



CITY OF  
**LOMPOC**

July 19, 2013

Santa Barbara County Association of Governments  
Terry Contreras  
260 North San Antonio Rd, Ste B  
Santa Barbara, CA 93110

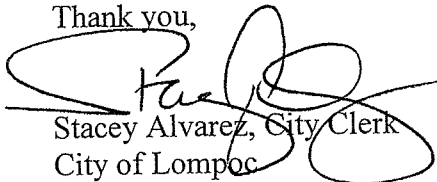
Subject: **Measure A Cooperative Agreement – Safe Routes to School Project**

Dear Ms. Contreras:

Enclosed is one fully executed original of the Agreement referenced above for the City of Lompoc's Safe Routes to School Project, for your files.

If you have any questions or require additional information, you may contact me at (805) 875-8241.

Thank you,



Stacey Alvarez, City Clerk  
City of Lompoc

Enc.

cc: Engineering

G:\clerk\contractletterforfile



260 North San Antonio Road., Suite B \* Santa Barbara, CA \* 93110  
Phone: 805/961-8900 \* Fax: 805/961-8901 \* www.sbcag.org

**Board of Directors**

**Roger Aceves**  
*Chair*  
*City of Goleta*

**Steve Lavagnino**  
*Vice-Chair*  
*Santa Barbara*  
*County*  
*5th District*

**Salud Carbajal**  
*Santa Barbara*  
*County*  
*1st District*

**Janet Wolf**  
*Santa Barbara*  
*County*  
*2nd District*

**Doreen Farr**  
*Santa Barbara*  
*County*  
*3rd District*

**Peter Adam**  
*Santa Barbara*  
*County*  
*4th District*

**Holly Sierra**  
*City of Buellton*

**Al Clark**  
*City of Carpinteria*

**Frances Romero**  
*City of Guadalupe*

**John Linn**  
*City of Lompoc*

**Helene Schneider**  
*City of Santa*  
*Barbara*

**Alice Patino**  
*City of Santa Maria*

**Jim Richardson**  
*City of Solvang*

Ex-Officio Members

**Tim Gubbins**  
*Director*  
*Caltrans District 5*

**William Dillon**  
*Agency Counsel \*  
*County Counsel*

June 24, 2013

**Stacy Alvarez**  
**City of Lompoc**  
**100 Civic Center Plaza**  
**Lompoc, CA 93438**

Dear Ms. Alvarez,

Please see two enclosed copies of the Measure A Cooperative Agreement for City of Lompoc's North County Safe Routes to School Project. The cooperative agreement was approved by the SBCAG Board on June 20th. Please sign both copies return one signed copy back to me and keep one for your files.

Please let me know if you have any questions.

Thank you,

**Terry Contreras**  
**SBCAG Board Clerk**  
**(805) 961-8911**

**MEASURE A  
PROJECT COOPERATIVE AGREEMENT  
For projects awarded to the City of Lompoc in Cycle 1 of the North County Measure A Bicycle and  
Pedestrian and Safe Routes to School Programs**

This Cooperative Agreement ("this Agreement") is made and entered into on June 20, 2013, by and between the City of Lompoc ("Sponsor") and the Santa Barbara County Association of Governments, acting as the Santa Barbara County Local Transportation Authority ("Authority").

**RECITALS**

**WHEREAS**, Authority and Sponsor desire to enter into a Cooperative Agreement to coordinate the funding of transportation improvements in Santa Barbara County pursuant to the authority provided by the Road Repair, Traffic Relief and Transportation Safety Measure ("Measure A"), which was approved by the voters of Santa Barbara County on November 4, 2008; and

**WHEREAS**, Sponsor has proposed Authority provide funding from the Measure A South Coast and North County Bicycle and Pedestrian and Safe Routes to School Programs specified herein (the "Program") to Sponsor's projects for the particular transportation improvement project work specified herein (the "Project"); and

**WHEREAS**, Authority has determined the Project is eligible as approved by the SBCAG Board on January 19, 2012, and February 16, 2012, for Measure A funds; and

**WHEREAS**, Authority is authorized to issue Measure A funds to Sponsor for eligible projects; and

**WHEREAS**, Authority and Sponsor desire to have this Agreement serve as this Agreement for the Authority to provide Measure A funding to Sponsor for eligible projects proposed by Sponsor; provided, that such funding has been authorized by the Board of the Authority (the "Board").

