

MEMORANDUM OF UNDERSTANDING
between
THE ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS
and
SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS
and
CITY OF LOMPOC

RECITALS

WHEREAS, Governor Gavin Newsom signed Assembly Bill 101 in September 2019, which established the Local Government Planning Support Grants Program which allocates \$125 million in housing planning funds to regional entities throughout the state; and

WHEREAS, the California Department of Housing and Community Development (HCD) has been assigned as the state agency overseeing this program; and

WHEREAS, the provisions of AB 101 require the California Central Coast's Councils of Government form a multiagency group comprising three representatives from each of the region's five counties to administer approximately \$8 million in housing planning funds dedicated to the Central Coast region; and

WHEREAS, the Central Coast Housing Working Group has been established as the multiagency working group to administer these funds pursuant to AB 101; and

WHEREAS, the Association of Monterey Bay Area Governments (AMBAG) will serve as the fiscal agent of the Central Coast Housing Working Group and will staff the group; and

WHEREAS, AMBAG will use three percent of the AB 101 Central Coast regional funding to administer the mega regional grant program, staff the Central Coast Housing Working Group, provide required reporting, and provide oversight of the grant program from 2020 to 2024; and

WHEREAS, AMBAG will allocate AB 101 housing planning funds to the four COGs in the Central Coast area: AMBAG, the San Luis Obispo Council of Governments, the Santa Barbara County Association of Governments, and the Council of San Benito County Governments; and

WHEREAS, the City of Lompoc is eligible to submit a request for allocation for a portion of Central California AB 101 housing planning funds from AMBAG; and

WHEREAS, the amounts allocated to SBCAG are based on the allocation method approved by the Central Coast Housing Working Group; and

WHEREAS, the amounts allocated to City of Lompoc will be based on the allocation method approved by SBCAG; and

WHEREAS, AMBAG shall approve allocation requests subject to the terms and conditions of eligibility, guidelines, Notices of Funding Availability, and program requirements.

THEREFORE, BE IT RESOLVED, that in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. The City of Lompoc (Grantee) is hereby authorized to request an allocation not to exceed \$151,152 from the Association of Monterey Bay Area Governments which acts on behalf of the Central Coast Housing Working Group.
2. When the Grantee receives an allocation of funds from AMBAG, it represents and certifies that it will use all such funds only for eligible activities as set forth in Health and Safety Code section 50515 and in accordance with all program requirements, guidelines, suballocation application, all applicable state and federal statutes, rules, regulations.
3. The Grantee shall be responsible for spending these funds as indicated below, per AB 101, Section 11, Chapter 3.1, Section 50515.02 within Part 2 of Division 31 of the California Health and Safety Code:
 - a. Planning that will accommodate the development of housing and infrastructure to accelerate housing production in a way that aligns with state planning priorities, housing, transportation, equity, and climate goals. Funds shall only be used for housing-related planning activities, including, but not limited to, the following:
 - I. Technical assistance in improving housing permitting processes, tracking systems, and planning tools.
 - II. Establishing regional or countywide housing trust funds for affordable housing.

- III. Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents.
 - IV. Performing feasibility studies to determine the most efficient locations to site housing consistent with Sections 65041.1 and 65080 of the Government Code.
 - V. Covering the costs of temporary staffing or consultant needs associated with the activities described in paragraphs (i) to (iv), inclusive.
 - VI. Providing jurisdictions and other local agencies with technical assistance, planning, temporary staffing or consultant needs associated with updating local planning and zoning documents, expediting application processing, and other actions to accelerate additional housing production.
- b. Ineligible and prohibited uses of funding include the following activities:
- I. Activities unrelated to accelerating housing production;
 - II. Activities unrelated to preparation and adoption of planning documents, and process improvements to accelerate housing;
 - III. Activities that obstruct or hinder housing production, e.g., moratoriums, downzoning, planning documents with conditional use permits that significantly impact approval certainty and timing, planned development, or other similarly constraining processes;
 - IV. Capital financing, operation or funding related to programs of individual housing development projects; and
 - V. Administrative costs of persons employed by the grantee for activities not directly related to the preparation and adoption of the proposed activity or activities.
- c. Funding may only be used for planning purposes and cannot be used for purposes such as construction or subsidizing building permits.
- d. All expenditures must comply with the HCD program guidance.

4. Financial Oversight

- a. The Grantee shall establish financial oversight practices and process for assuring appropriate use of funds per AB 101, and shall spend all funds towards approved purposes no later than November 1, 2023.
- b. The Grantee shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Invoices which segregate and accumulate the costs of work elements by line item which clearly identify reimbursable costs and other expenditures by project codes.
- c. The Grantee agrees to include all costs associated with this Memorandum of Understanding and any amendments thereto to be examined in any annual audit and in the schedule of activities to be examined under a single audit prepared in compliance with Office of Management and Budget Circular A-133.
- d. The Grantee agrees to furnish documentation to AMBAG related to adherence to this section in its entirety.
- e. The Grantee's use of funding shall be subject to the oversight by AMBAG, the Central Coast Housing Working Group, and SBCAG.
- f. AMBAG shall monitor costs and performance of the Grantee and take steps as necessary to ensure that the funds are spent towards eligible costs on time and on budget.

