

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO.     R-19-141     ENACTMENT NO. \_\_\_\_\_

SPONSORED BY:      Klarissa J. Peña, by request

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**RESOLUTION**

**APPROVING THE ATTACHED GRANT APPLICATION FOR THE FY2018 HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANT WITH THE NEW MEXICO DEPARTMENT OF HOMELAND SECURITY AND PROVIDING FOR AN APPROPRIATION TO ALBUQUERQUE FIRE RESCUE IN FISCAL YEAR 2019.**

**WHEREAS, the New Mexico Department of Homeland Security and Emergency Management is distributing funds to eligible entities; and**

**WHEREAS, Albuquerque Fire Rescue will use this grant to attend the IAFC International Hazmat Conference; and**

**WHEREAS, grant funds in the amount of \$2,040 for this purpose are available to the City of Albuquerque from the FY18 Hazardous Materials Public Sector Training and Planning Grant; and**

**WHEREAS, the City of Albuquerque desires to accept these funds, which require a \$510 cash match and is available in General Fund.**

**BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:**

**Section 1. That the application with the New Mexico Department of Homeland Security and Emergency Management in the amount of \$2,040 in Federal Funds is hereby approved, and its acceptance and filing with the appropriate official or office is and in all respects approved.**

**Section 2. That funds in the amount of \$2,550, consisting of \$2040 in federal monies from the New Mexico Department of Homeland Security and Emergency Management and \$510 cash match from the General Fund Transfer to Operating Grants Fund (265) program in the General Fund (110), are hereby**

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

1 appropriated to Albuquerque Fire Rescue in the Operating Grant Fund 265 for  
2 Fiscal Year 2019.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion



Mayor Timothy M. Keller

**CITY OF ALBUQUERQUE**  
Albuquerque, New Mexico  
Office of the Mayor

**INTER-OFFICE MEMORANDUM**

March 22, 2019

**TO:** Klarissa Peña, President, City Council

**FROM:** Timothy M. Keller, Mayor

**SUBJECT:** APPROVING THE APPLICATION FOR THE FY2018 HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANT.

The New Mexico Department of Homeland Security & Emergency Management is distributing funds to eligible entities. Albuquerque Fire Rescue is applying for grant funds in the amount of \$2,040.00. A local match totaling \$510.00 is available from the General Fund (110).

This funding will be used to attend the IAFC International Hazmat Conference.

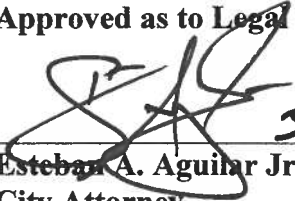
This resolution is forwarded to the Council for consideration and action.

**Legislation Title: FY2018 HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANT**

**Recommended:**

  
\_\_\_\_\_  
Sarita Nair                      Date  
Chief Administrative Officer

**Approved as to Legal Form:**

  
\_\_\_\_\_  
Esteban A. Aguilar Jr.      Date  
City Attorney  
AL

**Recommended:**

  
\_\_\_\_\_  
Paul W. Dow                      Date  
Fire Chief

## **Cover Analysis**

### **1. What is it?**

Resolution approving an Application for FY2018 Hazardous Materials Emergency Public Sector Training and Planning Grant with the New Mexico Department of Homeland Security and Emergency Management and providing an appropriation.

### **2. What will this piece of legislation do?**

This legislation approves an application of federal funding which will be used to attend the IAFC International Hazmat Conference.

### **3. Why is this project needed?**

Funding to attend the IAFC International Hazmat Conference.

### **4. How much will it cost and what is the funding source?**

FY2018 Hazardous Materials Public Sector Training and Planning Grant is \$2,040 and requires a cash match of \$510 which is available in the General Fund (110).

### **5. Is there a revenue source associated with this contract? If so, what level of income is projected?**

\$2,040 in Federal Funds.

**FISCAL IMPACT ANALYSIS**

TITLE: FY2018 Hazardous  
Materials Public Sector  
Training and Planning

Legislation Type Resolution  
FUND: Fund 265 Operating Grants Fund

Fire Department

- No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	2019	Fiscal Years		Total
		2020	2021	
Base Salary/Wages				-
Fringe Benefits at (use applicable rate from OMB)				-
Subtotal Personnel	-	-	-	-
Operating Expenses	2,550			2,550
Property			-	-
Indirect Costs 4.20%				
<b>Total Expenses</b>	<b>\$ 2,550</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,550</b>
<input type="checkbox"/> Estimated revenues not affected				
<input type="checkbox"/> Estimated revenue impact				
Amount of Grant	2,040			2,040
City Cash Match	510			510
City In-kind Match				
City IDOH	-	-	-	-
<b>Total Revenue</b>	<b>\$ 2,550</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,550</b>

Number of Positions created 0

**COMMENTS:** Funding to attend the IAFC Conference.

**COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:**  
(Enter all other comments)

PREPARED BY:

*Amanda Uigil*  
FISCAL ANALYST

APPROVED:

*[Signature]* 2/27/19  
DIRECTOR (date)

REVIEWED BY:

*[Signature]*  
EXECUTIVE BUDGET ANALYST

*[Signature]* 3/11/19  
BUDGET OFFICER (date)

*[Signature]*  
CITY ECONOMIST



**State of New Mexico  
DEPARTMENT OF HOMELAND SECURITY &  
EMERGENCY MANAGEMENT**  
P.O. Box 27111  
Santa Fe, NM 87502

**SUB-RECIPIENT GRANT AGREEMENT**  
2018 Hazardous Materials Public Sector Training and Planning Grants  
Pipeline and Hazardous Materials Safety Administration's  
Hazardous Materials Emergency Preparedness (HMEP) Grant Program  
2018 Federal Grant No.: **HM-HMP-0579-16-03** CFDA No.: **20.703**

