

Minutes of the 7 December 2010
Regular Meeting of the Yancey County Board of Commissioners
Held at 7:00 o'clock p.m. in the Yancey County Courtroom
Yancey County Courthouse, Burnsville, North Carolina

Present at the 7 December 2010 meeting of the Yancey County Board of Commissioners were Chairman Johnny Riddle, Commissioner Jill Austin, Commissioner Dale England, Commissioner Michele Presnell, Commissioner Marvin Holland, County Manager Nathan Bennett, Clerk to the Board Jason Robinson, County Attorney Donny Laws, Sheriff Gary Banks, Finance Director Lynne Hensley, Finance Officer Brandi Burleson, and members of the general public.

Call to Order and Approval of Agenda

Chairman Riddle called the meeting to order, welcomed everyone and asked for a motion to approve the agenda. Commissioner Austin made a motion to approve the agenda and it was seconded by Commissioner England. The vote to approve was unanimous. (Attachment A)

Public Comment

The first person to speak before the Board was Peter Franklin. He came to speak before the Board about the DSS Board of Directors. He stated that he is willing to accept a settlement, to end the lawsuit filed by himself and Tamera Frank, to fill the original term and have the attorney fees up until the Superior Court case paid. He stated that he cannot speak for his co-litigant Tamera Frank but he would like to settle. He also stated that he did not want this to be seen as a sign of weakness in that he is prepared to move forward and he believes he would win a court battle that could cost the county in excess of \$100,000 in attorney's fees. The next person to speak before the Board was Betsy Solar. She stated that she was hard of hearing and asked if a new sound system could be installed in the courtroom. County Manager Nathan Bennett responded to this request by stating that something is trying to be worked out with the sound system. The next person to speak before the Board was Bill Grover. He spoke on what will happen now that the new Board has taken office, he says he still sees the same rules from the "dictator" as before. He further stated that constitutionally the public is suppose to tell the Board what the agenda is to be each month. People should not just vote and then disappear according to him. The final person to speak before the Board was Tamera Frank. She stated that she saw three members of the Board come out of the county manager's office before the meeting, which she states is a violation of North Carolina law. Chairman Riddle stated that the only time some of the commissioners check their mailboxes is before the meeting and they need to get information that is important for the meetings.

Burl Ballew, Regarding the Closure of Locust Creek Road

The Board next heard from Mr. Burl Ballew. Mr. Ballew came to the Board to ask for support in an effort to get Locust Creek Road reopened. Mr. Ballew reported that the road had been closed by the forest service earlier this year. He stated that the gate is usually closed in the winter time but the gate has been closed for many months. He also stated that hunters and others use this road and it is virtually impossible to access the national forest lands any other way. It especially is hard for elderly and disabled people who can't walk the required distance. County Manager Bennett informed the Board that this was a federal government issue because the gate was on National Forest lands. Upon hearing from Mr. Ballew and Mr. Bennett Commissioner Presnell made a motion to send a letter to Congressman Heath Shuler and ask the National Forest Service to open the gate. The motion was seconded by Commissioner Austin and the vote to approve was unanimous.

Homeland Security Grant Program-VIPER Communications

The Board next heard from Emergency Management Director Bill Davis who informed the Board that North Carolina Emergency Management has received \$5.2 million in grants from the Department of Homeland Security. Yancey County has been identified as one of eight sites in the state to receive \$375,000 to install a VIPER communications translator onto an existing tower owned by US Cellular on top of Phillips Knob which would vastly improve the communications of Yancey County Emergency Management. Mr. Davis further stated that the North Carolina Highway Patrol is responsible for the site. The County would act as a "pass through" for the grant. County Attorney Donny Laws informed the Board that he had looked at the contract and only had one problem with it and that was on p. 6 which stated that the County could be responsible for upgrades and other equipment. Mr. Laws stated that if Mr. Davis talked with someone about this then he would be fine with the contract. Discussion followed by the

Board with Mr. Davis and Mr. Laws. Mr. Davis stated that he had talked with someone with the North Carolina Highway Patrol this morning about this issue and he was assured that the county would not have to give any money for this tower site. Mr. Davis also stated that he needed the Board to officially accept the grant and if Yancey County didn't accept it the money would go to another part of the state. Upon hearing from Mr. Davis Commissioner Presnell made a motion to accept the VIPER grant. The motion was seconded by Commissioner Holland and the vote to approve was unanimous. (Attachment B)

Finance Office Report

The Board next heard from Finance Director Lynne Hensley and Finance Officer Brandi Bureson. Mrs. Bureson and Mrs. Hensley gave the Board the 2011-2012 Fiscal Year Budget Calendar (Attachment C) and the 2011 Yancey County Holiday Schedule (Attachment D). Commissioner Presnell asked if the recycling/convenience centers would be open on those days. County Manager Bennett stated that the only two days the recycling/convenience centers would be closed would be on Thanksgiving Day and Christmas Day.

Code of Ethics

The Board next heard from County Manager Nathan Bennett and County Attorney Donny Laws concerning the code of ethics. The North Carolina General Assembly passed a requirement that all elected boards had to have a code of ethics in place by January 1, 2011. In addition to the required code of ethics each board member is required to have two hours of ethics training. County Attorney Laws stated that the school board has already passed a code of ethics and has been operating under it for several months. County Attorney Laws stated that he recommended passing the resolution dealing with the code of ethics. Upon hearing from County Attorney Laws Chairman Riddle asked the Clerk to the Board to read the resolution (Attachment E). Upon the reading of the resolution Commissioner Presnell made a motion to adopt the resolution as read. The motion was seconded by Commissioner England and the vote to adopt was unanimous.

