

FIRST AMENDMENT TO AGREEMENT NUMBER C-123859 OF  
CITY OF LOS ANGELES CONTRACT  
BETWEEN  
THE CITY OF LOS ANGELES  
AND  
THE CITY OF LONG BEACH

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This FIRST AMENDMENT to Agreement Number C-123859 ("First Amendment") is made and entered into by and between the City of Los Angeles, a municipal corporation (the "City"), and the City of Long Beach, a municipal corporation (the "Subgrantee" or "Subrecipient").

WITNESSETH

WHEREAS, the City and Subrecipient entered into that certain City of Los Angeles Contract Number C-123859 (the "Agreement") related to the Fiscal Year 2013 Urban Areas Security Initiative Grant ("UASI 13" or the "Grant"), whereby the City agreed to disburse certain UASI 13 grant funds to Subrecipient in accordance with the UASI 13 approved budget and Subrecipient agreed to use such grant funds in accordance with the provisions set forth in the Agreement to further the goals of the Grant in the Los Angeles/Long Beach Urban Area ("LA/LBUA"), the execution of said Agreement having been authorized by the Los Angeles City Council (C.F. #13-0882, 11/22/13); and

WHEREAS, United States Department of Homeland Security ("DHS"), through the Grant Programs Directorate within the Federal Emergency Management Agency ("FEMA" and along with DHS, collectively "Grantor"), and the California Governor's Office of Emergency Services ("CalOES") approved the use of certain UASI 13 grant funds for the purchase by the City of power generators and related equipment ("Generator Equipment") for use by participating jurisdictions in the LA/LBUA in the event of an emergency and resulting power failure; and

WHEREAS, the City, through its Office of the Mayor, Office of Public Safety ("Mayor's Office"), which has been designated by the City to administer the Agreement and the projects contemplated therein, and the Subrecipient each desires to enter into this First Amendment to make a technical change to the Agreement in order to memorialize the terms and conditions for use of the Generator Equipment and reflect an anticipated transfer of ownership of certain Generator Equipment from the City to the Subrecipient, the execution of this First Amendment having been authorized under Section 14.8 of the Los Angeles Administrative Code; and

WHEREAS, Section 502 of the Agreement provides for amendments to the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and the mutual benefits to be derived therefrom, the City and the Subrecipient (each a "Party" and collectively, the "Parties") agree that the Agreement be amended effective September 1, 2015 as follows:

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

1. The Agreement is hereby amended to include the following Section 203 in its entirety as stated within the quotation marks in the following paragraphs (all capitalized terms set forth in said Section 203 and not defined herein shall have those meanings as set forth in the Agreement):

“§203 Generator Program

A. Generally

Under the Grant, the Grantor has approved the purchase by the City of certain power generators and related equipment (“Generator Equipment”) for use by the City and participating jurisdictions in the LA/LBUA in the event of an emergency and resultant power failure (the “Generator Program”). It is anticipated that ownership and title to certain Generator Equipment purchased and owned by the City, as may be more specifically identified in the Allocation and Distribution Plan attached as Exhibit M, will be transferred from the City to the Subrecipient (the “Transferred Equipment”). Such Transferred Equipment shall be stored and maintained at specially designated locations of Subrecipient as previously approved by the City.

This Section 203 sets forth the terms and conditions governing the Generator Program and the Subrecipient’s ownership and use of the Transferred Equipment under the Generator Program and any other Generator Equipment purchased by Subrecipient and approved for reimbursement under the UASI 13 budget as approved by the City and the Grantor (“Purchased Equipment” and along with “Transferred Equipment”, collectively “Subrecipient’s Equipment”). Subrecipient and the City each agree to cooperate with each other in good faith to execute each party’s respective duties as set forth below.

B. City Responsibilities

1. City shall transfer title and ownership of the Transferred Equipment to Subrecipient (the “Transfer”). Such Transfer shall be preconditioned on City obtaining Grantor approval of such Transfer and the execution by Subrecipient of any and all documents and instruments necessary to effectuate such Transfer of City property to Subrecipient as may be required by the City and the Grantor. Subrecipient hereby acknowledges and agrees that the City, through the Mayor’s Office, shall remain the sole fiscal agent with regards to the use of Grant Funds in the Generator Program. In no event shall any expenses incurred by Subrecipient in connection with any activities involving Subrecipient’s Equipment (storage,

installation, maintenance, permitting, calibration, repair, or otherwise, collectively referred to as "Maintenance") be reimbursed with Grant Funds if such activities are undertaken without the prior written consent of the Mayor's Office or are undertaken in a manner inconsistent with the provisions of this Agreement.