<b>1. SUB-GRANT NO.</b> HM-HMP-0579-16-03 City of Albuquerque		<b>2. SUB-RECIPIENT NAME</b> City of Albuquerque		<b>3. FIDUCIARY NAME</b> City of Albuquerque	
<b>4. STATE DFA VENDOR NUMBER</b> 0000054306		<b>5. EIN NUMBER</b> 85-6000102		<b>6. DUNS NUMBER</b> 781549340	
<b>7. CAGE CODE</b> 15M88					
<b>8. SUB-RECIPIENT PHYSICAL ADDRESS</b> 11510 Sunset Gardens, SW Albuquerque, NM 87121			<b>9. SUB-RECIPIENT REMIT ADDRESS</b> 11510 Sunset Gardens, SW Albuquerque, NM 87121		
<b>10. DHSEM CONTACT NAME:</b> Victoria L. Romero		<b>11. CONTACT DESK PHONE:</b> 505-476-9614			
		<b>CONTACT EMAIL ADDRESS:</b> <a href="mailto:Victoria.romero@state.nm.us">Victoria.romero@state.nm.us</a>			
<b>12a. PERFORMANCE PERIOD START DATE</b> October 1, 2018		<b>12b. PERFORMANCE PERIOD END DATE</b> July 31, 2019			
<b>13. ISSUING OF FUNDING DATE:</b>		October 1, 2018			
<b>13a. HMEP FEDERAL AWARD</b> \$2,040.00			<b>13b. HMEP SUB-RECIPIENT COST MATCH</b> \$510.00		
<b>14a. NAME OF PROJECT AWARD</b>			<b>14b. AMOUNT AWARDED</b>		
1	Training: (IAFC)		\$ 2,040.00		
2			\$		
3			\$		
4			\$		
5			\$		
6			\$		
<b>TOTAL FEDERAL AMOUNT</b>			\$ 2,040.00		

## 15. RECITALS, GRANT REQUIREMENTS, ASSURANCES AND AGREEMENTS

### RECITALS

WHEREAS, the New Mexico Department of Homeland Security and Emergency Management (DHSEM) has been designated by the United States Department of Transportation (DOT) to serve as grantee, and is thereby authorized to issue this agreement to the applicant, sub-recipient, and sub-grantee, **City of Albuquerque**.

WHEREAS, funding has been obligated from the United States DOT pursuant to a request by the applicant, sub-recipient, and sub-grantee, **City of Albuquerque**.

NOW, THEREFORE it is mutually understood and agreed between the grantee, DHSEM, and sub-grantee, **City of Albuquerque** as follows:

### ARTICLE 1: CONTRACT DOCUMENTS

The following additional contract documents are fully incorporated into this agreement and thereby constitute additional terms and conditions of this agreement:

This Agreement

2016 Hazardous Materials Emergency Preparedness (HMEP) Grant Program Funding Opportunity Announcement (NOFO)

### ARTICLE 2: SCOPE OF WORK

As authorized by the Hazardous Materials Transportation Uniform Safety Act, the **City of Albuquerque** shall use HMEP funds to assist in preparing for all-hazards. Specifically, these funds shall be utilized by **City of Albuquerque** to "develop, improve, and carry out emergency plans" within the National Response System and the Emergency Planning and Community Right-To-Know Act of 1986. The HMEP grant program is designed to allow grantees the flexibility to implement training and planning programs that address differing needs for each location based on demographics, emergency response capabilities, commodity flow studies, and hazard analysis such as travel, lodging and per diem costs for the designated and approved staff previously identified in the HMEP grant application, and approved by the DHSEM Secretary. The **City of Albuquerque** shall provide a 20% cost share match of the total project cost. CFR-110 Cost Share for Planning and Training; <https://www.gpo.gov/fdsys/pkg/CFR-2014-title49-vol2/xml/CFR-2014-title49-vol2-sec110-60.xml>. All activities performed pursuant to this agreement must comply with the approved HMEP grant application. All activities must be completed within the performance period, between **October 1, 2018** and **July 31, 2019**. The **JURISDICTION** shall not sub-grant any part of this award to any other entity or organization. Within the first reporting quarter, all awards require confirmation that expenditures in the budget category toward this project will be made. If not, DHSEM may execute a de-obligation of Federal funds, without recourse by **City of Albuquerque**.

### ARTICLE 3: PROJECT IMPLEMENTATION

Approved projects must commence within the first reporting quarter. If a project cannot commence and be operational within the first reporting quarter of the approved award date, the sub-grantee must submit a written statement to DHSEM, signed by the sub-recipient signatory officials, justifying the delay in implementation, the expected starting date, and a formal request to extend the project start date past the first reporting quarter. At the sole discretion of DHSEM, the grant award is subject to cancellation and funds may be de-obligated and reallocated to other projects.

### ARTICLE 4: REPORTING REQUIREMENTS



The sub recipient, **City of Albuquerque** shall submit timely quarterly Financial Progress Reports and quarterly Performance Progress Report to the DHSEM Sub-grant analyst. Use of outdated forms will not be accepted. **Quarterly reports are due: July 30, October 30, January 30, and April 30, within the period of performance beginning after the conclusion of the first quarter of the grant.** The final reports are due 45 days after the end of Period of Performance. Financial Progress Reports shall describe and show the status of the funds, encumbrances, receipts of program income, cash or in-kind contributions to the project, and whether or not a local match is required. The Final Narrative Report is a summary report, evaluating project activities and measuring performance against project goals and objectives for the entire performance period, and is required in addition to the last quarterly report.

