan.christensen@sfgov.org](mailto:susan.christensen@sfgov.org)

**3. BACKGROUND AND OBJECTIVES**

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act was signed into law by the Governor (Chapter 1248, Statutes of 1990, commencing with Section 8670.1 of the Government Code.) This legislation requires that the OSPR be responsible for oil spill prevention, emergency oil spill response, statewide contingency planning, resource damage assessment, and resource rehabilitation and restoration, plus review, approval, and reporting requirements mandated by the Act. Therefore OSPR instituted the LGOSCP Grant Program, a mechanism to ensure these responsibilities are met. The grant funding is provided through the OSPR's subvention grant program for local agencies.

The primary objective for participation in the Coast Guard's Area Contingency Planning process is to assist in the update of the ACP and to ensure consistency between the Federal, State and Local Contingency Plans. Update/revise their LGOSCP and participate in drills, as needed.

The Grant goals are:

- 1) To ensure that important concerns of the City and County of San Francisco Plan is addressed in the Federal ACP to the greatest extent possible.
- 2) To identify differences between the Federal ACP and the Local LGOSCP element resulting from participating in the ACP update. The new information identified shall be the basis for updates and revisions to the existing LGOSCP on file with the DFG.

#### **4. SCOPE OF WORK**

##### **A. WORK TO BE PERFORMED**

The Department of Emergency Management of the City and County of San Francisco will be responsible for preparing the LGOSCP element through the grant program of the DFG. The staff involved in the contingency planning efforts has considerable knowledge and is familiar with the requirements of the ACP. Listed below are the staff expected to participate in the United State's Coast Guard (USCG) area planning process:

- 1) Deputy Director, Department of Emergency Management
- 2) Planner III, Department of Emergency Management
- 3) Subcontractor - EG/G Technical Services

Activities that the staff will perform include, but may not be limited to:

- 1) Attend the ACP and sub-committee meetings, as appropriate.
- 2) Review USCG area plan.
- 3) Draft and provide local government input to revisions to area plans.
- 4) Compare USCG information and local government oil spill contingency plans elements, and document the differences as a result of the 2009 ACP updates; to include identification of equipment and resource gaps.
- 5) Participate in San Francisco Bay Natural Resource Protection Trust Fund implementation.
- 6) Attend required training.
- 7) Participate in exercises and drills.
- 8) Prepare and submit final report.
- 9) Prepare documentation and submit invoices for reimbursement.
- 10) Revise the local Oil Spill Plan to reflect the lessons learned from the Cosco Busan incident and subsequent After Action Reports.

##### **B. AREA COMMITTEE SUBJECT AREAS**

The Coast Guard Area Committee will address the following subjects in the Area Plans:

- 1) Environmental Sensitivity
- 2) Economic Significance
- 3) Response Resources
- 4) Response Strategy
- 5) Communications
- 6) Disposal

- 7) Logistics
- 8) Safety
- 9) Finance
- 10) Public Affairs/Coordination
- 11) Wildlife Rescue and Rehabilitation
- 12) Salvage Operations
- 13) Firefighting
- 14) Natural Resources Damage Assessment
- 15) Investigation
- 16) Port/Traffic Management
- 17) Scenario Development
- 18) Air Operations
- 19) Chemical Countermeasures
- 20) Volunteers
- 21) Miscellaneous Review/Drafting

#### D. Time Frames

The Department of Public Health will follow the time lines established to accomplish the task of completing the update of the local plan as agreed upon by the USCG and the DFG as follows:

1) July 2011

- Document changes in San Francisco's Local Plan 2009 revision
- Forward information to USCG for 2009 ACP revision

2) November 2011

- Actual writing
- Updating
- Production
- Draft Local Plan revisions

3) May 2012

- Review
- Revisions distributed for comment
- Comments are consolidated and incorporated
- Final revisions to be completed by end of the month
- Reproduction and distribution

In addition, representatives from the City and County of San Francisco will continue to attend the monthly/bimonthly meetings of the ACP meetings. Staff will perform work needed to update the ACP. The time frames for this work will be based on the deadlines set by the USCG when changes by the local agencies are due. The DFG will be responsible for ensuring that for each subject area, the area plan includes input from a representative from the City and or County of San Francisco.

