

**AGREEMENT BETWEEN
CITY OF LOMPOC
AND THE
SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS
REGARDING REGIONAL EARLY ACTION PLANNING GRANTS OF 2021 GRANT AWARD**

This Agreement is made by and between the City of Lompoc, (hereinafter referred to as the “Awardee”), and the Santa Barbara County Association of Governments (hereinafter referred to as SBCAG) (hereinafter collectively referred to as the “Parties” or individually “Party”).

RECITALS

WHEREAS Awardee is a general law city located in Santa Barbara County;

WHEREAS SBCAG has been designated by the Governor as the Metropolitan Planning Organization (MPO) for Santa Barbara County and, as such, has been given the responsibility to conduct the metropolitan transportation planning process required by 23 U.S.C. section 134 and 49 U.S.C. section 5303;

WHEREAS Assembly Bill 140 (2021) created the Regional Early Action Planning Grants of 2021, colloquially referred to as REAP 2.0 (hereinafter referred to as the “Program”), and tasked the California Department of Housing and Community Development (HCD), in partnership with the California Air Resources Board (CARB) and the Strategic Growth Council (SGC) with administering the Program;

WHEREAS SBCAG was apportioned by formula \$583,941.00 to administer the Program within Santa Barbara County and \$5,255,471.28 for projects within Santa Barbara County which meet Program eligibility requirements as described in the Regional Early Action Planning Grants of 2021 (REAP 2.0) Final Guidelines for Metropolitan Planning Organizations;

WHEREAS SBCAG carried out a competitive project selection process to identify and select projects for Program funding within Santa Barbara County with the SBCAG Board of Directors approving the suite of projects during its December 15, 2022 meeting and HCD and its partners approving the suite of projects on August 15, 2023;

WHEREAS through the SBCAG project selection process, Awardee was awarded Program grant funds in the amount of \$450,000 to provide pre-approved accessory dwelling unit plans that streamline the permit process and accelerate housing production, offering financial assistance as an incentive to participants in the Permit Ready Accessory Dwelling Unit (PRADU) Program (referred to herein as “Project”);

WHEREAS Parties agree to collaborate to facilitate the grant award with SBCAG serving as administrator and the Awardee responsible for delivering awarded project consistent with grant requirements;

WHEREAS SBCAG will not incur costs or liabilities beyond the administrative duties of submitting

invoices, processing invoices, coordinating grant progress reporting, and disbursing payments as part of this Agreement; and

WHEREAS by entering into this Agreement, the Parties intend to describe their respective responsibilities and establish a joint cooperative structure for their participation in the Program project.

NOW THEREFORE it is mutually agreed:

1. Recitals

The above Recitals are true and correct and incorporated herein.

2. Duties of Parties

The Parties agree to be responsive to requests for related information or data, and attend all meetings related to the administration of the Project in person or via conference call, after reasonable notice.

3. Duties of Awardee

- A. Use of Funds. Awardee shall use the awarded funds in accordance with the approved Scope of Work attached hereto as Exhibit A and incorporated herein by this reference.
- B. Procurement. Awardee shall abide by all State and federal contracting standards related to the use of grant money. Awardee shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of the Project in accordance with GAAP. Awardee shall require the same of its subcontractor(s).
- C. Subcontractors. If Awardee will complete all or part of the Scope of Work through a subcontract, then Awardee shall enter into a written agreement with any subcontractor. The Awardee shall require all subcontractor(s) to comply with Program requirements and all other requirements described herein. The Awardee shall consult with SBCAG prior to making major decisions regarding contract management and shall ensure all interests of all Parties are protected. SBCAG does not have a contractual relationship with Awardee's subcontractor(s) and the Awardee shall be fully responsible for monitoring and enforcement of those contracts and all work performed thereunder.
- D. Invoicing. The Awardee agrees to submit quarterly invoices to SBCAG for reimbursement. The Awardee agrees SBCAG will only process reimbursement payments to the Awardee

after such reimbursement is received by SBCAG from HCD. If reimbursement funding is not received by SBCAG from HCD, then SBCAG is not required to pay reimbursements to the Awardee. The Awardee shall require invoices from subcontractor(s) and process subcontractor payments in a timely manner.

- E. Invoice Supporting Documentation. Invoices must be accompanied by supporting documentation where appropriate. Invoices without supporting documentation will not be paid. Supporting documentation may include, but is not limited to, purchase orders, receipts, progress payments, subcontractor invoices, timecards, reports, or any other documentation as deemed necessary by SBCAG or HCD to support the reimbursement to Awardee for expenditures incurred.
- F. Reporting. The Awardee agrees to prepare quarterly reports detailing progress on the Project as required for submittal to HCD in the administration of the Program grant. The report must demonstrate a clear and significant nexus to REAP 2.0 Program goals and objectives including but not limited to Project delivery progress in accordance with the Scope of Work. Any lack of action or action inconsistent with REAP 2.0 requirements may result in review and could be subject to repayment of funds.