The applicant must immediately report in writing to the DHSEM Grant Specialist any alleged acts or allegations of fraud or misappropriation of funds for work authorized under this Sub-Grant Agreement. This requirement extends further to an obligation by the sub-recipient to report any legal action, lawsuit, bankruptcy, or other action that may jeopardize the successful completion of any authorized project.

#### **ARTICLE 5: REIMBURSEMENTS**

Submission of a request for reimbursement must be accompanied by a financial report form. Reimbursement shall be based upon authorized and allowable expenditures consistent with the project narrative, grant guidelines, and the submission of timely Financial and Performance Progress Reports. Payments may be withheld by DHSEM pending correction of deficiencies. Reimbursement of expenditures shall be requested at least quarterly for expenditures within the performance period. Expenditures must be supported with source documentation (e.g. copies of proof of payment, invoices, receipts, timesheets with name/wage/hours, cost allocation, warrants, etc.). Reimbursement request will not be processed if quarterly performance and financial reports are not timely submitted.

**Contracts:** All sole-source procurements, single vendor response to a competitive bid, and contracts require DHSEM pre-approval prior to implementation. Requests for reimbursement for contractual services must be accompanied by the relevant contract.

**Local Match:** Local matching funds must clearly support the source, the amount, and the timing of all matching contributions. Title: Section 110.60 - Cost sharing for planning and training, Title 49 - Transportation. Subtitle B - Other Regulations Relating to Transportation, CHAPTER I - PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, SUBCHAPTER A - HAZARDOUS MATERIALS AND OIL TRANSPORTATION, PART 110 - HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANTS.

**Equipment:** Expenses associated with equipment purchases are not allowable.

**Per Diem:** Reimbursements for local jurisdictions cannot exceed the rates of the New Mexico Mileage and Per Diem Act.

**Training:** Requires DHSEM pre-approval 30 days prior to registering or participating in training opportunities.

**Exercise:** Requires submission of an After-Action Report/Improvement Plan within 60 days after conduct of exercise.

**Food and Beverages:** Per HMEP Code of Federal Regulation, <https://www.phmsa.dot.gov/grants/hazmat/hmep-code-federal-regulations>, allowances, food and/or beverage expenses provided by recipients are allowable costs if:

- The food and/or beverages are provided to participants at training sessions, meetings, or conferences that are allowable activities under the HMEP program guidelines; and
- Expenses incurred for food and/or beverages, and provided at training sessions, meetings, or conferences, satisfy the following tests:
  - The cost of the food and/or beverages provided is considered to be reasonable;
  - The food and/or beverages provided are subject of a work-related event and work continues after meals are served;
  - Participation by all participants is mandatory; and
  - The food and/or beverages provided are not related directly to amusement and/or social event. (Any event where alcohol is being served is considered a social event; therefore, costs associated with the event are not allowed).

**Non-reimbursable Expenses:**

- Transfer of funds between any programs.
- Purchases not approved by DHSEM
- Training and related travel costs not pre-approved by DHSEM.
- Natural Disaster Exercises (e.g., Urban Avalanches, Pandemic Flu, Cruise Ship, Wildfire, Earthquake)
- All-Hazards Warning System Drills
- Joint Terrorism Task Force (JTTF) Exercises
- Tier II Chemical Inventory Reports
- Tier II Databases
- WebEOC (EOC-Emergency Operations Center) mapping
- Public Officials Conference that does not have a tie-in to hazardous materials transportation
- Town-wide alert system
- Development and distribution of a Hazmat Calendar
- Expenses counted as match funds toward another Federal grant program or cooperative agreement
- Entertainment costs
- Foreign travel
- Purchase of cell telephone(s), except for administration of the HMEP grant at the state level
- Any costs disallowable or stated as ineligible in 49 CFR part 110
- Any cost specifically prohibited in the General Terms and Conditions of the award, or Special Terms and Conditions listed on the NGA (Remarks section)
- Courses not related to hazmat emergency response (with the exception of the pipeline training listed in section 4.1 above)
- Pro Board® accreditation and certification
- Emergency Preparedness Presentation to Child Care Providers
- School Violence Prevention
- Weapons of Mass Destruction (WMD) Terrorism courses
- Weapons of Mass Destruction (WMD) Radiological Training
- Mobile Meth Lab Training
- Active Shooter Training
- Pandemic Flu Exercises
- Joint Terrorism Task Force (JTTF) Exercises
- Equipment for the purpose of *response* operations, such as:
  - Self-Contained Breathing Apparatus (SCBA)
  - PPE (Personal Protective Equipment)
  - Monitoring Equipment
- Overtime of trainees and any other employees who “backfill” positions of trainees during the period of training.
- Construction and renovation.
- Indirect costs
- Supplanting (using federal funds to purchase items previously budgeted for with state or local funds).
- Maintenance and/or wear and tear costs of general use vehicles and emergency response apparatus.
- Equipment purchased for an exercise cannot be used for permanent installation and/or beyond the scope of an exercise.
- Weapons and ammunition.
- Entertainment and sporting events
- Personal items such as laundry, personal hygiene items, magazines, in-room movies, personal travel, personal phone calls.
- Travel insurance, visa, and passport charges.
- Lodging costs in excess of State per diem, as appropriate.