EXHIBIT B  
INVOICING AND PAYMENT PROVISIONS  
LOCAL GOVERNMENT OIL SPILL CONTINGENCY PLAN GRANT

1. INVOICING AND PAYMENT

A. For work performed using funds from this Grant and in accordance with the Scope of Work, and upon receipt of invoices, the State agrees to compensate the Grantee for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.

B. Upon satisfactory performance, the State agrees to pay the Grantee monthly in arrears, for all work performed as described herein for the total specified amount, following submission of an original and two (2) copies of the invoice. The invoice shall be submitted to:

Grant Manager: Cindy Murphy  
Region / Division: Office of Spill Prevention and Response  
Address: 1700 K Street, Suite 250, Sacramento, CA 95811

C. The original and one (1) approved copy of the invoice will be forwarded to the Department of Fish and Game's Accounting Claims Section by the Grant Manager. Payment of any invoice will be made only after receipt of a complete, supported, documented and accurately addressed invoice. Failure to use the address exactly as provided above may result in the return of the invoice to the Grantee. All invoices must be approved by the Grant Manager.

D. The invoice shall contain the following information:

1. The word "invoice" should appear in a prominent location at the top of the page(s);
2. An invoice number;
3. Printed name of the Grantee;
4. Business address of the Grantee including P.O. Box, City, State, and Zip Code;
5. Name of the Region/Division of the Department of Fish and Game being billed;
6. The date of the invoice and the time period covered;
7. The number of the agreement upon which the claim is based, and;
8. An itemized account of the services for which the DFG is being billed. Include all of the following:
  - a. A description of the services performed;
  - b. The total amount due. This should be in a prominent location in the lower right-hand portion of the last page and clearly distinguished from other figures or computations appearing on the invoice; the total amount due shall include all costs incurred by the Grantee under the terms of this agreement; and
  - c. The original signature of the Grantee (not required of established firms or entities using preprinted letterhead invoices).

**2. CONTRACT WRITTEN PRIOR TO APPROVAL OF THE BUDGET ACT**

- A. It is mutually understood between the parties that this Agreement may have been written prior to approval of the Budget Act for the mutual benefit of both parties in order to avoid program and fiscal delays.
- B. This Agreement is valid and enforceable only if sufficient funds are made available by the Budget Act for the Fiscal Year(s) involved for the purposes of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Legislature and contained in the Budget Bill or any statute enacted by the Legislature which may affect the provisions, terms, or funding of this Agreement in any manner.
- C. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to the Contractor to reflect the reduced amount.

**3. PROMPT PAYMENT CLAUSE**

Payment will be made in accordance with, and within the time specified in Government Code Chapter 4.5, commencing with Section 927.

4. LINE ITEM BUDGET

	<u>FY 11/12</u>
<b>Personal Services</b>	
Manager (\$50.83/hr. x 30 hrs.)	\$1,524.90
Planner III (\$43.48/hr. x 100 hrs.)	\$4,348.00
Benefits @ 30%	<u>\$1,761.87</u>
<b>Subtotal Personal Services</b>	<b>\$ 7,634.77</b>
<b>Operating Expenses &amp; Equipment (OE&amp;E)</b>	
Travel & Per Diem	\$921.00
<b>Subtotal OE&amp;E</b>	<b>\$921.00</b>
<b>Indirect Cost (Overhead @ 16.88%)</b>	<b><u>\$1,444.22</u></b>
<b>Grand Total</b>	<b>\$10,000.00</b>

**ADDITIONAL PROVISIONS**

1. **LICENSES AND PERMITS (If Applicable)** ~ The Contractor shall be an individual or firm licensed to do business in California and shall obtain, at his/her expense, all licenses and permits required by law for accomplishing any work required in connection with this Agreement.

