

IMPLEMENTATION AGREEMENT [OCDETF]

This IMPLEMENTATION AGREEMENT [OCDETF] ("Agreement") is entered into effective as of October __, 2017, by and between the CITY OF CHULA VISTA, a chartered municipal corporation ("City") and the FEDERAL BUREAU OF INVESTIGATION, Organized Crime Drug Enforcement Task Force ("OCDETF"), San Diego Region Strike Force with reference to the following facts:

Recitals

A. Since on or about 2010, City and OCDETF have entered into a series of annual agreements, each entitled "Agreement for the Use of the OCDETF Strike Force/Strategic Initiative Programs" (collectively, the "OCDETF Agreements") for the administration of the OCDETF program, as more particularly described therein ("OCDETF Program").

B. In furtherance of the OCDETF Agreements, at OCDETF's request City entered into, as "Tenant", a Standard Industrial Net Lease, and the First Amendment and Second Amendment thereto (collectively, the "Lease") with Collins Business Park TIC ("Landlord") for that certain industrial/office space located at [REDACTED] San Diego, CA [REDACTED] ("Premises").

C. While the City is the named "Tenant" under the Lease, the OCDETF is the occupant and user of the Premises for purposes of administering the OCDETF Program.

D. Pursuant to the OCDETF Agreements, OCDETF agreed to reimburse the City for, among other things, rental, utility, maintenance, construction, and renovation expenses incurred by City under the Lease.

E. OCDETF has requested that City continue to serve as the named "Tenant" under the Lease, and to enter into a Third Amendment to extend the term of the Lease ("Third Amendment") for two additional years from November 1, 2017 through October 31, 2019.

F. As consideration for City potentially agreeing to enter into the Third Amendment, the City and OCDETF have engaged in discussions regarding entering into a subsequent iteration of the OCDETF Agreements for fiscal year 2018, from October 1, 2017 to September 30, 2018 ("FY 2018 Agreement") and for fiscal year 2019, from October 1, 2018 to September 30, 2019 ("FY 2019 Agreement").

G. OCDETF has indicated to City that its ability to enter into the FY 2018 Agreement and FY 2019 Agreement is subject to the availability of federal funds.

I. City and OCDETF desire to clarify and reduce to writing certain obligations of the parties for the implementation of the Lease, Third Amendment, proposed FY 2018 Agreement, proposed FY 2019 Agreement, and any other future agreements entered into for the

purpose of reimbursing the City for actual costs incurred under the Lease and/or Third Amendment, on the terms and conditions stated in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the terms and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, City and OCDETF hereby agree as follows:

1. LEASE EXTENSION AND FUNDING

In furtherance of the OCDETF Program, City agrees to enter into, as "Tenant", the Third Amendment, in substantially the form attached hereto as **Exhibit A**, thereby extending the Lease until October 31, 2019. In consideration thereof, OCDETF agrees to reimburse City for all actual costs incurred by City as "Tenant" under the Lease as amended. Such costs shall include, without limitation, any costs of compliance with Article 9 and Article 13 of the Lease.

2. MISCELLANEOUS EXPENSES/ADMINISTRATIVE FEES

OCDETF agrees that the "Miscellaneous Expenses/Admin Fees" to be designated and paid by OCDETF to City under the FY 2018 Agreement, and proposed for designation and payment under the FY 2019 Agreement, shall be four percent (4%) of the actual total "operational costs" identified in such agreements for OCDETF Program operations at the Premises during the term of the Lease.

3. CONTINGENT COST REIMBURSEMENT

To the maximum extent allowed by law, OCDETF agrees to hold harmless City and its elected officials, appointed officials, agents, and employees ("City Parties") from incidents/costs arising out of or in connection to its occupancy and use of the Premises and the obligations under the Lease, as amended. This provision does not include any costs arising from the sole negligence or willful misconduct of the City Parties.

4. LIMITATIONS BASED ON FUNDING

OCDETF agrees to utilize its best efforts to secure any and all federal funding necessary to satisfy its obligations under this Agreement. OCDETF will notify City on or before March 21, 2018 whether it expects to secure sufficient federal funds for the upcoming federal fiscal year (October 1st through September 30th) to satisfy such obligations. If OCDETF notifies City that it will not be able to secure sufficient funding, OCDETF agrees to utilize all best efforts to secure funding from alternate sources to satisfy its obligations under this Agreement, and/or to cooperate with City to cause the early termination of the Lease at no cost to the City.

5. GENERAL PROVISIONS

5.1 Amendment. This Agreement may be amended, but only in writing signed by all Parties.

5.2 Assignment. The parties shall not assign any of its rights or responsibilities under this Agreement, nor any part hereof, without both parties' prior written consent.

5.3 Authority. The person(s) executing this Agreement warrant and represent that they have the authority to execute same on behalf of the respective party and to bind the respective party to its obligations hereunder.

5.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one agreement after each party has signed such a counterpart.

5.5 Entire Agreement. This Agreement together with all exhibits attached hereto and other agreements expressly referred to herein, constitutes the entire Agreement between the Parties with respect to the subject matter contained herein. All exhibits referenced herein shall be attached hereto and are incorporated herein by reference. Other than the related past and future agreements identified herein, prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are superseded.

5.6 Further Assurances. The parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the parties.

5.7 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such party, postage prepaid, registered or certified, with return receipt requested, at the places of business for each of the designated parties, or otherwise provided in writing.

(End of page. Next page is signature page.)

SIGNATURE PAGE

IN WITNESS WHEREOF, by executing this Agreement where indicated below, City and OCDETF agree that they have read and understood all terms and conditions of the Agreement, and that they fully agree and consent to be bound by same.

CITY OF CHULA VISTA,
a chartered municipal corporation

By: _____
Gary Halbert,
City Manager

APPROVED AS TO FORM:

By: _____
Glen R. Googins,
City Attorney

FEDERAL BUREAU OF INVESTIGATION, SAN DIEGO

By: Eric S. Birnbaum / SA 10/05/2017
Eric S. Birnbaum
Special Agent in Charge

OCDETF EXECUTIVE OFFICE

By: Peter Maxey 10/5/17
Peter Maxey, Executive/Budget/Security Officer