

Project title: King County Grant Agreement for FFY16 Homeland Security Grant, Program to Prepare Communities for Complex Coordinated Terrorist Attacks (CCTA)

Council Bill # *interoffice use*

Agenda dates requested:
10/20/2021

Briefing
Proposed action
Consent 10/20/21
Action
Ordinance
Public hearing
Yes No

Budget amendment:
Yes No

PowerPoint presentation:
Yes No

Attachments:
King County Grant Agreement

Department(s) involved:
Fire

Contact person:
Mike Lingrey

Phone number:
425-257-8131

Email:
MLingrey@everettwa.gov

Initialed by:

Department head

Administration

Council President

Project: CCTA Training & Exercise Program

Partner/Supplier: Homeland Security and King County Office of Emergency Management

Location: Various

Preceding action: N/A

Fund: 032 Fire

Fiscal summary statement:

This agreement establishes the City of Everett as a subrecipient of a federal grant that authorizes reimbursement for certain labor and other expenses related to the City's participation in this program.

Project summary statement:

The Program to Prepare Communities for Complex Coordinated Terrorist Attacks (CCTA Program) provides funding to local, state, tribal, and territorial jurisdictions of different types, sizes, and capabilities to improve their ability to prepare for, prevent, and respond to complex coordinated terrorist attacks in collaboration with the whole community. The whole community approach aims to include individuals and communities, the private and nonprofit sectors, faith-based organizations, and all levels of government (local, regional/metropolitan, state, tribal, territorial, insular area, and Federal).

The CCTA Program also focuses on developing regional partnerships intended to strengthen the applicant's capacity for building and sustaining capabilities specific to identifying gaps, planning, training, and exercises associated with preparing for, preventing, and responding to a complex coordinated terrorist attack. This Agreement establishes criteria for reimbursement to the subrecipient for employee overtime costs an agency may incur when participating in CCTA Program trainings and exercises.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign the King County Grant Agreement for FFY16 Homeland Security Grant Program to Prepare Communities for Complex Coordinated Terrorist Attacks (CCTA)

**KING COUNTY GRANT AGREEMENT
FOR FFY16 HOMELAND SECURITY GRANT, PROGRAM TO PREPARE COMMUNITIES FOR
COMPLEX COORDINATED TERRORIST ATTACKS**

THIS AGREEMENT is a subaward entered into by KING COUNTY (the "County"), and City of Everett Fire Department (the "Subrecipient"), whose address is 2930 Wetmore Ave, Everett, WA 98201.

WHEREAS, the funding source of this grant is the federal fiscal year (FFY) 2016 Program to Prepare Communities for Complex Coordinated Terrorist Attacks (CCTA), Catalog of Federal Domestic Assistance (CFDA) # 97.133 – Preparing for Emergency Threats and Hazards, and

WHEREAS, the County desires to have certain services performed by the Subrecipient as described through this subaward of funds pursuant to this Agreement;

NOW THEREFORE, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

Federal Award Identification

Department / Division	Department of Executive Services, Office of Emergency Management		
Subrecipient	City of Everett Fire Department		
Project Title	CCTA Training & Exercise Program Participant Support Costs Grant		
Subaward Agreement Amount \$	The County shall reimburse the Subrecipient in an amount to be determined upon Acceptance of the Work specified in this Agreement.		
Subaward Agreement Period of Performance Start Date:	3/1/2019	Subaward Agreement Period of Performance End Date:	4/30/2022
Data Universal Numbering System (DUNS)	946341278	Tax ID Number (TIN)	916001248
Federal Award Identification #	EMW-2016-GR-00145-S01	Federal Award Date	9/1/2017
Total Federal Award Amount	\$1,516,723.00	Federal Funding Authority	US Dept of Homeland Security
Purpose & Description: The Fiscal Year (FY) 2016 Program to Prepare Communities for Complex Coordinated Terrorist Attacks (CCTA Program) provides funding to local, state, tribal, and territorial jurisdictions of different types, sizes, and capabilities to improve their ability to prepare for, prevent, and respond to complex coordinated terrorist attacks in collaboration with the whole community. The whole community approach aims to include individuals and communities, the private and nonprofit sectors, faith-based organizations, and all levels of government (local, regional/metropolitan, state, tribal, territorial, insular area, and Federal). The FY 2016 CCTA Program also focuses on developing regional partnerships intended to strengthen the applicant's capacity for building and sustaining capabilities specific to identifying gaps, planning, training, and exercises associated with preparing for, preventing, and responding to a complex coordinated terrorist attack. This Agreement establishes criteria for reimbursement to the subrecipient for employee overtime costs an agency may incur when participating in CCTA Program trainings and exercises.			

