

**SANTA BARBARA COUNTY LOCAL AGENCY TECHNICAL ASSISTANCE GRANT
SUBRECIPIENT AGREEMENT**

**BETWEEN
COUNTY OF SANTA BARBARA
AND
THE SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS**

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and the Santa Barbara County Association of Governments (SBCAG or “subrecipient”) with an address at 260 N San Antonio Rd, Suite B, Santa Barbara, CA 93110 (hereafter SBCAG) wherein SBCAG agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, the COUNTY has been awarded a Local Agency Technical Assistance (LATA) Grant from the California Public Utilities Commission (CPUC) for the Santa Barbara County Connectivity Preparation Project (hereafter PROJECT) in the amount of up to \$1,000,000; and

WHEREAS, the COUNTY has been working with the Santa Barbara County Association of Governments to develop the application and project as a coordinated joint effort; and

WHEREAS, SBCAG is a Joint Powers Authority, which serves as the Metropolitan Planning Organization for the region; and

WHEREAS, the COUNTY and SBCAG agree to work together to implement the work products identified in the LATA grant funding application which include the development of a Countywide Programmatic Environmental Impact Report (EIR), consideration to add and/ or form a new Joint Powers Authority to provide direction regarding regional Broadband for Santa Barbara County, and completion of High-Level Network Design; and

WHEREAS, the COUNTY agrees to be the grantee and sign a Consent Form with CPUC, accepting the terms of the grant; and

WHEREAS, SBCAG shall be the implementing entity for the PROJECT during the term of this Agreement; and

WHEREAS, SBCAG, as the implementing agency, may retain the services of contractors or subcontractor to complete any or all of the deliverables described in the LATA grant funding application.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, it is agreed between the parties hereto that:

I. SCOPE OF SERVICES

A. General.

- i. All services will be provided in defined areas of Santa Barbara County, as described in the Scope of Services attached hereto and incorporated herein as

- Exhibit A. Services will be provided under the supervision of the Executive Director, who shall ensure that the background and qualifications of the SBCAG staff providing the services are appropriate for the persons being served under this program and, if applicable, meet the minimum standards established by pertinent licensing bodies. All of the services shall be performed by SBCAG or under SBCAG's supervision.
- ii. All services shall be performed by qualified and experienced personnel who are not employed by COUNTY. SBCAG represents and warrants that the services to be performed will conform to the requirements of this Agreement; all applicable federal, state and local laws; and the highest professional standards.
 - iii. SBCAG represents and warrants to COUNTY that it and its contractors and subcontractors have, shall obtain, and shall keep in full force and effect during the term hereof, at their sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that are legally required of SBCAG to practice their professions.
- B. Standard of Performance. SBCAG represents that it possesses the professional and technical personnel required to perform the services required by this Agreement. All services will be provided under the supervision of SBCAG's Director of Project Delivery & Construction. SBCAG and its contractors and subcontractors shall perform all services in a manner commensurate with their own usual and customary standards and with the reasonable and ordinary level of care provided by others performing similar or like work and shall be consistent with all state and federal requirements and standards required as a condition of providing these LATA Program funds.
- C. Eligible Costs. Only costs incurred to administer the services delineated in Exhibit A Scope of Services are eligible for reimbursement and are included in the Budget attached hereto and incorporated as Exhibit B.
- D. Performance Monitoring. The COUNTY will monitor that the performance of SBCAG is consistent with the roles and responsibilities set forth in the Scope of Services (Exhibit A) and in accordance with the Standard of Performance set forth in Section I.B. As determined by the COUNTY, SBCAG's failure to perform services as required under the Standard of Performance shall constitute SBCAG's noncompliance with this Agreement. Upon COUNTY's determination of noncompliance, COUNTY shall provide SBCAG written notice and an opportunity to cure. COUNTY's notice shall include specific details of the noncompliance including reference to the relevant language in the Scope of Services and a description of the failure to meet the Standard of Performance. If SBCAG does not cure such noncompliance within seven workdays (7) days after being notified by the COUNTY, suspension or termination procedures of this Agreement may be initiated pursuant to Section VI.E.
- E. Changes
- i. Any changes to this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement executed by COUNTY and SBCAG. COUNTY and SBCAG may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, are executed in writing, and signed by a duly authorized representative of each party. Such

amendments shall not invalidate any parts of this Agreement that are not changed by the amendment, nor relieve or release COUNTY or SBCAG from its obligations under this Agreement that are not changed by the amendment. SBCAG agrees to not unreasonably withhold its approval of any amendments proposed by COUNTY that are necessary in order to conform with federal, state or local governmental laws, regulations, ordinances, orders, rules, directives, circulars, bulletins, notices, guidelines, policies and available funding amounts.