- Lunch when travel is wholly within a single day.
- Stand-alone working meals.
- Bar charges, alcoholic beverages.
- Finance, late fees, or interest charges.
- Lobbying, political contributions, legislative liaison activities.
- Organized fund-raising, including salaries of persons while engaged in these activities.
- Land acquisition.
- Expenditures not supported with appropriate documentation when submitted for reimbursement. Only properly documented expenditures will be processed for payment. Unsupported expenditures will be returned to the jurisdiction for resubmission.

#### **ARTICLE 6: PERFORMANCE MEASURES**

Quarterly Progress Reports shall demonstrate performance and progress relative to acceptable performance on applicable critical tasks in Exercises using approved scenarios:

1. Progress in achieving project timelines and milestones.
2. Percent measurable progress toward completion of project.
3. How funds have been expended during reporting period, and explaining expenditures related to the project.

#### **ARTICLE 7: SUB-RECIPIENT MONITORING POLICY**

**Periodic monitoring is required to ensure that program goals, objectives, timelines, budgets and other related program criteria are being met. DHSEM reserves the right to periodically monitor, review, and conduct analysis of financial, programmatic, and administrative policies, procedures, and practices. This monitoring may include review of accounting for receipts and expenditures, cash management, maintaining adequate financial records, means of allocating and tracking costs, contracting, procurement, records management, payroll, means of allocating staff costs, property and equipment management system, progress of project activities, etc.. Monitoring may include desk and field audits. Technical assistance is available from DHSEM staff.**

#### **ARTICLE 8: PROCUREMENT**

**When procuring property and services under this agreement, the sub-recipient will follow Code of Federal Regulations Title 49 -- Transportation, Chapter I -- Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Part 110 -- Hazardous Materials Public Sector Training and Planning Grants, 2 CFR 200.318 through 2 CFR 200.326. The sub-recipient must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in 2 CFR 200. As such, the sub-recipient must use one of the methods of procurement identified in 2 CFR 200.320. The sub-recipient may request that its procurement system be reviewed by DOT or DHSEM to determine whether its system meets standards in order for its system to be compliant**

Contractors that develop or draft specifications, requirements, Statements of Work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Local bidder's preference is not allowed for federally funded procurements. Procurement transactions shall be conducted to provide maximum open and free competition. Each sole-source procurement, single vendor response to a competitive bid, and all purchases require prior approval of DHSEM.

#### **ARTICLE 9: CONTRACTS**

Any contract entered into during this grant period shall comply with local, State and Federal government contracting regulations. Contracts for professional and consultant services must include local, State and Federal government required contract language, a project budget, and require pre-approval by DHSEM prior to implementation. Contract

deliverables must meet the intent of the grant application and grant requirements. Justification is required for compensation for individual consultant services, which must be reasonable and consistent with the amount paid for similar services in the market place. Detailed invoices and time and effort reports are required for consultants.

#### ARTICLE 10: AUDIT REQUIREMENTS

As the Federal grant recipient, the State of New Mexico requires a sub-recipient expending \$750,000.00 or more in Federal funds in the organization's fiscal year to conduct an organization-wide audit in accordance with 2 CFR 500 Subpart F. The **City of Albuquerque** will permit the State of New Mexico Grant and Program officials and auditors to have access to the sub-recipient's and third-party contractors' records and financial statements as necessary for the State of New Mexico to comply with 2 CFR 500 Subpart F. Copies of audit findings must be submitted to DHSEM within 30 days after **City of Albuquerque** receives its audit report, or within a 9-month period of the grant closeout date, whichever is earlier, in accordance with 2 AAC 45.010. Include the Federal agency name, program, grant number, and year; the CFDA title and number; and the name of the pass-through agency.

#### ARTICLE 11: PROPERTY AND EQUIPMENT MANGEMENT

The sub-recipient will follow the property standards articulated in Code of Federal Regulations Title 49 -- Transportation, Chapter I -- Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Part 110 -- Hazardous Materials Public Sector Training and Planning Grants, 2 CFR 200.310 through 2 CFR 200.326.

The sub-recipient shall maintain an effective property management system; safeguards to prevent loss, damage or theft; maintenance procedures to keep equipment in good condition; and disposition procedures. A Property Inventory Report shall be submitted to DHSEM annually each January 30 with the Financial Progress Report during the performance period, and continued submission is required annually until final disposition of the equipment. The sub-recipient shall, when practical, prominently display the following on any equipment purchased with award funds: **Purchased with funds provided by the U.S. DOT**. No equipment purchased with these grant funds may be assigned to other entities or organizations without the expressed approval in writing from DHSEM, prior to the jurisdiction's encumbrance or expenditure for that equipment.

#### ARTICLE 12: NEPA/EHP COMPLIANCE

The Natural Gas Pipeline Safety Act of 1968, as amended, (NGPSA) authorizes the U.S. DOT to regulate pipeline transportation of natural (flammable, toxic, or corrosive) gas and other gases, as well as the transportation and storage of Liquefied Natural Gas (LNG). The Pipeline Safety Statute codified in 49 U.S. Code § 60101, et seq, directs US DOT to establish and enforce standards for liquefied natural gas pipeline facilities. PHMSA's regulations are found in Title 49 Code of Federal Regulations Part 193 Liquefied Natural Gas Facilities.

An LNG facility is a gas pipeline facility used for converting, transporting or storing liquefied natural gas. Many LNG facilities are subject to the regulatory and enforcement authority of the Department of Transportation through PHMSA. A simple but not complete test to determine if an LNG facility is regulated under 49 CFR Part 193 is to identify both the source and the consumer of the LNG.

