

**BAY AREA URBAN AREA SECURITY INITIATIVE (UASI)  
APPROVAL AUTHORITY**

**BY-LAWS**

**Approved by the Approval Authority on \_\_\_\_\_, 2021**

**ARTICLE I – FORMATION**

The Bay Area Urban Area Security Initiative Approval Authority (“Approval Authority”) was established by a Memorandum of Understanding between the City and County of San Francisco, the City of Oakland, the City of San Jose, the County of Alameda and the County of Santa Clara, dated July 1, 2006. A successor Memorandum of Understanding between the same parties, dated July 1, 2007, continued the Approval Authority. New Memoranda of Understanding dated December 1, 2011 (“2011 MOU”), December 1, 2013 (“2013 MOU”), and December 1, 2017 (“2017 MOU”) were entered by the initial parties and the following additional government entities from the Bay Area Urban Area: County of Contra Costa, County of Marin, County of Monterey, County of San Mateo and County of Sonoma, with the California Office of Emergency Services (“Cal OES”) as a then non- voting member. Cal OES is no longer a member of the Approval Authority. The current Member entities are collectively referred as “parties”. The 2017 MOU expires on November 30, 2021. The parties intend to establish a new 2021 MOU prior to the expiration of the 2017 MOU.

**ARTICLE II – PURPOSE**

The Approval Authority provides overall governance of the Urban Areas Security Initiative (“UASI”) homeland security grant program, as well as other grant programs under the jurisdiction of the Approval Authority, across the Bay Area Urban Area. The Approval Authority coordinates development and implementation of all grant projects, programs and initiatives, and ensures compliance with grant program requirements, as more fully set forth in the 2021 MOU.

**ARTICLE III – MEMBERS AND REPRESENTATIVES**

**Section 3.1. Current Members.** The Members of the Approval Authority are City of Oakland, City of San Jose, City and County of San Francisco, County of Alameda, County of Contra Costa, County of Marin, County of Monterey, County of San Mateo, County of Santa Clara and County of Sonoma.

**Section 3.2. Representatives.** Each Member, other than the City and County of San Francisco, shall select one primary and one alternate Representative to the Approval Authority, as specified in the 2021 MOU. The City and County of San Francisco shall select two primary and two alternate Representatives. Unless expressly specified in these By-laws, a reference to a Member’s Representative is to the Member’s primary Representative.

**ARTICLE IV – OFFICERS AND GENERAL DUTIES**

**Section 4.1. Selection of Chair and Vice-chair.** The officers of the Approval Authority are the Chair and Vice-chair. The Approval Authority shall elect a Chair and Vice-chair from among the Members’ primary Representatives on an annual basis at the January Approval Authority meeting.

**Section 4.2. Term of the Chair and Vice-chair.** The Chair and Vice-chair each shall serve a one-year term. If the Chair is unable to complete his or her term, the Vice-chair shall become Chair for the remaining period of the Chair’s term, and the Approval Authority shall elect a new Vice-chair at the next regularly scheduled meeting to serve the remaining period of the Vice-chair’s term.

**Section 4.3. Duties of the Chair.** The Chair shall perform the following duties:

- (a) Approve the agenda for all Approval Authority meetings.
- (b) Preside over all meetings of the Approval Authority.
- (c) Call special meetings of the Approval Authority outside of the regular meeting schedule, subject to Section 6.3 (Special Meetings), below.
- (d) Cancel a meeting of the Approval Authority, but only if there is no quorum or a declared local, state, or national emergency that impacts the Bay Area Urban Area.

**Section 4.4. Duties of the Vice-chair; Alternates.** The Vice-chair shall fulfill the duties of the Chair any time when the Chair is unavailable, or when so designated by the Chair. In the event both the Chair and Vice-chair are unavailable, the alternate Representative of the Member whose primary Representative was elected Chair shall fulfill the duties of the Chair. In the event such alternate Representative also is unavailable, the alternate Representative of the Member whose primary Representative was elected Vice-chair shall fulfill the duties of the Chair.