2. The Mayor's Office shall develop and administer a UASI 13 budget for the Generator Program and shall be the primary administrator of such budget, subject to the approval of the LA/LBUA Approval Authority. The Mayor's Office shall also develop an allocation and distribution plan for all Generator Equipment ("Allocation Plan"), subject to the approval of the LA/LBUA Approval Authority, which identifies Generator Equipment owned by Subrecipient and other jurisdictions and sets forth the type, number and location of such Generator Equipment. In developing such Allocation Plan, the Mayor's Office shall consider requests for Generator Equipment from participating agencies within the LA/LBUA with the goal of providing broad accessibility of the Generator Equipment to all participating jurisdictions in the LA/LBUA. The current Allocation Plan is attached hereto as Exhibit M and may be amended from time to time by the Mayor's Office, subject to the approval of the LA/LBUA Approval Authority.
3. The inspection, investigation and auditing rights afforded the City and other parties as more fully set forth in Section 415.A.5 and elsewhere in this Agreement shall apply to all matters related to Subrecipient's Equipment and the Generator Program. In furtherance thereof, the Mayor's Office shall conduct, and the Subrecipient shall cooperate with, period inspections and audits of all Subrecipient's Equipment and materials, records, documents and assets associated with the Generator Program which may be in the possession or control of the Subrecipient.

#### C. Subrecipient Responsibilities

Subrecipient shall be responsible for properly storing and preserving all Subrecipient's Equipment. In taking ownership and title of Subrecipient's Equipment, Subrecipient shall comply with the terms set forth in this Section 203.C. and Section 203.D. Subrecipient shall license the use of Subrecipient's Equipment allocated to it under the Allocation Plan to other participating agencies of the LA/LBUA as more fully set forth herein ("License") and further agrees as follows:

1. Subrecipient shall be solely responsible for taking possession and transporting the Transferred Equipment from the City and properly

storing all Subrecipient's Equipment for use at Subrecipient's location(s) as designated in the Allocation Plan.

2. Notwithstanding anything to the contrary in this Agreement, upon taking possession and ownership of Subrecipient's Equipment, Subrecipient shall be liable for, and indemnify the City for, any and all liabilities, damages, claims and/or losses arising out of, or related to, Subrecipient's Maintenance, use and/or possession of Subrecipient's Equipment. For purposes of this Agreement, Subrecipient's possession and ownership of Transferred Equipment shall commence at the time it is given possession of such Transferred Equipment at a designated City location. In the event of any loss, damage, disposal, or theft ("Loss") of Subrecipient's Equipment, Subrecipient will promptly notify the Mayor's Office in writing, and no later than 30 calendar days from such Loss. Further, in the event of such Loss, such Subrecipient's Equipment shall be replaced with equipment of like kind and capability as approved by the Mayor's Office at Subrecipient's sole expense.
3. Subrecipient shall properly perform maintenance and safeguard and inventory Subrecipient's Equipment in accordance with procedures adopted by the Generator Program Working Group of the LA/LBUA Approval Authority (the "Working Group"), all applicable legal requirements and regulations, and the regulations of the Grant, including the provisions set forth in 44 Code of Federal Regulations (CFR) Section 13.32(d). Proper Maintenance of Subrecipient's Equipment shall include all calibration and repair of Subrecipient's Equipment necessary to maintain them in good working order to ensure functionality and readiness. All Maintenance of Subrecipient's Equipment for which the Subrecipient seeks reimbursement with Grant Funds shall be coordinated through the Mayor's Office, shall require its prior written approval, and shall be undertaken only by appropriately licensed personnel. Subrecipient will ensure that its personnel are properly trained in the Maintenance and use of Subrecipient's Equipment.
4. Subrecipient shall timely and properly install Subrecipient's Equipment at Subrecipient's location as specified in the Allocation Plan. Subrecipient shall operate and use Subrecipient's Equipment strictly in connection with its activities in the Generator Program and in a manner and in accordance with procedures developed and approved by the Working Group. Subrecipient shall limit access to Subrecipient's Equipment (including access for maintenance and inspections) to personnel, time, place and manner as prescribed in procedures approved by the Working Group. Subrecipient shall not

remove or cease operation of Subrecipient's Equipment from its pre-approved location without prior written authorization from the Mayor's Office and as may be approved by the Working Group. Any replacement or removal of Subrecipient's Equipment shall be coordinated through the Mayor's Office and shall require its prior written approval, and Subrecipient's use of any such replacement of Subrecipient's Equipment shall be subject to the same terms and conditions set forth herein.