I. EXHIBITS

The Subrecipient shall provide services and comply with the requirements set forth hereinafter and in the following attached exhibits, which are incorporated herein by reference:

Certificates of Insurance/Endorsements

Attached hereto as Exhibit A

II. AGREEMENT PERFORMANCE PERIOD

This Agreement shall commence on the 1st day of March 2019, and shall terminate on the 30th day of April 2022 (Agreement End Date), unless extended or terminated earlier, pursuant to the terms and conditions of this Agreement.

All work under this Agreement must end on or before the agreement end date.

III. AGREEMENT REPRESENTATIVES

King County's Program Coordinator for this Agreement is Ted Toet at the King County Office of Emergency Management. The Program Coordinator is responsible for monitoring the performance of the Subrecipient, approving actions by the Subrecipient when required by this Agreement, approving Reimbursement Requests submitted by the Subrecipient, and accepting reports submitted by the Subrecipient.

The Subrecipient's representative for this Agreement is Michael Lingrey, who will be the contact for all communications regarding this Agreement.

Any notice required or permitted under this Agreement shall be deemed sufficiently given or served if sent to King County or the Subrecipient by U.S. mail, fax, or email at the addresses provided below:

If to King County:

Ted Toet
King County Office of Emergency Management
3511 NE Second Street
Renton, WA 98056
PH: 206-296-3830
theodore.toet@kingcounty.gov

If to the Subrecipient:

Michael Lingrey
Everett Fire Department
2801 Oakes Ave
Everett, WA 98201
PH: 425-257-8131
mlingrey@everettwa.gov

Any time within which a party must take some action shall be computed from the date that the notice is received by said party.

IV. SCOPE OF WORK

The Subrecipient agrees to participate in the CCTA grant through selection and approval of its personnel to attend and participate in trainings and exercises provided by the County through the CCTA grant. The Subrecipient agrees that its personnel will attend trainings and exercises in each of the Counties in the Tri-County region (King County, Snohomish County, and Pierce County). The Subrecipient further agrees that after each training and exercise, its personnel will attend a meeting on the After Action Report and participate in completion of the After Action Report and Implementation Plan, as required by the CCTA grant.

For participation in the trainings and exercises, the Subrecipient will be eligible for reimbursement as follows:

- A. **Overtime and Backfill-Related Overtime:** Overtime and backfill-related overtime costs associated with sending personnel to trainings and exercises in accordance with the following:

- a. Overtime. These expenses are limited to the additional costs that result from Subrecipient personnel working over and above 40 hours of weekly work time specifically related to approved activities specified under this Agreement and in accordance with grant guidelines. Overtime associated with any other activity is not allowable.
 - b. Backfill-related overtime. These expenses are limited to overtime costs that result from Subrecipient personnel who are working overtime (as identified above) to perform duties of other personnel, who are supporting approved activities specified under this Agreement and in accordance with grant guidelines, outside of their core responsibilities. Backfill-related overtime only includes the difference between the overtime rate paid and what would have otherwise been paid to the backfilling employee for regular time.
 - c. The entire amount of backfill or overtime expense that may result from the Subrecipient adding a new employee or employees is unallowable. Reimbursement will not be made for overtime or backfill-related overtime expenses resulting from an increase in full time employees.
 - d. Rates paid shall be in accordance with the Subrecipient's policies and procedures.
 - e. Recipients seeking to claim overtime or backfill costs will be required to submit verification as outlined in Section V.
- B. **OT Fringe Benefits.** Fringe benefits (such FICA, L&I, Retirement) for allowable Subrecipient personnel and only for the percentage of time devoted to the approved activity under this Agreement.
- C. **Travel Costs.** Domestic travel costs (airfare, mileage, per diem, hotel, etc.) are allowed, with prior written approval and availability of funding for employees approved to attend and participate in trainings and exercises. Costs shall be in accordance with applicable laws and regulations.
- D. **Unallowable Overtime or Backfill Related Overtime costs:**
- 1. Overtime or backfill expenses which are the result of an increase in full time employee(s).
 - 2. Regular Salary and Fringe Benefits costs of personnel to attend and participate in trainings and exercises.

V. **REIMBURSEMENT AND METHOD OF PAYMENT**

- A. Both parties understand that the amount of reimbursement to be paid to the Subrecipient is contingent upon the Subrecipient's performance and compliance with this Agreement, including Subsection IV of this Agreement (Scope of Work) and the availability of CCTA funding, and that no fixed amount of reimbursement is committed at the time that this Agreement is executed.
- B. The parties understand that reimbursement will occur as the CCTA trainings and exercises are completed. Reimbursement requests are subject to the authorization of the County CCTA Program Coordinator. Reimbursement for eligible costs shall be processed and are eligible for payment upon receipt of a properly completed KCOEM CCTA Reimbursement Request.
- C. The KCOEM CCTA Reimbursement Request shall be submitted no later than fifteen (15) days following the end of the month in which the training or exercise event(s) occurred.