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant, and agree as follows:

**AGREEMENT  
SECTION I  
Covenants of Sponsor**

- 1.1 Project Description. The Project description, scope of work, delivery schedule, estimate of cost by activity, anticipated amount and type of funds that will supplement Measure A funds, and the anticipated timing for release of Measure A funds are specified in Attachment A to this Agreement, which by this reference is incorporated herein. Sponsor shall be solely responsible for implementing and carrying out the Project.
- 1.2 Change In Project Description. Any change in the Project Description shall not be eligible for funding by Authority, unless approved in writing by the Authority. Any portion of the Project implemented by Sponsor prior to Authority's written approval shall not be eligible for reimbursement and in no event will any change in scope result in the Authority reimbursing more than the amount awarded for the Project.
- 1.3 Eligible Reimbursement Costs. Eligible project costs are specified in Attachment A or as may be approved from time to time by the Authority pursuant to Section 1.2. In no event shall expenses incurred prior to the execution of this Agreement be considered eligible.
- 1.4 Measure A Percentage Share. Measure A funding is being provided by Authority to Sponsor for the Project. The percentage share of Measure A funding shall be the Measure A Percentage shown in Attachment A, and shall not exceed the total Measure A amount shown in the same attachment. Each invoice submitted by Sponsor shall be reimbursed by Authority at this percentage up to the not

to exceed total Measure A amount shown in the attachment. Sponsor matching funds shall be used to pay for the remainder of Project costs

- 1.5 Invoices and Progress Reports. Sponsor shall submit semi-annual progress reports and invoices for work completed consistent with the Program guidelines as adopted by the SBCAG Board on May 19, 2011. Those documents shall include the following specified information:
  - 1.5.a Invoices. Sponsor shall provide Authority with one (1) copy of all invoices submitted to Sponsor by every contractor, or consultant as appropriate and any other backup documentation required to support direct and indirect costs for which a Sponsor submits an invoice.
  - 1.5.b Progress Reports. Progress reports shall include a brief description of the status of the Project including the work completed to date. This summary may be included on the invoices submitted to Authority or be attached to those invoices.
- 1.6 Use of Funds. Sponsor shall use existing Measure A funds consistent with the Project Description in Attachment A or as approved by Authority pursuant to Section 1.2.
- 1.7 Submittal of Documents. Sponsor shall provide copies to Authority of all executed contracts that relate to the Project scope as described in Attachment A and Section 1.3 or approved by Authority pursuant to Section 1.2. Sponsor shall retain records pertaining to the Project for a five-year (5-year) period following completion of the Project.
- 1.8 Completion of Project. Sponsor shall be responsible for meeting the timely use of funds deadline in Attachment A. Per the program guidelines, this project must begin in the fiscal year it is programmed (FY 14\15) and funds must be expended by the end of the second fiscal year following the fiscal year the funds were programmed. Unused funds programmed to the project will be forfeited and be made available by Authority for programming to other projects in a special or subsequent funding cycle. Sponsor shall provide management of any consultant and contractor activities, including responsibility for schedule, timely use of funds, budget and oversight of the services, consistent with the scope of work. This provision shall apply in all instances, including situations where a change in scope has been approved by Authority pursuant to Section 1.2.
  - 1.8.a Project Completion Report. Within 6 months after project completion, Sponsor shall provide a project completion report to Authority that includes final cost, revenues, and schedule of completed and future activities (the "Report"). For construction projects, pictures of the completed project must accompany the Report. Whenever possible, pictures of the "before" project conditions should also be submitted. The Report shall accompany the final invoice for payment from Sponsor to provide notice of Agreement account closing by Authority. The Report shall meet all requirements set forth in Authority's Program Guidelines.
- 1.9 Public Outreach. Sponsor is responsible for development and administration of a public outreach effort to ensure public awareness and involvement in the Project development and delivery process. Sponsor shall provide a copy of the public outreach plan and all materials documenting the public outreach activities, including, such things as public notices, press releases and flyers to Authority. The public outreach plan must accompany the first invoice for payment from Sponsor. The materials documenting the public outreach activities must accompany the final invoice for payment from Sponsor.
- 1.10 Provision of Signs. Sponsor shall install signs consistent with Authority's Project Signs Guidelines and Specifications as adopted by the SBCAG Board on August 18, 2011, or as appropriate.
- 1.11 Cost Savings and Excess Costs
  - 1.11.a Cost Savings. After the Project has been accepted by Sponsor and Authority as complete, any positive difference between the cost, as listed in Attachment A or approved by Authority pursuant to Section 1.2, and the total amount invoiced to Authority shall revert to the Measure A program for re-programming by Authority on other eligible projects.