Upon completion of all deliverables within the Agreement, the Awardee shall submit a close out report in a manner and form prescribed by SBCAG.

4. Duties of SBCAG

- A. SBCAG agrees to function as the Program administrator for projects within Santa Barbara County and serve as a funding pass through for the (Project). If reimbursement funds are received by SBCAG from HCD, then SBCAG agrees to pass through funds to the Awardee to reimburse the Awardee's expenses.
- B. SBCAG agrees to process invoices from the Awardee for work completed, submit invoices to HCD, align with the required progress reports supplied by the Awardee, and provide payment to the Awardee for eligible expenses reimbursed by HCD.
- C. SBCAG agrees to administer the Program within Santa Barbara County, including coordination with HCD and Awardee, through the conclusion of this Agreement.

5. General Provisions

- A. All obligations of the Parties hereto under this Agreement are subject to the appropriation of resources by their respective governing bodies.
- B. Nothing in this Agreement shall be construed as empowering any Party hereto to exercise any function properly residing with any other party hereto.
- C. Indemnification. The Awardee shall indemnify, defend (with counsel reasonably approved by SBCAG), and hold harmless SBCAG and its officers, officials, governing board members,

employees, agents, and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by SBCAG on account of any claim except where such indemnification is prohibited by law. Awardee's indemnification obligation applies to SBCAG's active as well as passive negligence but does not apply to SBCAG's sole negligence or willful misconduct. This indemnity shall survive the completion or termination of this Agreement.

- D. 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.

- E. Limitation of Statutory Construction. Nothing in this Agreement shall be construed to interfere with the authority, under any State law in effect on the date of enactment of Section 134 of Title 23 USC, of a public agency with multimodal transportation responsibilities to develop:
 - i. Plans and programs for adoption by a metropolitan planning organization; and
 - ii. Long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

- F. Notices. Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered via email, to the addresses listed below, or at such other address or to such other person that the parties may from time to time designate in accordance with this Notice section. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

To Awardee: Attention: Christie Alarcon
 City of Lompoc
 100 Civic Center Plaza, Lompoc, CA 93436
 Email: c_alarcon@ci.lompoc.ca.us
 Phone: (805) 875-8220

To SBCAG: Attention: Mike Becker
 Santa Barbara County Association of Governments
 260 N. San Antonio Road, Suite B
 Santa Barbara CA 93110
 Email: mbecker@sbcag.org
 Phone: (831) 915-9466

- G. Violations. The Awardee shall comply with and be aware of the requirements and penalties for violations of fraud and for obstruction of investigation as set forth in California Public Contracts Code section 10115.10. At any time, if SBCAG finds the Awardee included false information in the advance or final application or as part of the application review, SBCAG may require the repayment of funds.
- H. Severability. 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 Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- I. No Waiver of Default. 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.
- J. Compliance with Law. Each Party shall, at its sole cost and expense, comply with all SBCAG Ordinances, and, State and Federal laws, statutes, regulations, and rules now in force or which may hereafter be in force, including but not limited to legal requirements that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the grant. Each Party agrees to comply with HCD REACP 2.0 guidelines, as applicable. Awardee shall include this clause in all subcontracts.
- K. 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.
- L. Immaterial Amendments. The Parties agree that immaterial changes to the Agreement such as updating the Notices contact information, addresses for notices, or other clerical error corrections which will not result in a material change to the Agreement, Statement of Work, or total Agreement amount may be authorized may be authorized by SBCAG's Executive Director, or designee, in writing, and in accordance with Section 8.
- M. 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.
- N. Section Headings. The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

6. Term and Termination

- A. This Agreement shall become effective when fully executed by both Parties and shall continue in full force and effect until completion of the Project, but not later than June 30, 2026.
- B. The Program allows for retroactive reimbursement of eligible expenses for activities to July 1, 2021. Eligible activities performed prior to execution of this Agreement must be included in the first quarterly invoice.
- C. Any party to this Agreement may terminate its participation by providing thirty (30) days written notice to all other Parties hereto.
- D. The Program requires awarded funds be expended no later than June 30, 2026. Should legislation extend the expenditure deadline, that revised expenditure deadline shall become applicable for the Awardee.
- E. In the event that it is determined, at the sole discretion of SBCAG, that the Awardee is not meeting the terms and conditions of the Agreement, immediately upon receiving a written notice from SBCAG to stop work, the Awardee shall cease all work under the Agreement. SBCAG has the sole discretion to determine that the Awardee meets the terms and conditions after a stop work order, and to deliver a written notice to the Awardee to resume work under the Agreement.

