



DATE: June 22, 2011

TO: Harbor Board of Directors

FROM: Department of Public Works – Harbor and Beaches Division

SUBJECT: **RESOLUTION ACCEPTING A \$30,000 CALIFORNIA DEPARTMENT OF FISH AND GAME GRANT, APPROVING A BUDGET APPROPRIATION, AND APPROVING A GRANT CONTRACT**

SYNOPSIS

Staff recommends that the Harbor Board of Directors adopt a resolution accepting \$30,000 in grant funds from the California Department of Fish and Game awarded to the City of Oceanside for oil spill response equipment; appropriating the funds to the Harbor and Beaches Division; approving a grant contract in the amount of \$30,000 with the California Department of Fish and Game for the equipment; and authorizing the City Manager to execute the necessary documents.

BACKGROUND

The Harbor has 700 feet of twenty-year-old containment boom to put across the mouth of the Oceanside Harbor in the event of an oil spill in the turning basin or offshore. This action will protect the boats, infrastructure and sea life inside the harbor from oil contamination.

The containment boom is approximately twenty years old and is at the end of its useful service life. It was given to the Harbor by the United States Coast Guard in the early 1990s as part of a program to protect local resources. The Department of Fish and Game has taken over that program and is now overseeing a grant program to replace the old containment booms.

ANALYSIS

In 2010 the Harbor and Beaches Division applied for a Department of Fish and Game grant. The grant was approved in May 2011.

This grant supplies 1000 feet of containment boom, a trailer, anchor systems, tools, navigation lights, personal protective equipment and training.

The Department of Fish and Game grant of \$30,000 requires that the oil spill response equipment be ordered by October 31, 2011, and requires that the City Council adopt a resolution approving the contract.

FISCAL IMPACT

The grant does not require matching funds. The total cost of the oil spill response equipment will not exceed \$30,000. The State Department of Fish and Game Grant Account 917121500272.4376 will be the source of funding. The oil spill response equipment costs will be paid out of the Grant Account 917121500272.5704 (\$30,000) for any machinery and equipment.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the Harbor Board of Directors adopt a resolution accepting \$30,000 in grant funds from the California Department of Fish and Game awarded to the City of Oceanside for oil spill response equipment; appropriating the funds to the Harbor and Beaches Division; approving a grant contract in the amount of \$30,000 with the California Department of Fish and Game for the equipment; and authorizing the City Manager to execute the necessary documents.

PREPARED BY:

J. F. Quan
Frank Quan
Harbor and Beaches Coordinator

SUBMITTED BY:

Peter Weiss
Peter Weiss
City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager

Don Hadley, Deputy City Manager

Joseph Arranaga, Deputy Director of Public Works

Teri Ferro, Financial Services Director

MS
DP
JFA
TF

ATTACHMENT: Contract
Resolution

GRANT AGREEMENT (OSRE)

GRANT AGREEMENT NUMBER

P1175034

**DEPARTMENT OF FISH AND GAME
OIL SPILL RESPONSE EQUIPMENT GRANT AGREEMENT**

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

STATE AGENCY'S NAME

Department of Fish and Game

GRANTEE'S NAME

City of Oceanside, Department of Harbor & Beaches

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

3. The maximum amount of **\$30,000.00**
this Grant Agreement is: **Thirty thousand dollars and no cents.**

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

Exhibit A – Scope of Work	3 Page(s)
Exhibit A – Attachment 1 – Equipment Specifications	6 Page(s)
Exhibit B – Invoicing and Payment Provisions	1 Page
Exhibit D - DFG Additional Provisions	5 Page(s)

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

GRANTEE

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

City of Oceanside, Department of Harbor & Beaches

DATE SIGNED (Do not type)

BY (Authorized signature)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

1540 Harbor Drive North, Oceanside, CA 92054

STATE OF CALIFORNIA

STATE AGENCY'S NAME

Department of Fish and Game

DATE SIGNED (Do not type)

BY (Authorized signature)

PRINTED NAME AND TITLE OF PERSON SIGNING

Helen Carriker, Deputy Director, Administration

ADDRESS

1416 9th Street, 12th Floor, Sacramento, CA 95814

OSRE Agreements are exempt from the Department of General Services review and approval:

GC 8670.8.3 (Per DFG Executive local assistance dollars can only be expended through a grant).