- ii. The parties acknowledge that further amendment(s) to this Agreement may be necessary in order to conform with applicable grantmaking agreements, federal, state or local governmental laws, regulations, ordinances, orders, rules, directives, circulars, bulletins, notices, guidelines, policies and available funding amounts. In the event that COUNTY determines, in its sole and absolute discretion, that such amendment(s) is/are necessary, it shall give written notice of such determination to SBCAG. The parties agree to negotiate in good faith with COUNTY regarding such changes. Any such changes shall be mutually agreed upon and shall be made in an Amendment in the manner described in the paragraph above. In the event that the parties cannot reach mutual agreement, this Agreement may be terminated by either party upon written notice in accordance with the Termination section of this Agreement.

- F. Designated Representatives. Jasmine McGinty at phone number 805-448-4028 is the designated representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Fred Luna at phone number 805-456-9362 is the designated representative for SBCAG. Changes in designated representatives shall be made only after advance written notice to the other party.

II. **CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS REQUIREMENTS**

This Agreement is a subrecipient agreement. Section 602(b)(2) and 603(b) of the Social Security Act (the Act) as added by Section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorizes the Department of the Treasury (Treasury) to make payments to certain recipients (including cities and counties) from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (SLFRF). SBCAG is a subrecipient of SLFRF funds through this Agreement, and this Agreement is a subaward of SLFRF funds. Subrecipient agrees, as a condition to receiving SLFRF funds, to the terms below.

A. Use of Funds.

- i. Subrecipient understands and agrees the funds disbursed under this subaward may only be used in compliance with Sections 603(c) of the Act and Treasury's regulations implementing those sections and guidance.
- ii. Subrecipient will determine prior to engaging in any project using this assistance it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

B. Reporting.

- i. Subrecipient agrees to provide COUNTY with information needed by COUNTY to comply with any reporting obligations established by Treasury, as they relate to this subaward. For example, Subrecipient must complete financial, performance,

and compliance reporting to COUNTY to enable COUNTY to meet its quarterly project and expenditure requirements as required and outlined in Part 2 of the SLFRF Compliance and Reporting Guidance (Guidance). Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied. Reporting must be consistent with the definitions pursuant to Title 2 of the Code of Federal Regulations (CFR) Section 200.1. Subrecipient must appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with appropriate accounting standards and principles. In addition, where appropriate, Subrecipient needs to establish controls to ensure completion and timely submission of all mandatory and/or compliance reporting. See Part 2 of the Guidance for a full overview of Subrecipient reporting responsibilities.

- ii. Pursuant to Part 2 of the Guidance, for broadband projects, Subrecipient must confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
- iii. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
- iv. Confirm that the project is designed to, upon completion, meet or exceed symmetrical 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- v. Please note: additional programmatic data will be required for broadband projects beginning in July 2022 and may be further defined in a subsequent version of the Guidance.

C. Maintenance of and Access to Records.

- i. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with Section 603(c), Treasury's regulations implementing that section, and Guidance regarding the eligible uses of funds.
- ii. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
- iii. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

D. Pre-award Costs. Pre-award costs, as defined in 2 CFR Section 200.458, may not be paid with funding from this subaward.

E. Administrative Costs. Subrecipient may use funds provided under this subaward to cover both direct and indirect costs.

F. Compliance with Applicable Law and Regulations.

- i. Subrecipient agrees to comply with the requirements of Section 603 of the Act, regulations adopted by Treasury pursuant to Section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive

orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this subaward.

- ii. Federal regulations applicable to this subaward include, without limitation, the following:
 - a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this subaward.
 - b. Universal Identifier and System for Award Management (SAM) 2 CFR Part 25, pursuant to which the award term set forth in Appendix A to 2 CFR Part 25, is hereby incorporated by reference.
 - c. Reporting Subaward and Executive Compensation Information, 2 CFR Part 170, pursuant to which the award term set forth in Appendix A to 2.CFR Part 170 is hereby incorporated by reference.
 - d. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 CFR Part 180, subpart B) that the award is subject to 2 CFR Part 180 and Treasury's implementing regulation at 31 CFR Part 19.
 - e. Recipient Integrity and Performance matters, pursuant to which the award term set forth in 2 CFR Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - f. Governmentwide Requirements for Drug-Free Workplace, 31 CFR Part 20.
 - g. New Restrictions on Lobbying, 31 CFR Part 21.
 - h. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. Sections 4601-4655) and implementing regulations.
 - i. Generally applicable federal environmental laws and regulations.
- iii. Statutes and regulations prohibiting discrimination applicable to this subaward, include without limitation, the following:
 - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000d et seq.) and Treasury's implementing regulations at 31 CFR Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - b. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Sections 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C.