Federal Energy Regulatory Commission (FERC) is responsible for authorizing the siting and construction of onshore and near-shore LNG import or export facilities under Section 3 of the Natural Gas Act. Additionally, FERC inspects peak-shaving, LNG satellite, and vehicular fuel LNG plants connected to the interstate gas transmission system. The Commission, under Section 7 of the Natural Gas Act, also issues certificates of public convenience and necessity for LNG facilities engaged in interstate natural gas transportation by pipeline. As required by the National Environmental Policy Act (NEPA), FERC prepares environmental assessments or impact statements for proposed LNG facilities under its jurisdiction. FERC is the lead federal agency under NEPA to analyze the environmental, safety, security, and cryogenic design of proposed LNG facilities.

FERC regulations are found in Title 18 Code of Federal Regulations (18 CFR) Chapter 1, Subchapter E. LNG projects which are approved and built are subject to FERC oversight for as long as the facility is in operation. As of 2016, FERC listed 24 operational LNG facilities under its regulatory jurisdiction. Follow this link for additional details on FERC's responsibilities in regulating LNG facilities and maps showing existing, approved, and proposed North American LNG projects, as well as FERC jurisdictional LNG peak-shaving plants.

For additional details on FERC's LNG siting process, visit <http://www.ferc.gov/industries/gas/indus-act/lng.asp>.

#### ARTICLE 13: PUBLICATIONS

Publications created with funding under this grant shall prominently contain the following statement: This Document was prepared under a sub-grant from the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration and the New Mexico Department of Homeland Security and Emergency Management. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Transportation or the State of New Mexico.

#### ARTICLE 14: RECORDKEEPING

***The sub-recipient will follow the record retention and access standards articulated in 2 CFR 200.333 through 2 CFR 200.337.*** The grant financial and administrative records shall be maintained for a period of three (3) years following the date of the closure of the grant award, or audit if required. Time and effort, personnel and payroll records for all individuals reimbursed under the award must be maintained. Property and equipment records shall be maintained for a period of three (3) years following the final disposition, replacement or transfer of the property and equipment.

#### ARTICLE 15: CHANGES TO AWARD

All change requests must be submitted either in writing or electronically to the designated DHSEM Sub-grant Analyst for review and possible approval. All change requests must be accompanied by a justification narrative and a budget and spending plan. All change requests must be consistent with the scope of the project and grant guidelines. Change requests will be considered only if reporting requirements are current, and all other terms and conditions of this agreement have otherwise been met at the time the request. If approved by DHSEM, changes in the programmatic activities, purpose of the project, key personnel specified on the grant award, contractual services for activities central to the purposes of the award, requests for additional funding, change in project site, or release of special conditions, will result in an amendment to this award.

#### ARTICLE 16: OTHER GENERAL PROVISIONS

- A. The performance period for this grant award is **October 1, 2018 through July 31, 2019**. Further, all personnel related grant activity must be completed between **October 1, 2018 and July 31, 2019**. Funds may not be obligated outside of these time periods. An obligation occurs when funds are encumbered, as with a purchase order and/or commitment of salaries and benefits. **All obligated and encumbered funds *must be liquidated* within 45 days of the end of the performance period when the *Final Progress and Financial Reports* are due.**
- B. The sub-recipient shall comply with the requirements and restrictions of the US Department of Transportation, Pipeline and Hazardous Materials Safety Administration, HMEP Grant Expenditures Guide, <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/about-phmsa/grants/hazmat/2956/2017-hmep-expenditures-guide-071317.pdf> and State Guidelines. By signing this obligating award document, the sub-recipient certifies it has read, understood and accepted these documents as binding.
- C. The signatures of the signatory officials on this award certifies that all financial expenditures, including all



supporting documentation submitted for reimbursement, have been incurred by the jurisdiction, and are eligible and allowable expenditures consistent with the grant guidelines for this project. The sub-recipient shall follow the financial management requirements imposed on them by DHSEM, which includes the requirements of U.S. DOT.