- D. Supporting documentation is required for all expenditures for reimbursement and shall include the following:
 - 1. A detailed listing of employees, dates of service, hours of time, costs for overtime and/or backfill, and the approved activities under this Agreement; and
 - 2. If applicable, travel related receipts required for proof of expenditure, such as, hotel receipts and copies of paid employee expense claims.
- E. The County may require the Subrecipient to document that grant funds are not being used to replace or supplant existing funding.
- F. The final reimbursement request must be submitted to the County no later than thirty (30) days from the Agreement end date, as specified in Section II, Grant Agreement Performance Period. The maximum amount of all reimbursement requests permitted to be submitted under this Agreement, including the final reimbursement request, is limited to and shall not exceed an amount the County deems appropriate considering factors including but not limited to the number of Subrecipients and personnel participating in exercises and training under this Agreement.
- G. Payment will be considered timely if mailed or transferred by the County to the Subrecipient within thirty (30) days after receipt of a properly completed KCOEM CCTA Reimbursement Request. Payment will be sent to the address designated by the Subrecipient on the KCOEM CCTA Reimbursement Request form. The County may, at its sole discretion, withhold payments claimed by the Subrecipient for services rendered if the County has determined that the Subrecipient has failed to satisfactorily comply with any term or condition of this Agreement.
- H. The County does not incur liability for any payment to the Subrecipient that is subsequently disallowed by State or Federal granting agencies. The County reserves the right to withhold or recoup payment for work or activities determined by funding agencies to be ineligible for reimbursement.

VI. REPORTING REQUIREMENTS

- A. The Subrecipient shall ensure that it complies with all fiscal reporting requirements for of this Agreement, including, reporting on the Schedule of Expenditure of Federal Awards (SEFA) in its Single Audit, if applicable.

VII. MAINTENANCE OF RECORDS

- A. The Subrecipient shall maintain accounts and records related to any reimbursed overtime and/or backfill for overtime costs authorized under this agreement, to include personnel, financial, and programmatic records and other such records as may be deemed necessary by the County to ensure proper accounting for all Agreement funds and compliance with this Agreement.
- B. These records shall be maintained for a period of six (6) years from the date that the grant is closed. The County will notify the Subrecipient of the date the grant is closed. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.
- C. The Subrecipient shall inform the County in writing of the location, if different from the Subrecipient address listed on page two (2) of this Agreement, of the aforesaid accounts, programmatic records, documents, and other evidence and shall notify the

County in writing of any changes in location within ten working days of any such relocation.

- D. The Subrecipient must have a publically-available policy that describes what Personally Identifiable Information (PII) is collected, how the PII is used, whether the PII is shared with third parties, and how individuals may have their PII corrected as necessary.
- E. This Agreement shall be considered a public document and will be available for inspection and copying by the public in accordance with the Public Records Act, chapter 42.56 RCW.

VIII. EVALUATIONS AND INSPECTIONS

- A. The Subrecipient shall provide right of access to its facilities to the County, the state, and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the services provided under this Agreement. The County shall give advance notice to the Subrecipient in the case of Subrecipient monitoring reviews to be conducted by the County.
- B. The records and documents with respect to all matters covered by this Agreement shall be subject at all time to inspection, review, or audit by the County and/or federal/state officials so authorized by law during the performance of this Agreement and six (6) years from the date that the grant is closed. The County will notify the Subrecipient of the date the grant is closed. If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.
- C. The Subrecipient agrees to cooperate with the County or its agent in the evaluation of the Subrecipient's performance under this Agreement and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.56.

IX. ADMINISTRATIVE REQUIREMENTS

- A. The Subrecipient shall comply with all applicable local, state and federal laws. Local and state procurement and contracting regulations take precedence over these requirements when local and state regulations are more stringent.
- B. The Subrecipient shall comply with the regulations and program guidance identified or referenced in the Fiscal Year (FY) 2016 Program to Prepare Communities for Complex Coordinated Terrorist Attacks (CCTA) Notice of Funding Opportunity Announcement (NOFO) DHS-16-NPD-133-00-01, which can be found at <http://www.fema.gov/grants>, and is hereby incorporated in and made a part of this Agreement.
- C. The Subrecipient shall comply with the Administrative Requirements and Cost Principles: 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- D. The County is not responsible for advising the Subrecipient about, or determining the Subrecipient's compliance with, applicable laws, regulations, and policies.
- E. In the event of the Subrecipient's noncompliance or refusal to comply with any applicable law, regulation or policy, the County may rescind, cancel, or terminate the

contract in whole or in part. The Subrecipient is responsible for any and all costs or liability arising from the Subrecipient's failure to comply with applicable law, regulation or policy.