Section 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

- d. The Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101 et seq.), and Treasury's implementing regulations at 31 CFR Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - e. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. Sections 12010 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- G. Remedial Actions. In the event of Subrecipient's noncompliance with Sections 602 and 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 CFR Section 200.339. In the case of a violation of Section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in Section 603(e) of the Act.
- H. Hatch Act. Subrecipient agrees to comply, as applicable, with the requirements of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7234-7238), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
- I. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
- J. Publications. If applicable, any publications produced with funds from this subaward must display the following language: "This project [is being] [was] supported, in whole or in part, by federal SLFRF funding awarded to the County of Santa Barbara by the U.S. Department of the Treasury through the CPUC."
- K. Debts Owed the Federal Government.
- i. Any funds paid to Subrecipient (1) in excess of the amount to which Subrecipient is finally determined to be authorized to retain under the terms of this subaward; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to Sections 603(e) of the Act and have not been repaid by Subrecipient shall constitute a debt to the federal government.
 - ii. Any debts determined to be owed the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt described in subsection "i" above. Treasury will take any actions available to it to collect such a debt.

L. Disclaimer.

- i. The United States expressly disclaim any and all responsibility or liability to Subrecipient or third persons for the actions of the Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this subaward or any other losses resulting in any way from the performance of this subaward or any contract or subcontract under this award.
- ii. The acceptance of this subaward by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

M. Protection for Whistleblowers.

- i. In accordance with 41 U.S.C. Section 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
 - ii. The list of persons and entities referenced in the paragraph above includes the following:
 - a. A member of Congress or a representative of a committee of Congress;
 - b. An Inspector General;
 - c. The Government Accountability Office;
 - d. A Treasury employee responsible for contract or grant oversight or management;
 - e. An authorized official of the Department of Justice or other law enforcement agency;
 - f. A court or grand jury; or
 - g. A management official or other employee of Subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
 - iii. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
- N. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (April 18, 1997), Subrecipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
- O. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by

distracted drivers.

Table 1: Federal Award Information: County. The following Federal Award Information is provided in accordance with 2 CFR § 200.332.

Table 1: Federal Award Identification County		
1	Subrecipient Names	Santa Barbara County Association of Governments
2	Subrecipient Unique Entity Number (DUNS; UEI Number)	N/A
3	Federal Award Identification Number (FAIN)	N/A
4	Federal Award Date	2023
5	Subaward Period of Performance & Budget Period- Start Date	June 27, 2023
6	Subaward Period of Performance & Budget Period- End Date	May 1, 2025
7	Amount of Federal Funds Obligated by this Action by Pass Through to Subrecipient	\$1,000,000
8	Total Amount of Federal Funds Obligated to Subrecipient by Pass Through Including Current Financial Obligation	\$1,000,000
9	Total Amount of Federal Award Committed to the Subrecipient by the Pass-Through Entity	\$1,000,000
10	Federal Award Project Description	This project will prepare for a fiber network to unserved and underserved areas. It will include an environmental impact report in preparation of the last-mile network, as well as high-level design engineering for unserved and underserved portions of the South County. Funds will also assist in the creation of a JPA as an arm of the Santa Barbara County Association of Governments and fund the employment of a SBCAG Broadband Project Manager.
11	Federal Awarding Agency	Department of the Treasury
12	Pass Through Entity	County of Santa Barbara
13	Contact Information for Awarding Official of Pass Through Entity	Nancy Anderson 805-568-3400
14	CFDA Number	21.027
15	CFDA Name	Coronavirus State and Local Fiscal Recovery Funds
16	Is Award for Research and Development?	No
17	Indirect Cost Rate for Award	51.07

18	Requirements Imposed by Pass Through Entity	See Section II of this Agreement, Coronavirus State and Local Fiscal Recovery Fund Requirements
19	Additional requirements- Financial and Performance Reports	See Section II of this Agreement, Coronavirus State and Local Fiscal Recovery Fund Requirements
20	Access to Subrecipient Records	See Section of this Agreement, Coronavirus State and Local Fiscal Recovery Fund Requirements
21	Close-out Terms and Conditions	See Section VI. B of this Agreement

III. TERM

SBCAG shall commence performance on the date that the Agreement is executed by the Board of Supervisors and end performance upon completion, or May 1, 2025, unless otherwise directed by COUNTY or unless earlier terminated. All work to be performed hereunder and set out in the Scope of Services shall be completed. However, SBCAG'S obligations to complete the Scope of Services shall survive the expiration of the term of this Agreement.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the COUNTY under this Agreement shall not exceed \$1,000,000, in accordance with Exhibit B. COUNTY may require a more detailed budget breakdown than the one contained herein, and SBCAG shall provide such detailed budget information within five (5) workdays of COUNTY'S request. SBCAG will provide detailed budget information in the form and content prescribed by COUNTY so long as the form and content are reasonably available through SBCAG'S financial reporting systems.