## **ARTICLE V – COMMITTEES AND WORK GROUPS**

**Section 5.1. Regional Working Groups.** The General Manager may create discipline- specific and/or functionally-determined working groups, which shall report to the General Manager, to make comprehensive assessments and recommendations that address risk reduction, increase capabilities on a regional basis, vet regional project proposals, and review grant allocations. These regional working groups may elect Chairs from among their memberships.

## **ARTICLE VI – APPROVAL AUTHORITY MEETINGS**

**Section 6.1. Open Meeting Policy.** It is the policy of the Approval Authority to conduct official business through open and public meetings. The Approval Authority shall conduct its meetings, and the meetings of any committees established by the Approval Authority, in compliance with the Ralph M. Brown Act, California Government Code §54950 et seq. (the “Brown Act”).

**Section 6.2. Regular Meetings.** The Approval Authority shall meet at 10:00 a.m. on the second Thursday of the month pursuant to a Regular Meeting Schedule to be adopted by the Approval Authority each November.

**Section 6.3. Special Meetings.** The Chair may call special meetings with ten (10) business days’ advance notice. In addition, a majority of the Representatives of the Approval Authority may call a special meeting by vote at a noticed meeting. Materials for a special meeting may be distributed at the meeting, with the exception of the meeting agenda, which must be distributed and posted publicly 24 hours in advance of the meeting, per the Brown Act.

**Section 6.4. Meeting Agenda.** The Chair shall set the agenda for Approval Authority meetings. Approval Authority Representatives and the General Manager may request the Chair to include items on the agenda. Each agenda shall specify the date, time and location of the meeting and contain a meaningful description of each item of business to be transacted or discussed. Agendas must also include information regarding the location where members of the public may inspect agenda materials distributed to the Approval Authority fewer than 72 hours before a meeting, as well as information on accommodation for persons with disabilities.

**Section 6.5. Submitting Materials for Regular Meeting Agenda Items.** The General Manager or other person designated to present an agenda item shall prepare and submit materials for that item to the Chair no less than ten (10) calendar days before the meeting, using the Approval Authority Agenda Item Template. (Appendix A)

**Section 6.6. Distribution of Meeting Materials.** Except as described in Section 6.3 (Special Meetings), at least 72 hours before the meeting, and to the extent practicable, seven (7) calendar days before an Approval Authority meeting, the General Manager shall distribute to all primary Representatives a meeting agenda, approved by the Chair, along with any supporting or supplementary materials, including staff reports on agenda items. The General Manager shall also post the agenda.

- (a) *Distribution to Representatives.* The General Manager shall distribute the meeting agenda via email to Approval Authority Representatives. At the written request of a Representative, the General Manager will also distribute the agenda to that individual by any other means, including U.S. mail or fax. In addition, a Representative may identify in writing up to three (3) additional persons, such as the Representative's assistant or officials of the Representative's Member, to whom the General Manager shall distribute the agenda.
- (b) *General Posting.* The General Manager shall post the agenda at the meeting location and on the UASI website. Except with regard to special meetings, the General Manager shall post on the website all public materials for the meeting at least 72 hours before the meeting, and to the extent practicable, seven (7) calendar days before the meeting.
- (c) *Other Distribution.* Members of the public may submit a written request to the General Manager to receive copies of Approval Authority agendas and/or agenda materials. A written request shall be valid for the calendar year in which it is submitted, and must be renewed the following January 1 of each year. The General Manager shall provide a copy of the agenda and/or agenda materials by email or U.S. mail to each person with a current written request submitted to the General Manager.

**Section 6.7. Meeting Minutes.** The General Manager shall prepare minutes of each Approval Authority meeting and submit them to the Approval Authority. The Chair shall make the draft minutes available and subject to review and approval at the next regularly scheduled Approval Authority meeting. The General Manager shall post approved minutes on the UASI website following the meeting where the minutes are approved. Meeting minutes shall include the following information:

- (a) All actions by motion, including dissenting votes;
- (b) Documents filed, including staff reports;
- (c) Brief summary of discussion; and
- (d) Public comments

**Section 6.8. Audio Recordings.** The General Manager shall ensure that all meetings of the Approval Authority and any committees of the Approval Authority are audio recorded. Except for closed sessions, the recordings are public records, available upon request, and posted to the UASI website at <http://bayareauasi.org>.

