

## **AGREEMENT**

between

**CUYAHOGA COUNTY**

and

**City of Cleveland**

for

### **FY11 Port Security Grant Program**

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between the County of Cuyahoga, Ohio (the "COUNTY"), and City of Cleveland, a Political Sub-Division, with principal offices located at 601 Lakeside Avenue, Cleveland OH 44114 (the "CITY").

WHEREAS, pursuant to Resolution No. CPB2011-273 duly adopted on December 5, 2011, by Cuyahoga County approving the **FY11 Port Security Grant Program** (hereinafter called "FY11 PSGP"); and

WHEREAS the purpose of this AGREEMENT is to coordinate and identify activities, procurement, and services utilizing grant funds received by the COUNTY as they pertain to the FY11 PSGP; and

WHEREAS the FY11 PSGP grant funds were awarded to the COUNTY, for the COUNTY, and on behalf of the municipalities and other permissible agencies in Cuyahoga County, and the following documents consisting of Attachment I, and Exhibit A, are incorporated herein as part of this AGREEMENT:

- FY11 PSGP Award and Guidance (Attachment I)
- Standard Reporting Form (Exhibit A)
- Overtime and Backfill (Exhibit B)
- Travel Expense Report Form (Exhibit C)

WHEREAS, it is necessary that the COUNTY and CITY enter into an AGREEMENT in order to carry out the coordination and responsibilities of the FY11 PSGP grant awards and description of the programs contained in Attachment I;

NOW, THEREFORE, the parties agree as follows:

#### **I. SCOPE OF SERVICE**

The CITY will provide all services, as applicable, in the categories: Consultants/Contracts, Travel, Equipment, Supplies, Other costs; and assure adherence to the requirements as set forth in Attachment I during the period from September 1, 2011 through and including August 31, 2014 or as adjusted by approved formal request for a

grant period change, program modification or grant extension. Any changes or deviations from the Attachment must be set forth in writing and approved by the COUNTY prior to implementation.

## II. TERMS AND CONDITIONS OF PAYMENT

### A. Reimbursement

The COUNTY shall reimburse the CITY for 100% of approved eligible expenses incurred by the CITY solely out of the grant funds in an amount not to exceed **Four Hundred Thousand Dollars (\$400,000.00)**.

### B. Required Documentation for Reimbursement Negotiates

1. For each item or group of same items purchased by the CITY, copies of proof of payment and copies of invoices signed by the CITY indicating approval and acceptance of goods shall be submitted to the COUNTY as required in Attachment I and Exhibit A and according to all AGREEMENT documents, in order to obtain reimbursement. In no event shall any expenditure by the CITY be reimbursed unless said expenditure is included in the schedule of expenses and proper documentation submitted by the CITY and approved by the COUNTY. Following approval of the amount requested for reimbursement, the COUNTY shall issue a check to the CITY for the total amount of approved invoice within thirty (30) business days after grant funds are received from the Federal Emergency Management Agency (FEMA).
2. The COUNTY shall make payment to the CITY on the basis of the approved documentation and adherence to the terms stated in Attachment I.
3. The CITY must submit reimbursement requests at least once per quarter. Each such reimbursement request shall be made in the form of Exhibit A (attached).
4. If the COUNTY has knowledge of a delay in funding, the CITY will be notified immediately.
5. The COUNTY may withhold reimbursements if the CITY has been found and notified of non-compliance status with federal, state and/or County requirements, regulations and conditions set forth in this AGREEMENT.
6. It is the CITY'S responsibility to handle discrepancies with vendors.

## III. GRANT CONDITIONS

The CITY shall: 1) Comply with all special and standard grant conditions set forth in Attachment I attached and made part of this AGREEMENT; 2) Ensure that all equipment purchases are pre-approved by FEMA and procured, delivered and installed by the agreement's termination date; 3) Comply with Senate bill 9 (Ohio's homeland security and anti-terrorism legislation; 4) Comply with HB 694; and 5) Comply with the Buy American Act (41 U.S.C. 10a et seq.).

#### IV. AUDITS

##### A. Access to records

To the extent permitted by law, the COUNTY and FEMA authorized representatives, shall have access during business hours for the purpose of audit and examination of any books, papers, program site, staff, clients, and records of the CITY that are pertinent to the subject grant. The COUNTY shall provide the CITY with two (2) days advance written notice of intent to audit.

##### B. Final Audit

1. Final audit of the CITY shall be made by the Office of Inspector General (OIG) at each level of local government in accordance with standard time schedules. The CITY agrees to cooperate with Federal, State, and local auditing requirements and comply with standards, procedures, and reasonable schedules whether the audit be general, full-scope, financial, compliance, performance, total entity, or other, in accordance with Federal GAO reporting standards, Grant Conditions GA-110-SC-85, JA/JJ 110-SC-75-1, and the applicable requirements of Federal OMB circulars A-102, A-110, A-128, A-122, A-124, A-133, A-87, A-88, A-21, and A-27. The COUNTY shall provide the CITY with two (2) days advance written notice of intent to audit.