5. Subrecipient acknowledges and agrees that the access, inspection, investigation and auditing rights afforded the City, the Grantor and other parties as more fully set forth in Section 415.A.5 and elsewhere in this Agreement shall apply to Subrecipient's Equipment and all matters related to Subrecipient's Equipment and the Generator Program. In furtherance thereof, the Mayor's Office shall conduct, and the Subrecipient shall cooperate with, regularly scheduled and periodic inspections, monitoring visits and audits of all Subrecipient's Equipment and materials, records, documents and assets associated with the Generator Program which may be in the possession or control of the Subrecipient in accordance with the provisions set forth in Section 415.A.5. of this Agreement.
6. Subrecipient shall comply with all Grant regulations and provisions of this Agreement (including regulations and provisions regarding use, storage, maintenance and documentation as more fully set forth in Sections 202.E and 202.F herein) related to equipment (including "Equipment" as defined in Section 202.F. herein) purchased with Grant funds as it relates to any of Subrecipient's Equipment.
7. Subrecipient acknowledges and agrees that any costs and/or liabilities incurred by the Subrecipient in connection with use, Maintenance or other activities related to Subrecipient's Equipment shall not be reimbursed with Grant Funds or City funds unless specifically approved in writing for reimbursement by the City and approved by the Grantor prior to such activity, provided, however, that the City shall obtain all initial CARB permits for the Transferred Equipment and shall remain responsible for any expenses incurred in transferring such permits to Subrecipient. Subrecipient shall be responsible for all expenses associated with any further air quality permits, all subsequent and/or renewal permits, and Department of Motor Vehicle license renewals, including any associated fees. Any and all fuel or energy expenses associated with Subrecipient's use of Subrecipient's Equipment shall, in no event, be reimbursed with Grant Funds or City funds. In no event shall any expenses incurred in connection with any Maintenance or other activities involving

Subrecipient's Equipment be reimbursed with Grant Funds if such activities are undertaken without the prior written consent of the Mayor's Office and in a manner inconsistent with the provisions set forth in this Agreement.

8. From time to time and as may be required under the policies and procedures of the Generator Program, Subrecipient shall grant a license for use of Subrecipient's Equipment to other participating agencies of the LA/LBUA, provided that such grant of license shall be made by Subrecipient in a manner that is consistent with the terms and goals of the Grant and the goals, policies and procedures of the Generator Program as may be approved and adopted by the Mayor's Office and the Working Group and, if required, by the LA/LBUA Approval Authority. Subrecipient shall be responsible for prioritizing any requests for use of Subrecipient's Equipment in its possession as it deems appropriate based on the intended purpose of the deployment of the Subrecipient Equipment and on its availability. Subrecipient shall monitor the use of Subrecipient's Equipment so licensed to ensure the compliance by any agency granted such license of the terms and conditions set forth in Section 203.D. Subrecipient shall promptly notify the Mayor's Office of any breach of the terms and conditions of a license under Section 203.D. and shall also report to the Mayor's Office on at least an annual basis all requests by participating agencies of the LA/LBUA for use of Subrecipient's Equipment and all licenses granted pursuant to such requests, along with other information regarding each license as the Mayor's Office may reasonably request.

#### D. License Terms

Any LA/LBUA agency or jurisdiction participating in the Generator Program may request a license to use Generator Equipment owned by the City, Subrecipient or another participating agency or jurisdiction. For purposes of this Agreement, any agency or jurisdiction so requesting such a license, including the Subrecipient, shall be referred to as a "Licensee Agency" and any agency or jurisdiction which owns the Generator Equipment which is being requested shall be referred to as a "Licensor Agency." Any such request made by a Licensee Agency shall be made in writing to the Licensor Agency and shall include information regarding the intended use of such Generator Equipment so requested along with dates of use, pickup and return of the Generator Equipment and other information as may be requested by the Licensor Agency. The Licensor Agency shall be responsible for prioritizing any such request as it deems appropriate based on the intended purpose of the deployment of the requested Generator

Equipment and on its availability and shall be responsible for issuing a license to use its Generator Equipment to the Licensee Agency. If the Subrecipient is the Licensor Agency, it shall ensure that any license to use its Generator Equipment which is granted to a Licensee Agency be granted on the conditions and terms set forth in this Section 203.D. Further, if the Subrecipient is a Licensee Agency, it warrants that it shall accept a license to use the requested Generator Equipment from a Licensor Agency on the conditions and terms set forth below in this Section 203.D.