**Section 6.9. Closed Session.** The Approval Authority may meet in closed session as permitted by law. Notice of the closed session must be included in the meeting agenda and public comment may be given in accordance with the Brown Act. The Approval Authority must vote to enter closed session. The Chair shall report publicly any action taken in closed session as required by law or as determined by vote of the Approval Authority.

**Section 6.10. Order of Business.** Meetings of the Approval Authority shall proceed as set forth in the agenda, except that the Chair may call items out of order for any reasonable purpose, or any Representative in attendance may request a change in the order of agenda items to be confirmed by a majority vote of the Board.

**Section 6.11. Electronic Messaging During Meetings.** Text messaging during a meeting could enable a Representative to surreptitiously communicate with another Representative or interested parties, or receive evidence or direction as to how to vote, from an outside party, that other Representatives of Members and the parties do not see. These circumstances may undermine the integrity of the proceeding and raise due process concerns. Text messaging or use of other personal electronic communications devices during any meeting of a policy body presents serious problems. The Brown Act and Sunshine Ordinance presume that public input during a meeting will be “on the record” and visible to those who attend or review a tape of the meeting. But members of the public will not observe the text messages that Members of the policy body receive during the meeting. Hence the public will not be able to raise all reasonable questions regarding the basis for the policy body’s actions. And text messaging among Representatives of Members of the policy body concerning an agenda item or other business of the body could lead to an unlawful seriatim meeting in the midst of a formal meeting. Text messaging related to meeting agenda items is strictly prohibited, and any text messaging during meetings is strongly discouraged.

**Section 6.12. Public Participation.** It is the policy of the Approval Authority to encourage and permit public participation and comment on matters within the Approval Authority’s jurisdiction, as follows.

- (a) *Public Comment on Agenda Items.* The Approval Authority will take public comment on each item on the agenda. The Approval Authority will take public comment on an action item before the Approval Authority takes action on that item. Persons addressing the Approval Authority on an agenda item shall confine their remarks to the particular agenda item. For each agenda item, each member of the public may address the Approval Authority once, for up to three minutes. The Chair may limit the public comment on an

agenda item to less than three minutes per speaker, based on the nature of the agenda item, the number of anticipated speakers for that item, and the number and anticipated duration of other agenda items.

- (b) *General Public Comment.* The Approval Authority shall include general public comment as an agenda item at each meeting of the Approval Authority. During general public comment, each member of the public may address the Approval Authority on matters within the Approval Authority's jurisdiction. Issues discussed during general public comment must not appear elsewhere on the agenda for that meeting. Each member of the public may address the Approval Authority once during general public comment, for up to three minutes. The Chair may limit the total general public comment to 30 minutes and may limit the time allocated to each speaker depending on the number of speakers during general public comment and the number and anticipated duration of agenda items.
- (c) *Comment, Not Debate.* Approval Authority Representatives and other persons are not required to respond to questions from a speaker. Approval Authority Representatives shall not enter into debate or discussion with speakers during public comment, although Approval
- (d) Authority Representatives may question speakers to obtain clarification. Approval Authority Representatives may ask the General Manager to investigate an issue raised during public comment and later report to the Approval Authority. The lack of a response by the Approval Authority to public comment does not necessarily constitute agreement with or support of comments made during public comment. The Approval Authority is not permitted to take any action with respect to items that are not on a meeting agenda, absent special circumstances and in compliance with the Brown Act.

