


**VENTURA COUNCIL
OF GOVERNMENTS**

ITEM 6E.

MEMORANDUM

TO: Council Members and Alternates

FROM: Hugh Riley, Executive Director 

SUBJECT: A Resolution Authorizing the Execution of an Agreement (MOU) with SCAG for REAP 2.0 Grant for \$411,756

DATE: September 12, 2024

Recommendation:

Review Draft MOU with SCAG for \$411,756 REAP 2.0 Grant and adopt VCOG Resolution No. 2024-03 authorizing Chair to sign final MOU on behalf of VCOG.

Discussion:

In November 5, 2023, the Southern California Association of Governments (SCAG) approved VCOG's application for a Regional Early Action Program (REAP 2.0) Grant for \$419,127. VCOG Staff had commenced authorized preliminary work to develop VCOG's Application and REAP 2.0 Program in May 2023. This work continued after grant approval until January 25, 2024 when SCAG issued a Stop-Work Order due to probable state budget reductions. A total of \$7,271 was expended during this period. VCOG has submitted its Invoice to recover these funds.

On June 29, 2024 the governor approved the Budget Act of 2024, restoring funding to the Regional Early Action Planning Grants (REAP 2.0) Program. The approved state budget retains \$560 million for REAP 2.0, \$480 million of which is dedicated to the formula component for metropolitan planning organizations. This includes a restoration of the unexpended VCOG REAP 2.0 Grant for **\$411,756** which is being amended into the 2024-2025 Operating Budget.

In July 2024, SCAG issued a notice to REAP 2.0 Grant Recipients that the REAP 2.0 Program was restored and project activities could commence. SCAG is preparing a Memorandum of Understanding (MOU) with VCOG to govern the resumption of program activities. A Draft of the MOU is attached and will be completed by SCAG. The MOU will include among other provisions, the grant amount, Scope of Work, the program objectives, invoicing and reporting requirements, consultant procurement process provisions, and deadline for the program completion. The approved Project Scope Description, Approach and Deliverables Document is also attached but is subject to further refinement.

At this time, the deadline for completion of REAP 2.0 Projects remains November 2025. SCAG is currently seeking an extension. Resolution authorizing the VCOG Chair to execute the MOU is attached for adoption.

ATTACHMENTS: 1. VCOG Resolution No. 2024-03
2. Draft MOU
3. Project Scope Description, Approach and Deliverables

**VENTURA COUNCIL OF GOVERNMENTS RESOLUTION
NO. 2024-03**

**A RESOLUTION OF THE GOVERNING BODY OF
THE VENTURA COUNCIL OF GOVERNMENTS APPROVING THE EXECUTION OF
AN AGREEMENT (MOU) TO RECEIVE FUNDING FROM THE REGIONAL EARLY
ACTION PLANNING GRANT PROGRAM OF 2021**

WHEREAS, the Regional Early Action Planning Grant Program of 2021 ("REAP 2.0") program was established by the California state legislature as part of the 2021 California Comeback Plan under AB 140 to confront the statewide housing affordability crisis by building and expanding on the success of the REAP 2019 program by integrating housing and climate goals and allowing for broader planning and implementation investments to facilitate housing supply, choice, and affordability;

WHEREAS, REAP 2.0 funded activities must meet the program objectives, which are to accelerate infill development that facilitates housing supply, choice and affordability; affirmatively further fair housing; and reduce vehicle miles traveled. Further, all residential development must be in areas meeting the definition for "In Fill" provided in the REAP 2.0 state guidelines;

WHEREAS, the Southern California Association of Governments ("SCAG") issued a call for applications under the Projects to Accelerate Transitional Housing ("PATH") Program; and

WHEREAS, SCAG intends to award \$411,756 to VCOG to complete and deliver the VCOG REAP 2.0 Project.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Ventura Council of Governments as follows:

SECTION 1. VCOG hereby authorizes and directs such actions as are necessary and appropriate to accept the grant award of REAP 2.0 funds in the amount of \$411,756 from SCAG.

SECTION 2. That the VCOG Chair Director or his designee is hereby authorized and directed to:

1. Execute an agreement with SCAG and any amendments thereto;
2. Take all reasonably necessary and appropriate actions to complete the [name of project] project fulfill all obligations required, and seek reimbursement of grant funds awarded, pursuant to the above referenced call for applications and in a manner consistent and in compliance with the REAP 2.0 guidelines and objectives and PATH Program guidelines and all applicable state and federal statutes, rules, regulations, and laws.

PASSED, APPROVED AND ADOPTED by the Governing Body of VCOG at its regular meeting this 12th day of September 2024.

Mike Johnson, Chair

Approved as to Form:

Hugh Riley, Executive Director

MEMORANDUM OF UNDERSTANDING
No. M-0XX-25**BETWEEN THE**
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
AND [SUB-RECIPIENT NAME]
FOR REAP 2.0 SUBREGIONAL PARTNERSHIP 2.0 PROGRAM GRANT

(SCAG Project/OWP No. XXX-XXXX)

This Memorandum of Understanding ("MOU") is entered into by and between the **Southern California Association of Governments** ("SCAG") and **[Sub-Recipient Name]** ("Sub-Recipient"), for a Subregional Partnership ("SRP") 2.0 Program Grant. SCAG and Sub-Recipient may be individually referred to as "Party" and collectively as "Parties."