- F. In the event of a conflict between any of the language contained in any exhibit or any attachment to this Agreement, the language in the Agreement shall have control over the language contained in the exhibit or the attachment, unless the parties affirmatively agree in writing to the contrary.

X. ADDITIONAL REQUIREMENTS

- A. For CCTA trainings and exercises that the Subrecipient has participated in and is seeking reimbursement for under this Agreement, the Subrecipient shall contribute to an After Action report and an Improvement Plan.
- B. Grant funds may not be used to replace or supplant existing funding.
- C. The Subrecipients must acknowledge their use of federal funding when issuing statements, press releases, and other documents describing the Subrecipient's participation activities funded in whole or in part with the federal funds provided under this Agreement.
- D. As a subrecipient of federal financial assistance under this Agreement, the Subrecipient shall comply with all applicable state and federal statutes, regulations, executive orders, and guidelines, including but not limited to the following:
1. All applicable state and federal statutes, regulations and executive orders relating to nondiscrimination, including but not limited to the following: (a) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) which prohibits discrimination on the basis of race, color or national origin; (b) the Civil Rights Act of 1968 (42 U.S.C. 3601), which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex; (c) Title IX of the Education Amendments of 1972, as amended (20 U.S.C §§1681 et seq.), which prohibits discrimination on the basis of sex; (d) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C §794), which prohibits discrimination on the basis of disability; (e) the Age Discrimination Act of 1975, as amended (42 U.S.C §§6101 et seq.), which prohibits discrimination on the basis of age; (j) Clean Air Act of 1970, (k) Clean Water Act of 1977, (n) Coastal Wetlands Planning, (o) Protection, and Restoration Act of 1990, (f) the Fair Housing Amendments Act of 1988, as amended (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (g) the Americans with Disabilities Act, as amended (42 U.S.C. §§ 12101-12213) which prohibits discrimination on the basis of disability; and (h) Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency.
 2. All applicable state and federal statutes, regulations, executive orders and guidelines relating to environmental and historical preservation, including but not limited to the following: (a) the Coastal Wetlands Planning, Protection and Restoration Act of 1990, as amended (16 U.S.C. 3951 et seq.), Executive Order 11990 and 44 CFR Part 9; (b) the Clean Air Act of 1970, as amended (42 U.S.C. §7401) and the Clean Water Act of 1977, as

amended (38 U.S.C. §§ 1251-1387) and Executive Order 11738; (c) floodplains management pursuant to EO 11988, as amended; (e) the Coastal Zone Management Act of 1972, as amended (P.L. 92-583, 16 U.S.C. §§1451 et seq.); (d) the National Environmental Policy Act, as amended (42 U.S.C. §4321); (e) the Safe Drinking Water Act of 1974, as amended (PL 93-523); (f) the Endangered Species Act of 1973, as amended (PL 93-205); and (g) the National Historic Preservation Act, as amended (PL 89-665, 16 U.S.C. §470 et seq.) and 36 CFR Part 800.

3. The Drug-Free Workplace Act of 1988, as amended (41 U.S.C. §701 et seq., 2 CFR 3001, 44 CFR Part 17).
4. Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. §7104) and 2 CFR §175.
5. The requirements of 45 CFR Part 46 Protection of Human Subjects for purposes of research, and the requirements in DHS Directive 026-04.
6. The requirements of the Animal Welfare Act of 1966, as amended (7 U.S.C. §2131 et. seq.).
7. The Flood Disaster Protection Act of 1973 the National Flood Insurance Act of 1968, as amended (42 U.S.C. §4001 et seq.).
8. The USA Patriot Act of 2001, as amended (18 U.S.C. §§175-175c).
9. The Fly America Act of 1974, as amended (49 U.S.C. §40118) and the interpretive guidelines issued by the Comptroller General of the United States March 31, 1981, amendment to Comptroller General Decision B138942.
10. The False Claims Act (FCA) (31 U.S.C. § 3729).
11. Section 6 of the Hotel and Motel Safety Act of 1990 (15 U.S.C. §2225(a), ensuring that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention Control Act of 1974, 15 U.S.C. §2225.
12. SAFECOM Guidance for Emergency Communication Grants.

XI. NON-TRAVEL PROCUREMENT AND SUBCONTRACTING NOT ALLOWED

- A. Non-Travel related procurement and subcontracting are not allowable activities under this agreement.

XII. EQUIPMENT NOT ALLOWED

- A. Equipment is not an allowable cost under this agreement.

XIII. INTERNAL CONTROLS AND ACCOUNTING SYSTEM

- A. The Subrecipient shall establish and maintain a system of accounting and internal controls which complies with applicable, generally accepted accounting principles, financial and governmental reporting standards as prescribed by the appropriate accounting standards board.