If you are a Contractor located within the State of California, a business license from the City/County in which you are headquartered is necessary; however, if you are a corporation, a copy of your incorporation documents/letters from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the DFG, a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that State.

In the event any licenses and/or permits expire at any time during the term of this Agreement, Contractor agrees to provide the DFG a copy of the renewed licenses and/or permits within thirty (30) days following the expiration date. In the event the Contractor fails to keep in effect, at all times, all required licenses and permits, the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

2. **RIGHTS IN DATA** ~ The Contractor agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Agreement, are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the State reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

3. **RIGHT TO TERMINATE** ~ The State reserves the right to terminate this agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

However, the agreement can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

This agreement may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service.

4. **SETTLEMENT OF DISPUTES** ~ Unless otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which cannot be resolved informally, shall be decided by the following two (2) step procedure:

- a. The Contractor must provide written notice of the particulars of such disputes to the DFG Contract Manager or appointed representative. The DFG Contract Manager must respond, in writing, within ten (10) working days of receipt of the written notice of dispute. Should the Contractor disagree with the DFG Contract Manager's decision, the Contractor may appeal to the second level. Pending the decision on appeal the Contractor shall proceed diligently with the performance of this Agreement in accordance with the DFG Contract Manager's decision.
- b. The second level appeal must indicate why the DFG Contract Manager's decision is unacceptable, attaching it to the Contractor's original statement of the dispute with supporting documents, and a copy of the DFG Contract Manager's response. This letter of appeal shall be sent to the Department of Fish and Game, Deputy Director, or duly appointed representative. The second level appeal must be filed within fifteen (15) working days upon receipt of the DFG Contract Manager's decision. Failure to submit an appeal within the period specified shall constitute a waiver of all such rights to an adjustment of this Agreement. The Deputy Director, or designee, shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director or designee, shall be returned to the Contractor within fifteen (15) working days of the receipt of the appeal. The decision of the Deputy Director, or designee, will be final.

5. **PROPERTY ACQUISITIONS** ~ Property, as used in this section shall include:

- a. **Equipment** – Tangible property (including furniture) with a unit cost of \$5,000.00 or more, and a useful life of four (4) years or more. Actual costs include the purchase price plus all costs to acquire, install and prepare the equipment for its intended use.
- b. **Furniture** – Standard office furnishings including desks, chairs, bookcases, credenzas, tables, etc.
- c. **Portable Assets** – Items considered 'highly desirable' because of their portability and value, e.g., calculators, typewriters, Dictaphones, cameras and microscopes, etc.
- d. **Electronic Data Processing (EDP) Equipment** – All computerized and auxiliary automated information handling including system design and analysis, conversion of data, computer programming, information storage and retrieval, voice, video, and data communications, requisite system controls, simulation and all related interactions between people and machines.

The Contractor may purchase property under this Agreement only if specified in Exhibit B titled 'Budget Detail and Payment Provisions'. Any property purchased by the Contractor, with funds provided under this Agreement, shall be the property of the State during the customary depreciable life thereof. The Contractor shall promptly report any such purchase to the DFG Contract Manager and to the State's Property Officer. Should this Agreement be terminated for any reason, or upon expiration and failure to negotiate hereof, all such property shall be returned to the State within the timeframe negotiated between the Contractor and the State. Prior written authorization by the DFG Contract Manager shall be required before the Contractor will be reimbursed for any property purchases not specified in the Budget. The Contractor shall provide to the DFG Contract Manager, all particulars regarding the necessity for such property and the reasonableness of the cost.