- 1.11.b Excess Costs. In the event the actual Project cost exceeds the estimate shown in Attachments to this Agreement, that amount will be considered an excess cost. Sponsor is solely responsible for all costs over the amount identified in Section 1.3 pursuant to Section 1.2.
- 1.11.c Reconciliation of Excess Costs. Excess project costs to complete a project are not eligible for reimbursement unless approved pursuant to Section 1.2. The amount of Measure A funds as identified in Section 1.3 are the maximum funds available for reimbursement to Sponsor and cannot be increased, unless agreed to by Authority pursuant to Section 1.2. Sponsor shall request an amendment if needed for this purpose in writing to Authority. Such amended Agreement shall be effective only if signed and approved by the duly authorized representatives of both Authority and Sponsor.
- 1.12 Errors and Omissions. Sponsor shall diligently monitor and manage all aspects of the Project and shall aggressively pursue any and all remedies, including full restitution and damages from any consultant, contractor or sub-contractor and their insureds and sureties suspected of any acts, errors, or omissions committed during business activities that economically or legally damage the project.
- 1.13 Provision of Labor and Materials. Sponsor agrees to furnish or cause to be furnished all labor, materials, equipment, required licenses, permits, fees, and other appropriate legal authorization from all applicable federal, state, and local jurisdictions necessary to perform and complete, per schedule, in a professional manner, the obligations described herein.
- 1.14 Implementation of Projects. Sponsor may implement projects herein through private organizations and nonprofit entities as designated on Attachment A.

## SECTION II

### Covenants of Authority

- 2.1 Reimbursement Payments. Authority shall make reimbursement payments to Sponsor or implementing party designated pursuant to Paragraph 1.14 for eligible project costs within 45 days of receipt of an invoice, as specified in the Attachment A, except where Payment is subject to provisions of Paragraphs 2.1.a through 2.1.c.
- 2.1.a Ineligible Costs. Authority reserves the right to adjust current or future reimbursement payments to Sponsor if an invoice includes ineligible costs.
- 2.1.b Suspension of Reimbursement. If Authority determines any costs in an invoice are not allowable, or lacks supporting progress reports, then Authority shall return the invoice to Sponsor with an invoice dispute notice outlining the reason for the return and the proposed remedy, if one exists, which would make the invoice acceptable for payment. Sponsor may re-submit the invoice for payment after reviewing the invoice dispute notice and making any necessary corrections. Sponsor may also immediately submit a new invoice representing only the amounts which are not in dispute, while setting aside the disputed amounts for review in accordance with the provisions set forth in this Section 2.1.
- 2.1.b.1 Meeting. Once a dispute has occurred, within seven (7) business days after issuance of dispute notice, Authority shall arrange a meeting between Authority and Sponsor staff to discuss and attempt to resolve the dispute. Such meeting will occur no later than thirty (30) calendar days after issuance of dispute notice.
- 2.1.b.2 Subregional Committee. If an agreement cannot be reached at the meeting, then Sponsor or Authority shall have the option to take the dispute to Authority's North or South County Subregional Committee, as appropriate. In that case reimbursement for the disputed cost item(s) will be delayed until a resolution of the matter is reached.
- 2.1.b.3 Authority's Board Decision. If Sponsor disagrees with the resolution by the Subregional Committee, then the dispute shall be submitted to Authority's Board for resolution. If the

Board determines the disputed cost item(s) is(are) ineligible, then Authority shall not provide reimbursement payment to Sponsor for the disputed item(s). If the Board determines the disputed cost item(s) is(are) eligible, then Authority shall provide reimbursement payment to Sponsor for the disputed cost.

- 2.1.b.4 Reservation of Rights. By utilizing the above procedures, Sponsor does not surrender any rights to pursue available legal remedies if Sponsor disagrees with the Board decision.
- 2.1.c Authority's Payment shall not constitute Waiver. Authority's failure to discover or object to any ineligible project cost or billings prior to payment shall not constitute a waiver of Authority's right to require Sponsor to correct such work or billings or seek any other legal remedy.
- 2.2 Right to Conduct Audit; Record Keeping. Authority shall have the right to conduct an audit of all Sponsors' records pertaining to this Agreement at any time during the course of construction and up to a five-year (5-year) period after completion of this Agreement. Sponsor shall keep and provide to Authority or its agents, upon request, accurate financial records (including invoices and published price lists on which this Agreement was based) necessary to enable Authority to review Sponsor's performance of this Agreement. Those records shall demonstrate the funding has been used as described in the Project Description. Sponsor shall maintain all such records for at least five years after completion of the project.