Payment for services and/or reimbursement of costs shall be made upon SBCAG'S satisfactory performance, based upon the scope and methodology contained in Exhibits A and B as determined by COUNTY. Upon completion and delivery of each of the three work products described in Exhibit B, SBCAG shall submit to the COUNTY Designated Representative an invoice or certified claim on the County Treasury for the service performed in accomplishing each work product. These invoices or certified claims must cite the Board Contract Number. COUNTY designated representative shall evaluate the quality of the service performed and/or items delivered and if found to be satisfactory shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from SBCAG. COUNTY'S failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY'S right to require SBCAG to correct such work or billings or seek any other legal remedy.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via U.S. Mail (postage prepaid), commercial courier, or personal delivery. Notices may be delivered by facsimile or other electronic means if the party to be noticed agrees to delivery by these means and if that delivery is followed by delivery via U.S. Mail (postage prepaid), commercial courier, or personal delivery the next business day. Any notice sent as aforesaid shall be effective on the date of delivery or

sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

COUNTY

Jasmine McGinty
County of Santa Barbara Executive Office
105 East Anapamu
Santa Barbara, CA 93101
Fax: (805) 568-3414

SBCAG

SANTA BARBARA ASSOCIATION OF
GOVERNMENTS
ATTN: Marjie Kirn, Executive Director
260 N San Antonio Rd B,
Santa Barbara, CA 93110
Phone: 209-261-6425

V. GENERAL CONDITIONS

- A. General Compliance. SBCAG agrees to comply with the LATA requirements including but not limited to, CPUC Decision 22-02-026 and Attachment 1, Guidance to Staff on LATA Rules and Application, the LATA Grantee Administrative Manual, CPUC Resolution T-177875, and the May 1, 2023 Award Letter to County and its attachments and SLFRF requirements including but not limited to Section 602(b)(2) and 603(b) of the Social Security Act (the Act) as added by Section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021), and all other applicable Federal, state and local laws, regulations, ordinances, orders, rules, guidelines, directives, circulars, bulletins, notices and policies.
- B. Independent Contractor. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. SBCAG shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. COUNTY shall not be responsible for paying any taxes on SBCAG's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, SBCAG agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance and workers' compensation Insurance. In addition, SBCAG understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.
- C. Insurance and Indemnification
 - i. **Mutual Indemnification.** In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to California Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the parties agree that pursuant to California Government Code Section 895.4, each party hereto shall fully indemnify and hold the other party, its officers, board members, employee and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by California Government Code Section

810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent of any party shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other party hereto, its officers, board members, employees, or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other party under this Agreement.

- ii. **Insurance.** Each party shall maintain its own insurance coverage, through commercial insurance, self-insurance or a combination thereof, against any claim, expense, cost, damage, or liability arising out of the performance of its responsibilities pursuant to this Agreement.

D. Suspension or Termination. In accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, COUNTY may suspend or terminate this Agreement if SBCAG materially fails to comply with the terms of the Department of Treasury's SLFRF award to COUNTY, including, but not limited to, the grant agreement, or a notice of award or any terms of the Agreement, which include but are not limited to, the following:

- i. Failure to comply with any of the laws, rules, regulations, ordinances, provisions, orders, guidelines, policies, circulars, bulletins, notices or directives referred to herein, or as may become applicable at any time;
- ii. Failure, for any reason, of SBCAG to fulfill its obligations under this Agreement;
- iii. Submittal of reports that are false or that are incorrect or incomplete in any material respect.

E. Termination.

- i. **For Convenience.** In accordance with 2 CFR Part 200, either party may terminate this Agreement for convenience upon 30 days written notice. Upon such notice, the parties will work together in good faith to agree on any additional termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
- ii. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify SBCAG of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
- iii. **For Cause.** Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may, at its sole option, terminate or suspend this Agreement in whole or in part by written notice. The date of termination shall be the date the notice is received, unless the

notice directs otherwise. Upon receipt of notice by COUNTY to SBCAG, SBCAG shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance.