Before property purchases made by the Contractor are reimbursed by the State, the Contractor shall submit paid vendor receipts identifying the Agreement number, purchase price, description of the item, serial number, model number, and location, including street address where property will be used during the term of this Agreement. Said paid receipts shall be attached to Contractors' invoices. The Contractor shall keep adequate and appropriate records of all property purchased with Agreement funds and at the time of purchase, prepare a Property Purchased with State Funds report and submit one (1) copy to the DFG Contract Manager, and one (1) copy to the Property Officer; one (1) copy must be retained by the Contractor.

The State reserves the right, at any time, to evaluate the cost of property and reimburse at an amount equal to costs reflected in but not limited to Agreements the State Department of General Services, Procurement Division has negotiated with vendors who supply the same type of property. The Contractor shall tag all acquisitions. The purpose of tagging assets is to designate the assets as belonging to the State.

Upon termination, expiration or failure to negotiate renewal of this Agreement, all property purchased with Agreement funds shall promptly be returned to the State. The Contractor shall prepare an inventory of State Furnished Property report and submit to the State and shall at that time query the DFG Contract Manager as to the State's requirements, including the manner and method, in returning said property to the State. Final disposition of such property shall be at State expense in accordance with instructions from the DFG Contract Manager to be issued immediately after receipt of the final inventory.

6. **LOST, STOLEN or DESTROYED PROPERTY** - the Contractor shall immediately report the loss, theft or destruction to the local law enforcement agency (or the California Highway Patrol (CHP) if the crime occurs on either state-owned or state leased property) and to the DFG Contract Manager and prepare a Property Survey Report.

In the case of stolen property, the Contractor shall also complete a CHP Report of Crime on State Property (STD 99) form, and obtain a copy of the law enforcement agency's report to submit to the DFG Contract Manager. The Contractor shall adjust their property records and retain a copy of the Property Survey Report as documentation.

Losses of State property due to fraud or embezzlement shall be reported in the same manner as described above. The Contractor shall be charged with any loss and damages to State property due to the Contractor's negligence. The Contractor shall, at the request of the State, submit an inventory of property furnished or purchased under the terms of this Agreement. Such inventory will be required not more frequently than annually.

7. **INCOME RESTRICTIONS** ~ The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this Agreement shall be paid by the Contractor to the State, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the State under this Agreement.



8. **CONFIDENTIALITY OF DATA** ~ All financial, personal, technical, and other data and information relating to the California State Department of Fish and Game operations which are designated confidential by the California State Department of Fish and Game, and made available to the Contractor in order to carry out this Agreement, or which becomes available to the Contractor in carrying out this Agreement shall be protected by the Contractor for the protection of the Contractor's data and information are deemed by the California State Department of Fish and Game's confidential information, such methods and procedures may be used, with written consent of the California State Department of Fish and Game, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph, to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Agreement or is rightfully obtained from third parties.

9. **DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION REQUIREMENTS** ~ The Contractor agrees to use DVBE subcontractors or suppliers originally identified by the Contractor, unless the Contractor requests substitution, in writing beforehand to the DFG Contract Manager and the DFG Contract Manager has approved such substitution. At a minimum, the request must include:

- a. A written explanation of the reason for the substitution; and
- b. The identity of the person or firm substituted.

The request and the DFG Contract Manager's approval is not to be construed as an excuse for noncompliance with any other provision of law, including but not limited to the subletting and subcontracting Fair Practices Act or any other Agreement requirements relating to the substitution of subcontractors. Failure to adhere to at least the level of participation for DVBE proposed by the Contractor may be cause for Agreement termination and recovery of damages under the rights and remedies due the State.

10. **DISCLOSURE REQUIREMENTS** ~ Any document or written report prepared in whole or in part pursuant to this Agreement shall contain a disclosure statement indicating that the document or written report was prepared through an Agreement with the State. The disclosure statement shall include the Agreement number and dollar amount of all Agreements and subcontracts relating to the preparation of such documents or written reports. The disclosure statement shall be contained in a separate section of the document or written report.