1. Prior to taking possession of the requested Generator Equipment, a Licensee Agency shall identify its authorized representative who will be responsible for notifying the City and Licensor Agency of the use and deployed location of the requested Generator Equipment.
2. The Licensee Agency shall be solely responsible for taking possession and transporting the licensed Generator Equipment from the Licensor Agency's location to Licensee Agency's intended location for deployment as approved in advance by the City and the Licensor Agency. The Licensee Agency shall be solely responsible for removing such Generator Equipment from its premises and returning it to the Licensor's Agency's location. The Licensee Agency shall work in good faith to comply with any additional requirements of the Licensor Agency when picking up, transporting and returning any Generator Equipment from or to the Licensor Agency.
3. The Licensee Agency shall operate and use the licensed Generator Equipment strictly in a manner as approved by the City and the Licensor Agency and shall promptly return the Generator Equipment to Licensor Agency's designated location after its approved use. The Licensee Agency shall not sub-license the right to use or possess any licensed Generator Equipment. The Licensee Agency shall not remove or cease operation of the licensed Generator Equipment from its pre-approved location without prior written authorization from the Mayor's Office and shall limit access to the licensed Generator Equipment (including access for maintenance and inspections) to personnel, time, place and manner as authorized in writing in advance by the Mayor's Office.
4. The Licensee Agency acknowledges and agrees to comply with the following provisions:
  - a. Notwithstanding anything to the contrary in this Agreement, upon taking possession of Subrecipient's Equipment, Licensing Agency shall be liable for, and indemnify the



Subrecipient for, any and all liabilities, damages, claims and/or losses arising out of, or related to, Licensing Agency's Maintenance, use and/or possession of Subrecipient's Equipment. For purposes of this Agreement, Licensing Agency's possession of Generators Equipment shall commence at the time it is given possession of such Equipment at a designated Subrecipient location. In the event of any loss, damage, disposal, or theft ("Loss") of Subrecipient's Equipment, Licensing Agency will promptly notify the Subrecipient and Mayor's Office in writing, and no later than three (3) calendar days from such Loss. Further, in the event of such Loss, such Subrecipient's Equipment shall be replaced with equipment of like kind and capability as approved by the Mayor's Office at Licensing Agency's sole expense.

- b. Licensing Agency acknowledges and agrees that any costs and/or liabilities incurred by the Licensing Agency in connection with use, Maintenance or other activities related to Subrecipient's Equipment shall not be reimbursed with Grant Funds or City funds unless specifically approved in writing for reimbursement by the City and approved by the Grantor prior to such activity. Any and all fuel or energy expenses associated with Licensing Agency's use of Subrecipient's Equipment shall, in no event, be reimbursed with Grant Funds or City funds.

- 5. Any license to use Generator Agreement granted to a Licensee Agency may be terminated by the Subrecipient immediately upon Licensee Agency's breach of any of the terms of this Section 203 and Licensor Agency's or the City's notice of such breach to Licensee Agency. In the event of any such termination declared by the Licensor Agency or the Mayor's Office, Licensee Agency shall, at its sole expense, immediately return all Generator Equipment in its possession to a location designated by the Mayor's Office and/or the Licensor Agency.

#### E. Use of Equipment for Grant Purposes and Survival


Subrecipient agrees and acknowledges that all Subrecipient's Equipment shall be governed by applicable Grant regulations and rules regarding the use and disposition of equipment purchased with federal grant funds, including the provisions set forth in 44 CFR §13.32. In the event Subrecipient's Equipment is not used in connection or in compliance with the Generator Program and the provisions set forth in this Section 203, Subrecipient agrees and acknowledges that the

Grantor and the City may direct the disposition and/or transfer of Subrecipient's Equipment to another third party to further the goals and objectives of the Grant and the Generator Program. Upon such determination by the Grantor and the City, Subrecipient agrees to cooperate in good faith with any such disposition or transfer directives.

Notwithstanding anything to the contrary in this Agreement, the terms and provision of this Section 203 shall survive termination of this Agreement."

2. The Agreement is hereby amended such that the "Allocation and Distribution Plan" shall be added as Exhibit M to the Agreement.
3. Except as herein amended, all terms and conditions of the Agreement shall remain unchanged and in full force and effect by way of this First Amendment.
4. This First Amendment may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This First Amendment includes eleven (11) pages and one (1) Exhibit which constitute the entire understanding and agreement of the parties with respect to the matters set forth herein.