**EXHIBIT A
SCOPE OF WORK
OIL SPILL RESPONSE EQUIPMENT GRANT**

1. PROJECT PURPOSE

This Grant agreement (Grant) is entered into between the Department of Fish and Game (DFG) and the City of Oceanside (Grantee).

The purpose of this project is to provide funding to the Grantee to purchase oil spill response equipment to be staged in potentially high risk waters within each county agency's jurisdiction.

2. PROJECT OFFICIALS

Cindy Murphy shall be the designated Oil Spill Response Equipment (OSRE) Program Grant Manager for DFG under this Grant. The OSRE Grant Manager may be changed at any time by DFG by providing a ten (10) day advance written notice to the Grantee.

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

Direct all program and project related inquiries to:

Department of Fish and Game
Office of Spill Prevention & Response
Marine Safety Branch
Attention: Cindy Murphy
Address: 1700 K Street, Suite 150
Sacramento, CA 95811
Phone: (916) 324-6250
Fax: (916) 327-0907
Email: cmurphy@ospr.dfg.ca.gov

City of Oceanside
City of Oceanside
Department of Harbor & Beaches
Attention: Frank Quan
1540 Harbor Drive North
Oceanside, CA 92054
Phone: 760-435-4032
Fax: 760-757-1726
Email: fquan@co.oceanside.ca.us

3. BACKGROUND AND OBJECTIVES

During an oil spill, California operates within the Incident Command System (ICS), a mechanism used to bring multiple jurisdictions under one standard operating arena. The ICS is managed by the Unified Command, in most cases, is comprised of a designated official from the United States Coast Guard, OSPR and the Responsible Party (spiller), the three members make all decisions on how the oil spill incident operations are planned, executed and demobilized.

Several Oil Spill Response Organizations (OSRO) are available to provide response and clean-up of oil spills throughout the State. However, in certain remote locations, the OSRO's have difficulty or are unable to pre-stage response equipment. To address this problem, the Office of Spill Prevention and Response (OSPR) has established a grant program that will allow local government agencies funding to purchase spill response equipment so they can initiate a first response prior to the OSRO's arrival.

The State of Washington administered a similar program in 2006 and has seen a significant reduction of environmental, wildlife loss, and economic impacts due to a petroleum releases.

Grant funding will enhance the availability of oil response equipment around the state and will provide local governments an opportunity to protect their economic resources. The grantee will purchase the response equipment and training as identified in Exhibit A, Attachment I, Equipment Specifications.

4. SCOPE OF WORK

A. Project Tasks

Grantee Shall:

Task 1 – Equipment Ordering

- Place order per OSPR equipment specifications (Reference Exhibit A, Attachment I, Equipment Specifications).

Task 2 – Equipment Delivery & Familiarization/Training

- Coordinate delivery of equipment
- Ensure key response staff receives training/familiarization which should entail (Actual staff and total number of staff, to be determined by Grantee):
 - 1) Health and safety concerns when deploying equipment on oil spills
 - 2) Equipment familiarization
 - 3) Care, storage and maintenance of the equipment
 - 4) Usage as it pertains to the Local Geographic Response Plans and other pertinent strategies
 - 5) Decontamination of personnel and equipment
 - 6) A practical hands-on deployment of the equipment
 - 7) Limitations of the equipment
- Submit report to OSPR with equipment staging location
- OSPR's Representative will perform an inspection of the trailer and equipment.

Task 3 – Equipment Usage

- Furnish the necessary personnel, equipment, material and/or service(s) necessary for routine or incidental deployment of the equipment provided in this agreement.
- Notify the OSPR Grant Manager by phone or e-mail, when the equipment is used in conjunction with an oil spill response. The Grantee also agrees to notify OSPR if the equipment is relocated to a different staging location within the jurisdiction.
- Provide OSPR with equipment access such as facility/storage security access codes, keys to gate and trailer locks or designate staff to be on-site to allow the necessary access.