XIV. NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

- A. Equal Benefits to employees with Domestic Partners.

Pursuant to Ordinance 14823 and as amended by Ordinance 16586, King County's "Equal Benefits" (EB) ordinance, and related administrative rules adopted by the County Executive, as a condition of a competitive award of a contract valued at \$25,000 or more, non-public Contractors agree not to discriminate in the provision of employee benefits between employees with spouses, and employees with domestic partners or employees who reside with legally domiciled members of households during the performance of this Agreement. Failure to comply with this provision shall be considered a material breach of this Agreement, and may subject the Subrecipient to administrative sanctions and remedies for breach.

When a competitively awarded contract is valued at \$25,000 or more, the Subrecipient shall complete a Worksheet and Declaration form for County review and acceptance prior to Contract execution. The EB Compliance forms, Ordinance 14823 [which is codified at King County Code (KCC) Chapter 12.19], and related administrative rules are incorporated herein by reference. They are also available online at:

http://www.kingcounty.gov/operations/procurement/Services/Equal_Benefits.aspx .

- B. Nondiscrimination in Employment or Provision of Services

- 1. During the performance of this Agreement, neither the Subrecipient nor any party subcontracting under the authority of this Agreement shall discriminate or tolerate harassment on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression of age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification in the employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

C. Nondiscrimination in Subcontracting Practices

1. During the term of this Agreement, the Subrecipient shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Subrecipient shall not discriminate against any person because of their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

D. Compliance with Laws and Regulations

1. The Subrecipient shall comply fully with all applicable federal, state and local laws, ordinances, executive orders, OMB Circulars and regulations that prohibit discrimination. These laws include, but are not limited to, RCW Chapter 49.60, Titles VI and VII of the Civil Rights Act of 1964, the Robert T Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), the American with Disabilities Act, and the Restoration Act of 1987. In addition, King County Code chapters 12.16, 12.17 and 12.18 are incorporated herein by reference and the requirements in these code sections shall specifically apply to this agreement. The Subrecipient shall further comply fully with any equal opportunity requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents.

E. Equal Employment Opportunity Efforts

The Subrecipient shall undertake equal employment opportunity efforts to ensure that applicants and employees are treated, without regard to their sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression of age. The Subrecipient's equal employment opportunity efforts shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Subrecipient agrees to post in conspicuous places available to employees and applicants for employment notices setting forth this nondiscrimination clause. In accordance with KCC 12.16.010.J, "equal employment opportunity efforts" shall mean active efforts to ensure equal opportunity in employment that is free from all forms of discrimination.

H. Compliance with Section 504 of the Rehabilitation Act of 1973 as amended (Section 504) and the American Disabilities Act of 1990 as amended (ADA)

Pursuant to Title II of the ADA and Section 504 the County must not discriminate against people with disabilities in providing services under this Agreement. Failure to comply with this section shall be a material breach of, and grounds for, the immediate termination of this Agreement.

1. The Subrecipient agrees to provide to persons with disabilities access to programs, activities and services provided under the Contract or agreement, as required by the disability access laws as defined by KCC 12.16; and

2. The Subrecipient shall not discriminate against persons with disabilities in providing the work under the Contract

- I. Sanctions for Violations

Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of contract for which the Subrecipient may be subject to damages, withholding payment and any other sanctions provided for by the Contract and by applicable law.

XV. PROPRIETARY RIGHTS

The Subrecipient acknowledges that the Department of Homeland Security reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (b) any rights of copyright to which an award recipient or sub-recipient purchases ownership with Federal support. The Subrecipient agrees to consult with the County regarding the allocation of any patent rights that arise from, or are purchased with, this funding. All Subrecipients must affix the applicable copyright notices of 17 U.S.C. § 401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under Federal financial assistance awards, unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations).

XVI. AUDITS

- A. Subrecipients that expend \$750,000 or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with the U.S. Office of Management and Budget (OMB) 2 CFR 200 Subpart F – Audit Requirements. If spending is less than \$750,000 a year in federal awards, Subrecipient is exempt from federal audit requirements for that year, except as noted in 2 CFR 200.503.
- B. Subrecipients required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General and the OMB Compliance Supplement.
- C. The Subrecipient has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate.
- D. The Subrecipient shall maintain auditable records and accounts so as to facilitate the audit requirement.
- E. Once the single audit has been completed, the Subrecipient must send a letter to the County stating there has been a single audit completed and there were no findings, or if there were findings, the letter should provide a list of the findings. The Subrecipient must send this letter to the County no later than nine (9) months after the end of the Subrecipient's fiscal year(s).
- F. The Subrecipient is responsible for any audit exceptions incurred by its own organization. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Subrecipient must

respond to the County's requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The County reserves the right to recover from the Subrecipient all disallowed costs resulting from the audit. In addition to sending a copy of the audit, the Subrecipient must include a corrective action plan for any audit findings and a copy of the management letter if one was received.