Commissioner Comments

Chairman Riddle then asked if any of the commissioners had comments to make. Commissioner Presnell made a motion to have microphones installed by the next meeting if at all possible. The motion was seconded by Commissioner Holland and the vote to approve was unanimous. Commissioner Holland stated that he would like to hear from people from Patience Park early in the year to talk about the campground and listen to the people.

Pending Litigation Update—Frank and Franklin vs. Yancey County

Commissioner Holland then made a motion to go into closed session pursuant to NCGS 143-318.11 (a)(3) to discuss pending legislation. The motion was seconded by Commissioner Austin and the vote to go into closed session was unanimous. When the Board came back into open session it had no further business.

Adjournment

Having no further business Commissioner Austin made a motion to adjourn and it was seconded by Commissioner Holland. The vote to adjourn was unanimous.

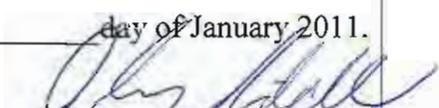
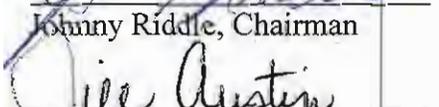
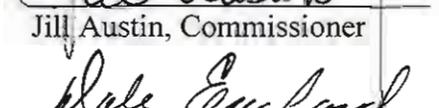
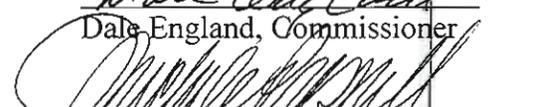
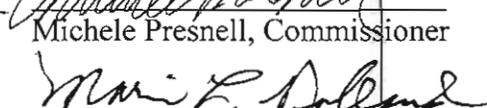
Approved and authenticated on this the _____ 4th _____ day of January 2011.

Attest:


J. Jason Robinson
Clerk to the Board

(county seal)




Johnny Riddle, Chairman

Jill Austin, Commissioner

Dale England, Commissioner

Michele Presnell, Commissioner

Marvin Holland, Commissioner

Attachment A

COUNTYMANAGER
Nathan Bennett



COMMISSIONERS
Jill Austin
Dale England
Marvin Holland
Michele Presnell
Johnny Riddle

YANCEY COUNTY

110 Town Square, Room 11 • Burnsville, North Carolina 28714
PHONE: (828) 682-3971 • FAX: (828) 682-4301

AGENDA
YANCEY COUNTY BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING
December 7, 2010
7:00 P.M.

- I. Call to Order – Chairman Johnny Riddle
- II. Approval of the Agenda
- III. Public Comment
- IV. Mr. Burl Ballew, Regarding the Seasonal Closure of U.S. Forest Service Roads
- V. Homeland Security Grant Program – VIPER Communications, Bill Davis, Emergency Management Director
- VI. Finance Office Report – Lynne Hensley, Finance Director and Brandi Burleson, Finance Officer
 - a. Budget Work Calendar for FY 2011-12
 - b. 2011 Yancey County Holiday Schedule
- VII. RESOLUTION – Code of Ethics – Nathan Bennett, County Manager and Donny Laws, County Attorney
- VIII. Pending Litigation Update – Frank and Franklin v. Yancey County – Donny Laws, County Attorney
- IX. Adjourn

Attachment B



COPY

North Carolina Department of Crime Control and Public Safety

Beverly Eaves Perdue, Governor

Reuben F. Young, Secretary

November 5, 2010

Bill Davis
Emergency Management Director
Yancey County Emergency Operations Center
15 East Boulevard
Burnsville, NC 28714

Dear Mr. Davis:

As the State Administrative Agent, I am pleased to announce that North Carolina has been awarded \$5,224,540.00 for the purchase of VIPER equipment through the FY 2010 Homeland Security Grant Program (HSGP). Your jurisdiction is one of eight local jurisdictions receiving an award of approximately \$375,000 over a 36 month period of performance to purchase VIPER equipment and implement the FY 2010 HSGP program.

Although HSGP program operations, purpose, and intent remain the same, for the FY2010 HSGP and other U.S. Department of Homeland Security (DHS) grant programs, DHS requires the State to use certain documentation. Since 2005, DHS has required States to meet certain pass-through requirements. DHS defines "pass-through" as "an obligation on the part of the States to make funds available to local units of government, combinations of local units, or other specific groups or organizations. The State's pass-through period must be met within 45 days of the award date for the HSGP. Four requirements must be met to pass-through grant funds:

- There must be some action to establish a firm commitment on the part of the awarding entity
- The action must be unconditional on the part of the awarding entity (i.e., no contingencies for availability of SAA funds)
- There must be documentary evidence of the commitment
- The award terms must be communicated to the official grantee

Following discussions with DHS officials this year, DHS requires that the State use a Grant Award document and a Memorandum of Understanding/Agreement to meet DHS pass-through requirements.

MAILING ADDRESS:
4701 Mail Service Center
Raleigh, NC 27699-4701
Telephone: (919) 733-2126



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512 N. Salisbury Street
Raleigh, NC 27604-1159
Fax: (919) 715-8477



Further, in 2005, DHS established Memorandum of Understanding (MOU) Requirements. DHS FY 2005 guidance states "For any HSGP programs involving pass-through of funds, the state may retain some or all of the local unit of government . . . allocation of grant funds for expenditures made by the state on behalf of the local unit of government . . . **only if requested in writing by that local unit of government** . . . States holding grant funds on behalf of local units of government . . . must enter into a formal MOU with the local unit of government . . . specifying the amount of funds to be retained by the state and the intended use of funds . . . A final executable copy of the MOU must be kept on file with the S[tate] and must be made available to DHS upon request." DHS provided a model MOU in *Appendix C "Template for MOU"* of the FY 2005 guidance. See also the MOU requirement in subsequent fiscal years' guidance.