7. California Law and Venue

Federal law and the laws of the State of California shall govern this Agreement. 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 nearest Santa Barbara County, if in federal court.

8. Entire Agreement and Amendments

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. 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

Amendments to the Scope of Work (Exhibit A) may mutually be approved by the SBCAG Executive Director and Christie Alarcon so long as the final deliverable remains substantially unchanged. Any other amendment to this agreement shall be approved by the Parties' governing bodies.

9. Monitoring

- A. The Awardee shall maintain books, records, documents, and other evidence that demonstrates the funding was used for the appropriate purposes, as described in the Scope of Work. These books, records, documents and other evidence shall be available for audit and inspection by SBCAG, HCD, or both at any point during the term of the Agreement and subject to any amendments to this Agreement.
- B. SBCAG may request additional information from Awardee, as needed, to demonstrate statutory compliance, satisfaction of Program requirements and necessary amendments to this Agreement, including but not limited to reporting or audit requirements. SBCAG may monitor expenditures and activities of the Awardee, as SBCAG deems necessary, to ensure compliance with statutory or Program requirements.

10. Accounting

The Awardee, its employees, contractors, and subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for payment vouchers and invoices.

11. Record Retention and Audit

- A. The Awardee agrees that SBCAG, HCD, or both shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Agreement. The Awardee agrees to maintain such records for a possible audit after the final payment for at least five (5) years after all funds have been expended unless a longer period of records retention is stipulated. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats. Awardee shall participate in any audits and review, whether by SBCAG or the State, at no charge to SBCAG. Awardee's subcontractors paid with moneys under the terms of this Agreement shall be responsible for maintaining accounting records as specified herein.
- B. If federal, state or other regulatory audit exceptions are made relating to this Agreement, Awardee shall reimburse all costs incurred by SBCAG associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from SBCAG, Awardee shall reimburse the amount of the audit exceptions and any other related costs directly to SBCAG as specified by SBCAG in the notification.
- C. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, all records must be retained by the Awardee and its designees, contractors, and subcontractors until

completion of the action and resolution of all issues which arise from it. In any contract that Awardee enters into in an amount exceeding \$10,000, the Awardee shall include the SBCAG's and HCD's right to audit the subcontractor's records and interview their employees.

12. Nondiscrimination

During the performance of this Agreement, the Awardee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, ancestry, national origin, sex, gender, gender identity, gender expression, genetic information, age, disability, handicap, familial status, religion, or belief, under any program or activity funded by this Agreement, as required by Title VI of the Civil Rights Act of 1964, as amended, and with the provisions contained in Title 49, Code of Federal Regulations (CFR), Part 21 through Appendix C and 23 CFR section 710.405(b), the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations. During the performance of this Agreement, the Awardee, for itself, its assignees and successors in interest agrees as follows:

- A. **Compliance with Regulations.** Awardee shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- B. **DOT-assisted Contracts.** Awardee shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Awardee to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as recipient deems appropriate. Awardee, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection or retention of subcontractors, including procurement of materials and leases of equipment. Awardee shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- C. **Solicitations for Subcontractors, including Procurement of Materials and Equipment.** In all solicitations either by competitive bidding or negotiations made by Awardee for work to be performed under the subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Awardee of Awardee's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.
- D. **Information and Reports.** Awardee shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by

SBCAG to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Awardee is in the exclusive possession of another who fails or refuses to furnish this information, Awardee shall so certify to SBCAG, and shall set forth what efforts it has made to obtain the information.

- E. **Sanctions for Noncompliance.** In the event of Awardee's noncompliance with the nondiscrimination provisions of this Agreement, SBCAG shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:
 - i. Withholding of payments to Awardee under this Agreement until Awardee complies, and/or
 - ii. Cancellation, termination or suspension of the Agreement in whole or in part.
- F. The Awardee shall, in the course of performing Project work, fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
- G. The Awardee shall include this Nondiscrimination clause and its subsections in all subcontracts.

13. Ownership of Intellectual Property

- A. Work means the work to be directly or indirectly produced by the Awardee, its employees, or by and of the Awardee's subcontractor(s) and/or subcontractor(s) employees under this Agreement.
- B. Work Product means all deliverables created or produced from Work under this Agreement including, but not limited to, all Work and deliverables conceived or made or, hereafter conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six months after the termination thereof, which relates to the Work commissioned or performed under this Agreement, are considered Work Product. Work Product includes all deliverables, inventions, innovations, improvements, or other works of authorship Awardee and/or Awardee's subcontractor may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret or other legal protection.
- C. Sharing of Work Product and Rights. All Work Product shall be shared with the SBCAG and HCD and its partners for various purposes, including education, outreach, transparency and future learning.