- D. The signature of the signatory officials on this award attests to **City of Albuquerque** understanding, acceptance, and compliance with Lobbying; Debarment, Suspension and other responsibility matters; Drug-free Workplace; Conflict of Interest, and Non-Supplanting certifications. Federal funds will not be used to supplant State or local funds. Federal funds must be used to supplement existing funds to augment program activities, and not replace those funds which have been appropriated in the budget for the same purpose. Potential supplanting may be the subject of application and pre-award, post-award monitoring, and audit.
- E. **City of Albuquerque** shall ensure the accounting system used allows for separation of fund sources. These grant funds cannot be commingled with funds from other federal, state or local agencies, and each award is accounted for separately.
- F. **City of Albuquerque** shall comply with Federal Civil Rights Laws and Regulations: *Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Age Discrimination Act of 1975, and Americans with Disabilities Act of 1991.* **City of Albuquerque** will take reasonable steps to ensure Limited English Proficient (LEP) persons have meaningful access to its programs and activities. *Executive Order 13347 Individuals with Disabilities in Emergency Preparedness* requires government to support safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism.
- G. **City of Albuquerque** certifies that it has an Affirmative Action Plan/Equal Employment Opportunity Plan (EEOP) (for USDHS/DOJ grants). An EEOP is not required for recipients of less than \$25,000.00 or fewer than 50 employees.
- H. **City of Albuquerque** certifies that its employees are eligible to work in the U.S. as verified by Form I-9, Immigration & Naturalization Service Employment Eligibility.
- I. It is the responsibility of **City of Albuquerque** as the recipient of these federal funds to fully understand and comply with the requirements of:
- Assurances, Administrative Requirements, Cost Principles, and Audit Requirements, OMB Standard Form 4248 Assurances -Non-Construction Programs, OMB Standard Form 4240 Assurances - Construction Programs, 2 C.F.R. Part 200, 2 C.F.R. Part 3002, <https://www.federalregister.gov/documents/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>
  - Whistleblower Protection Act,
    - 10 U.S.C Section 2409, [https://www.acquisition.gov/far/html/Subpart%203\\_9.html](https://www.acquisition.gov/far/html/Subpart%203_9.html)
    - 41 U.S .C. 4712, <https://www.gpo.gov/fdsys/granule/USCODE-2012-title41/USCODE-2012-title41-subtitle1-divsnC-chap47-sec4712>
    - 10 U.S.C. Section 2324, <https://www.gpo.gov/fdsys/granule/USCODE-2010-title10/USCODE-2010-title10-subtitleA-partIV-chap137-sec2324>
    - 41 U. S. C. Sections 4304 <https://www.gpo.gov/fdsys/pkg/USCODE-1998-title41/html/USCODE-1998-title41-chap7-sec423.htm>
    - 41 U. S. C. Sections 4310, <https://www.gpo.gov/fdsys/granule/USCODE-2011-title41/USCODE-2011-title41-subtitle1-divsnC-chap43-sec4310>
  - USA Patriot Act of 2001, 18 U.S.C. Sections 175 175c, <https://www.gpo.gov/fdsys/pkg/BILLS-107hr3162enr/pdf/BILLS-107hr3162enr.pdf>
  - Universal Identifier and System of Award Management (SAM), 2 C.F.R. Part 25, Appendix A, [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr25\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr25_main_02.tpl)

- **Reporting of Matters Related to Recipient Integrity and Performance**, 2 C.F.R. Part 200, Append ix, XII, <https://www.federalregister.gov/documents/2015/07/22/2015-17753/guidance-for-reporting-and-use-of-information-concerning-recipient-integrity-and-performance>
- **Rehabilitation Act of 1973, 29 U.S.C. Section 794**, <https://www.gpo.gov/fdsys/pkg/USCODE-2010-title29/pdf/USCODE-2010-title29-chap16-subchapV-sec794.pdf>
- **Trafficking Victims Protection Act of 2000**, Section 106(g) 22 U.S.C. section 7104, 2 CFR Section 1 75.15, <https://www.gpo.gov/fdsys/granule/USCODE-2010-title22/USCODE-2010-title22-chap78-sec7104>
- **Terrorist Financing**, <http://www.state.gov/ct/rls/other/des/122570.htm>
- **Reporting Sub-Awards and Executive Compensation**, [http://www.ecfr.gov/cgi-bin/text-idx?SID=642add467031e0890f536fd54f4c389d&mc=true&node=ap2.1.170\\_1330.a&rgn=div9](http://www.ecfr.gov/cgi-bin/text-idx?SID=642add467031e0890f536fd54f4c389d&mc=true&node=ap2.1.170_1330.a&rgn=div9)
- **Procurement of Recovered Materials, Solid Waste Disposal Act, Resource Conservation Recovery Act**, [http://www.ecfr.gov/cgi-bin/text-idx?SID=2687e81e87f616171c67e1a97d9fe25d&node=se2.1.200\\_1322&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=2687e81e87f616171c67e1a97d9fe25d&node=se2.1.200_1322&rgn=div8)
- <https://www.epa.gov/history/epa-history-resource-conservation-and-recovery-act>, Environmental Protection Agency (EPA) 40 C. F.R. Part 247, <https://www.gpo.gov/fdsys/pkg/CFR-2012-title40-vol26/xml/CFR-2012-title40-vol26-part247.xml>
- **Patents and Intellectual Property Rights**, [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title37/37cfr401\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title37/37cfr401_main_02.tpl)
  - Bayh-Dole Act. Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. section 200 et seq.
  - 37 C.F.R. Part 401
  - 37 C.F.R. Section 401.14
- **Non-supplanting Requirement** - All recipients who receive awards made under programs that prohibit supplanting by law must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources.
- **Lobbying Prohibitions, 31 U.S.C. Section 1352**, <https://www.gpo.gov/fdsys/granule/USCODE-2010-title31/USCODE-2010-title31-subtitleII-chap13-subchapIII-sec1352/content-detail.html>
- **Limited English Proficiency (Civil Rights Act of 1964, Title VI)**, <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited>, <https://www.lep.gov/>
- **Hotel and Motel Fire Safety Act of 1990**, <https://www.gpo.gov/fdsys/pkg/STATUTE-104/pdf/STATUTE-104-Pg747.pdf>, **Federal Fire Prevention and Control Act of 1974, as amended**, 15 U.S.C. Section 2225 <http://legcounsel.house.gov/Comps/FIREPREV.PDF>
- **Fly America Act of 1974**, 49 U.S.C. Section 41102, 49 U.S.C. Section 40118 <https://www.med.upenn.edu/orss/docs/FlyAmericaAct.pdf>, Comptroller General Decision B-138942 <http://www.gao.gov/products/441704>
- **Americans with Disabilities Act of 1990**, 42 U. S. C. Sections 12101, 12213, <https://www.ada.gov/pubs/adastatute08.htm>
- **Age Discrimination Act of 1975**, Title 42 U.S. Code section 6101 et, [https://www.dol.gov/oasam/regs/statutes/age\\_act.htm](https://www.dol.gov/oasam/regs/statutes/age_act.htm)
- **Activities Conducted Abroad** - All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
- **Federal Debt Status**, [https://www.whitehouse.gov/sites/default/files/omb/assets/a129/rev\\_2013/pdf/a-129.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/a129/rev_2013/pdf/a-129.pdf)
- **False Claims Act and Program Fraud Civil Remedies**, 31 U. S. C. Section 3729, 31 U. S.C. Section 3801-3812, <http://www.gao.gov/assets/590/587978.pdf>
- **Energy Policy and Conservation Act**, 42 U.S.C. Section 6201, <http://legcounsel.house.gov/Comps/EPCA.pdf>
- **Education Amendments of 1972 (Equal Opportunity in Education Act)**, 20 U.S.C. section 1681 et seq, 6 C.F.R. Part 17 and 44 C.F.R. Part 19, <https://www.dol.gov/oasam/regs/statutes/titleix.htm>