If the Contractor or subcontractor(s) are required to prepare multiple documents or written reports, the disclosure statement may also contain a statement indicating that the total Agreement amount represents compensation for multiple documents or written reports. The Contractor shall include in each of its subcontracts for work under this Agreement, a provision which incorporates the requirements stated within this section.

11. **USE OF SUBCONTRACTOR(S)** ~ If the Contractor desires to accomplish part of the services through the use of one (1) or more subcontractors, the following conditions must be met:

- a. The Contractor shall submit any subcontracts to the State for approval prior to starting any of the work;
- b. The Agreement between the primary Contractor and the subcontractor must be in writing;
- c. The subcontract must include specific language which establishes the rights of the auditors of the State to examine the records of the subcontractor relative to the services and materials provided under the Agreement; and
- d. Upon termination of any subcontract, the State shall be notified immediately, in writing.

Further, any subcontract in excess of \$100,000 entered into as a result of this Agreement shall contain all applicable provisions stipulated in this Agreement.

12. **POTENTIAL SUBCONTRACTOR(S)** ~ Nothing contained in this Agreement or otherwise shall create any contractual relation between the State and any subcontractor(s) and no subcontract shall relieve the primary Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractor(s) and of persons directly employed or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractor(s) is an independent obligation from the State's obligation to make payments to the primary Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.

13. **TRAVEL AND PER DIEM** ~ The Contractor agrees that all travel and per diem paid its employees under this Agreement shall be at rates not to exceed those amounts paid to the nonrepresented/excluded State employees. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.
14. **NOVATION** ~ If the Contractor proposes any Novation Agreement, the State shall act upon the proposal within sixty (60) days after receipt of the written proposal. The State may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection may be made orally within the sixty (60) day period, and confirm in writing within five (5) days. No Novation Agreement shall become operative or otherwise binding on the State pursuant to this paragraph in the absence of a formal Novation Agreement amendment which has been approved in accordance with all applicable State policy, laws and procedures.
15. **LIABILITY INSURANCE** ~ When the Contractor submits a signed Agreement to the State, the Contractor shall furnish to the State, a certificate of insurance stating that there is liability insurance presently in effect for the Contractor of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. The certificate of insurance will include provisions a, b, and c, in their entirety:
- a. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the State;
  - b. The State of California, its officers, agents, employees, and servants are included as additional insured, by insofar as the operations under this Agreement are concerned; and
  - c. The State will not be responsible for any premiums or assessments on the policy.
- The Contractor agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide, prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Department of General Services, and the Contractor agrees that no work or services shall be performed prior to giving of such approval. In the event the Contractor fails to keep in effect, at all times, insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.
- The Department of Fish and Game will not provide for, nor compensate the Contractor for any insurance premiums or costs for any type or amount of insurance. The insurance required above, shall cover all Contractor supplied personnel and equipment used in the performance of this Agreement. If subcontractors performing work under this Agreement do not have insurance equivalent to the above, the Contractor's liability shall provide such coverage for the subcontractor, except for coverage for error, mistake, omissions, or malpractice, which shall be provided by the subcontractor if such insurance is required by the State.
16. **COMPUTER SOFTWARE (IT SERVICES)** ~ The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
17. **INSPECTION** ~ The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made by the State of the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require their subcontractor(s) to provide all reasonable facilities and assistance for the safety and convenience of the State representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.
18. **FORCE MAJEURE** ~ Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by 'Force Majeure'. As used in this section, 'Force Majeure' is defined as follows: Acts of war, acts of God such as earthquakes, floods, and other natural disasters such that performance is impossible.
19. **FORCED, CONVICT AND INDENTURED LABOR** ~ No foreign-made equipment, materials, or supplies furnished to the State pursuant to this Agreement may be produced in whole or in part by forced labor, convict labor, or indentured labor. By submitting a bid to the State or accepting a purchase order, the Contractor agrees to comply with this provision of the Agreement. This requirement does not apply to public works (construction) Agreements.