To meet DHS pass-through and MOU requirements, the DHS grant award packages such as the HSGP grant award package, are now comprised of 3 documents that will require the signature(s) of your jurisdiction's authorized signatories. Enclosed are the following documents for signature:

1. FY 2010 HSGP Grant Award (signature required)
2. FY 2010 HSGP Retention Authorization Letter (which describes the State's responsibilities as the grant recipient on behalf of the local jurisdictions-signature required)
3. FY 2010 HSGP Memorandum of Understanding/Agreement - signature required)

As in previous years, the state and the local jurisdictions, as beneficiaries of the programs, are responsible for adherence to all federal and state laws, rules and regulations in the administration and use of the grant funding. FY 2010 HSGP grant program guidance can be found on the DHS website at http://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_kit.pdf. Please feel free to contact the N.C. Division of Emergency Management if you have questions regarding this guidance.

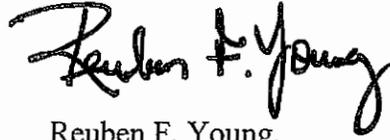
If you desire to have the N.C. Department of Crime Control and Public Safety manage your portion of the statewide program on your jurisdiction's behalf, please sign the conditional Grant Award document, print and sign the Retention Authorization Letter on your letterhead and return it to the address listed below.

Additionally, please sign the enclosed MOU and send it to the address listed below.

John Yarboro
N.C. Department of Crime Control and Public Safety
Division of Emergency Management
Homeland Security Branch
1830-B Tillery Place
Raleigh, N.C. 27604

If you have any questions or need further assistance, please contact Patty Moyer at (919) 715-8000, ext. 339 or pmoyer@ncem.org.

Sincerely,

A handwritten signature in black ink that reads "Reuben F. Young". The signature is written in a cursive style with a large, prominent "R" and "Y".

Reuben F. Young,
Secretary

RFY/pm

Enclosure



North Carolina Department of Crime Control and Public Safety

Beverly Eaves Perdue, Governor

Reuben F. Young, Secretary

GRANT AWARD

Subgrantee: Yancey County

Project Title(s): FY2010 Interoperable Communications Grant

Grant Period: 8-01-2010 – 7-31-2013

Date of Award: 09-27-10

Total Amount of Award: \$375,000.00

Grant No.: 2010-SS-T0-0075

In accordance with the provisions of Federal Fiscal Year 2010 Homeland Security Grant Program, the North Carolina Division of Emergency Management hereby awards to the foregoing Subgrantee a grant in the federal amount shown above. The CFDA number is 97.067 and the North Carolina Division of Emergency Management federal grant number is 2010-SS-T0-0075

Payment of Funds: The original signed copy of this Award must be signed by the Official Authorized to Sign in the space below and returned to the North Carolina Division of Emergency Management with an original signed copy of the attached Memorandum of Agreement no later than December 15, 2010. The grant shall be effective on November 10, 2010 and upon final approval by the North Carolina Division of Emergency Management of the grant budget and program narrative. Grant funds will be disbursed (according to the approved project budget) upon receipt of evidence that funds have been invoiced and products received and/or that funds have been expended (i.e., invoices, contracts, itemized expenses, etc.).

Conditions: I certify that I understand and agree that funds will only be expended for those projects outlined in the funding amounts as individually listed above. I also certify that I understand and agree to comply with the general and fiscal terms and conditions of the grant including special conditions; to comply with provisions of the Act governing these funds and all other federal laws; that all information is correct; that there has been appropriate coordination with affected agencies; that I am duly authorized to commit the applicant to these requirements; that costs incurred prior to grant application approval will result in the expenses being absorbed by the subgrantee; and that all agencies involved with this project understand that federal funds are limited to a maximum 36-month period.

Supplantation: The Act requires that subgrantees provide assurance that subgrant funds will not be used to supplant or replace local or state funds or other resources that would otherwise have been available for homeland security activities. In compliance with that mandate, I certify that the receipt of federal funds through the North Carolina Division of Emergency Management shall in no way supplant or replace state or local funds or other resources that would have been made available for homeland security activities.

ACCEPTANCE FOR THE SUBGRANTEE

BY: _____

NATHAN BENNETT
YANCEY COUNTY MANAGER

REUBEN F. YOUNG, SECRETARY
NC DEPARTMENT OF CRIME CONTROL AND
PUBLIC SAFETY

GRANT AWARD NOTICE: THIS AWARD IS SUBJECT TO THE GRANT SPECIAL CONDITIONS AND FINAL APPROVAL BY THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT OF THE GRANT PROGRAM BUDGET AND NARRATIVE.