Upon termination, SBCAG shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers may have been accumulated or produced by SBCAG in performing this Agreement, whether completed or in process, and any remaining funds, except such items as COUNTY may, by written permission, permit SBCAG to retain.

VI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

- i. **Accounting Standards.** The SBCAG agrees to comply with the Uniform Administrative requirements referenced herein, including but not limited to 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. SBCAG agrees to adhere to the accounting principles and procedures referenced therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
- ii. **Cost Principles.** SBCAG agrees to comply with applicable cost principles, which principles shall be applied for all costs incurred whether charged on a direct or indirect basis.
- iii. **Program Income.** If program income is earned, the use of program income by SBCAG shall comply with SLFRF Program requirements. Taxes, special assessments, levies, fines, and other such revenues raised by SBCAG are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income. (2 CFR § 200.307(c).) Additionally, upon expiration of this Agreement, SBCAG shall return to the COUNTY all SLFRF program income in accordance with the Close-Out provisions in the Agreement. The reversion of any project related assets shall comply with 2 CFR Part 200 as applicable.
- iv. **Indirect Costs.** If indirect costs are charged, SBCAG shall provide COUNTY with proof of a certification of indirect costs that is in compliance with 2 CFR Part 200, Subpart E, "Cost Principles," and appendices V and VII for State, Local and Indian Tribal Governments.
- v. **Procurement.** SBCAG shall comply with its Purchasing Policy which is consistent with the requirements in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- vi. **Travel.** SBCAG shall obtain written approval from the COUNTY for any travel outside Santa Barbara County paid for with funds provided under this Agreement.
- vii. **Administrative Requirements.** SBCAG also agrees to comply with all applicable uniform administrative requirements, the grantmaking agreements awarding funds to COUNTY, and all other applicable Federal, state and local laws, regulations, ordinances, orders, rules, guidelines, directives, circulars, bulletins, notices and policies governing the LATA Program now and as they may be

amended from time to time. No costs shall be invoiced or billed except for expenditures authorized in the budget contained within this Agreement and Exhibit B. The itemized costs shall be of sufficient detail to provide a sound basis for the COUNTY to effectively monitor costs under this Agreement.

B. Documentation and Record Keeping

- i. **Ownership of Documents.** Each and every report, draft, map, record, plan, document and other writing produced (hereinafter “Documents”), prepared or caused to be prepared by SBCAG, its officers, employees, agents, representatives, contractors and subcontractors in the course of performing this Agreement, shall be made available to COUNTY, and SBCAG upon request. COUNTY and SBCAG shall have the right to use documents in their discretion without further compensation to SBCAG.
- ii. **Close-outs.** SBCAG also agrees to comply with all grant closeout procedures set forth in the LATA requirements and grant closeout procedures set forth in the SLFRF Program and all applicable requirements set forth in 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. SBCAG’s obligations to the COUNTY shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the COUNTY), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that SBCAG has control over LATA funds, including program income. Consistent with LATA Compliance Requirements, SBCAG must complete all performance on the project before the termination date in accordance with the terms of approval granted by the CPUC. In the event that SBCAG fails to complete the work in accordance with the approval granted by the CPUC, and as described in this Agreement, SBCAG must reimburse some or all of the funds that it has received, as determined by the County and/or the CPUC.
- iii. **Audits & Inspections.**
 - a. All SBCAG records with respect to any matters covered by this Agreement shall be made available to COUNTY and the CPUC, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make copies, excerpts or transcripts of all relevant data. Any deficiencies, audit findings, or required corrective actions noted in audit reports must be fully cleared by the SBCAG within 30 days after receipt by SBCAG unless a longer time period is agreed upon in writing by the COUNTY. SBCAG hereby agrees to have an annual program-specific audit conducted by a certified public accounting firm in accordance with 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
 - b. If this Agreement exceeds ten thousand dollars (\$10,000.00), SBCAG shall

be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under this Agreement (Cal. Govt. Code Section 8546.7). SBCAG shall participate in any audits and reviews, whether by COUNTY or the State, with each party responsible for its own costs.

- c. If the CPUC or other state agency demands reimbursement from COUNTY for COUNTY's payments to SBCAG, SBCAG shall fully and completely reimburse COUNTY in the total amount of such disallowed payments directly caused by SBCAG. This provision shall survive the termination or expiration of this Agreement.
- iv. **Access to Records.** SBCAG shall furnish and cause each of its own contractors and subcontractors to furnish all information and reports required hereunder and will permit access to books, records and accounts by the COUNTY, the CPUC or other authorized officials or their agents, to ascertain compliance with the laws, rules, regulations, executive orders, ordinances, resolutions, guidelines, policies, directives, standards and provisions stated in this Agreement or the LATA Program.