2. In the event of a state and/or federal audit of COUNTY records concerning his grant project, the COUNTY will provide the CITY with a copy of findings for recovery related to the CITY'S expenditures under this AGREEMENT, so that the CITY shall have an opportunity to submit a written response to said findings. The CITY shall be liable to the COUNTY for the return of all unexpended funds or disallowed expenditures as a result of an audit finding. The CITY shall be liable to the COUNTY for findings of recovery made as the result of an OIG audit.

#### V. REPORTING REQUIREMENTS

In order to facilitate compliance with the grant conditions, the CITY shall provide the required reports as indicated and required in Attachment I and Exhibits A thru C to the COUNTY. The COUNTY shall submit a program report to the Department of Homeland Security ("DHS") as required by the grant conditions. The COUNTY shall make available to the CITY a copy of all sections of the program report related to its activities and expenditures under this AGREEMENT.

#### VI. NOTICES

Any reports, notices, invoices or communications required in this AGREEMENT shall be sufficient if sent by the parties via United States Mail, postage paid, to the addresses noted below:

COUNTY: Cuyahoga County  
Grants and Training/Public Safety Grants Administration  
310 Lakeside Avenue, Suite 795-A  
Cleveland, Ohio 44113  
Attn: Manager

CITY: City of Cleveland  
601 Lakeside Avenue  
Cleveland, OH 44114  
Attn: Larry Jones II

Or at such other address as the COUNTY may have designated by the written notice to the CITY.

VII. TERMINATION

This AGREEMENT shall terminate on the expiration date stated below, provided that termination does not effect the COUNTY'S obligation to pay the CITY for pending purchases or the COUNTY'S obligation to fulfill the COUNTY'S requirements as described in the grant conditions. Either party without cause will not terminate this AGREEMENT.

In the event the U.S. Department of Homeland Security or Ohio Emergency Management Agency disapprove the grant award, or for any reason reduce or discontinue the grant of funds thereby causing the COUNTY to receive a lesser amount of funds than specified by this AGREEMENT, then the COUNTY reserves the right to reduce or cancel this AGREEMENT.

This AGREEMENT may be terminated for failure to meet the terms of this AGREEMENT or the failure of the CITY to meet its service/grant objectives. The COUNTY will notify the CITY in writing when corrective action is required. The CITY will commence the recommended corrective action (s) within 30 days after notice. Failure to commence corrective action may result in a delay in reimbursement and/or the termination of the AGREEMENT.

VIII. TERM

This AGREEMENT will be effective as of September 1, 2011, and unless sooner terminated for cause, will terminate on August 31, 2014.

IX. NON-DISCRIMINATION

The CITY agrees to provide the program services without discrimination on account of race, sex, color, religion, national origin, age, occupation, physical or mental disability or veteran status, to the extent required by law. The parties agree that discrimination and affirmative action clauses contained in Executive Order 11246, as amended by Executive Order 11375, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex or national origin, and the implementing rules and regulations prescribed by the Secretary of Labor in Title 41, Part 60 or the Code of Federal Regulations, are incorporated into this AGREEMENT to the extent binding upon the CITY.

X. COMPLIANCE WITH THE LAW

Performance under this AGREEMENT shall be in compliance with all applicable Federal, State and County laws, regulations, circulars, rules, and ordinances.

XI. PROTECTION OF CONFIDENTIAL INFORMATION

This AGREEMENT, including the Attachment and Exhibits, may contain confidential information that should not be disclosed. Any party reviewing requests for information concerning this AGREEMENT under the Ohio Public Records Law or the Freedom of Information Act must consult with the Cuyahoga County Director of Law before releasing or reproducing confidential information. This section is not meant to encourage non-compliance with the Ohio Public Records Law.

## **XII. ENTIRE AGREEMENT**

This AGREEMENT constitutes the full and complete understanding between the parties concerning the FY11 PSGP. This AGREEMENT shall not be amended except by a written instrument signed by both parties in accordance with law.

The parties further agree to include the following language in all agreements, contracts, amendments to agreements and contracts, requests for proposals, requests for qualifications, notices and instructions to bidders and all applicable procurement documents:

By entering into this AGREEMENT, I agree on behalf of the contracting or submitting business entity, its officers, employees, subcontractors, subgrantees, agents or assigns, to conduct this transaction by electronic means by agreeing that all documents requiring COUNTY signatures may be executed by electronic means, and that the electronic signatures affixed by the COUNTY to said documents shall have the same legal effect as if that signature was manually affixed to a paper version of the document. I also agree on behalf of the aforementioned entities and persons, to be bound by the provisions of Chapters 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of Cuyahoga County.

IN WITNESS WHEREOF, the COUNTY and the CITY have executed and delivered this AGREEMENT as of the date first above written.

County of Cuyahoga, Ohio: Executive

By: Edward FitzGerald/apc  
2012-06-15 17:43:09  
Edward FitzGerald, County Executive

City of Cleveland:

By: Maria  
MARIA L FOSK