MAILING ADDRESS:

4701 Mail Service Center
Raleigh, NC 27699-4701
Telephone: (919) 733-2126



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MOA Amount: \$375,000
MOA #: 1135
Tax #: 56-6000004
Fund Code #: 1520-030-H1-517
CDEA #: 97.067
Grant #: 2010-SS-T0-0075

MEMORANDUM OF UNDERSTANDING / AGREEMENT
BETWEEN THE STATE OF NORTH CAROLINA,
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY,
DIVISION OF EMERGENCY MANAGEMENT,

THE N.C. HIGHWAY PATROL

AND

THE COUNTY OF YANCEY
REGARDING STATE USE OF HOMELAND SECURITY GRANT FUNDING
ON BEHALF OF YANCEY COUNTY

1. **PARTIES.** The parties to this Memorandum of Understanding/Agreement (hereinafter referred to as "MOA" or "Agreement") are the State of North Carolina, Department of Crime Control and Public Safety, Division of Emergency Management, the N.C. Highway Patrol and the County of Yancey.
2. **AUTHORITY.** This Agreement is authorized under the provisions of: 1) Public Law 111-83, The Department of Homeland Security Appropriations Act, 2010; 2) Public Law 110-53, The 9/11 Commission Act of 2007; 3) Public Law 107-56, (6 U.S.C. § 101 et seq.), the USA Patriot Act of 2001; 4) Public Law 107-296, the Homeland Security Act of 2002, 6 U.S.C. 101 et. seq.; 5) Public Law 109-295, The Post-Katrina Emergency Management Reform Act of 2006, 6 U.S.C. 752(c); 6) the implementing recommendations or regulations of each Act or Law, if any; 7) the U.S. Department of Homeland Security, Office of Domestic Preparedness, FY 2010 Homeland Security Grant Program Guidance (HSGP) and Application Kit available at http://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_kit.pdf; 8) applicable Grants Programs Directorate (GPD) Information Bulletins available at: <http://www.fema.gov/government/grant/bulletins/index.shtm>; and 9) the N.C. Emergency Management Act, Chapter 166A of the North Carolina General Statutes.
3. **PURPOSE.** The purpose of this Memorandum of Agreement (MOA) is to establish responsibilities and procedures to implement the terms of the Department of Homeland Security (DHS), FY 2010 Homeland Security Grant Program (HSGP). A copy of the complete federal grant instructions is available at http://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_kit.pdf.

This Agreement is to set forth terms by which the State of North Carolina, Department of Crime Control and Public Safety, Division of Emergency Management (Grantee), shall provide Homeland Security Grant funding to the N.C. State Highway Patrol (NCSHP) to

expend on behalf of Yancey County(Sub-grantee) to purchase and construct infrastructure for the Voice Interoperability Plan for Emergency Responders (VIPER).

4. **BACKGROUND.** The Department of Homeland Security (DHS), through the Federal Emergency Management Agency (FEMA) Grants Program Directorate, in accordance with the authorities listed herein, created the FY 2010 Homeland Security Grant Program. This program was established to provide federal reimbursement funding to state and local governments to implement State Homeland Security Strategies to address identified planning, organization, equipment, training, and exercise needs to prevent, protect against, respond to, and recover from acts of terrorism and other catastrophic events.

The State of North Carolina, Department of Crime Control and Public Safety, Division of Emergency Management, as the designated State Administrative Agency (SAA) to administer funds under the U.S. Department of Homeland Security, FEMA Grants Program, and the Yancey have the common purpose to prevent, deter, respond to, and recover from threats and incidents of terrorism and ensure the safety and security of our homeland.

On September 27, 2010, the United States Department of Homeland Security issued grant number 2010-SS-T0-0075 to the State of North Carolina, Department of Crime Control and Public Safety, Division of Emergency Management (Grantee). Grantee is mandated to allocate at least 80% of the total amount of the grant to local units of government or combinations of local units, and may retain some or all of the local units' allocation of grant funds for expenditures made by the State on behalf of the local units of government, provided that the local units of government give written consent specifying the amount of funds to be retained and the intended use of funds, and provided that the parties enter into a memorandum of understanding.

The N.C. State Highway Patrol (NCSHP) is the agency responsible for creating the infrastructure and managing the Voice Interoperability Plan for Emergency Responders (VIPER). Yancey County (Sub-grantee) desires for NCSHP to purchase interoperable communications equipment on its behalf, with its allocation of Three Hundred Seventy Thousand Dollars (\$375,000.00) in HSGP funds.

Per the Letter from Sub-grantee that State Retain Funds effective November 10, 2010, incorporated by reference herein, Sub-grantee requests that Grantee retain Three Hundred Seventy-Five Thousand Dollars (\$375,000.00) of the grant funds awarded to Sub-grantee to be used on behalf and for the benefit of Sub-grantee.

Per the Letter from Sub-grantee that State Retain Funds effective November 10, 2010, and this MOA, Sub-grantee authorizes Grantee to provide the funds to NCSHP to purchase the equipment listed on the Attachment 1, incorporated by reference herein.

5. **RESPONSIBILITIES:**

- a. The State of North Carolina, Department of Crime Control and Public Safety, Division of Emergency Management (Grantee) shall:
- (1) Provide funding to NCSHP to purchase VIPER equipment, as described in Attachment 1, on behalf and for the benefit of Yancey County.
 - (2) Conduct a review of the project to ensure that it is in accordance with State Homeland Security Strategy.
 - (3) The performance period for the award to the State of North Carolina, Department of Crime Control and Public Safety, Division of Emergency Management, ends on **July 31, 2013**. Funds allocated for the procurement of equipment must be encumbered and invoices dated on or before July 31, 2013.
 - (4) Directly monitor the completion of this project.
- b. The North Carolina State Highway Patrol shall:
- (1) Expend FY 2010 Homeland Security Grant Program funds in accordance with the applicable USDHS Program Guidance and Application Kit(s), the Grant Application Package, and the Grant Award and Special Conditions documents, incorporated by reference herein, of this MOA to implement State Homeland Security Strategies to address identified planning, organization, equipment, training, and exercise needs to prevent, protect against, respond to, and recover from acts of terrorism and other catastrophic events for the purchase of VIPER infrastructure including but may not be limited to, antenna, microwave, generator, tower, building or real property.
 - (2) Utilize State of North Carolina and/or local procurement policies and procedures for the procurement of the VIPER equipment and conform to applicable State and Federal law and the standards identified in the Procurement Standards Sections of 44 Code of Federal Regulations (CFR) Part 13 and 2 CFR Part 215. NCSHP must follow procurement procedures and policies as outlined in the applicable USDHS Program Guidelines and Application Kits and the USDHS Financial Management Guide. NCSHP shall comply with all applicable laws, regulations and program guidance. NCSHP must comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit requirements. Administrative and procurement practices must conform to applicable federal requirements. A non-exclusive list of regulations commonly applicable to DHS grants are listed below, codified in the following guidance: 44 CFR Part 13; 2 CFR 215; 2 CFR Parts 225, 220, and 230 (formerly OMB Circulars A-87, A21 and A-122); Federal Acquisition Regulations (FAR), Part 31.2; and OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations"; 28 CFR Part 23 "Criminal Intelligence Systems Operating