- G. If additional federal and/or state audit or review requirements are imposed on the County during the term of this Agreement, the Subrecipient agrees this Agreement may be amended to require that the Subrecipient comply with any such additional audit requirements. Even if this Agreement is not amended, the Subrecipient agrees to comply with any such additional audit requirements.

XVII. CERTIFICATION REGARDING DEBARMENT

As federal funds are the basis for this agreement, the Subrecipient certifies it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this agreement by any federal department or agency. If requested by the County, the Subrecipient shall complete and sign a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form. Any such form completed by the Subrecipient for this Agreement shall be incorporated into this Agreement by reference.

XVIII. ASSIGNMENT

The Subrecipient shall not assign any portion of this Agreement or transfer or assign any claim arising pursuant to this Agreement without the written consent of the County. Said consent shall be sought in writing by the Subrecipient not less than 15 days prior to the date of any proposed assignment.

XIX. CORRECTIVE ACTION

If the County determines that a breach of contract has occurred, that is, the Subrecipient has failed to comply with any terms or conditions of this Agreement or the Subrecipient has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure shall apply:

- A. The County shall notify the Subrecipient in writing of the nature of the breach;
- B. The Subrecipient shall respond in writing no later than ten working days following receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for bringing the Agreement into compliance, which date shall not be more than 30 days from the date of the Subrecipient's response, unless the County, at its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions;
- C. The County shall notify the Subrecipient in writing of the County's determination as to the sufficiency of the Subrecipient's corrective action plan. The County shall have sole discretion in determining the sufficiency of the Subrecipient's corrective action plan;
- D. In the event that the Subrecipient does not respond within the appropriate time with a corrective action plan, or the Subrecipient's corrective action plan is determined by the County to be insufficient, the County may commence termination of this Agreement in whole or in part pursuant to Section XXIII.B;

- E. In addition, the County may withhold any payment owed the Subrecipient or prohibit the Subrecipient from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed; and
- F. Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section XXIII. Subsections A, B, C, and D.

XX. TERMINATION

- A. This Agreement may be terminated by the County without cause, in whole or in part, prior to the termination date specified in Section II, by providing 30 days advance written notice of the termination to the Subrecipient.
- B. The County may terminate this Agreement, in whole or in part, upon seven days advance written notice in the event: (1) the Subrecipient materially breaches any duty, obligation, or service required pursuant to this Agreement; and/or (2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

If the Agreement is terminated by the County pursuant to this Subsection XXIII.B.(1), the Subrecipient shall be liable for damages, including any additional costs of procurement of similar services from another source.

If the termination results from acts or omissions of the Subrecipient, including but not limited to misappropriation, nonperformance of required services, or fiscal mismanagement, the Subrecipient shall immediately return to the County any funds, misappropriated or unexpended, which have been paid to the Subrecipient by the County.

- C. If County or other expected or actual funding is withdrawn, reduced, or limited in any way prior to the termination date set forth in this Agreement and its attached Exhibits, the County may, upon written notification to the Subrecipient, terminate this Agreement in whole or in part.

If the Agreement is terminated as provided in this Subsection: (1) the County shall be liable only for payment in accordance with the terms of this Agreement for services rendered prior to the effective date of termination; and (2) the Subrecipient shall be released from any obligation to provide such further services pursuant to the Agreement as are affected by the termination.

Funding or obligation under this Agreement beyond the current appropriation year is conditional upon appropriation by the County Council of sufficient funds to support the activities described in the Agreement. Should such appropriation not be approved, this Agreement shall terminate at the close of the current appropriation year.

- D. This Agreement may be terminated by the Subrecipient without cause, prior to the date specified by providing the County 90 days advance written notice of the termination. The Subrecipient shall provide the County 90 days advance written notice of its intent not to renew this Agreement, in whole or in part.
- E. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Agreement or law that either party may have in the event that the obligations, terms, and conditions set forth in this Agreement are breached by the other party.

XXI. FUTURE SUPPORT

The County makes no commitment to support the services contracted for herein and assumes no obligation for future support of the activity contracted herein except as expressly set forth in this Agreement.

XXII. HOLD HARMLESS AND INDEMNIFICATION

- A. In providing services under this Agreement, the Subrecipient is an independent contractor and neither it, nor its officers, agents or employees are employees of the County for any purpose. The Subrecipient shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes, by, or on behalf of the Subrecipient, its employees, and/or others by reason of this Agreement. The Subrecipient shall protect, indemnify, and save harmless the County, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the Subrecipient's failure to pay any such compensation, wages, benefits, or taxes, and/or (2) the supplying to the Subrecipient of work, services, materials, or supplies by Subrecipient employees or other suppliers in connection with or support of the performance of this Agreement.