B. SCHEDULE OF COMPLETION DATES

<u>Activity</u>	<u>Date</u>
Equipment Order	On or before October 31, 2011
<u>All equipment must be ordered on or before October 31, 2011. Orders placed after October 31, 2011 will NOT be reimbursed by OSPR.</u>	
Equipment Delivery & Training	On or before December 31, 2011
Training & Location Report	On or before June 30, 2012

C. SPECIAL TERMS AND CONDITIONS

- 1) The OSPR will provide grant funding specifically to purchase oil spill supplies and equipment from a certified vendor. The Grantee will own the equipment and may use it without obligation or limitation, as long as they work with the unified command. The Grantee is responsible for licensing, care, maintenance, repair and replacement of the equipment provided under this Grant Agreement. The Grantee must notify OSPR of the location of the equipment, and provide a means for OSPR to access the equipment (as outlined in Task 3 – Equipment Usage) in the event of a spill, where the equipment is not being used by the Grantee.
- 2) Functional or operational equipment provided under this Grant Agreement may not be re-sold. If the Grantee decides to no longer participate in oil spill response with the equipment provided under this Grant Agreement, the equipment will be returned to OSPR.
- 3) If response equipment is used for an oil spill and OSPR is notified promptly and participates in the spill response and cleanup effort, OSPR agrees to make reasonable efforts to replace any expendable equipment at the expense of the responsible party (spiller).
- 4) If the Grantee is not using the equipment and the equipment is necessary for oil spill response activities in a nearby jurisdiction, the Grantee agrees to allow OSPR, its agents and/or contractors under the direction of OSPR to access the equipment. When the equipment is used by OSPR, its agents or contractors, OSPR agrees to return the equipment in the same condition as prior to its use. Durable equipment will be clean and decontaminated and expendable equipment will be replaced at no expense to the Grantee.
- 5) State policies and procedures applicable to procurement with nonfederal funds, shall apply to procurement by the Grantee under this Agreement, provided that procurements conform to applicable State law and the standards identified in this exhibit. These include, but are not limited to: statutes applicable to State agencies; statutes applicable to State colleges and universities; public works projects; the California Constitution governing University of California contracting, the State Administrative Manual; statutes applicable city and county charters and implementing ordinances including policies and procedures incorporated in local government manuals or operating memoranda.

Attachment I - Equipment Specifications

Table 1 Specifications for Equipment Trailer	
Build	Approximate size of box 7' x 16' Minimum ¼" plywood interior sidewall with finished surface Undercoated exterior grade ¾" plywood floor Undercoating on complete chassis Vapor barrier underbelly 16: o/c stud walls 24" o/c floor cross member frame Fiberglass front cap Aluminum roof and cove Side vents (one on each side of trailer near top) Aluminum fenders Lighted license plate holder Front stone guard Electric brakes with breakaway switch and battery GVRW 7000 lbs. (minimum)
Doors	Double rear door with full length cam bar Side door near front Both doors fitted with pad lock securing mechanism
Electrical	12 volt dome lights with wall switch 7-way connector D.O.T. compliant exterior lighting Double insulated wiring
Suspension	Tandem Axels EZ lube hubs torsion axles
Tires	15" radial tires 5-bolt E-coated wheels Wheel tire covers ½" wood tire parking pads Wheel chocks
Color	White "Oil Spill Response Equipment" stenciled in red 6" letters on 2 sides 2-digit trailer ID number stenciled on back of trailer in 6" black numbers 2-digit trailer ID number stenciled on top of trailer in 36" black numbers
Tongue	Hitch ball size 2 15/16" Tongue jack with stand pad D.O.T. safety chains
Options	Spare tire and wheel with inside mount
Warranty	3 Year Standard Manufactures Warranty 5 Year Axle Standard Manufacturers Warranty 20 Year Leak Manufactures Warranty

Attachment I - Equipment Specifications

Table 2 Standard Oil Response Containment Boom Specifications	
Freeboard	8"
Draft	12"
Overall Height	20"
Section Length	100'
Fabric	22 oz./sq. yd. PVC Coated Nylon Fabric
Color	Yellow or International Orange
End Connectors	ASTM "Z" (F 0962-04) or ASTM Slide (F 3428-04) (style of connectors TBD) With Stainless Steel Toggle Pins
Flotation	100 % Cylindrical Rolled Polyethylene micro or closed cell foam, with tapered ends Fully sealed flotation cambers Max. 14" fabric fold between flotation cambers RF Welded Seams
Fold Point	Center of fold points to be every 6 ½'
Anchor Points	¾" eye minimum, located at water line on each end connector & one at mid section, in a appropriate place of choosing
Ballast Material	1/4" Galvanized Chain
Tow Plate	An ASTM End Plate with ½" x 6' Poly Rope lead, one end to be finished with thimble connected to tow plate & 6" soft eye spliced into other end.
Warranty	Standard Manufacturer's Commercial Warranty

