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CITY OF FRESNO
City Clerk's Office (Original)

# MEMORANDUM OF UNDERSTANDING

(California Emergency Management Agency - 2009 Anti Human Trafficking Task Force Recovery Act Program Grant # ZH 09 01)

This Memorandum of Understanding (MOU), effective as of April 1, 2010 as provided hereunder, is entered into by and between the CITY OF FRESNO, a California municipal corporation, hereinafter referred to as "Agency," and the MARJAREE MASON CENTER, INC., a California nonprofit corporation in good standing, herein after referred to as "MMC."

## RECITALS

WHEREAS, Agency has submitted an application to the California Emergency Management Agency ("CalEMA") for $500,000 in grant funds through the 2009-2010 Grant Funding Cycle - Recovery Justice Assistance Grant for the Anti Human Trafficking Task Force Recovery Act Program Grant # ZH 09 01), hereinafter referred to as the "Program" and incorporated by reference herein, funded by the federal Edward Byrne Memorial Justice Assistance Grant (JAG) funds provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act); and

WHEREAS, the Program is intended to enhance the specialized unit and to focus special effort on the handling of victims of human trafficking; and

WHEREAS, upon award of grant funds and entry by Agency into a grant agreement with CalEMA ("Grant") consistent with the Program, the Agency intends through its Police Department ("FPD") to work in partnership with the MMC for the purpose of providing maximum available assistance for victims of human trafficking residing in the City of Fresno that will including investigation, immediate response, immediate victim advocacy, legal assistance, referrals for shelter, safety planning assistance with restraining orders, child custody issues, child support, immigration, T-visas and criminal proceedings; and

WHEREAS, the Agency and the MMC believe that implementation of the Program as described herein will further the above goals and to this end agree to coordinate and provide the services referenced herein.

## AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual covenants herein contained and such other and further consideration as is hereby acknowledged, and subject to the terms and conditions and provisions of the Program and this MOU the parties mutually agree as follows:

1. PARTICIPATING AGENCIES AND DESIGNATED CONTACT PERSONS

Agency:
Fresno Police Department
Special Investigations
Sgt. Curtis Chastain
2326 Fresno St.
Fresno, CA 93721

MMC:
Marjaree Mason Center, Inc.
Stacy Gomez, Project Director
1600 "M" St.
Fresno, CA 93721

## 2. ROLES AND RESPONSIBILITIES

FPD, subject to all applicable constitutional and local law requirements, shall act as the lead agency in coordinating the activities of the Anti-Human Trafficking Program to target victims of trafficking. FPD shall identify victims to be served by the Grant. FPD, through the Human Trafficking Task Force operations, will refer victims of human trafficking to MMC.

MMC will provide comprehensive services to the victims such as safety planning, shelter referral, counseling, and legal assistance consisting of filling out and filing restraining orders, assistance with child custody, child support, divorce, immigration, T-Visas, criminal proceedings, and court accompaniment.

MMC will provide a .66 full time equivalent (FTE) bi-lingual (English to Spanish) Advocate who will be the staff Human Trafficking expert stationed at the MMC administration building. MMC will also provide a .10 FTE Activities Coordinator who will also be stationed at the MMC administration building. Activities will be maintained by MMC on a daily time sheet in accordance with the Grant guidelines and reporting requirements.

MMC's Activities Coordinator will coordinate program meetings for offenders in which the offenders will attend an all-day training session provided by the FPD. Speakers from MMC will present on some topics which will include HIV, sexually transmitted diseases, and sexual addiction.

## 3. REIMBURSEMENT FOR PROGRAM ACTIVITIES

For the aforementioned services, the Agency agrees to reimburse MMC solely from allocated and available Program Grant funds for eligible costs incurred by MMC in pursuit hereof, in an amount not to exceed $65,000 in accordance with the Program budget submitted by Agency for the 2009-2010 Program funding cycle and first Program year and Grant period of this MOU.