## **ARTICLE VII – GENERAL MANAGER AND MANAGEMENT TEAM**

**Section 7.1. General Manager.** The assignment of the General Manager, including selection, duties, evaluation, and removal, shall be governed by the 2021 MOU and these By-laws. The General Manager shall:

- (a) Act in accordance with the 2021 MOU, these By-laws, and any policies and procedures established by the Approval Authority.
- (b) Establish proposed criteria, rationale, and methodology, consistent with grant guidelines, for selecting governmental entities from within the Bay Area Urban Area for representation. The Approval Authority shall approve the criteria, rationale and methodology and the selection of jurisdictions.
- (c) Make reasonable efforts to balance regional representation on the Management Team.
- (d) Direct and manage the work of the personnel assigned to the Management Team to support the Approval Authority initiatives and projects. The General Manager shall carry out this responsibility by appropriate means determined

in his or her sole discretion, including but not limited to setting job duties and responsibilities, performance goals and expectations, conducting performance plans and evaluations, directing corrective action plans, and removing personnel from an assignment to the Management Team, with or without cause at any time; however, the employing jurisdiction retains all power to issue written reprimands or suspensions to personnel assigned to the Management Team.

- (e) Regularly report on the status of recruitment for positions in the Management Team. Recruitments for positions in the Management Team shall be open, competitive, and fair.
- (f) At the last regularly scheduled meeting of the fiscal year, present to the Approval Authority information on individuals selected for assignment to the Management Team. The General Manager shall provide job descriptions and compensation (as set by the employing agency) for review and approval. All new positions require approval of the job description and compensation by the Approval Authority prior to their effective date; further, any changes to compensation must be approved by the Approval Authority.
- (g) At the last regularly scheduled meeting of the fiscal year, submit a recommended annual work plan for the upcoming year, for the General Manager and Management Team, for approval by the Approval Authority. The annual work plan shall include specific deliverables and timelines, as well as an organizational chart for the Management Team. During the course of the year, the General Manager shall present any proposed changes to the work plan to the Approval Authority for its review and approval.

**Section 7.2. Performance Review.** The Fiscal Agent, as the hiring manager for the General Manager, shall conduct an annual performance review of the General Manager with input from the Approval Authority.

**Section 7.3. Management Team.** The General Manager may select personnel for assignment to the Management Team as provided in the 2017 MOU.

**Section 7.4. Management Team Functions and Duties.** Under the direction and supervision of the General Manager, the personnel assigned to the Management Team shall perform functions and duties in support of the grant programs under the jurisdiction of the Approval Authority, and shall:

- (a) Act in accordance with the 2021 MOU, these By-laws, and any policies and procedures established by the Approval Authority.
- (b) Oversee and execute all administrative tasks associated with application for and distribution of grant funds and programs.
- (c) Coordinate and manage any working groups, and serve as the liaison between those groups to ensure regional coordination and collaboration.
- (d) Maintain all records associated with the activities of the Approval Authority, Management Team and any working groups, including but not limited to

records regarding application, funding and disbursement processes for grants under the jurisdiction of the Approval Authority.

- (e) Provide regional coordination, monitoring, and appropriate oversight and management of grant funded projects and programs.
- (f) Work with working groups, as well as appropriate Bay Area stakeholders, to obtain input and make recommendations to the Approval Authority on application for and allocation and distribution of grant funds under the jurisdiction of the Approval Authority, and policy and programmatic objectives in alignment with the federal grant guidelines and the regional, state and federal homeland security strategies.
- (g) Perform additional functions, duties and responsibilities as determined and established by the General Manager.

**Section 7.5. Budget.** At the last regularly scheduled meeting of the fiscal year, the General Manager shall submit a recommended annual Management Team budget for approval by the Approval Authority. The budget shall include recommendations for the upcoming fiscal year, for all staff and consultant resources, training, and travel expenses of the Management Team.

**Section 7.6. General Manager's Reports.**

- (a) At each Approval Authority meeting, the General Manager and/or his designee shall provide a written report and oral summary that describes the following:
  - (i) All management activities related to grant projects and initiatives.
  - (ii) Recommendations and major issues raised by any working group.
  - (iii) Any proposed changes to the annual Management Team Work Plan, for approval by the Approval Authority before implementation.
- (b) In addition, the General Manager and/or his designee shall provide written periodic financial reports, with an oral summary at the meeting, that include grant expenditures and a summary of travel and training expenses for the Management Team for the previous quarter.