Policies”; 49 CFR Part 1520 “Sensitive Security Information”; Public Law 107-296, The Critical Infrastructure Act of 2002; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000 et. seq.; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et. seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; The Age Discrimination Act of 1975, as amended, 20 U.S.C. 6101 et. seq.; Certifications and Assurances regarding Lobbying 31 U.S.C. 1352, Drug-Free Workplace Act, as amended, 41 U.S.C. 701 et. seq. and Certification Regarding Drug-Free Workplace Requirements, Debarment and Suspension Executive Orders 12549 and 12689 and 44 CFR Part 17 and Certification Regarding Debarment, Suspension and Other Responsibility Matters; Assurances as listed in SF 424B and SF 424D; and Grant Award and Special Conditions documents.

- (3) Submit invoice(s) requesting reimbursement for item(s) received to the NCEM Homeland Security grants manager. Grantee will reimburse NCSHP for eligible costs as outlined in the applicable USDHS Program Guidelines and Application Kits.
- (4) Complete the procurement (s) process not later than July 31, 2013.
- (5) Provide quarterly progress reports to the NCEM Homeland Security grants manager as described in Attachment 2 by the following dates: 15 January, 15 April, 15 July, and 15 October.
- (6) Provide inventory list at project completion phase to the Homeland Security Branch listing all equipment purchased through the grant.
- (7) Comply with the applicable federal statutes, regulations, policies, guidelines and requirements, reporting requirements and certifications as outlined in the applicable USDHS Program Guidelines and Application Kits and Grant Award and Special Conditions documents.
- (8) Maintain grant management filing system as required in Attachment 3.
- (9) Retain all original records pertinent to this MOA for a period of five years following the date of the closure of the grant award, or audit if required, or longer where required by law. However, if litigation, claim or audit has been initiated prior to the expiration of the five-year period and extends beyond the five year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
- (10) Comply with current federal suspension and debarment regulations pursuant to OMB Circular A-133 which states in pertinent part that “[e]ffective November 26, 2003, when a non-federal entity enters into a covered transaction with an entity at a lower tier, the non-federal entity must verify

that the entity is not suspended or debarred or otherwise excluded. NCSHP shall be responsible to ensure that it has checked the federal Excluded Parties List System (EPLS) to verify that contractors or sub-recipients have not been suspended or debarred from doing business with the federal government”.

- (11) Ensure that FY 2010 HSGP funds are not used to support the hiring of any personnel for the purposes of fulfilling traditional public safety duties or to supplant traditional public safety positions and responsibilities.
- (12) Non-supplanting Requirement. Federal grant funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose.
- (13) All materials publicizing or resulting from award activities shall contain this acknowledgement: *“This project was supported by a Federal award from the U.S. Department of Homeland Security, Office of Grants and Training and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management.”* Use of the federal program logo must be approved by DHS. Printed as a legend, either below or beside the logo shall be the words *“100 percent Funded by U.S. Department of Homeland Security.”*
- (14) NCSHP shall order, receive, inspect, and stage the equipment and supplies. The purchase or acquisition of any additional materials, equipment, accessories or supplies beyond those identified in this MOA shall be the sole responsibility of NCSHP and shall not be reimbursed under this MOA. NCSHP shall prominently mark any equipment purchased with grant funding as follows: *“Purchased with funds provided by the U.S. Department of Homeland Security.”*
- (15) NCSHP shall maintain exclusive custody, care and control of the VIPER equipment and shall have sole decision-making authority as to its maintenance, operation and use.
- (16) NCSHP shall have sole responsibility for the maintenance, insurance, upkeep, and replacement of the VIPER infrastructure equipment procured pursuant to this Agreement.
- (17) NCSHP shall maintain an effective property management system that complies with the following requirements. Equipment is defined as tangible, non-expendable property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. NCSHP may have property management guidelines that are more restrictive, requiring a unit of equipment with a value of less than \$5,000 to be inventoried; if so, such

equipment purchased under this award allocation shall be included on the report submitted to Grantee.