Any future applications and award of funds for 2009 and 2010 Program funding cycles shall be by written amendment to this MOU and signed by both parties.

Payment shall be contingent on Agency's receipt of an undisputed invoice and any reports and substantiation materials required by the Agency.

If MMC should fail to comply with any provision of the MOU, the Agency shall be relieved of its obligation for further compensation.

Nothing in this MOU shall commit the taxing authority or general fund of the Agency.

## 4. MOU EFFECTIVENESS, TERM AND TERMINATION

The effectiveness of this MOU is contingent upon Agency receiving the Grant award. The two participating agencies signing this MOU shall be committed to the Grant Program for the entire funding cycle commencing April 1, 2010 and ending September 30, 2012. MMC acknowledges and agrees that continued funding is dependant upon satisfactory performance by MMC and availability of funds.

Subject to the foregoing, the term of the MOU is for a 30-month funding cycle Program commencing April 1, 2010 and ending September 30, 2012.
Notwithstanding the foregoing, this MOU shall automatically suspend or terminate upon Agency's written notice to MMC of any of the following events (i) Program or Grant termination or suspension, (ii) any non-appropriation or non-allocation of Grant funding required in pursuit hereof, (iii) MMC's illegal or improper use of funds, (iv) MMC's failure to comply with any term of this MOU, (v) MMC's submittal of any substantially incorrect or incomplete itemized invoice required for reimbursement, (vi) MMC's failure to comply with Federal Drug/Alcohol regulations, or (vii) MMC's failure to comply with any applicable provisions of the Grant.

5. TARGET POPULATION

Services provided under this Program shall be directed to victims of trafficking residing in the incorporated limits of the City of Fresno.

6. RESOURCES

FPD will provide:
Vice investigators to provide proactive operations for increase of number of anti-human trafficking cases investigated;
A vice unit supervising Police Sergeant to provide on-site supervision of the Anti-human Trafficking Unit;
An Anti-human Trafficking Unit Analyst to track and report investigative data related to human trafficking, and to implement a prostitution and rehabilitation program; and
A part-time administrative assistant to implement and monitor a human trafficking tip line (includes the receiving and transferring of information from the public and MMC to investigators).

MMC will provide:
One .66 FTE Advocate;
One .10 FTE Activities Coordinator;
Legal support, referrals for shelter, counseling and other assistance to victims;
Supervision and training by MMC's Project Director; and
Access for victims, identified by FPD, to needed MMC services within existing policies and procedures.

7. RECORDKEEPING AND PERFORMANCE DATA

MMC shall keep proper records of, and submit to the Agency each quarter, the following data:

- Number of Victims – Proper documentation of the number of victims served, including number of cases reported, counseled, provided shelter and all other assistance.

MMC shall provide any monthly and quarterly reports, and any certifications as required by the Agency.

8. FINANCIAL REPORTING, AUDITING AND DOCUMENT RETENTION

MMC shall submit a monthly invoice to FPD for the eligible expenses incurred in providing the services of the Advocate and Activities Coordinator. Billing documentation shall include the following:

- A breakdown of expenditures by cost category; and
- Supporting documentation of all costs including payroll registers, general ledgers and checks as requested by the Agency.

MMC shall maintain accurate, complete, orderly and separate records for the Program and funding separately from all other funds, including DOJ award funds from non-Recovery Act awards awarded for the same or or similar purposes or programs. Tracking and reporting of Recovery Act funds must be separate. Accordingly, the accounting systems of MMC must ensure that funds from Recovery Act funding hereunder are not commingled with funds from any other source. MMC agrees that all personnel performing activities hereunder shall maintain separate timesheets to document hours worked for activities related to this MOU. Records of MMC expenses pertaining to the Program shall be kept on a generally recognized accounting basis.

All records shall be available to Agency, CalEMA, the Comptroller General of the United States, the Department of Justice (DOJ) (including the OJP and the Office of the Inspector General, and its representatives, and the Government Accountability Office (GAO)), or any of their authorized representatives upon request during regular business hours throughout the life of this MOU and for a period of three years after final payment or, if longer, for any period required by law or the Grant. In addition, all books, documents, papers, and records of MMC pertaining to the Program shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. This paragraph shall survive expiration or termination of this MOU.