**ARTICLE VIII – GRANT INVESTMENTS AND ADMINISTRATION**

**Section 8.1. UASI Grant Allocation Methodology.** The Approval Authority shall use a risk and capability-based methodology to apply for and allocate grant funds. To be eligible for funding, jurisdictions within the Bay Area UASI must participate in the risk and capability assessment process on an annual basis. In addition, those jurisdictions must be able to sign the grant assurances and comply with all federal, state, and local requirements.

**Section 8.2. Overarching UASI Grant Funding Policies.** Investment of UASI grant funds must:

- (a) Have a high threat, high density urban area terrorism focus.
- (b) Build regional capabilities, defined as capabilities for two or more counties.
- (c) Enhance regional preparedness and directly support the national priority on expanding regional collaboration in the National Preparedness System.
- (d) Align with the Bay Area Urban Area Homeland Security Goals and Objectives and THIRA (Threat and Hazard Identification and Risk Assessment)
- (e) Support the federal investment strategy.
- (f) Incorporate the DHS grant program funding priorities as well as the relevant national priorities.

**Section 8.3. Grant Application.**

- (a) The Management Team shall prepare grant applications for review and approval by the Approval Authority.
- (b) The UASI grant application shall include grant project information, the amount of proposed funding for each project and the proposed break- down of the funding for that project by solution area (POETE – planning, organization, equipment, training, and exercise), and the jurisdictions proposed to receive the funding along with the amount of funding proposed for each jurisdiction.
- (c) For all other grants, the grant application shall include the grant projects and the amount of the proposed funding for each project. If consistent with grant guidelines, the application shall designate the jurisdictions proposed to receive funding and the amount proposed to be allocated to each jurisdiction.
- (d) The Approval Authority shall approve all allocations specified in the grant application prior to submittal to Cal OES; when practical, this approval shall happen at least four weeks in advance.
- (e) The General Manager is authorized to adjust a grant application to conform to required changes from Cal OES or the applicable federal granting agency. The General Manager shall report back any adjustments made to the Approval Authority at the next regularly scheduled meeting.

**Section 8.4. Grant Award.** The General Manager shall report to the Approval Authority on a grant award received from Cal OES at the next regular meeting following the award.

- (a) For the UASI grant, if the award is less than the application amount, the General Manager shall submit recommendations for reallocation to the Approval Authority for approval. The reallocation recommendation shall include the grant projects, the amount of proposed funding for each project,

the jurisdictions proposed to receive the funding, as well as the amount of funding proposed for each jurisdiction.

- (b) For any other grants under the jurisdiction of the Approval Authority, the Approval Authority shall adopt requirements consistent with the grant guidelines by vote of the Approval Authority.

**Section 8.5. Modification of Grant Allocations.** The General Manager is authorized to modify the Approval Authority's allocation of grant funds as follows:

- (a) Within a grant project, approve scope changes requested by sub-recipient jurisdictions as long as such scope changes are budget neutral and are consistent with the original project goals and objectives as stated in the project proposal, the Bay Area Homeland Security Goals and Objectives, and/or FEMA requirements.
- (b) Within a grant project, reallocate funds up to a total of \$250,000. This authority allows the General Manager to add or subtract from the allocation by \$250,000. Any changes must be consistent with the original project goals and objectives as stated in the project proposal, the Bay Area Homeland Security Goals and Objectives, and/or FEMA requirements. The General Manager and/or his designee shall report such project budget changes under \$250,000 to the Approval Authority on a biannual basis. The General Manager shall bring any budget change that exceeds \$250,000 to the Approval Authority for approval prior to the change.
- (c) Reallocate projects from one grant year to another grant year for the purpose of expending grant funds within applicable grant performance periods, in essence allowing approved projects a longer time period for completion. The General Manager and/or his designee must report to the Approval Authority any timeline changes for projects with budgets over \$250,000 that delay the final project completion date by more than six months.
- (d) Obtain the appropriate approvals from Cal OES for grant modifications.
- (e) Pursuant to the Grants Management Manual, propose solutions to the Approval Authority for when funding becomes available because the sub-recipient jurisdiction is unable or no longer interested implementing project goals and objectives as originally approved by the Approval Authority or expenditures for a project are lower than originally budgeted.