### **SECTION III** **Mutual Covenants**

- 3.1 Term. This Agreement shall remain in effect until discharged or terminated as provided in Section 3.2 or Section 3.14.
- 3.2 Discharge. This Agreement shall be subject to discharge as follows:
  - 3.2.a Termination by Mutual Consent. This Agreement may be terminated at any time by mutual consent of the parties.
  - 3.2.b Discharge Upon Completion of Projects. Except as to any rights or obligations which survive discharge as specified in Section 3.14, this Agreement shall be discharged, and the parties shall have no further obligation to each other, upon completion of the Project as certified by Authority.
- 3.3 Indemnity. It is mutually understood and agreed, relative to the reciprocal indemnification of Authority and Sponsor:
  - 3.3.a Sponsor shall defend, indemnify and save harmless Authority, its officers, agents, and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of Sponsor or its agents or employees or other independent contractors directly responsible to it, except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting solely from the negligence or willful misconduct of Authority.
  - 3.3.b Authority shall defend, indemnify and save harmless Sponsor, its officers, agents, and employees from any and all claims, demands, damages, costs, expenses (including reasonable attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of Authority or its agents or employees or other independent contractors directly responsible to it, except those claims, demands, damages, costs, expenses (including attorney's fees), judgments, or liabilities resulting solely from the negligence or willful misconduct of Sponsor.

3.4 Notices. Any notice which may be required under this Agreement shall be in writing and shall be given by personal service, or by certified or registered mail, return receipt requested, to the addresses set forth below:

<u>AUTHORITY</u> Santa Barbara County Association of Governments 260 North San Antonio Road, Suite B Santa Barbara, CA 93110	<u>SPONSOR</u> City of Lompoc c/o Craig Dierling PO Box 8001 Lompoc, CA 93438-8001
---	--

Either party may change its address by giving notice of such change to the other party in the manner provided in this Section 3.4. All notices and other communications shall be deemed communicated as of actual receipt or after the second business day after deposit in the United States mail.

- 3.5 Additional Acts and Documents. Each party agrees to do all such things and take all such actions, and to make, execute, and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent, and purpose of this Agreement.
- 3.6 Integration. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.
- 3.7 Amendment. This Agreement may not be changed, modified or rescinded except in writing and approved by both parties.
- 3.8 Non-Partnership. This Agreement is not intended by the parties to constitute or create a joint venture, pooling arrangement, or formal business organization of any kind. The rights and obligations of the parties shall be only those expressly set forth herein. Sponsor and Sponsor's subcontractors shall perform all services under this Agreement as independent parties and not as employees, officers, or agents of Authority.
- 3.9 Assignment. This Agreement may not be assigned, transferred, hypothecated, or pledged by any party without the express written consent of the other party.
- 3.10 Binding on Successors. This Agreement shall be binding upon the successor(s), assignee(s) or transferee(s) of Authority or as the case may be. This provision shall not be construed as an authorization to assign, transfer, hypothecate, or pledge this Agreement other than as provided above.
- 3.11 Severability. If any part of this Agreement is determined by a court to be unenforceable, invalid, or beyond the authority of either party to enter into, or carry out, then such determination shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.
- 3.12 Counterparts. This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed by all of the parties; each counterpart shall be deemed an original but all counterparts shall constitute a single document.
- 3.13 Survival. The following provisions in this Agreement shall survive discharge:
- 3.13.a Sponsor. As to Sponsor, the following sections shall survive discharge: Section 1.6 (obligation to apply funds to the Project), Section 1.7 (obligation to provide copies and retain records), Section 1.8 (obligation to continue to manage the Project).