MMC also understands and agrees that Agency, DOJ and the GAO are authorized to interview any officer or employee of MMC regarding transactions related to this MOU.

9. COMPLIANCE WITH GOVERNING LAW AND GRANT

MMC shall at all times comply with all applicable laws of the United States, the State of California and Agency, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this MOU. MMC acknowledges receipt of a copy of the Grant and agrees to comply with all applicable provisions thereof (including, without limitation, the CalEMA Program Guidelines and the CalEMA Recipient Handbook), and cooperate with Agency in meeting the requirements thereunder.

The services provided by MMC under this MOU are over and above the MMC's budgeted positions. The parties agree that Grant funds shall not be used to replace funds of, or positions otherwise funded by, the MMC.

As applicable, costs and expenditures must be allowable in accordance with OMB Circular A-87, *Cost principles for state, local and Indian Tribal Governments.* Grant funds are subject to the Single Audit Act Amendments of 1996 and the OMB Circular, A-133, *Audits of states, local governments and non-profit organizations.*

By signing this MOU, MMC certifies under penalty of perjury under the laws of the State of California that (i) Grant funds shall not be used for the purpose of lobbying, as required by Section 1352, Title 31 of the U.S. Code, and implemented as 28 CFR Part 69; (ii) MMC will comply with the Drug-Free Workplace Act of 1990 (California Government Code

sections 8350-8357) and the Federal Drug-Free Workplace Act of 1988 (41 USC 701); (iii) MMC will adhere to Federal Executive Order 12549, Debarment and Suspension; (iv) MMC is not listed on any federal or state list of individuals or organization debarred from receiving a contract or grant, or having its contract or grant cancelled due to failure to comply with respective contract or grant provisions. MMC shall complete and submit to Agency all applicable forms required by the Grant including, without limitation, a Drug-free Workplace Certification form (STD.21).

MMC shall post notice of the rights and remedies provided to state and local government and contractor whistleblowers as set forth in Section 1553 of the Recovery Act and shall ensure that its contractors and subcontractors performing work hereunder post such notices.

MMC shall allow access to Agency, CALEMA and any of their representatives for any onsite assessments.

MMC shall maintain current registration in the Central Contractor Registration at all times.

By entering into this MOU, MMC further understands, acknowledges and agrees to adhere to and comply with the "Recovery JAG - Special Conditions Certification" ("Special Conditions"), attached hereto and incorporated by reference herein, to the fullest extent to ensure that Agency will be able to meet the requirements under the Grant. For purpose of this MOU, whenever used in the Special Conditions "subrecipient," "first-tier recipient," and "subgrantee" shall each mean "MMC," and "subcontract" and "subgrant" shall each mean this "MOU."

10. CAPACITY OF AGENCY AND MMC

In the furnishing of the services provided for herein, MMC is acting solely as an independent contractor. Neither MMC, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of Agency for any purpose. Agency shall have no right to control or supervise or direct the manner or method by which MMC shall perform its work and functions. However, Agency shall retain the right to administer this MOU so as to verify that MMC is performing its obligations in accordance with the terms and conditions thereof.

This MOU does not evidence a partnership or joint venture between MMC and Agency. MMC shall have no authority to bind Agency absent Agency's express written consent. Except to the extent otherwise provided in this MOU, MMC shall bear its own costs and expenses in pursuit thereof.

Because of its status as an independent contractor, MMC and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to Agency employees. MMC shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this MOU, MMC shall be solely responsible, indemnify, defend and save Agency harmless from all matters relating to employment and tax withholding for and payment of MMC' employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in Agency employment benefits, entitlements, programs and/or funds offered employees of Agency whether arising by reason of any common law, de facto, leased, or co- employee

rights or other theory. It is acknowledged that during the term of this MOU, MMC may be providing services to others unrelated to Agency or to this MOU.