- **Duplication of Benefits**, 2 C.F. R. Part 200, Subpart E , <http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1.5&rgn=div6>
- **Drug-Free Workplace Regulations**, 41 U.S. C. section 701 et seq, 2 C.F.R Part 3001, [https://www.whitehouse.gov/sites/default/files/omb/assets/fedreg\\_2009/061509\\_drugfree.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/fedreg_2009/061509_drugfree.pdf)
- **Debarment and Suspension**, Executive Orders, 12549 and 12689, and 2 C.F.R. Part 180, [https://www.whitehouse.gov/sites/default/files/omb/assets/grants/111506\\_grants\\_full.pdf](https://www.whitehouse.gov/sites/default/files/omb/assets/grants/111506_grants_full.pdf)
- **Copyright**, 17 U.S.C. sections 401 or 402, <https://www.gpo.gov/fdsys/granule/USCODE-2010-title17/USCODE-2010-title17-chap4-sec402>
- **Civil Rights Act of 1968**, Title VIII of the Civil Rights Act of 1968, 42 U.S.C. section 3601 et seq, 24 C.F.R. Part 100, 24 C.F.R Section 100.201, <https://www.law.cornell.edu/cfr/text/24/886.313>
- **Civil Rights Act of 1964 - Title VI**, 42 U.S.C. Section 2000d et seq, 6 C.F.R. Part 21, 44 C.F.R. Part 7 <https://www.dol.gov/oasam/regs/statutes/titlevi.htm>
- **Disposition of Equipment Acquired Under the Federal Award**, 2 C.F.R. Section 200.313, <https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-sec200-313>
- **National Environmental Policy Act**, National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, <https://ceq.doe.gov/>
- **Nondiscrimination in Matters Pertaining to Faith-based Organizations**, 6 C. F. R. Part 19 <https://www.federalregister.gov/documents/2015/08/06/2015-18257/nondiscrimination-in-matters-pertaining-to-faith-based-organizations>
- **The Hazardous Materials Transportation Uniform, Safety Act of 1990** (P.L. 101-615)
- **Emergency Planning and Community Right-To-Know Act of 1968** (EPCRA)
- **The Fixing America's Surface Transportation (FAST) Act** (Public Law No" 114-94)
- **Title VII, Section 7203 of the FAST Act**
- **Safe Transportation of Energy Products (STEP)** <http://www.phmsa.dot.gov/hazmat/osd/colltoaction>
- **The Bipartisan Budget Act of 2015**, (P.L. 114-74)

#### **ARTICLE 17: PENALTY FOR NON COMPLIANCE**

For the reasons listed below, special conditions may be imposed, reimbursements may be partially or wholly withheld, the award may be wholly or partly suspended or terminated, or future awards, reimbursements and award modifications may be withheld. DHSEM may institute the following, but is not limited to, withholding authority to proceed to the next phase of a project, requiring additional or more detailed financial reports, additional project monitoring, and/or establish additional prior approvals. DHSEM shall notify the sub-recipient of its decision in writing stating the nature and the reason for imposing the conditions/restrictions, the corrective action required and timeline to remove them, and the method of requesting reconsideration of the imposed conditions/restrictions. The sub-recipient must respond within 5 days of receipt of notification.

- (a) Unwillingness or inability to attain project goals
- (b) Unwillingness or inability to adhere to Special Conditions listed on Page 13
- (c) Failure or inability to adhere to grant guidelines and federal compliance requirements
- (d) Improper procedures regarding contracts and procurements
- (e) Inability to submit reliable and/or timely reports
- (f) Management systems which do not meet federal required management standards
- (g) Failure or inability to adhere to the terms and conditions of this agreement

#### **ARTICLE 18: TERMINATION**

**For Cause:** If performance is not occurring as agreed, the award may be reduced or terminated without compensation for reduction or termination costs. DHSEM will provide notice of five (5) days to the sub-recipient stating the reasons for the action, steps taken to correct the problems, and the commencement date of the reduction or termination. DHSEM



will reimburse the sub-recipient only for acceptable work or deliverables, necessary and allowable costs incurred through the date of reduction or termination. Final payment may be withheld at the discretion of DHSEM until completion of a final DHSEM review. Any equipment purchased under a terminated grant may revert to DHSEM at the option of DHSEM.

**For Convenience:** This Agreement may be terminated without cause by either of the parties upon written notice delivered to the other party at least 30 days prior to the intended date of termination. A termination pursuant to this provision does not nullify a party's obligations for performance or liabilities for failure to perform already incurred prior to the date of termination. Any project may be terminated upon convenience, in whole or in part, for the convenience of the Government. The U.S. DOT and the DHSEM, by written notice, may terminate this grant, in whole or in part, when it is in the Government's interest. Allowable costs obligated and/or incurred through the date of termination shall be reimbursed. Any equipment purchased under a terminated grant may revert to DHSEM at the option of DHSEM.