Attachment I - Equipment Specifications

Table 3 Harbor Boom Specifications	
Boom Type	Fast Water Response Boom
Freeboard	8"
Draft	12"
Overall Height	20"
Section Length	100'
Fabric	22 oz./sq. yd. PVC Coated Nylon Fabric
Color	Yellow or International Orange
Top Tension Cab	5/16" S/S PVC Coated Aircraft Grade or Equivalent sealed in fabric above the floatation. Cable end finished with thimble and swedges sleeves, attached to connectors in a positive manner.
End Connectors	ASTM "Z" (F 0962-04) or ASTM Slide (F 3428-04) (Style of connectors TBD) With Stainless Steel Toggle Pins
Flotation	100 % Cylindrical Rolled Polyethylene micro or closed cell foam, with tapered ends Fully Sealed Flotation Cambers Max. 14" Fabric Fold between Flotation Cambers RF Welded Seams
Fold Point	Center of fold points to be every 6 ½'
Anchor Points	¾" eye minimum, located at water line on each end connector & one at mid section, in a appropriate place of choosing
Ballast Material	3/8" Galvanized Chain
Tow Plate	An ASTM End Plate with ½" x 6' Poly Rope lead, one end to be finished with thimble connected to tow plate & 6" soft eye spliced into other end.
Warranty	Standard Manufacturer's Commercial Warranty

Attachment I - Equipment Specifications

Table 4 Anchor System Specifications	
Anchor	30 lb. Danforth Style Galvanized Anchor
Chain	10 feet of 3/8" galvanized proof coil chain, shackled to anchor using 1/2" galvanized shackle
Rode	150 feet of 1/2" nylon 3-strand with galvanized thimble eyes and 7/16" SPA galvanized shackle in each end.
Flotation	A2 Polyform style buoy (15.5") with 6 feet of 1/2" polypropylene rope spliced onto buoy and 1/2" galvanized thimble eye in other end with 7/16" galvanized shackle.
Warranty	Standard Manufacturer's Commercial Warranty

Table 5 Boom Tool Box Specifications		
Tool Box	1	Heavy duty poly tool box. 24" length or larger if necessary to fit all tools
Wrenches	2	8" crescent wrench
Pliers	1	8" standard pliers
Hammer	1	16 oz. claw hammer
Clamps	2	4" C-clamp
Screwdriver	2	Flathead screwdriver, small and large
Shackles	4	2 3/8" SPA galvanized shackles, 2 1/2" SPA galvanized shackles
Knife	1	Utility knife with extra blade set
Flashlight	1	Waterproof floatable flashlight with 2 D-cell batteries
Hardware	6	Hardware set including: 5/16" x 1 1/4" SS bolts, 2 flat washers, nylock nuts

Attachment I - Equipment Specifications

Table 6 PPE Gear Specifications	
Storage bag	Reusable waterproof storage bag large enough to hold all 1 set of PPE
Hard hat	Hard hat with ratcheting head band
Boots	16" PVC steel toe work boots, size 11, ASTM F2413-05 M I/75 C/75 compliant
Glove liners	Nitrile glove liners, 1 box of 100, large size
Gloves	PVC gloves, 1 dozen, 12" gauntlet, size 11 (large)
Work gloves	Leather work gloves, 2 pair, large size
Safety glasses	2 pair, meeting ANSI and OSHA specifications
Ear plugs	6 pair
Tyvek suits	Full tyvek suit without hood, 2 pair
Tape	Duct tape, 1 roll

Table 7 Specifications for Decontamination Equipment	
Wash Tubs	2 Galvanized wash tubs
Detergent	Degreaser detergent for decontamination
Brushes	2 decontamination scrub brushes with long handles
Waste Bags	1 case of 100 bags, 33" x 40", 4 mil
Visqueen	1 roll of Visqueen
Tarps	2 drop tarps, 8' x 10'
Bucket	1 5-gallon plastic bucket