5. Invoices and Progress Reports

- a. The Grantee shall submit to AMBAG on a quarterly basis, each requisition for payment (Invoice) accompanied by a narrative progress report. Quarters are defined as July 1 to September 30, October 1 to December 31, January 1 to March 31, and April 1 to June 30. All invoices shall be submitted to AMBAG by email to the designated contact(s). Grantees must copy SBCAG by email to the designated contact(s).
 - I. The Grantee shall submit the following relative to an Invoice:
 - i. An invoice with supporting documentation, including but not limited to reports from the accounting system that support the costs claimed; and

- ii. A progress report that, in narrative form, describes progress toward completion of tasks, projects, and products, conformance with project schedules, and reporting of all costs incurred; and
 - iii. Upon request of AMBAG, additional information or documentation to support the costs contained in the Invoice.
 - b. The Grantee shall submit an invoice to AMBAG with a copy sent to SBCAG, no later than thirty (30) days after the close of each quarter. Invoices shall describe progress toward completion of tasks, projects, and products, conformance with project schedules and reporting of costs incurred.
 - I. SBCAG must indicate approval of Grantees invoices before they will be considered complete.
 - c. Year-end Invoices submitted in the fourth quarter and supporting documentation shall be received by AMBAG on or before July 31 of each fiscal year. Invoices received by AMBAG after July 31 for the preceding fiscal year shall not be paid.
 - d. Payment of Invoices is contingent upon receipt by AMBAG of the above documentation provided by Grantee. Payment to Grantee is further contingent upon AMBAG's determination, that the performance of the Grantee meets federal, state and AMBAG standards.
 - e. Deadlines described in Sections 5 a-d may be adjusted if mutually agreed to by AMBAG and the Grantee.
 - f. All Grantee funds must be spent and work completed by November 1, 2023.
 - g. By November 1, 2023, if Grantee invoices less than allocated, AMBAG shall not disburse the remaining non-invoiced amount.
- 6. Project Records
 - a. Financial records, supporting documents and other records pertinent to this Memorandum of Understanding shall be retained by the Grantee for a period of three (3) years from the date of submission of the final expenditure report, except that records pertaining to audit, appeals, litigation or settlement of claims arising

out of performance of this Memorandum of Understanding shall be retained until such audits, appeals, litigation or claims have been disposed of.

- b. The Grantee shall make all project materials, documents, and financial records available to AMBAG and/or SBCAG upon request. All Project records, including but not limited to original data and primary data-yielding materials, secondarily derived tables and figures, and statistical tabulations and other summaries, pertinent to this Memorandum of Understanding, shall be made available by the Grantee to AMBAG and/or SBCAG for a period of three (3) years from the termination date of this Memorandum of Understanding.

7. Conflict of Interest

- a. The Grantee and its officers, employees, and agents that perform work under this Memorandum of Understanding shall comply with Federal and State conflict of interest laws, regulations and policies, and applicable provisions of AMBAG's Conflict of Interest Policy.

8. Mutual Liability

- a. 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 all parties agree that pursuant to California Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees 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 Memorandum of Understanding. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Memorandum of Understanding.

9. Amendments

- a. This Memorandum of Understanding may be amended. Any amendment shall be implemented upon written agreement of all parties.

10. Nonperformance

- a. If a grantee has not made sufficient project progress by February 30, 2023, funding may be reallocated to another grantee, and/or purpose in order to assure all funding dedicated to the Central Coast region is spent by the November 1, 2023 deadline.

11. Noncompliance

- a. In addition to such other remedies as provided by law, in the event of noncompliance with any grant condition or specific requirement of this Memorandum of Understanding, this Memorandum of Understanding may be terminated.

12. Term

- a. This Memorandum of Understanding shall end on March 31, 2025. The period of performance may be extended by written agreement of all parties.

13. Termination for Convenience

- a. This agreement may be terminated by AMBAG, SBCAG, or the Grantee, in whole or in part, at any time by providing written notice of not less than thirty (30) days. Grantee shall be reimbursed for its incurred costs, including contract closeout costs for work performed up to the time of termination. This clause shall be passed through to any consultants or contractors.

14. Section Headings

- a. The headings of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

15. Severability

- a. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Memorandum of Understanding shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

16. Remedies Not Exclusive

- a. No remedy herein conferred upon or reserved 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.

17. No Waiver of Default

- a. No delay or omission 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.

18. California Law And Jurisdiction.

- a. This Memorandum of Understanding shall be governed by the laws of the State of California. Any litigation regarding this Memorandum of Understanding 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.

19. Execution of Counterparts

- a. This Memorandum of Understanding 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.

20. Authority

- a. All signatories and parties to this Memorandum of Understanding warrant and represent that they have the power and authority to enter into this Memorandum

of Understanding 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 State and/or federal law in order to enter into this Memorandum of Understanding have been fully complied with.

21. Survival

- a. All provisions of this Memorandum of Understanding which by their nature are intended to survive the termination or expiration of this Memorandum of Understanding shall survive such termination or expiration.

Maura F. Twomey
Executive Director
Association of Monterey Bay Area Governments

Marjie Kirn
Executive Director
Santa Barbara Association of Governments

Jim Throop
City Manager
City of Lompoc