IX. PERSONNEL & PARTICIPANT CONDITIONS

A. ASSURANCE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the Subrecipient's program(s), and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

- i. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of Treasury Title VI regulations at 31 CFR Part 22 and other pertinent

executive orders such as Executive Order 13166; directives; circulars; policies; memoranda and/or guidance documents;

- ii. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English Proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementation regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
- iii. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>
- iv. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees and assignees for the period in which such assistance is provided.
- v. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances i-iv above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, contractors, subcontractors, successors, transferees and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this contract or agreement.

- vi. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
- vii. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of settlement agreements that may result from these actions. Subrecipient shall comply with information requests, on-site compliance reviews, and reporting requirements.
- viii. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews and proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
- ix. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of discrimination, please so state.
- x. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Subrecipient's obligations as herein described, that any information submitted in conjunction with this assurance document is accurate and complete, and that the Subrecipient is in compliance with the aforementioned nondiscrimination requirements.

B. Employment Restrictions: Prohibited Activity. SBCAG is prohibited from using SLFRF Funds or LATA funds provided herein or personnel employed in the provision of the activities set out in the Scope of Services under this Agreement for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities. SBCAG agrees to comply with the Federal Labor Standards Provisions as required by law.

D. Conduct.

i. **Assignability.** Neither party shall assign or transfer any interest in this Agreement without the prior written consent of the other party thereto and any attempt to so assign or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

ii. **Contracts and Subcontracts.**

a. Approvals. The County shall participate in any selection processes for any contracts or subcontracts for performance of work to be completed within this agreement.

b. Monitoring. SBCAG will monitor all contracted and subcontracted services on a regular basis to assure compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content. SBCAG shall ensure the applicable Federal Requirements under 2 CFR Part 200, LATA, and SLFRF are made a part of any Agreement, contract, Memorandum of Understanding, or subcontract executed in the performance of this Agreement.

d. Selection Process. SBCAG shall ensure that all contracts and subcontracts awarded under this Agreement shall be subject to fair and open competition in accordance with SBCAG's Purchasing Policy. Executed copies of all contracts and subcontracts shall be forwarded to the COUNTY along with documentation concerning the selection process.

iii. **Conflict of Interest.** SBCAG agrees to abide by the provisions of 2 CFR sections 200.112 and 200.318(c), and 2 CFR Part 200 generally which includes but is not limited to:

a. SBCAG shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of SBCAG shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to SLFRF Program-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the SLFRF Program-assisted activity, or with respect to the proceeds from the SLFRF Program-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the COUNTY, SBCAG, or any designated public agency.
 - d. SBCAG shall promptly disclose to the COUNTY, in writing, any potential conflict of interest.
- iv. **Lobbying.** SBCAG hereby certifies that:
- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement; and
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and
 - c. It will require that the language of paragraphs (a),(b),(c)and (d) of this certification be included in the award documents for all awards and subawards at all tiers (including subcontracts, subgrants, contracts, and grants under grants, loans, and cooperative agreements) and that SBCAG and all contractors and subcontractors shall certify and disclose accordingly.
 - d. Lobbying Certification. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person

who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

v. **Copyright.**

- a. If this Agreement results in any copyrightable material or inventions, the COUNTY and/or SBCAG reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.
- b. COUNTY shall be the owner of the following items incidental to the Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. SBCAG shall not release any materials under this section except after prior written approval of COUNTY.
- c. No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

vi. **Drug Free Workplace.** SBCAG shall comply with the Federal Drug-Free Workplace Act (41 U.S.C., §§ 8101 et seq.), and shall make all good faith efforts to continue to maintain a drug-free workplace, including establishing a drug-free awareness program to inform employees about the dangers of drug abuse and SBCAG policy and penalties for drug abuse violations occurring in the workplace. In addition, SBCAG agrees to provide a drug-free workplace in accordance with the COUNTY's Drug Free Workplace Policy as follows:

- a. SBCAG will publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in SBCAG's workplace and will specify the actions that will be taken against employees for violation of such prohibition.
- b. SBCAG will establish an ongoing drug-free awareness program to inform employees about:
 - i. The dangers of drug abuse in the workplace; and
 - ii. SBCAG policy of maintaining a drug-free workplace; and
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and

- iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- c. SBCAG will require that each employee to be engaged in the performance of the Agreement be given a copy of the statement specified in paragraph a.
- d. SBCAG will notify the employee that, as a condition of employment under the Agreement, the employee will:
 - i. Abide by the terms of the statement specified in paragraph A; and
 - ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
- e. SBCAG will notify the COUNTY in writing, within ten calendar days after receiving notice under paragraph d from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice to every grant officer or other designee on whose Agreement activity the convicted employee was working.
- f. SBCAG will take one of the following actions, within 30 calendar days of receiving notice under paragraph d, with respect to any employee who is so convicted:
 - i. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C., §§ 701 *et seq.*), as amended; or
 - ii. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state or local health, law enforcement, or other appropriate agency.
- g. SBCAG agrees to make a good faith effort to maintain a drug-free workplace through implementation of paragraphs a, b, c, d, e and f above.
- vii. **Criminal Disclosure.** SBCAG must disclose, in a timely manner, in writing to the COUNTY all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR parts 180 and 2424 and 31 U.S.C. 3321.)

X. OTHER FEDERAL CONDITIONS

- A. Procurement of Recovered Materials. SBCAG and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- B. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment
- i. SBCAG and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - a. Procure or obtain;
 - b. Extend or renew a contract to procure or obtain; or
 - c. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - iii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
 - v. In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
 - vi. See [Public Law 115-232](#), section 889 for additional information.
 - vii. See also [§ 200.471](#).

C. Domestic Preferences for Procurements

- i. As appropriate and to the extent consistent with law, SBCAG should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- ii. For purposes of this section:
 - a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - b. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

XI. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not affect the meaning, construction or effect of the terms of this Agreement.

XIII. WAIVER

No delay or omission of either party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to either party shall be exercised from time to time and as often as may be deemed expedient.

XIV. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the COUNTY and SBCAG for SBCAG's use of funds received under this Agreement and it supersedes all prior and contemporaneous communications and proposals, whether electronic, oral, or written between the COUNTY and SBCAG with respect to this Agreement. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

XV. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall

be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

XVI. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

XVII. NONEXCLUSIVE AGREEMENT

Each party understands that this is not an exclusive Agreement and that either party shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided herein.

XVIII. CALIFORNIA LAW

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

XIX. EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

XX. AUTHORITY

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any local, state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, SBCAG hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which SBCAG is obligated, which breach would have a material effect hereon.

XXI. PRECEDENCE

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits to this Agreement, the provisions of the Agreement shall prevail over those in the Exhibits.

XXII. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

XXIII. IMMATERIAL AMENDMENTS

COUNTY and SBCAG agree that immaterial changes to the Agreement such as updating the Designated Representative, addresses for notices, or other clerical error corrections which will not result in a material change to the Agreement, Statement of Work, or total contract amount may be authorized may be authorized by SBCAG's Executive Director, or designee, in writing.

IN WITNESS WHEREOF, COUNTY and SBCAG have executed this Agreement by the respective authorized officers as set forth below to be effective on the date set forth in Section II TERM of this Agreement.

ATTEST:
CLERK OF THE BOARD

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Das Williams, Chair
Board of Supervisors

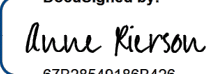
Date: _____

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

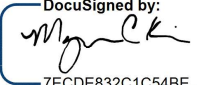
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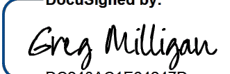
APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

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Deputy County Counsel

SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS

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Marjie Kirn, Executive Director

APPROVED AS TO FORM:
GREG MILLIGAN
RISK MANAGEMENT

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Risk Manager

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

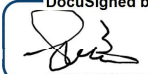
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Deputy County Counsel
Counsel for SBCAG

Exhibit A – Scope of Services

The roles and responsibilities of SBCAG and the COUNTY are described below:

SBCAG Roles and Responsibilities.

1. ROLES AND RESPONSIBILITIES.

- A. Lead efforts to develop a Countywide Programmatic Environmental Impact Report (EIR), coordinate high level network design, and form a Joint Powers Authority arm of SBCAG focused on Broadband as detailed in the LATA Grant Application;
- B. Be the administrative entity for work products listed in Exhibit A section 1.A (above) and coordinate efforts amongst the participating jurisdictions and the BCPC; and
- C. Administer the PROJECT and complete the LATA grant work products defined in Exhibit A section 2.A (below) in a 24-month period from the CPUC May 1, 2023 Award Letter to County, ending May 1, 2025.