11. INSURANCE

Throughout the life of this MOU, MMC shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A- VI" in Best's Insurance Rating Guide, or (ii) authorized by Agency's Risk Manager. The following policies of insurance are required:

(i) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as Insurance Services Office (ISO) form CG 00 01 and shall include insurance for "bodily injury", "property damage" and "personal and advertising injury", including premises and operation, products and completed operations and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability of not less than $1,000,000 per occurrence and $2,000,000 general aggregate for bodily injury and property damage, $1,000,000 per occurrence for personal and advertising injury and $2,000,000 aggregate for products and completed operations.

(ii) COMMERCIAL AUTOMOBILE LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) form CA 00 01 and shall include coverage for "any auto" with limits of liability of not less than $1,000,000 per accident for bodily and property damage.

(iii) PROFESSIONAL LIABILITY (Errors and Omissions) insurance appropriate to the MMC's profession, with limits of liability of not less than $1,000,000.00 per claim/occurrence and $2,000,000 policy aggregate.

(iv) WORKERS' COMPENSATION insurance as required under the California Labor Code.

(v) EMPLOYERS' LIABILITY insurance (if MMC has employee(s) or at such time as he/she employs such person(s) during the life of this MOU) with minimum limits of $1,000,000 each accident, $1,000,000 disease policy limit and $1,000,000 disease each employee.

Defense costs shall be provided as an additional benefit and not included within the above limits of liability. MMC shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and MMC shall also be responsible for payment of any self-insured retentions.

The above described policies of insurance shall be endorsed to provide an unrestricted 30 calendar day written notice in favor of Agency of policy cancellation of coverage, except for the Workers' Compensation policy which shall provide a 10 calendar day written notice of such cancellation of coverage. In the event any policies are due to expire during the term of this MOU, MMC shall provide a new certificate evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy(ies). Upon issuance by the insurer, broker, or agent of a notice of cancellation in coverage, MMC shall file with Agency a new certificate and all applicable endorsements for such policy(ies).

The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name Agency, its officers, officials, agents, employees and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so MMC's insurance shall be primary and no contribution shall be required of Agency. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to Agency, its officers, officials, agents, employees and volunteers.

In the event claims made forms are used for any Professional Liability coverage, either (i) policy(ies) shall be endorsed to provide not less than a 5 year discovery period, or (ii) the coverage shall be maintained for a minimum of 5 years following the termination or expiration of this MOU and the requirements of this section relating to such coverage shall survive termination or expiration of this MOU.

MMC shall have furnished Agency with the certificate(s) and applicable endorsements for ALL required insurance prior to Agency's execution of the MOU. MMC shall furnish Agency with copies of the actual policies upon the request of Agency's Risk Manager and this requirement shall survive termination or expiration of this MOU.

If at any time during the life of the MOU or any extension, MMC fails to maintain the required insurance in full force and effect, all work under this MOU shall be discontinued immediately, and all payments due or that become due to MMC shall be withheld until notice is received by Agency that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to Agency. Any failure to maintain the required insurance shall be sufficient cause for Agency to terminate this MOU.

The fact that insurance is obtained by MMC shall not be deemed to release or diminish the liability of MMC, including, without limitation, liability under the indemnity provisions of this MOU. The duty to indemnify Agency shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by MMC. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of MMC, its principals, officers, agents, employees, persons under the supervision of MMC, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

Upon request of Agency, MMC shall immediately furnish Agency with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive termination or expiration of this MOU.

If MMC should subcontract all or any portion of the services to be performed under this MOU, MMC shall require each subcontractor to provide insurance protection in favor of Agency, its officers, officials, employees, agents and volunteers in accordance with the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with MMC and Agency prior to the commencement of any work by the subcontractor.