- a) Grantee and NCSHP shall take an initial physical inventory of the equipment. The NC SHP Grant Summary, the VIPER Site document, IR Site document, Microwave document, Radio Distribution document, Cost Reports with backup documentation, Certificate of Title, and any other Sub-grantee reports or inventory reports that include information regarding the grant, vendor, invoice number, cost per item, number of items, description, location, condition and identification number may be used to meet this requirement. NCSHP must provide quarterly updates until all funds are expended
- b) NCSHP must ensure a control system exists to ensure adequate safeguards to prevent loss, damage or theft. NCSHP shall be responsible for replacing or repairing equipment which is willfully or negligently lost, stolen, damaged, or destroyed. Any loss, damage or theft of the property must be investigated and fully documented, and made part of the official project records.
- c) NCSHP must ensure adequate maintenance procedures exist to keep the equipment in good condition.
- d) Disposition Procedures. NCSHP may dispose of the equipment when the original or replacement equipment acquired under the grant award is no longer needed for the original project or program. Items with a fair market value of less than \$5,000 may be retained, transferred or otherwise disposed of with prior approval of Grantee and in accordance with disposition requirements in 44 C.F.R. Part 13. Items with a current per unit standard federal or fair market value in excess of \$5,000 may be retained, transferred or otherwise disposed of with prior Grantee approval in accordance with disposition requirements in 44 C.F.R. Part 13. NCSHP must provide documentation that includes the method used to determine current fair market value.

(18) No indirect or administrative costs will be charged to this allocation award.

c. Yancey County (Sub-grantee) agrees that:

- (1) The purchase or acquisition of any additional materials, equipment, accessories or supplies, or the provision of any training or exercise beyond that identified in this MOA shall be the sole responsibility of Sub-grantee and shall not be reimbursed under this MOA.
- (2) NCSHP shall have exclusive custody, care and control of the VIPER equipment and shall have sole decision-making authority as to its maintenance, operation and use. NCSHP's decision-making authority shall include, but is not limited to, the authority to approve any and all

modifications, additions, deletions, or right of access related to the VIPER site.

6. **FUNDING AND COMPENSATION.** All terms and conditions of this MOA are dependent upon and subject to the allocation of funds from DHS, FEMA and Grantee for the purposes set forth and the MOA shall automatically terminate if funds cease to be available. Allowable costs shall be determined in accordance with the U.S. Department of Homeland Security, FEMA, FY 2010 Homeland Security Grant Program, FY 2010 Homeland Security Grant Program Guidelines and Application Kit, incorporated by reference herein, and available at:
http://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_kit.pdf, 44 C.F.R. Part 13, 2 CFR Parts 215, 220, and 230, Federal Acquisition Regulations (FAR) Part 31.2, OMB Circulars A-21, A-87, A-122 and A-133 and the U.S. DHS Financial Management Guide available at http://www.dhs.gov/xlibrary/assets/Grants_FinancialManagementGuide.pdf.

The Federal Department of Homeland Security will reimburse the State of North Carolina for expenses that were approved in the investment justification documents as explained in the FY 2010 HSGP. The Grantee will reimburse NCSHP, on behalf of the Sub-grantee, for all eligible expenses.

7. **WARRANTY.** The Sub-grantee shall hold Grantee and NCSHP harmless for any liability and personal injury that may occur from or in connection with the performance of this MOA to the extent permitted by the North Carolina Tort Claims Act.
8. **POINTS OF CONTACT.** To provide consistent and effective communication between Yancey County and the Department of Crime Control and Public Safety, Division of Emergency Management, and the N.C. State Highway Patrol, each party shall appoint a Principal Representative(s) to serve as its central point of contact responsible for coordinating and implementing this MOA. The Department of Crime Control and Public Safety, Division of Emergency Management, contacts shall be John Yarboro, Homeland Security Chief, and Patty Moyer, Grant Manager. The State Highway Patrol contacts shall be Robert West, Captain. The Yancey County contacts shall be Nathan Bennett, County Manager.

All confidential information of either party disclosed to the other party in connection with the services provided hereunder will be treated by the receiving party as confidential and restricted in its use to only those uses contemplated by the terms of this MOA. Any information to be treated as confidential must be clearly marked as confidential prior to transmittal to the other party. Neither party shall disclose to third parties, the other party's confidential information without written authorization to do so from the other party. Specifically excluded from such confidential treatment shall be information that: (i) as of the date of disclosure and/or delivery, is already known to the party receiving such information; (ii) is or becomes part of the public domain, through no fault of the receiving party; (iii) is lawfully disclosed to the receiving party by a third party who is not obligated to retain such information in confidence; or (iv) is independently developed

at the receiving party by someone not privy to the confidential information. In accordance with page 55 of the FY 2010 Homeland Security Grant Program Guidelines and Application Kit, "FEMA recognizes that much of the information submitted in the course of applying for funding under this program, or provided in the course of its grant management activities, may be considered law enforcement sensitive or otherwise important to national security interests. While this information under Federal control is subject to requests made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552 et. seq., all determinations concerning the release of information of this nature are made on a case-by-case basis by the FEMA FOIA Office . . . The Grantee and NCSHP should be familiar with the regulations governing Sensitive Security Information (49 CFR Part 1520), as it may provide additional protection to certain classes of homeland security information."

9. **SUBCONTRACTING.** If NCSHP or any sub-recipient of the grant funds awarded under this MOA subcontracts any or all purchases or services required under this Agreement, then NCSHP or the sub-recipient agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this MOA. NCSHP and any sub-recipient agree to include in the subcontract that the subcontractor shall hold Grantee harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this MOA. If NCSHP or any sub-recipient subcontracts any or all purchases or services required under this MOA, a copy of the executed subcontract Agreement must be forwarded to Grantee. A contractual arrangement shall in no way relieve NCSHP or any sub-recipient of its responsibilities to ensure that all funds issued pursuant to this grant be administered in accordance with all state and federal requirements. NCSHP and any sub-recipient are bound by all special conditions of this grant award as set out in the Grant Application Package and the Grant Award and Special Conditions documents, incorporated by reference herein, as well as all terms, conditions and restrictions of the applicable USDHS Program Guidelines and Application Kits referenced herein.
10. **SITUS.** This Agreement shall be governed by the laws of North Carolina, and venue for any disputed matters or claims shall be in the Superior Court of Wake County, North Carolina.
11. **ANTITRUST LAWS** This Agreement is entered into in compliance with all State and Federal antitrust laws.
12. **COMPLIANCE WITH LAWS.** NCSHP shall be wholly responsible for the purchases to be made under this MOA and for the supervision of its employees and assistants. NCSHP shall be responsible for compliance with all laws, ordinances, codes, rules, regulations, licensing requirements and other regulatory matters that are applicable to the conduct of its business and purchase requirements performed under this MOA, including those of federal requirements and State and local agencies having appropriate jurisdiction and found in applicable USDHS Program Guidelines and Application Kits.