2. ADMINISTRATIVE ENTITY. SBCAG shall serve as the administrative entity and SBCAG shall:

- A. Upon approval by the SBCAG Board or if allowed by SBCAG's Purchasing Officer, enter into an agreement with contractors or subcontractors, in compliance with SBCAG's purchasing policy to develop a Countywide Programmatic EIR and engineering contractors to conduct high-level network design, and form a Broadband Joint Powers Authority arm of SBCAG;
- B. Liaison with the governing bodies on topics and issues related to the LATA grant work products and tasks defined in Exhibit A section 2.A. (above);
- C. Conduct meetings with participants from local agencies, the BCPC, and others to solicit input and formulate recommendations for the SBCAG Board;
- D. Conduct consultation and coordination with the Santa Ynez Band of Chumash Indians Tribal Government;
- E. In coordination with the BCPC, participate in federal and statewide meetings, and consortiums, engage in broader broadband discussions, and advocate for Santa Barbara County needs and priorities;
- F. Submit required reporting to COUNTY as detailed in Decision (D) 22-02-026 establishing program requirements for the LATA Grant Program;
- G. Conduct required audits;
- H. SBCAG will coordinate with SBCAG counsel and determine the course of action to have the SBCAG Board create a broadband arm of its Joint Powers Authority (JPA) that will implement broadband on a regional level. This may require the retention of outside legal counsel;
- I. SBCAG will continue to gather data regarding broadband speed testing, inventories, resident needs among other key factors to assist in the implementation;

- J. SBCAG will participate with partners implementing digital literacy efforts in the region;
- K. SBCAG will prepare an implementation plan and schedule for the period of work covered under this grant;
- L. SBCAG will participate in regular working meetings facilitated by County of Santa Barbara staff;
- M. SBCAG will coordinate with other broadband stakeholders, and other entities working on implementation at state and local level and including participating local jurisdictions and the BCPC;
- N. SBCAG may need to enter agreements with BCPC, SB Foundation and other entities to implement goals and deliverables of the LATA grant implementation;
- O. SBCAG will retain contractors to initiate environmental work and complete environmental documentation required to implement priority needs;
- P. SBCAG will retain contractors to perform high-level network design, and work to implement priority needs; and
- Q. SBCAG will report regularly to COUNTY as detailed in CPUC reporting guidelines.
- R. In the event of any litigation related to the EIR, SBCAG shall defend and pay for such litigation.

COUNTY Roles and Responsibilities.

- A. COUNTY will review, approve and process invoices to reimburse SBCAG for their work in accordance with this Exhibit A, Scope of Services, and Exhibit B – Detailed Budget;
- B. COUNTY will be the fiscal agent for the grant and the reporting entity to CPUC but will work with SBCAG for reporting requirements as defined in Resolution T-17785;
- C. COUNTY will work with SBCAG staff to coordinate regular invoices and activities to be reported; and
- D. COUNTY will facilitate and participate in monthly working group meetings for SBCAG and COUNTY staff;

Exhibit B - Detailed Budget

For SBCAG's services rendered under this Agreement, SBCAG shall be paid a total Agreement amount, including cost reimbursements, not to exceed \$1,000,000. This money will provide three work products, and fund a SBCAG Broadband project Manager, and include an administrative fee for the tasks associated with handling the LATA grant funds and project. A quote from an engineering firm was provided for the budget justification, with each task being calculated as a single billable event. The pricing for the environmental impact report was provided from internal County resources.

Work Product Costs		Environmental Impact Report	Design Engineering	JPA Formation	Totals
	Engineering Firm		\$100,000.00		\$100,000.00
	Environmental Firm	\$350,000.00			\$350,000.00
	Legal Firm			\$198,000.00	\$198,000.00
					\$0.00
	Subtotal Work Product Costs	\$350,000.00	\$100,000.00	\$198,000.00	\$648,000.00

Staff and Administrative Costs		Environmental Impact Report	Design Engineering	JPA Formation	Totals
	SBCAG Staff - Broadband Project Manager	\$93,465.72	\$114,853.57	\$93,465.72	\$301,785.00
	SBCAG Staff - Support and Administrative	\$10,444.93	\$7,521.23	\$32,248.83	\$50,215.00
	Subtotal Staff and Administrative Costs	\$103,910.65	\$122,374.80	\$125,714.55	\$352,000.00

TOTAL COSTS	\$453,910.65	\$222,374.80	\$323,714.55	\$1,000,000.00
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Note:

Administrative costs are defined as indirect overhead costs attributable to a project, per generally accepted accounting principles (GAAP), and the direct cost of complying with Commission administrative and regulatory requirements related to the grant itself. Up to 15% of administrative costs may be associated with the securing or completion of reimbursable work products, other than the cost of local agency staff hours. (D.22-02-026, Attachment 1 at 2)