12. INDEMNIFICATION

To the furthest extent allowed by law, MMC shall indemnify, hold harmless and defend Agency and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict

liability, including but not limited to personal injury, death at any time and property damage) incurred by Agency, MMC or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this MOU. MMC's obligations under the preceding sentence shall apply regardless of whether Agency or any of its officers, officials, employees, agents or volunteers are negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused solely by the gross negligence, or caused by the willful misconduct, of Agency or any of its officers, officials, employees, agents or volunteers.

If MMC should subcontract all or any portion of the work to be performed under this MOU, MMC shall require each subcontractor to indemnify, hold harmless and defend Agency and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this MOU.

13. ATTORNEY'S FEES

If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this MOU, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

14. PROCEDENCE OF DOCUMENTS

In the event of any conflict between the body of this MOU and any exhibit hereto, the terms and conditions of the body of this MOU shall control and take precedence over terms and conditions expressed within the exhibit. Furthermore, any terms or conditions contained within any exhibit hereto which purport to modify the allocation of risk between the parties, provided for within the body of this MOU, shall be null and void.

15. NOTICES

Any notice required or intended to be given to either party under the terms of this MOU shall be in writing and shall be deemed to be duly given if delivered personally or deposited into the United States mail, return receipt requested, with postage prepaid, addressed to the party to which notice is to be given at the party's address set forth in Section 1 of this MOU or at such other address as the parties may from time to time designate by written notice.

16. BINDING

Subject to Section 17 below, once this MOU is signed by the parties, it shall be binding upon, and shall inure to the benefit of, the parties, and each party's respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

17. ASSIGNMENT

There shall be no assignment by either party of its rights or obligations under this MOU without the prior written approval of the other party. Any attempted assignment by a party, its successors or assigns, shall be null and void unless approved in writing by the other party.

18. WAIVER

The waiver by either party of a breach by the other of any provision of this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this MOU. No provision of this MOU may be waived unless in writing and approved by and signed by all parties to this MOU. Waiver of any one provision herein shall not be deemed to be a waiver of any provision herein.

19. GOVERNING LAW AND VENUE

This MOU shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this MOU and any rights and duties hereunder shall be Fresno County, California.

20. HEADINGS

The section headings in this MOU are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this MOU.

21. SEVERABILITY

The provisions of this MOU are severable. The invalidity or unenforceability of any one provision in the MOU shall not affect the other provisions.

22. INTERPRETATION

The parties acknowledge that this MOU in its final form is the result of the combined efforts of the parties and that, should any provision of this MOU be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this MOU in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

23. CUMULATIVE REMEDIES

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

24. NO THIRD PARTY BENEFICIARIES

The rights, interests, duties and obligations defined within this MOU are intended for the specific parties hereto as identified in the preamble of this MOU. Notwithstanding anything stated to the contrary in this MOU, it is not intended that any rights or interests in this MOU benefit or flow to the interest of any third parties.

25 NONDISCRIMINATION

To the extent required by controlling federal, state and local law, MMC shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability,

mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. MMC shall carry out applicable requirements of 49 CFR part 26 in the award and administration of contracts hereunder. Failure by MMC to carry out these requirements is a material breach of this MOU, which may result in the termination of this MOU or such other remedy or sanction as may be available. MMC will include this paragraph in each of its subcontracts and require the same of its subcontractors.

26. ENTIRE AGREEMENT

It is mutually understood and agreed that the forgoing constitutes the entire agreement between the parties. Any modifications or amendments to this MOU must be in writing signed by an authorized agent of each party.

IN WITNESS THEREOF, the parties have executed this MOU at Fresno, California on the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

BY: _____
Jerry Dyer, Chief of Police
City of Fresno Police Department

MARJAREE MASON CENTER, INC.,
a California non-profit organization

BY: _____
Pam Kallsen, Executive Director

TAXPAYER FEDERAL I.D. # _____

ATTEST:
Rebecca E. Klisch
City Clerk, City of Fresno

BY: Cindy Bruer 6/25/10
Deputy

APPROVED AS TO FORM:
James C. Sanchez
City Attorney, City of Fresno

BY: _____ 6/21/10
Nancy A. Algier Date
Senior Deputy

# RECOVERY JAG - SPECIAL CONDITIONS CERTIFICATION
## GRANT AWARD # _____

1. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as further described in the current edition of the OJP Financial Guide, Chapter 19.