20. **CONTRACT STAFF REQUIREMENTS** ~ The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with the California State Department of Fish and Game or any other governmental entity.

21. **EVALUATION OF CONTRACTOR (CONSULTANT AGREEMENTS ONLY)** ~ Performance of the Contractor, under this Agreement, will be evaluated. The evaluation shall be prepared on a Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file.

If the Contractor did not satisfactorily perform the work or service, a copy of the negative evaluation form will be submitted to the Contractor and the Department of General Services, Legal Division, within fifteen (15) days of the completion of the evaluation. The Contractor will have thirty (30) days to prepare and send statements defending its performance under the Agreement. The evaluation of the Contractor shall not be a public record.

22. **REQUIREMENTS FOR LEGAL AGREEMENTS ONLY** ~ In accordance with Public Contract Code § 10353.5, the Contractor shall:

- ❖ Agree to adhere to legal costs and billing guidelines designated by the State;
- ❖ Adhere to litigation plans designated by the State;
- ❖ Adhere to case phasing of activities designated by the State;
- ❖ Submit and adhere to legal budgets as designated by the State;
- ❖ Maintain legal malpractice insurance in an amount not less than the amount designated by the State;
- ❖ Submit to legal bills legal bill audits and law firm audits if requested by the State or by any legal cost control providers retained by the State for this purpose; and
- ❖ Submit to a legal cost and utilization review, as determined by the State.

**Travel Reimbursement Information**  
(Mileage Reimbursement Rate Effective 1-1-2011.)

1. The following rate policy is to be applied for reimbursing the travel expenses of persons under contract. The terms "contract" and/or "subcontract" have the same meaning as "grantee" and/or "subgrantee" where applicable.
  - a. Reimbursement for travel and/or per diem shall be at the rates established for nonrepresented/excluded state employees. Exceptions to Department of Personnel Administration (DPA) lodging rates may be approved by the Department of Fish and Game (DFG) upon the receipt of a statement on/with an invoice indicating that State employee travel rates are not available.
  - b. Short Term Travel is defined as a 24-hour period, and less than 31 consecutive days, and is at least 50 miles from the main office, headquarters or primary residence. Starting time is whenever a contract or subcontract employee leaves his or her home or headquarters. "Headquarters" is defined as the place where the contracted personnel spends the largest portion of their working time and returns to upon the completion of assignments. Headquarters may be individually established for each traveler and approved verbally or in writing by the program funding the agreement. Verbal approval shall be followed up in writing or email.
  - c. Contractors on travel status for more than one 24-hour period and less than 31 consecutive days may claim a fractional part of a period of more than 24 hours. Consult the chart appearing on Page 2 of this document to determine the reimbursement allowance. All lodging reimbursement claims must be supported by a receipt\*. If a contractor does not or cannot present receipts, lodging expenses will not be reimbursed.

(1) Lodging (with receipts\*):

Travel Location / Area	Reimbursement Rate
Statewide (excluding the counties identified below)	\$ 84.00 plus tax
Counties of Los Angeles and San Diego	\$110.00 plus tax
Counties of Alameda, San Francisco, San Mateo, and Santa Clara	\$140.00 plus tax

Reimbursement for actual lodging expenses that exceed the above amounts may be allowed with the advance approval of the Deputy Director of the Department of Fish and Game (DFG) or his or her designee. Receipts are required.

\*Receipts from Internet lodging reservation services such as Priceline.com which require prepayment for that service, ARE NOT ACCEPTABLE LODGING RECEIPTS and are not reimbursable without a valid lodging receipt from a lodging establishment.

- (2) Meal/Supplemental Expenses: With substantiating receipts, a contractor may claim actual expenses incurred up to the following maximum reimbursement rates for each full 24-hour period of travel.

