

# **SUB-GRANTEE AGREEMENT**

Between

**THE MARINE EXCHANGE OF THE SAN FRANCISCO BAY REGION (SFMX) as  
PORT SECURITY GRANT PROGRAM (PSGP) FIDUCIARY AGENT (FA) and  
DIRECT GRANTEE (DG)**

And

**PORT OF SAN FRANCISCO**

**As SUB-GRANTEE (SG)**

This SUB-GRANTEE AGREEMENT is made and entered into by and between the Marine Exchange of the San Francisco Bay Region (SFMX) and Port of San Francisco (Sub-Grantee organization).

WHEREAS, the SFMX has been appointed by the Federal Emergency Management Agency (FEMA) on behalf of the Department of Homeland Security (DHS), to act as the Fiduciary Agent for the administration and management of the Port Security Grant Program for FY2007Sup, 2008, 2009, 2010 and 2011, and

WHEREAS appointment as FA requires the SFMX to validate and monitor the progress and compliance of projects funded by FEMA under the Port Security Grants Program. The FA is to submit supporting documentation to FEMA for execution and completion of said projects, and

WHEREAS, the Sub- Grantee will be planning, developing and executing their Project as defined by their Investment Justification (IJ) package as described in Attachment "A" of this Agreement. The IJ's have been submitted to the FA; validated by USCG Sector San Francisco and approved by FEMA for a sub-grant which is not to exceed USD \$403,510; and

WHEREAS, the SFMX as FA, will act as the direct representative for FEMA in managing disbursement of grant funds expended by Sub-Grantee in implementing their Project(s): and

WHEREAS, the purpose of this Agreement is to define the relationship between the FA and Sub-Grantee with respect to Sub-Grantee's activities implementing the Project and the FA administering and managing reimbursement of expenditures for same;

ACCORDINGLY, the parties agree as follows:

1. Sub-Grantee agrees to implement this project within sixty (60) days following the effective date of the grant award or this Agreement may be subject to cancellation. Notice of grant award may be by electronic or other written means at the discretion of the Fiduciary Agent. Evidence of project implementation is to be reported within the first sixty (60) days, and may include, but is not limited to, schedule of values or project time line, notices to governing boards or agencies of project award, advice memorandum, written and/or electronic project communications, development and issue of solicitation announcements, contracting documents, and purchase orders or similar documents acceptable to the Fiduciary Agent as evidence of compliance.
2. Sub-Grantee shall comply with all federal statutes, regulations and guidance applicable to administration of the Port Security Grant Program including but not limited to
  - 2 C.F.R. subtitle A
  - 44 C.F.R. Part 13
  - Office of Management and Budget (OMB) Circulars, as applicable
  - A-21 Cost Principles for Educational Institutions
  - A-87 Cost Principles for State, Local and Indian Tribal Governments
  - A-122 Cost Principles for Non-Profit Organizations
  - A-102 Uniform Administrative Requirements for Grants and Agreements with State and Local Governments
  - A-110 Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
  - 48 C.F.R. Part 31 et. seq. Contract Cost Principles and Procedures.Sub-Grantee shall assure that these conditions apply to all recipients of funds.
3. Sub-Grantee shall be additionally guided and governed by, and will strictly adhere to, all the requirements set forth in – “SFMX PSGP Purchasing and Procurement Policies and Procedures” unless Sub-Grantee can demonstrate that federal procurement guidelines are satisfied by an existing internal document.
4. Upon receiving the invoices, the FA shall be authorized to review Sub-Grantee’s request for reimbursement. The FA will also be authorized to request additional information or clarification from Sub-Grantee. Such a response shall not be unreasonably withheld by Sub-Grantee, but in no case shall the FA be compelled to pay said invoices until the requested clarifications are made or additional information is received, accepted and approved by the FA.
5. For the purposes of meeting federal audit requirements, Sub-Grantee agrees to comply with requirements of OMB Circular A-133 for States, Local Governments and Non-Profits.

6. Sub-Grantee agrees to submit, at such times and in such form as the FA may request, activity reports on the Sub-Award and the Project. Sub-Grantee shall submit quarterly operational summaries and financial reports no later than the 15<sup>th</sup> day of January, April, July and October; and the Semi-Annual Progress Reports by the 15<sup>th</sup> of January and July during each year this Agreement. The final progress report must be filed with the FA within thirty (30) days after the termination of the last year of the Federal Award. The FA must receive the final progress report prior to the final cost report being paid.
7. No contract or agreement may be entered into by Sub-Grantee for execution of Project activities or provision of services to the Project that are not incorporated in the approved application other than purchase of supplies or standard commercial or maintenance services. All contracts and agreements shall provide that Sub-Grantee shall retain ultimate control and responsibility for the proper execution of the Project and that these Contract conditions as detailed herein will also fully apply and bind the contractor, consultant or vendor. In any case, where Sub-Grantee enters into a contract with third parties, the SFMX is not a party to such a contract and shall not be obligated or liable for any breach of contract or other action in law to any party other than the original Sub-Grantee under the specific terms of this Agreement.
8. Upon approval of acceptable invoices for services, equipment and work validated and performed, the FA agrees to reimburse Sub-Grantee for actual expenditures made related to the Project, which in no case may exceed the federal funds amount awarded to Sub-Grantee at the time of approval of Sub-Grantee's IJ by FEMA as provided for in Attachment "A".
9. In entering into this Agreement, it is implicitly agreed between both signatories that the FA is not under any obligation to reimburse the Sub-Recipient for any amounts not received by the FA from FEMA, for what so ever reason.
10. Sub-Grantee shall indemnify, defend and hold harmless the FA and its officers, directors, employees and agents, from and against all liability, loss, cost or expense (including attorney's fees) by reason of liability imposed upon the FA, arising out of or related to Sub-Grantee 's performance under this Agreement, whether caused by or contributed to by the FA or any other party indemnified herein, including but not limited to any malfeasance, negligent or intentional acts of Sub-Grantee , its officers, agents or employees or its subcontractors or their agents and employees, unless such a loss is caused solely by the malfeasance or negligence of the FA, its officers, directors, employees or agents.
11. It is understood by both signatories to this Agreement, that this Agreement shall remain in effect in accordance with the terms and conditions of the Grant Award, but in no event longer than the statutory provision of 5 years or less as may be determined by the grant performance period following the execution by both parties.

12. All notices, requests, demands and other communications required or permitted to be made under this Agreement shall be in writing and shall be given by personal delivery, by certified mail, return receipt requested, first class postage prepaid, or by nationally recognized overnight delivery service, in each case addressed to the signed party below at the address specified. Either party may change the address to which communications are to be sent by giving notice of such change of address in conformity with the provisions of this Section. Notice shall be deemed to be effective, if personally delivered, when delivered; if mailed, at midnight on the third business day after being sent by certified mail; and if sent by nationally recognized overnight delivery service, on the next business day.

If to the Marine Exchange:

Marine Exchange of the San Francisco Bay Region  
Captain Lynn Korwatch, Executive Director  
505 Beach Street, Suite 300  
San Francisco, CA 94133-1131

If to Sub-Grantee:

Port of San Francisco  
Pier 1, The Embarcadero  
San Francisco CA 94111

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date below their signatures.

The Marine Exchange of the  
San Francisco Bay Region

By: \_\_\_\_\_

Captain Lynn Korwatch

Dated: \_\_\_\_\_

2/5/13

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Monique Meyer  
4/12/13