2. The recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.

3. JAG NEPA - The recipient agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the recipient agrees to contact BJA.

   The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subrecipient, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:

   a. New construction;

   b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at http://www.ojp.usdoj.gov/BJA/resource/nepa.html , for programs relating to methamphetamine laboratory operations.

Application of this Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

4. JAG data collection - The grantee agrees to comply with all reporting, data collection and evaluation requirements, as prescribed by law and detailed by the BJA in program guidance for the Justice Assistance Grant (JAG) Program.

5. Access to Records; Interviews - The recipient understands and agrees that DOJ (including OJP and the Office of the Inspector General (OIG)), and its representatives, and the Government Accountability Office (GAO), shall have access to and the right to examine all records (including, but not limited to, books, papers, and documents) related to this Recovery Act award, including such records of any subrecipient, contractor, or subcontractor.

   The recipient also understands and agrees that DOJ and the GAO are authorized to interview any officer or employee of the recipient (or of any subrecipient, contractor, or subcontractor) regarding transactions related to this Recovery Act award.

6. Separate Tracking and Reporting of Recovery Act Funds and Outcomes - The recipient agrees to track, account for, and report on all funds from this Recovery Act award (including specific outcomes and benefits attributable to Recovery Act funds) separately from all other funds, including DOJ award funds from non-Recovery Act awards awarded for the same or similar purposes or programs. (Recovery Act funds may be used in conjunction with other funding as necessary to complete projects, but tracking and reporting of Recovery Act funds must be separate.)

Accordingly, the accounting systems of the recipient and all subrecipients must ensure that funds from this Recovery Act award are not commingled with funds from any other source.

The recipient further agrees that all personnel (including subrecipient personnel) whose activities are to be charged to the award will maintain timesheets to document hours worked for activities related to this award and non-award-related activities.

7. Reporting and Registration Requirements under Section 1512 of the Recovery Act

   (a) This award requires the recipient to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

   (b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

   (c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

8. Provisions of Section 1512(c) - The recipient understands that section 1512(c) of the Recovery Act provides as follows:

   Recipient Reports- Not later than 10 days after the end of each calendar quarter, each recipient that received recovery funds from a Federal agency shall submit a report to that agency that contains—
   (1) the total amount of recovery funds received from that agency;
   (2) the amount of recovery funds received that were expended or obligated to projects or activities; and
   (3) a detailed list of all projects or activities for which recovery funds were expended or obligated, including—
      (A) the name of the project or activity;
      (B) a description of the project or activity;
      (C) an evaluation of the completion status of the project or activity;
      (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
      (E) for infrastructure investments made by state and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

9. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct - The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for Recovery Act funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Recovery Act funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by –

| | |
|---|---|
| mail: | Office of the Inspector General<br>U.S. Department of Justice<br>Investigations Division<br>950 Pennsylvania Avenue, N.W.<br>Room 4706<br>Washington, DC 20530 |
| e-mail: | oig.hotline@usdoj.gov |
| hotline: | (contact information in English and Spanish): (800) 869-4499 |
| or hotline fax: | (202) 616-9881 |

Additional information is available from the DOJ OIG website at www.usdoj.gov/oig.

10. Protecting State and Local Government and Contractor Whistleblowers (Recovery Act, section 1553) - The recipient recognizes that the Recovery Act provides certain protections against reprisals for employees of non-Federal employers who disclose information reasonably believed to be evidence of gross mismanagement, gross waste, substantial and specific danger to public health or safety, abuse of authority, or violations of law related to contracts or grants using Recovery Act funds. For additional information, refer to section 1553 of the Recovery Act. The text of Recovery Act is available at www.ojp.usdoj.gov/recovery.