IN WITNESS THEREOF, the Agreement has been executed by the Parties and is effective when fully executed by both Parties.

Santa Barbara County Association of Governments (SBCAG)

Awardee

By: _____
Name: Jenelle Osborne
Title: Chair, SBCAG
Date:

By: _____
Name:
Title:
Date:

Attest:
Marjie Kirn
Clerk of the Board

Attest:

By: _____
Deputy

By: _____
Name:
Title:

Approved as to Form:
Rachel Van Mullem
County Counsel

Approved as to Form and Procedure:

By: _____
Senior Deputy

By: _____

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Exhibit A

Scope of Work

Project: The purpose of the Permit Ready Accessory Dwelling Unit (PRADU) Program is to provide pre-approved Accessory Dwelling Unit plans from the Building & Safety Division that streamline the permit process, accelerate housing production, and save on preconstruction fees. The Project offers financial assistance as an incentive to further accelerate housing production. During program development, Awardee will reach out, and if possible, work with other jurisdictions in the region to create a program that could be utilized in those jurisdictions as well. The Project deliverables include documentation of public outreach, finalized PRADU Program guidelines and financial assistance incentives.

CITY OF LOMPOC (Awardee) shall complete the following tasks:

Task 0: Project Management and Administration

0.1: Project Staffing

Awardee shall assign appropriate staff to complete the project.

0.2: Contractor Procurement

Awardee shall develop and advertise a request for proposals, review received proposals, and develop an agreement for services between the City of Lompoc and the selected contractor(s).

0.3: Management and Administration

Progress Reporting

Awardee will prepare progress reports consistent with any and all requirements of the Regional Early Action Planning Grants' Program of 2021 and provide those reports to SBCAG and HCD as requested. Awardee will complete all project close out reporting as required by the Regional Early Action Planning Grants' Program of 2021, SBCAG, or HCD. Awardee will prepare and submit to SBCAG quarterly invoices for work completed.

Contractor Management

Awardee will manage the work of contractor.

Task 0 Deliverables:

- Request for Proposals
- Agreement with Contractor
- Progress Reports
- Quarterly Invoices

Task 1: Outreach and Coordination

1.1: Public Outreach

Awardee will conduct public outreach throughout the course of the project to solicit feedback and inform future deliverables.

1.2: Inter-Agency Coordination

Awardee will conduct inter-agency coordination throughout the course of the project to solicit feedback and inform future deliverables that may include working with other local jurisdictions in the region to support the development of similar programs in those jurisdictions as well.

Task 1 Deliverables:

- Documented Public Feedback
- Documented Inter-agency Feedback

Task 2: Program Development

2.1: Draft PRADU Program Guidelines

Awardee will draft program guidelines that consider feedback from Public Outreach and Inter-Agency Coordination, consulting relevant parties as necessary throughout the process. Awardee will design the program to streamline the permitting process, accelerate housing production, and reduce preconstruction fees by providing pre-approved Accessory Dwelling Unit (PRADU) plans from the Building & Safety Division.

2.2: Draft Floor/Elevation/Architectural Unit Plans

Awardee will work with the Building & Safety Division to draft the floor, elevation, architectural, and all other elements required for a unit plan to construct accessory dwelling units.

2.3: Study Housing Development Fee Reduction Strategies/Waivers

Awardee will conduct initial analysis of the housing development process focusing on costs to identify opportunities for financial assistance, fee waivers, monetary incentives, and other strategies in the construction of accessory dwelling units to encourage program participation and further accelerate housing production.

Task 2 Deliverables:

- Draft PRADU Program Guidelines
- Draft Unit Floor/Elevation/Architectural Plans
- Initial Analysis of Fee Reduction Strategies/Waivers

Task 3: Finalize Program Guidelines and Studies

3.1: Develop Final PRADU Program Guidelines

Awardee will complete development of program guidelines and seek approval from its Planning Commission and/or City Council.

3.2: Develop Final Floor/Elevation/Architectural Unit Plans

Awardee will complete unit plans and ensure compliance with unit requirements for accessory dwelling units and seek approval from its Planning Commission and/or City Council.

3.3: Housing Development Fee Reduction Strategies/Waivers

Awardee will complete final fee reduction strategies and seek approval from its Planning Commission and/or City Council.

Task 3 Deliverables:

- Final PRADU Program Guidelines
- Final Unit Floor/Elevation/Architectural Plans
- Final Analysis of Fee Reduction Strategies/Waivers

Task 4: Environmental Review

4.1: Complete Initial Study and Any Required Subsequent Documents

Awardee will conduct an initial study according to the California Environmental Quality Act (CEQA) to determine the appropriate level of review, conduct the necessary level of review and seek approval/certification from its City Council.

Task 4 Deliverables:

- Approved/Certified environmental analysis