13. **OTHER PROVISIONS/SEVERABILITY.** Nothing in this Agreement is intended to conflict with current laws or regulations of the State of North Carolina, Department of Crime Control and Public Safety, Division of Emergency Management, the N.C. Highway Patrol or Yancey. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.
14. **ENTIRE AGREEMENT.** This MOA and any annexes, exhibits and amendments annexed hereto and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral and written statements or agreements.
15. **MODIFICATION.** This agreement may be modified upon the mutual written consent of the parties.
16. **PROPERTY.** The NCSHP shall be responsible for the custody and care of any property purchased with FY 2010 Homeland Security Grant Program (HSGP) funds and furnished for use in connection with the performance of this agreement and shall reimburse the Grantee for any loss or damage to said property until the property is disposed of in accordance with FY 2010 Homeland Security Grant Program requirements. Grantee will not be held responsible for any property purchased under this MOU. Title to the property purchased with FY 2010 HSGP funds shall be in the State of North Carolina, Department of Crime Control and Public Safety and Yancey County.
17. **TERMINATION.** The terms of this agreement, as modified with the consent of all parties, will remain in effect until July 31, 2013. Either party upon thirty (30) days advance written notice to the other party may terminate this agreement.

Upon approval by USDHS, FEMA and the issuance of the Grant Adjustment Notice, if this MOA is extended, the termination date for the extension will be the date listed in the applicable USDHS, FEMA Grant Adjustment Notice, incorporated by reference herein.

If DHS suspends or terminates funding in accordance with 44 C.F.R. §13.43 and the FY 2010 Homeland Security Grant Program Guidelines and Application Kit, incorporated by reference herein, the N.C. Highway Patrol shall reimburse the Division of Emergency Management for said property.
18. **EXECUTION AND EFFECTIVE DATE.** This Agreement will become binding upon execution of all parties to the Agreement. The terms of this Agreement will become effective on November 10, 2010. The last signature shall be that of Mr. Gerald A. Rudisill, Chief Deputy Secretary, North Carolina Department of Crime Control and Public Safety.
19. **TERM OF THIS AGREEMENT.** This Agreement shall be in effect from November 10, 2010 to **July 31, 2013.**

IN WITNESS WHEREOF, the parties have each executed this Agreement and the parties agree that this Agreement will be effective as of November 10, 2010.

**N.C. DEPARTMENT OF CRIME
CONTROL & PUBLIC SAFETY**

YANCEY COUNTY

BY: _____
H. DOUGLAS HOELL, DIRECTOR
DIVISION OF EMERGENCY MANAGEMENT

BY: _____
NATHAN BENNETT,
COUNTY MANAGER
YANCEY COUNTY

BY: _____
ROBERT V. WEST,
CAPTAIN
N.C. HIGHWAY PATROL

APPROVED AS TO PROCEDURES:

BY: _____
BENNIE AIKEN, CONTROLLER
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

BY:  _____
CASANDRA G. WHITE, GENERAL COUNSEL
REVIEWED FOR THE DEPARTMENT OF CRIME
CONTROL AND PUBLIC SAFETY, BY CASANDRA
G. WHITE, CCPS GENERAL COUNSEL, TO
FULFILL THE PURPOSES OF THE US
DEPARTMENT OF HOMELAND SECURITY
GRANT PROGRAMS

BY: _____
GERALD A. RUDISILL
CHIEF DEPUTY SECRETARY
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

THIS MOA WAS PREVIOUSLY APPROVED AS TO FORM BY THE NORTH CAROLINA DEPARTMENT OF JUSTICE FOR THE FY2010 HOMELAND SECURITY GRANT PROGRAM ONLY AND IS SUBJECT TO EXECUTION BY GERALD A. RUDISILL, JR., CHIEF DEPUTY SECRETARY OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY. THIS MOU/MOA SHOULD NOT BE USED FOR OTHER MOUs/MOAs FOR THE STATE HOMELAND SECURITY GRANT PROGRAM FOR OTHER FISCAL YEARS.

Attachment 1

Attachment 2

QUARTERLY PROGRESS REPORT
Subgrantee: Yancey County
FY10 SHSP – MOA #2010-SS-T0-0075-1135

Funds Expended Prior Quarters:
Funds Expended this Quarter:

Quarter (list dates):

Grant Award: \$375,000

Activities	Metric	Current Status
1. Equipment	Date, current status (ex. List needs identified, items in vendor negotiation, purchased, placed in service, etc.)	

Attachment 3

Required Sub-Grantee File Documentation

Sub-grantee or sub-recipient must meet the financial administration requirements in 44 CFR Part 13 and must maintain a file for each homeland security grant award. The files must be available for review by the North Carolina Division of Emergency Management – Homeland Security Branch Staff for site visits, project closeout and future audits.