IN WITNESS WHEREOF, the City and Subrecipient have caused this First Amendment to be executed by their duly authorized representatives.

<p>APPROVED AS TO FORM AND LEGALITY:</p> <p>MICHAEL N. FEUER, City Attorney</p> <p>By <u>[Signature]</u> Deputy City Attorney</p> <p>Date <u>10/16/15</u></p>	<p>For: THE CITY OF LOS ANGELES ERIC GARCETTI, Mayor</p> <p>By <u>[Signature]</u> Eric Garcetti, Mayor</p> <p>Date <u>10/21/15</u></p>
<p>ATTEST:</p> <p>HOLLY L. WOLCOTT, Interim City Clerk</p> <p>By <u>[Signature]</u> Deputy City Clerk</p> <p>Date <u>10-21-15</u></p>	
<p>APPROVED AS TO FORM:</p> <p>By <u>[Signature]</u> City Attorney</p> <p>Date <u>September 28, 2015</u></p>	<p>For: The City of Long Beach, a municipal corporation</p> <p>By <u>[Signature]</u> City Manager</p> <p>Date <u>10/9/15</u></p>
<p>ATTEST:</p> <p>By <u>[Signature]</u> City Clerk</p> <p>Date <u>10/13/15</u></p>	<p>[SEAL]</p>

City Business License Number: \_\_\_\_\_  
Internal Revenue Service ID Number: \_\_\_\_\_  
Council File/OARS File Number: 13-0882 Date of Approval: 11/22/13  
City Contract Number: C-123859

# Exhibit M - UASI Regional Generator Operational Plan

## Allowable Expenses

Per FEMA guidance, the full purchase of generators is an allowable expense for UASI funds, specifically Authorized Equipment List (AEL) number 10GE-00-GENR. Preparedness grant programs allow for the purchase of varying types and sizes, including gasoline, diesel, propane, natural gas, alternator, and gas turbine powered devices. Associated equipment such as transfer switches (10PE-00-PTSW) and trailers for portable generator transport (12TR-00-TEQP) are also allowable. The purchase of gasoline, propane, etc. is not an allowable expenditure.

## Types of Generators

The current priority for the Regional Program is portable generators. Regional generators are sharable between jurisdictions and can be adapted for a variety of uses, including providing power to field operations as well as providing emergency power to critical facilities.

## Generator Allocation

### *Existing Inventory – Planned Deployment*

Capacity	Quantity	Location*
60 kW	4	LAFD Training Center, various stations
200 kW	12	LAPD Command Posts
200 kW	15	Long Beach (various locations)
800 kW	2	LA City EMD (North District, Piper Tech)
800 kW	4	LA City Alternate EOC (proposed), FS 64, FS 88
800 kW	2	LA County Health Services (Regional Hospitals)
800 kW	2	LA County Fire (Los Angeles Headquarters Facility, Pacoima)
800 kW	2	LA County Sheriff's Department – Logistics Barn

## Use of Generators

In an emergency or disaster situation which triggers the activation of a local or LA County Emergency Operations Center (EOC), requests for regional generators will be handled through standard EOC processes.

As discussed by the generators working group, in non-emergency situations, requests for generators should be submitted to the program administrator of each jurisdiction three business days prior to the planned event. The program administrator for each jurisdiction and agency will determine the best asset to deploy to the requesting agency.

Examples of non-emergency situations under the UASI Regional Generator Program include homeland security exercises and trainings, supporting homeland security operations at pre-planned events (Rose Bowl, LA Marathon, Long Beach Grand Prix), and other homeland security activities.

Generators will be returned to the custodian jurisdiction within three business days of demobilization.

Fuel for generators is the responsibility of operating agency and is not reimbursable through UASI grants.

### **Sustainment and Maintenance**

Sustainment and maintenance for UASI Regional Generator Program is grant-allowable and will be paid for using grant funds, whenever possible. Requests for maintenance will be submitted to the Mayor's Office of Public Safety.

### **Plan Maintenance**

The Standard Operating Procedures document will be developed by the working group for the UASI Regional Generator Program and distributed to the region once approved. The plan can be incorporated into a jurisdiction's own emergency operations plans, as well as any EOC processes and procedures.

As part of the plan, an inventory of generators including deployed location, power capacity, and emergency contact information will be kept current and supplied to partner jurisdictions and EOCs.

The program administrator may make changes to the plan, including (but not limited to) updating deployed location of generators, contact information, and keeping the plan current with local, state, and federal grants, requirements, subject to approval by the UASI Approval Authority.