*This space has been intentionally left blank.*

#### ARTICLE 19: SPECIAL CONDITIONS

*\* Grant funds cannot be expended until these conditions have been met.*

- 1) **If applicable** - All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the terms and conditions of your award. All recipients must comply with any such requirements set forth in the program NOFO.
- 2) The grant award amount is a funding allocation, and is not to be interpreted as expenditure authorizations or approvals. Pre-approval from DHSEM's Local Preparedness Program, Training and Exercise Program, and Administrative Service Bureau (ASB) is required for all purchases regardless of any application review.
- 3) All awarded projects must be planned for, conducted, budgeted and expended within the designated performance period. Furthermore, at least 25% of the grant award must be expended in the first quarter for each project; some exceptions and/or extenuating circumstances may apply.
- 4) All HMEP sub-recipients must be NIMS compliant. A NIMS Assessment will be conducted on or before September 30 of each year. All funded beneficiaries, to include but not limited to, first response agencies and special teams must maintain NIMS compliance throughout the performance period of the grant and thereafter.
- 5) All HMEP performance activities will be monitored by the Local Preparedness Program on a quarterly basis or as needed to ensure sub-recipients are conducting progressive activities to ensure project completion within the specified performance period.
- 6) Quarterly financial and progress reports are due on April 30, July 30, October 30, January 30 within the Period of Performance. Final reports are due 45 days after the end of Period of Performance.
- 7) All Budget Revisions must be reviewed and approved by the Local Preparedness Program to ensure that the proposed project meets all federal and state eligibility requirements. Budget Revisions must meet the original scope of the project.
- 8) If a revision of the project(s) scope of work is requested, it must be pre-approved by the Local Preparedness Program, before the jurisdiction can proceed with the Request for Approval (RFA) processes. If the revision is approved, the Local Preparedness Program may request additional documentation to proceed with recommendation to DHSEM Leadership for final approval.
- 9) The beneficiary of this award is solely responsible for all expenditures that are incurred outside of the award performance period.
- 10) All expenditures that are incurred above and beyond the amount of this sub-grant agreement are the sole responsibility of the sub-recipient of this award.
- 11) The FEMA approved National Environmental Protection Agency-Environmental Historic Preservation (NEPA/EHP) form must be submitted prior to any ground disturbance, modification to buildings, etc.
- 12) Procurement from Minority Owned and Women Owned Business is encouraged, and must be tracked and reported to DHSEM on the quarterly reports.
- 13) Annual external audit reports must be submitted to DHSEM within 30 days of receipt by sub-recipients.
- 14) All Contracts for goods and services, to include the project scope of work, must be reviewed and approved the LPP and ASB before execution, to include signing of contract between parties.
- 15) All requests for Sub-grant award extensions must be received at DHSEM prior to the 90-day grant award termination date. Requests for sub-grant award extensions will only be considered for documented extenuating circumstances and will be reviewed by the Local Preparedness Program on a case-by-case basis.
- 16) Upon completion of all awarded projects, any remaining funds will be de-obligated and reverted back to NMDHSEM.



State of New Mexico  
 DEPARTMENT OF HOMELAND SECURITY & EMERGENCY MANAGEMENT  
 P.O. Box 27111  
 Santa Fe, NM 87502  
**SUB-RECIPIENT GRANT AGREEMENT**

**2018 Hazardous Materials Public Sector Training and Planning Grants  
 Pipeline and Hazardous Materials Safety Administration's  
 Hazardous Materials Emergency Preparedness (HMEP) Grant Program  
 2018 Federal Grant No. HM-HMP-0579-16-03 CFDA No. 20.703**

The acceptance of a grant from the United States and the State of New Mexico creates a legal duty and obligation on the part of the sub-grantee **City of Albuquerque** to use the funds or property made available in accordance with the conditions of the grant as administered by and through the New Mexico Department of Homeland Security and Emergency Management.

**SIGNATURE OF ACCEPTANCE**

JURISDICTION SIGNATURES			
Signature of Emergency Management Program Manager		DATE	
<i>Roger Sbrner</i>		1-4-2019	
Printed Name: <b>Roger Sbrner</b>			
Contact Number:	505-244-8600	e-Mail Address:	rsbrner@lacos.gov
Signature of Jurisdiction Chief Financial Officer		DATE	
<i>Sanjay Bhakta</i>		1/18/19	
Printed Name: <b>SANJAY BHAKTA</b>			
Contact Number:	505-768-3248	e-Mail Address:	sbhakta@cabq.gov
Signature of Jurisdiction Signatory Official		DATE	
<i>Sarita Nair</i>		1/18/19	
Printed Name: <b>SARITA NAIR</b>			
Contact Number:	505-768-3000	e-Mail Address:	SNAIR@CABQ.GOV
NM DHSEM SIGNATURES			
Signature of DHSEM Grants Unit Manager		DATE	
<i>Juanita Abeyta</i>		2/13/19	
Print Name: <b>Juanita Abeyta</b>			
Signature of DHSEM Chief Financial Officer		DATE	
<i>Sarah J. Peterson</i>		02/19/2019	
Print Name: <b>Sarah J. Peterson</b>			
Signature of DHSEM Cabinet Secretary		DATE	
<i>Jackie White</i>		26 Feb 19	
Print Name: <b>Jackie White, Cabinet Secretary</b>			

Please print two (2) originals, sign both and mail to:  
 Grants Management Unit, P.O. Box 27111, Santa Fe, NM 87502