Sub-grantee or sub-recipient must include appropriate documentation in the file, including but not limited to the following documents:

Conditional Grant Award

Memorandum of Agreement/Memorandum of Understanding and Supporting Appendices

Quarterly Progress Reports

Completed appropriate cost report forms with invoices

YANCEY COUNTY 2011-2012 BUDGET CALENDAR *Attachment C*

FEBRUARY 2011

THURSDAY, FEB 3 @ 10:00 A.M. DISTRIBUTION OF 2011-2012 BUDGET PACKETS TO DEPT HEADS

MARCH 2011

THURSDAY, MAR 3 @ 10:00 A.M. DEPT HEAD 2011-2012 PACKETS DUE BACK TO FINANCE OFFICE

APRIL 2011

WEEK OF APRIL 4 BUDGET WORK SESSION(S) WITH COUNTY MANAGER & FINANCE

MONDAY, APRIL 18 @ 8:00 A.M. SPECIAL MEETING WITH COMMISSIONERS

1. 2011-2012 BUDGET WORK SESSION
2. 2010-2011 AMENDMENT, IF NEEDED

MAY 2011

MONDAY, MAY 16 @ 8:00 A.M. SPECIAL MEETING WITH COMMISSIONERS

1. 2011-2012 BUDGET WORK SESSION
2. 2010-2011 AMENDMENT, IF NEEDED

MONDAY, MAY 23 @ 8:00 A.M. SPECIAL MEETING WITH COMMISSIONERS

1. 2011-2012 BUDGET WORKSESSION
2. DEPT HEAD & AGENCY DISCUSSIONS, IF REQUESTED

JUNE 2011

TUESDAY, JUNE 7 @ 7:00 P.M. REGULAR MEETING WITH COMMISSIONERS

1. 2011-2012 BUDGET PROGRESS REPORT
2. 2010-2011 AMENDMENT, IF NEEDED

MONDAY, JUNE 20 @ 8:00 A.M. SPECIAL MEETING WITH COMMISSIONERS

1. 2011-2012 BUDGET WORK SESSION
2. 2010-2011 AMENDMENT, IF NEEDED

THURSDAY, JUNE 23 @ 6:00 P.M. SPECIAL MEETING WITH COMMISSIONERS

1. PUBLIC HEARING FOR THE 2011-2012 FISCAL YEAR BUDGET
2. ADOPTION OF THE 2011-2012 FISCAL YEAR BUDGET IF NO CHANGES

MONDAY, JUNE 27 @ 8:00 A.M. SPECIAL MEETING WITH COMMISSIONERS

1. ADOPTION OF THE 2011-2012 FISCAL YEAR BUDGET IF NOT ON JUNE 23
2. FINAL BUDGET AMENDMENTS FOR THE 2010-2011 BUDGET

Attachment D

2011 HOLIDAY SCHEDULE

MONDAY, JANUARY 17

MARTIN LUTHER KING'S BIRTHDAY

FRIDAY, APRIL 22

GOOD FRIDAY

MONDAY, MAY 30

MEMORIAL DAY

MONDAY, JULY 4

INDEPENDENCE DAY

FRIDAY, AUGUST 5

CRAFT'S FAIR FRIDAY

MONDAY, SEPTEMBER 5

LABOR DAY

FRIDAY, NOVEMBER 11

VETERAN'S DAY

THURSDAY, NOVEMBER 24

THANKSGIVING DAY

FRIDAY, NOVEMBER 25

THANKSGIVING FRIDAY

MONDAY, DECEMBER 26

CHRISTMAS HOLIDAY

TUESDAY, DECEMBER 27

CHRISTMAS HOLIDAY

Attachment E



RESOLUTION

CODE OF ETHICS

for the

YANCEY COUNTY BOARD OF COUNTY COMMISSIONERS

WHEREAS, the Yancey County Board of Commissioners believe that in order to represent its citizens, to properly govern, and to maintain the confidence, acceptance and trust of those governed, a governing body must, in its official duties, deliberations and actions, proceed in a legal, responsible and ethical manner; and

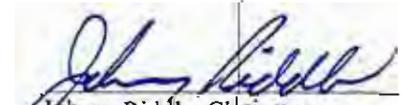
WHEREAS, North Carolina General Statute 160A-83 provides that the governing boards of all cities, counties, local boards of education, unified governments, sanitary districts, and consolidated city-counties shall adopt a resolution or policy containing a code of ethics to guide actions by the governing board members in the performance of the member's official duties as members of that governing board; and

NOW, THEREFORE, BE IT RESOLVED THAT pursuant to the provisions of North Carolina General Statute 160A-83, the Yancey County Board of Commissioners by this resolution does resolve to govern its actions by the following code of ethics:

1. Board members shall uphold the Constitution of the United States, the Constitution and laws of the state of and of North Carolina, honor its oath of office and obey all applicable laws regarding official actions taken as a board member.
2. Board members shall uphold the integrity and independence of the board member's office and take action based upon the public good and not upon their own personal desires or improper influences.
3. As they carry out their official duties, Board members shall honor the public trust, act as especially responsible citizens and avoid impropriety.
4. Board members shall faithfully perform the duties of office and shall act as one whom others can respect and trust.
5. Board members will conduct the affairs of the governing board in an open and public manner in compliance with all applicable laws governing open meetings and public records, honoring the spirit of the law as well as the letter of the law.

ADOPTED this the 7th Day of December, 2010.

(County Seal)


Ginny Riddle, Chairman

ATTEST:


J. Jason Robinson,
Clerk to the Board of Commissioners