- B. The Subrecipient further agrees that it is financially responsible for and shall repay the County all indicated amounts following an audit exception that occurs due to the negligence, intentional act, and/or failure, for any reason, to comply with the terms of this Agreement by the Subrecipient, its officers, employees, agents and/or representatives. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Agreement pursuant to the Duration of Contract or the Termination sections.
- C. The Subrecipient shall protect, defend, indemnify, and hold harmless the County, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the acts or omissions of the Subrecipient, its employees or any person whomsoever arising out of or in connection with any acts or activities under this Agreement. This obligation shall not include such costs, claims, judgments, and/or awards of damages which may be caused by the sole negligence of the County; provided, that if the costs, claims, judgments, and/or awards of damages are caused by or result from the concurrent negligence of (1) the County, and (2) the Subrecipient, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Subrecipient, or Subrecipient's agents or employees. The Subrecipient agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the Subrecipient, by mutual negotiation, hereby waives, as respects the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the County incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the Subrecipient.
- D. The County shall protect, defend, indemnify, and hold harmless the Subrecipient, its officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of, or in any way resulting from, the sole negligent acts

or omissions of the County, its officers, employees, or agents. The County agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the County, by mutual negotiation, hereby waives, as respects the Subrecipient only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event the Subrecipient incurs any judgment, award, and/or cost arising therefrom including attorneys' fees to enforce the provisions of this article, all such fees, expenses, and costs shall be recoverable from the County.

- E. Claims shall include, but not be limited to, assertions that use or transfer of software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in unfair trade practice.
- F. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.
- G. The indemnification, protection, defense and hold harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

XXIII. INSURANCE REQUIREMENTS

- A. By the date of execution of this Agreement, the Subrecipient shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of work hereunder by the Subrecipient, its agents, representatives, and/or employees. The costs of such insurance shall be paid by the Subrecipient. The Subrecipient is responsible for ensuring compliance with all of the insurance requirements stated herein. Failure by the Subrecipient, its agents, employees, and/or officers, to comply with the insurance requirements stated herein shall constitute a material breach of this Agreement.

For All Coverages: Each insurance policy shall be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior County approval.

If coverage is approved and purchased on a "claims made" basis, the Subrecipient warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of Agreement termination, and/or conversion from a "claims made" form to an "occurrence" coverage form.

By requiring such minimum insurance, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Subrecipient under this Agreement. The Subrecipient shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded by said policies, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy/policies. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.

- B. Minimum Scope of Insurance

Coverage shall be at least as broad as the following:

1. General Liability:

Insurance Services Office form number (CG 00 01) covering **COMMERCIAL GENERAL LIABILITY**.

2. Professional Liability:

Professional Liability, Errors, and Omissions coverage. In the event that services delivered pursuant to this Agreement either directly or indirectly involve or require professional services, Professional Liability, Errors, and Omissions coverage shall be provided. "Professional Services", for the purpose of this Agreement section, shall mean any services provided by a licensed professional or those services that require professional standards of care.

3. Automobile Liability:

In the event that services delivered pursuant to this Agreement require the use of a vehicle or involve the transportation of clients by Subrecipient personnel in Subrecipient-owned vehicles or non-owned vehicles, the Subrecipient shall provide evidence of the appropriate automobile coverage.

Insurance Services Office form number (CA 00 01) covering **BUSINESS AUTO COVERAGE**, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9.

4. Workers' Compensation

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law.

5. Stop Gap/Employers Liability

Coverage shall be at least as broad as the protection provided by the Workers' Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

C. Minimum Limits of Insurance

The Subrecipient shall maintain limits no less than, for:

1. General Liability: \$1,000,000 combined single limit per occurrence by bodily injury, personal injury, and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit.
2. Professional Liability, Errors, and Omissions: \$1,000,000 per claim and in the aggregate.
3. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Except if the transport of clients by Subrecipient personnel is involved, then Risk Management will review the appropriate amount of coverage.
4. Workers' Compensation: Statutory requirements of the state of residency.
5. Stop Gap/Employers Liability: \$1,000,000.

D. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not apply to the Subrecipient's liability to the County and shall be the sole responsibility of the Subrecipient.

E. Other Insurance Provisions

The insurance policies required in this Agreement are to contain, or be endorsed to contain, the following provisions:

1. Liability Policies Except Professional/Errors and Omissions and Workers Compensation.
 - a. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Subrecipient in connection with this Agreement. (CG 2010 11/85 or its' equivalent)
 - b. The Subrecipient's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its offices, officials, employees or agents shall not contribute with the Subrecipient's insurance or benefit the Subrecipient in any way.
 - c. The Subrecipient's insurance shall apply separately to each insured against whom claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

2. All Policies

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after 30 days prior written notice has been given to the County.