- 3.13.b Authority. As to Authority, the following section shall survive discharge: Section 2.2 (right to conduct audit).
- 3.13.c Both Parties. As to both parties, the following section shall survive discharge: Section 3.3. (mutual indemnities).
- 3.14 Limitation. All obligations of Authority under the terms of this Agreement are expressly contingent upon the Authority's continued authorization to collect and expend the sales tax proceeds provided by Measure A. If for any reason Authority's right or ability to collect or expend such sales tax proceeds is terminated or suspended in whole or part so that it materially affects Authority's ability to fund the Project, then Authority shall promptly notify Sponsor, and the parties shall consult on a course of action. If, after twenty-five (25) working days, a course of action is not agreed upon by the parties, this Agreement shall be deemed terminated. Any future obligation to fund this project or any other project or projects of Sponsor, not already specifically covered by separate agreement, shall arise only upon execution of a new agreement.
- 3.15 Time. Time is, and shall be, of the essence of this Agreement and each and all of its provisions in which performance is a factor.
- 3.16 Remedies Cumulative. No remedy or election of remedies provided for in this Agreement shall be deemed exclusive, but shall be cumulative with all other remedies at law or in equity. Each remedy shall be construed to give the fullest effect allowed by law.
- 3.17 Applicable Law. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of California.
- 3.18 Captions. The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions of this Agreement and shall not affect the construction or interpretation of any of its provisions.
- 3.19 No Continuing Waiver. The waiver by any party of any breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same, or of any other provision of this Agreement.
- 3.20 No Rights in Third Parties. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any third party, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party to any party to this Agreement, nor shall any provision of this Agreement give any third party any right of subrogation or action over or against any party to this Agreement.
- 3.21 Signator's Warranty. Each party warrants to each other that he or she is fully authorized and competent to enter into this Agreement in the capacity indicated by his or her signature and agrees to be bound by this Agreement as of the day and year first mentioned above upon the execution of this Agreement by each other party.

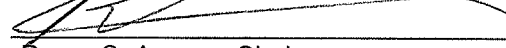


IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

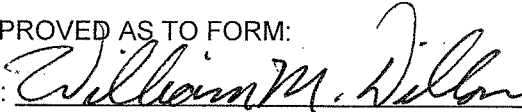
ATTEST:

By:   
James Kemp, Executive Director

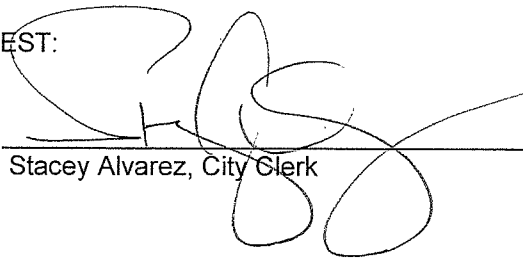
SBCAG, acting as the SANTA BARBARA COUNTY  
LOCAL TRANSPORTATION AUTHORITY:

By:   
Roger S. Aceves, Chairperson

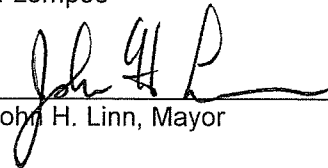
APPROVED AS TO FORM:

By:   
William M. Dillon  
Senior Deputy County Counsel

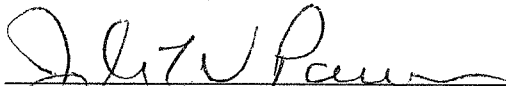
ATTEST:

By:   
Stacey Alvarez, City Clerk

City of Lompoc

By:   
John H. Linn, Mayor

APPROVED AS TO FORM:

By:   
Joseph W. Pannone  
City Attorney



## ATTACHMENT A

### PROJECT SCOPE, COST, SCHEDULE AND FUNDING PLAN



**Project Sponsor:** City of Lompoc

**Measure A Project ID #:** MSA-15-1

**Co-Sponsors:** None

**Project Implemented by:** City of Lompoc

**Project Name:** Sidewalk, Curb Ramps & Pedestrian Crossing Improvements at various locations near schools in Lompoc

**Project Scope:** This project will construct sidewalk and ADA compliant pedestrian curb ramps where they are currently missing along primary school routes for Fillmore Elementary, Clarence Ruth Elementary, and Lompoc High School. The project will also install flashing crosswalk beacons at the crosswalk for La Cañada Elementary School at North Ave and "L" Street.

**Project Location:** Various

**Project Contact:** Craig Dierling

**Project Payment:** Payment made from SBCAG to City of Lompoc upon approval of invoice and submittal to SBCAG.

**Funding Program:** North County

Project Phase	Description	Total Project Cost Estimate	Measure A Amount	Measure A %	Sponsor funding amount	Sponsor funding %	Project Schedule		Timely Use of Funds Deadline
							Start	Finish	
Ongoing Program	Sidewalk, Curb Ramps, and Pedestrian Crossing Improvements at various locations.	\$180,000	\$160,000	89%	\$20,000	11%	July 2014	November 2015	6/30/2017
Total		\$180,000	\$160,000		\$20,000				