Table 8 Specifications for Spill Adsorbent Material	
Pads	Heavy weight adsorbent pads, 1 bag of 100 pads
Sweep	100 feet of 19" heavy weight sweep with nylon web strap, bonded with scrim
Boom	1 bag of heavy weight boom containing 4 sections of 5" x 10' each with poly tension line and quick-clips for connecting

Attachment I - Equipment Specifications

Table 9 Miscellaneous Equipment Specifications	
First Aid Kit	Meeting the requirements of WAC 296-800-15020 for at least 10 people
Fire Extinguishers	2 5-pound class ABC fire extinguishers, mounted in trailer interior, one near the front and one near the rear.
MSDS Book	A binder containing MSDS for common oil products including: gasoline, diesel, home heating oil, motor oil, jet fuel, fuel oil, IFO, bunker fuel, and crude oil. Also contains emergency contact numbers for spill, including the National Response Center (1-800-424-8802) and Department of Fish and Game, Office of Spill Prevention and Response (1-800-OILS-911).
Navigation Lights	Self-floating amber buoy lights 48" tall to attach on or near boom. Lights should be made durable and waterproof, and should have adequate keel weight and floatation to give full stability in various tide and sea conditions. Lights should be flashing, D-cell battery operated, and be fitted with photo sensors.

EXHIBIT B
INVOICING AND PAYMENT PROVISIONS
OIL SPILL RESPONSE EQUIPMENT PROGRAM

1. INVOICING AND PAYMENT

- A. Upon satisfactory performance, the State agrees to pay the Grantee a one (1) time payment, in arrears, for all work described herein for the total specified amount, following submission of an original and two (2) copies of the invoice. The invoice shall be submitted to:

Grant Manager: Cindy Murphy
Region / Division: Office of Spill Prevention and Response
Address: 1700 K Street, Suite 150, Sacramento, CA 95811

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

- C. The invoice shall contain the following information:

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

2. PROMPT PAYMENT CLAUSE

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

ADDITIONAL PROVISIONS

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

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

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

2. **RIGHTS IN DATA** ~ The Contractor agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this Agreement, are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the State reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.
3. **RIGHT TO TERMINATE** ~ The State reserves the right to terminate this agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

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

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

4. **SETTLEMENT OF DISPUTES** ~ Unless otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which cannot be resolved informally, shall be decided by the following two (2) step procedure:
- a. The Contractor must provide written notice of the particulars of such disputes to the DFG Contract Manager or appointed representative. The DFG Contract Manager must respond, in writing, within ten (10) working days of receipt of the written notice of dispute. Should the Contractor disagree with the DFG Contract Manager's decision, the Contractor may appeal to the second level. Pending the decision on appeal the Contractor shall proceed diligently with the performance of this Agreement in accordance with the DFG Contract Manager's decision.
 - b. The second level appeal must indicate why the DFG Contract Manager's decision is unacceptable, attaching it to the Contractor's original statement of the dispute with supporting documents, and a copy of the DFG Contract Manager's response. This letter of appeal shall be sent to the Department of Fish and Game, Deputy Director, or duly appointed representative. The second level appeal must be filed within fifteen (15) working days upon receipt of the DFG Contract Manager's decision. Failure to submit an appeal within the period specified shall constitute a waiver of all such rights to an adjustment of this Agreement. The Deputy Director, or designee, shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director or designee, shall be returned to the Contractor within fifteen (15) working days of the receipt of the appeal. The decision of the Deputy Director, or designee, will be final.

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

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

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

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

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

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

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

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

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

- 8. CONFIDENTIALITY OF DATA** ~ All financial, personal, technical, and other data and information relating to the California State Department of Fish and Game operations which are designated confidential by the California State Department of Fish and Game, and made available to the Contractor in order to carry out this Agreement, or which becomes available to the Contractor in carrying out this Agreement shall be protected by the Contractor for the protection of the Contractor's data and information are deemed by the California State Department of Fish and Game's confidential information, such methods and procedures may be used, with written consent of the California State Department of Fish and Game, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph, to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Agreement or is rightfully obtained from third parties.
- 9. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION REQUIREMENTS** ~ The Contractor agrees to use DVBE subcontractors or suppliers originally identified by the Contractor, unless the Contractor requests substitution, in writing beforehand to the DFG Contract Manager and the DFG Contract Manager has approved such substitution. At a minimum, the request must include:
- A written explanation of the reason for the substitution; and
 - The identity of the person or firm substituted.