**Section 8.6. Fiscal Agent.** Per the Department of Homeland Security Grant Guidelines, the State Administrative Agent (SAA) is responsible for ensuring compliance with fiduciary and programmatic administration requirements of the UASI Program, as such it must identify a Point of Contact for the application and acceptance of grant funds. This responsibility may be undertaken on behalf of the Bay Area Urban Area by any qualified Member of the Approval Authority, as identified and approved by the SAA.

- (a) The Fiscal Agent shall:

- (i) Be a party to the Bay Area UASI Memorandum of Understanding.
  - (ii) Have the financial ability to advance funding for grants in advance of reimbursement from the Department of Homeland Security or other Federal or State granting agencies.
  - (iii) Have the legal authority to apply for Federal assistance and have the institutional, managerial and financial capability to ensure proper planning, management and completion of the grant provided by the U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) and sub-granted through the State of California, California Office of Emergency Services (Cal OES).
  - (iv) Be able to assume responsibility as the Fiscal Agent, and in doing so to not disrupt the orderly business of the Approval Authority or the administration of existing grants and projects.
  - (v) Have certification by an independent Certified Public Accountant (CPA) that criteria #ii-iv above can be successfully met.
- (b) Fiscal agent responsibilities shall include:
- (i) Serve as sub-grantee for UASI funds and other program grant funds granted by DHS and Cal OES and establish procedures and execute sub-recipient agreements for distribution.
  - (ii) Serve as the UASI region point of contact with U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) and the State of California, California Office of Emergency Services (Cal OES).
  - (iii) Ensure that all allocations and use of funds are in accordance with the Homeland Security Grant Program Notice of Funding Opportunity, and the California Supplement to the Homeland Security Grant Program Federal Notice of Funding Opportunity. Grant funding must support the goals and objectives of the Approval Authority, the State and/or Bay Area Homeland Security Goals and Objectives as well as the investments identified in the Investment Justifications submitted as part of the California Homeland Security Grant Program application.
  - (iv) Establish and maintain procedures and provide all financial services for distribution of UASI and other program grant funds.
  - (v) Comply with all applicable Federal statutes, regulations, policies, guidelines and requirements, including the Uniform Guidance per 2 CFR 200 and E.O. 12372.
  - (vi) Provide progress reports and other such information as may be required by the Approval Authority and/or the awarding agency.

- (vii) Cooperate with any assessments, evaluation efforts, and information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
- (viii) Meaningfully assist during any transition of responsibilities to another Member agency.
- (c) At any time during the term of this Memorandum of Understanding, any Member of the Approval Authority may, by written notice to the Co-Chairs of the Approval Authority, request consideration of the Approval Authority to assume the role of Fiscal Agent. The Fiscal Agent must meet all of the criteria specified in Section 8.6(a) above.

**Section 8.7. Grant Management Manual.** The General Manager shall maintain a Bay Area UASI Grant Management Manual. This Manual shall outline policies and procedures for grant allocations and expenditures, grant management and administration, and any other applicable requirements. Any Approval Authority Representative or the General Manager may present proposed changes to the Grants Manual at any time. Any amendments to the Manual shall be effective only if and when adopted by the Approval Authority.

#### **ARTICLE IX – GOVERNING AUTHORITY; DEFINED TERMS**

The Approval Authority shall operate in accordance with the 2021 MOU. Any portion of the By-laws or any other procedural document that conflicts with the 2021 MOU is null and void to the extent of such conflict. Capitalized terms not defined herein shall have the meaning ascribed to them in the 2021 MOU.

#### **ARTICLE X – AMENDMENT OF THE BY-LAWS**

These By-laws may be amended by a two-thirds vote of the Approval Authority. Amendment to the By-laws must be made as a public agenda item at an Approval Authority meeting.

#### **ARTICLE XI – EFFECTIVE DATE**

These By-laws are effective beginning the first regular meeting after adoption.

[Insert Appendix A: Approval Authority Agenda Item Template]

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