11. Limit on Funds (Recovery Act, section 1604) - The recipient agrees that none of the funds under this award may be used by any State or local government, or any private entity, for construction costs or any other support of any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

12. Misuse of award funds - The recipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

13. Additional Requirements and Guidance - The recipient agrees to comply with any modifications or additional requirements that may be imposed by law and future OJP (including government-wide) guidance and clarifications of Recovery Act requirements.

14. Delinquent section 1512(c) reports - The recipient acknowledges that it has certified that it will comply with all reporting requirements under section 1512(c) of the Recovery Act. (An online reporting mechanism is anticipated to be available for award recipient use by October 10, 2009.) Further to this certification, a failure to comply with the section 1512(c) reporting requirements may, in addition to other penalties, subject the recipient to the following:

    (1) After failure to report section 1512(c) data for two consecutive reporting periods, the recipient may be— (a) precluded from drawing down funds under any OJP award, and/or (b) deemed ineligible for future discretionary OJP awards, until such time as the recipient becomes current in its section 1512(c) reporting obligations; and

    (2) After failure to report section 1512(c) data for three consecutive reporting periods, the recipient, upon written demand of the Director of BJA, shall return to OJP any unexpended award funds (including any unexpended interest earned on award funds) within 15 calendar days of the date of the demand notice. Thereafter, the recipient's award shall be converted to a cost-reimbursable grant until such time as the recipient becomes current in its section 1512(c) reporting obligations, and remains current for not less than two additional consecutive reporting periods.

City of FRESNO **REPORT TO THE CITY COUNCIL**

| AGENDA ITEM NO. | 1 C |
|---|---|
| COUNCIL MEETING | 6/24/10 |
| APPROVED BY | |
| DEPARTMENT DIRECTOR | |
| CITY MANAGER | |

June 24, 2010

FROM: JERRY P. DYER, Chief of Police
Police Department

BY: JUDY GARCIA, Grant Manager
Police Department

SUBJECT: AUTHORIZE ACCEPTANCE OF THE GRANT AWARD OF $500,000 FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY (CALEMA), THROUGH THE FEDERAL EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS FROM THE AMERICAN RECOVERY ACT OF FY 2009, FOR THE ANTI-HUMAN TRAFFICKING TASK FORCE PROJECT, AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE THE AGREEMENT AND ALL REQUIRED PROGRAM DOCUMENTS, SUBJECT TO CITY ATTORNEY APPROVAL

## RECOMMENDATIONS

It is recommended that Council authorize acceptance of the grant award of $500,000 for the Byrne Justice Assistance Grant Program funded by the American Recovery Act of 2009, administered through the California Emergency Management Agency and authorize the Chief of Police to enter into and execute agreement and MOU's with the Marjaree Mason Center and Fresno County Economic Opportunities Commission.

## EXECUTIVE SUMMARY

The City has been awarded a grant funded by the Edward Byrne Memorial Justice Assistance grant with the American Recovery Act funds of 2009, to be administered by the California Emergency Management Agency for the Anti-Human Trafficking Task Force Project. This funding was awarded to CalEMA as the State administering agency in California for $135,641,045 under the JAG Recovery program. Of this money, $3.75 million has been allocated to the Anti-Human Trafficking Task Force Recovery Act Program. This differs from the local Justice Assistance grant funding that is directly funded to local jurisdictions based on a formula determined by population and Part I violent crimes.

## BACKGROUND

A total of $1.5 million was made available for local assistance through the federal Edward Byrne Memorial Justice Assistance Grant funds provided by the American Recovery and Reinvestment Act of 2009 where it has been demonstrated there is a significant human trafficking problem within the local jurisdiction. These funds will be administered by the California Emergency Management Agency, Drug Enforcement Section. This program is to improve both the law enforcement response to all elements of human trafficking and the

Presented to City Council
Date 6/24/10
Disposition Res. approved

coordination between disciplines to ensure that a comprehensive continuum of care is provided to the victims of human trafficking.