F. Acceptability of Insurers

Unless otherwise approved by the County, insurance is to be placed with insurers with a Bests' rating of no less than A: VIII, or, if not rated with Bests, with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors, and Omissions insurance may be placed with insurers with a Bests' rating of B+VII. Any exception must be approved by the County.

If, at any time, the foregoing policies shall fail to meet the above minimum requirements the Subrecipient shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with appropriate certificates and endorsements, for approval.

G. Verification of Coverage

The Subrecipient shall furnish the County certificates of insurance and endorsements required by this Agreement. Such certificates and endorsements, and renewals thereof, shall be attached as exhibits to the Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County prior to the commencement of activities associated with the Agreement. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

H. Municipal or State Subrecipient Provisions

If the Subrecipient is a Municipal Corporation or a Subrecipient of the State of Washington and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this Section.

XXIV. CONFLICT OF INTEREST

- A. The Subrecipient agrees to comply with applicable provisions of KCC Chapter 3.04. Failure to comply with such provisions shall be a material breach of this Agreement, and may result in termination of this Agreement pursuant to Section XXIII and subject the Subrecipient to the remedies stated therein, or otherwise available to the County at law or in equity.
- B. The Subrecipient agrees, pursuant to KCC 3.04.060, that it will not willfully attempt to secure preferential treatment in its dealings with the County by offering any valuable consideration, thing of value or gift, whether in the form of services, loan, thing or promise, in any form to any County official or employee. The Subrecipient acknowledges that if it is found to have violated the prohibition found in this paragraph, its current agreements with the County shall be cancelled and it shall not be able to bid on any County contract for a period of two years.

- C. The Subrecipient acknowledges that for one year after leaving County employment, a former County employee may not have a financial or beneficial interest in a contract or grant that was planned, authorized, or funded by a County action in which the former County employee participated during County employment. Subrecipient shall identify, at the time of offer, current or former County employees involved in the preparation of proposals or the anticipated performance of work if awarded the Contract. Failure to identify current or former County employees involved in this transaction may result in the County's denying or terminating this Agreement. After Agreement award, the Subrecipient is responsible for notifying the County's project manager of current or former County employees who may become involved in the Agreement any time during the term of the Agreement.

XXV. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

XXVI. DISCLOSURE OF LOBBYING ACTIVITIES

As required by 44 CFR Part 18, the Subrecipient hereby certifies that to the best of its knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the Subrecipient to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the Subrecipient will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code.

XXVII. AGREEMENT AMENDMENTS

All changes to this Agreement shall be made in writing through an Amendment to the Agreement. Both parties understand that only the County can make unilateral amendments to this Agreement.

XXVIII. ENTIRE AGREEMENT/WAIVER OF DEFAULT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the County, which shall be attached to the original Agreement.

XXIX. SEVERABILITY

In the event any term or condition of this agreement, any provision of any document incorporated by reference, or application of this agreement to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this agreement are declared severable.

XXX. NO THIRD PARTY BENEFICIARIES

Except for the Parties to whom this Agreement is assigned in compliance with the terms of this Agreement, there are no third party beneficiaries to this Agreement, and this Agreement shall not impart any rights enforceable by any person or entity that is not a Party hereto.

**KING COUNTY OFFICE OF
EMERGENCY MANAGEMENT**

EVERETT FIRE DEPARTMENT

Brendan McCluskey, Director

Cassie Franklin, Major

Date

Date

TERMS AND CONDITIONS

SECTION 1 DEFINITIONS

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Acceptance or Accepted: A written determination by the County that the Subrecipient has completed the Work in accordance with the Contract.

Agreement Amendment: A written change to the Agreement modifying, deleting or adding to the terms and conditions or Scope of Work.

Subrecipient: non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program.

Day: Calendar day.

Exercises: Multi-jurisdictional, tabletop, functional, and full-scale/force-on-force exercises that simulate preparing for, preventing, or responding to a complex coordinated terrorist attack.

KCC: The King County Code.

Measurable Amount of Work: A definitive allocation of an employee's time that can be attributed to Work performed under this Contract, but that is not less than a total of one hour in any one week period.

Person: Includes individuals, associations, firms, companies, corporations, partnerships, and joint ventures.

Program Coordinator: The individual designated by the County to manage the project on a daily basis and who may represent the County for Agreement administration.

RCW: The Revised Code of Washington.

Trainings: Implementation of training to enhance capabilities for preparing for, preventing, and responding to complex coordinated terrorist attacks which addresses a performance gap and contributes to building a capability.

Travel: Costs (mileage, per diem, lodging, transportation) of Subrecipient personnel attending and participating in approved activities under this Agreement.