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

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

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

- 11. USE OF SUBCONTRACTOR(S)** ~ If the Contractor desires to accomplish part of the services through the use of one (1) or more subcontractors, the following conditions must be met:
- The Contractor shall submit any subcontracts to the State for approval prior to starting any of the work;
 - The Agreement between the primary Contractor and the subcontractor must be in writing;
 - The subcontract must include specific language which establishes the rights of the auditors of the State to examine the records of the subcontractor relative to the services and materials provided under the Agreement; and
 - Upon termination of any subcontract, the State shall be notified immediately, in writing.

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

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

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

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

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

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

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

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



May 4, 2011
City Of Oceanside
1540 Harbor Drive North
Attn : Frank Quan
Oceanside, CA 92054

Re: P1175034 00 RESPONSE EQUIPMENT GRANT

ACKNOWLEDGMENT OF WORK COMMENCEMENT AUTHORIZATION DISCLAIMER

Where approval from the California Department of Fish and Game (DFG) and the California Department of General Services (DGS) applies, the attached contract shall be of no force or effect until it is signed by both parties (DFG and Contractor) and/or approved by the DGS. The signing of this contract by your organization does not authorize the commencement of work.

By signing this letter, your organization acknowledges and agrees not to begin work until all approvals have been obtained, the contract has been fully executed, and the contractor has been given authorization to begin work. Should any work begin before all approvals are obtained or authorization is given, services will be considered voluntary.

Please be advised that a failure to sign and return this letter with your signed contract will result in a delay in approving your contract.

Authorized Signature

Date

Printed Name and Title of Person Signing

RESOLUTION NO. _____

A RESOLUTION OF THE OCEANSIDE HARBOR DISTRICT BOARD OF DIRECTORS AUTHORIZING ACCEPTANCE OF A \$30,000 GRANT FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME FOR EMERGENCY OIL SPILL RESPONSE EQUIPMENT

WHEREAS, the Oceanside Small Craft Harbor District, hereinafter referred to as the "District", has applied to the California Department of Fish and Game for grant funds to provide emergency oil spill response equipment for Oceanside Harbor; and

WHEREAS, the Department of Fish and Game has approved the application for grant funds in the amount of \$30,000.

WHEREAS, the District is willing to enter into a contract to provide for the operation and maintenance of the proposed equipment at no cost to the State;

NOW, THEREFORE, the Board of Directors of the Oceanside Small Craft Harbor District does resolve as follows:

SECTION 1. The Board of Directors hereby approves the contract with the Department of Fish and Game for the acceptance of \$30,000 in grant funds to be used to purchase oil spill response equipment, which contract is contained in the Oceanside Harbor Oil Spill Response Grant provided by the Department of Fish and Game and is on file in the Division of Harbor and Beaches, Public Works Department.

SECTION 2. To appropriate the funds to the Harbor and Beaches Division's Oil Spill Response Equipment Grant 2011 account.

SECTION 3. The City Manager is authorized and directed to execute the contract on behalf of the District.

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1 PASSED AND ADOPTED by the Oceanside Small Craft Harbor Board of Directors this
2 _____ day of _____, 2011, by the following vote:

3 AYES:

4 NAYS:

5 ABSENT:

6 ABSTAIN:

7
8
9 _____
10 PRESIDENT OF THE HARBOR DISTRICT
BOARD OF DIRECTORS

11 ATTEST:

12 APPROVED AS TO FORM:

13 _____
14 Harbor District Board Secretary

15 
16 _____
17 Harbor District Board Attorney

18
19
20
21
22 A RESOLUTION OF THE OCEANSIDE HARBOR DISTRICT BOARD OF
23 DIRECTORS AUTHORIZING ACCEPTANCE OF A \$30,000 GRANT FROM THE
24 CALIFORNIA DEPARTMENT OF FISH AND GAME FOR EMERGENCY OIL
25 SPILL RESPONSE EQUIPMENT
26
27
28