According to the 2007 report, *"Human Trafficking in California,"* our state is a top destination for human traffickers. Its immense international border, major harbors and airports, in addition to its large and accelerating immigrant population make it a prime target for traffickers. Human trafficking is tied with the illegal arms industry as the second largest criminal enterprise in the world today and is the fastest growing criminal enterprises in the world, (U.S. Department of Health and Human Services). The U.S. Department of State reports that the impact of human trafficking includes increased criminal and gang activity, child exploitation, public health problems and depressed wages. The link between human trafficking and other criminal activities such as drug trafficking, money laundering, and organized crime cannot be ignored and contributes to a potentially explosive crime rate.

Some trafficking victims are U.S. citizens; however, the Center for the Study of Intelligence report, *International Trafficking in Women to the United States*, reminds us that most are recruited in other countries, most commonly Latin America and Southeast Asia. Approximately 80% of those trafficked from other counties are women and girls; up to 50% of those are minors. Many are forced to work in agriculture (Fresno County's primary industry), domestic services, pornography, and prostitution. According to a report published in 2004 by California Attorney General Bill Lockyer, "Forced labor operations have surfaced in 13 California cities," one of which is **Fresno.**

Prostitution and prostitution-related crimes are a significant part of human trafficking. The Fresno Police Department's Crime-View Bureau reports that statistics for the Fresno Metro area show prostitution and prostitution-related offenses from 2008-2009 as increasing. The Anti-Human Trafficking Task Force Recovery Program will have a significant impact in our jurisdiction and will help to expand the existing multi-disciplinary task force to improve both the law enforcement response and the coordination between disciplines. Human trafficking is an increasing issue in Fresno and the lack of resources has compromised our ability to aggressively target, pursue, mitigate, and eliminate this crime.

In accordance with the objective of the American Reinvestment and Recovery Act, to hire, create or retain positions, this funding will allow the task force to re-hire two civilian positions that were either scheduled for or laid off due to budget cut backs. This plan proposes to hire a new full-time Anti-Human Trafficking Analyst who worked as the Prostitution Abatement and Recovery specialist, and was terminated due to budget cuts, December 31, 2009. The duties include collection and analysis of investigative intelligence related to human trafficking from multiple agencies, maintain statistical data, re-establish and administrate the Prostitution Abatement and Recovery Program (PAR) and Empowerment Support Caring Advocacy Prevention Education (ESCAPE) Program, and coordinate exchanges of information with our designated non-profits. In addition, a part-time wages staff assistant will be hired to assist us in establishing and monitoring an Anti-Human Trafficking tip line. Overtime funds will allow for aggressive and proactive investigations by Fresno Police Department detectives to conduct a minimum of 25 undercover operations that target Human Trafficking offenders. It will also allow for immediate field responses from investigators during off-duty time, who will conduct immediate follow up and take responsibility of the investigation. Training opportunities will be necessary to develop the expertise required to effectively combat the tactics, techniques and procedures utilized by human traffickers.

In addition, the Police Department, through the Human Trafficking Task Force operations and through agreement, will refer victims of human trafficking to the Fresno County Economic Opportunities Commission to provide comprehensive services; such as, referral to emergency housing, identification documents, and legal

services (court documents for custody paperwork and name changes), and to the Marjaree Mason Center who will provide comprehensive services; such as, safety planning, shelter referral, and counseling. Legal assistance will consist of filling out and filing restraining orders, assistance with child custody, child support, divorce, immigration, T-Visas, criminal proceedings, and court accompaniment.

The emphasis of this project is to increase the identification of trafficking victims through proactive law enforcement tactics and cooperation, to increase the successful prosecution of traffickers through multi-jurisdictional law enforcement cooperation; develop practical services protocols and; to develop and provide training and support for law enforcement to proactively identify, rescue, and ensure victim safety and access to needed services.

**FISCAL IMPACT**

There is no fiscal impact to the General Fund.

JPD:JG:vrg
06/16/10

Attachment: MOU's