Meal / Expense	Reimbursement Rate
Breakfast	\$ 6.00
Lunch	\$ 10.00
Dinner	\$ 18.00
Incidental expenses	\$ 6.00

- d. Out-of-state travel may only be reimbursed if such travel is necessitated by the scope or statement of work and has been approved in advance by the DFG Deputy Director. For out-of-state travel, contractors may be reimbursed actual lodging expenses, supported by a receipt, and may be reimbursed for meals and incidental expenses for each 24-hour period computed at the rates listed in 1.c. (2) above. For all out-of-state travel, contractors/subcontractors must have prior DFG written approval.
- e. In computing allowances for continuous periods of travel of less than 24 hours, consult the chart appearing on Page 2 of this document.
- f. No meal or lodging expenses will be reimbursed for any period of travel that occurs within normal working hours, unless expenses are incurred at least 50 miles from headquarters.

**Travel Reimbursement Information (Continued)**

2. If any of the reimbursement rates stated herein is changed by DPA, no formal contract amendment will be required to incorporate the new rates. However, DFG shall inform the contractor, in writing, of the revised travel reimbursement rates and the applicable effective date of any rate change.

At DFGs' discretion, changes or revisions made by DFG to this exhibit, excluding travel reimbursement policies established by DPA may be applied retroactively to any agreement to which a Travel Reimbursement Information exhibit is attached, incorporated by reference, or applied by DFG policy. Changes to the travel reimbursement rates stated herein may not be applied earlier than the date a rate change is approved by DPA.

3. For transportation expenses, the contractor must retain receipts for parking; taxi, airline, bus, or rail tickets; car rental; or any other travel receipts pertaining to each trip for attachment to an invoice as substantiation for reimbursement. Reimbursement may be requested for commercial carrier fares; private car mileage; parking fees; bridge tolls; taxi, bus, or streetcar fares; and auto rental fees when substantiated by a receipt.
4. **Note on use of autos:** If a contractor uses his/her or a company car for transportation, the rate of reimbursement will be 51 cents maximum per mile. If a contractor uses his/her or a company car "in lieu of" airfare, the air coach fare will be the maximum paid by the State. The contractor must provide a cost comparison upon request by the State. Gasoline and routine automobile repair expenses are not reimbursable.
5. The contractor is required to furnish details surrounding each period of travel. Travel expense reimbursement detail may include, but not be limited to: purpose of travel, departure and return times, destination points, miles driven, mode of transportation, etc. Reimbursement for travel expenses may be withheld pending receipt of adequate travel documentation.
6. Contractors are to consult with the DFG Contract Manager to obtain specific invoicing procedures.

**Per Diem Reimbursement Guide**

Length of travel period	And this condition exists...	Meal allowed with receipt
Less than 24 hours	▶ Trip begins at or before 6:00 a.m. and ends at or after 9:00 a.m. ....	Breakfast
	▶ Trip ends at least one hour after the regularly scheduled workday ends or begins at or before 4:00 p.m. and ends after 7:00 p.m. ....	Dinner
<i>Lunch or incidentals cannot be claimed on one-day trips.</i>		
24 hours or more	▶ Trip begins at or before 6:00 a.m. ....	Breakfast
	▶ Trip begins at or before 11:00 a.m. ....	Lunch
	▶ Trip begins at or before 5:00 p.m. ....	dinner
More than 24 hours	▶ Trip ends at or after 8:00 a.m. ....	Breakfast
	▶ Trip ends at or after 2:00 p.m. ....	Lunch
	▶ Trip ends at or after 7:00 p.m. ....	Dinner
<p>The following meals may not be claimed for reimbursement: meals provided by the State, meals included in hotel expenses or conference fees, meals included in transportation costs such as airline tickets, or meals that are otherwise provided. Snacks and/or continental breakfasts such as rolls, juice, and coffee are not considered to be a meal.</p> <p>No meal expense may be claimed for reimbursement more than once in any given 24-hour period.</p>		