RECITALS

WHEREAS, the Regional Early Action Planning Grants Program of 2021 ("REAP 2.0") was established with a principal goal to make funding available to Metropolitan Planning Organizations ("MPO") and other regional entities for transformative planning and implementation activities that meet housing and equity goals, reduce Vehicle Miles Traveled per capita, and advance implementation of the region's Sustainable Communities Strategy or Alternative Planning Strategy, as applicable;

WHEREAS, the California Department of Housing and Community Development ("HCD") administers REAP 2.0 in accordance with Health and Safety Code sections 50515.06 to 50515.10 ("Statutes") and REAP 2.0 guidelines for MPO applicants released by HCD pursuant to the Statutes ("REAP 2.0 Guidelines");

WHEREAS, SCAG is the federally designated MPO for Southern California, primarily responsible for the development of a Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS" also known as "Connect SoCal") for the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, and Ventura;

WHEREAS, HCD awarded funds to SCAG under REAP 2.0;

WHEREAS, SCAG's Regional Council authorized funding for the SRP 2.0 Program and approved the guidelines for the SRP 2.0 Program ("Program Guidelines");

WHEREAS, SCAG released a Call for Applications for the SRP 2.0 Program;

WHEREAS, Sub-Recipient, eligible for funds under the SRP 2.0 Program, developed and submitted the following proposed projects for the SRP 2.0 Program (collectively "Projects");

[List Each Funded Project]

WHEREAS, SCAG reviewed the Sub-Recipient's Projects and determined the Projects to be consistent with the REAP 2.0 Guidelines and Program Guidelines, and approved the Projects to receive funding;

WHEREAS, before the execution of this MOU and anticipation thereof, the Parties entered into an MOU for Reimbursement of Initial Costs, wherein the Sub-Recipient submitted invoice(s) and was reimbursed for certain initial and allowable costs ("Allowable Costs") for the SRP 2.0 Program, attached as Exhibit "F."; and

WHEREAS, the purpose of this MOU is to describe the responsibilities of the Parties.

NOW THEREFORE, IT IS MUTUALLY AGREED THAT:

1. Recitals and Exhibits

The Recitals and all exhibits referred to in this MOU are incorporated herein by this reference and made a part of the provisions of this MOU.

2. Term

The Term of this MOU shall begin on the Effective Date and continue until [Expiration Date (date can be no later than November 30, 2025)], ("Completion Date"), unless terminated earlier as provided herein. Time is of the essence in the performance of services under this MOU.

3. Scope of Work and Sub-Recipient's Responsibilities

- a. Sub-Recipient shall be responsible for implementing the Projects in accordance with the "Scopes of Work" attached as: [NOTE: for each individual project include a separate Scope of Work that includes the Project Description and Final Deliverables]

Exhibit A-1 - [Project Name]

Exhibit A-2 - [Project Name]

- b. Interim deliverables and tasks for each project, including sub-allocated budgets and schedules, required to implement the Scopes of Work shall be documented using the Scope of Work Approval Form, attached as Exhibit B ("SOW Approval Form"). The SOW Approval Form(s) must be signed by SCAG Project Manager, SCAG Department Manager, SCAG Deputy Director or their designee and Sub-Recipient prior to the performance of the work outlined in the SOW Approval Form(s). The SOW Approval Form(s) may be signed by way of a manual or authorized digital signature, or a signature stamp. The SOW Approval Form(s) may be used to document interim deliverables and interim deliverable budgets and schedules but may not be used to modify the deliverables and budget noted in this MOU. The SOW Approval Form(s) may be amended subject to approval by SCAG. No amendment to the SOW Approval Form(s) shall be valid unless made in writing and signed by the Parties. If there is a conflict between the SOW Approval Form(s) and this MOU, this MOU shall prevail.
- c. Sub-Recipient must demonstrate a clear and significant nexus to all the REAP 2.0 Goals and Objectives including the definition of infill contained therein as described in Section 9 of this MOU, and must carry out the Projects to meet the REAP 2.0 Goals and Objectives. Any lack of

action or action inconsistent with REAP 2.0 Goals and Objectives may result in review and could be subject to modification of funding, termination of this MOU, and repayment of the Grant Funds.

- d. In compliance with Section 3.e., Sub-Recipient shall procure and manage one or more Consultants to ensure the Scopes of Work, as outlined in the most current fully executed SOW Approval Form(s), are fully performed and the Projects are completed in compliance with this MOU and all applicable laws and regulations.
- e. As a recipient of federal and state funds, SCAG has the responsibility for ensuring that its procurement process complies with all applicable federal, state and funding requirements. For all agreements entered into containing funds provided under this MOU or to perform work under this MOU, Sub-Recipient shall procure in compliance with all applicable federal, state, and local laws and regulations. All REAP 2.0 funded procurements must be conducted using a fair and competitive procurement process and sole source procurements are expressly prohibited. [Add if Monitored Procurement based on Risk Assessment:] Sub-Recipient is required pursuant to this MOU to procure all Services in the Scope of Work and SOW Approval Form(s) on a “monitored” basis, subject to provisions outlined in the “Monitored Sub-Recipient Requirements,” attached as Exhibit E.
- f. The term “Consultant(s)” shall hereinafter refer to all entities that Sub-Recipient procures, manages, or otherwise enters into contracts or agreements with, in furtherance of the Projects or this MOU regardless of the timing, nature of service/work provided or type of organization, including but not limited to government entities, political subdivisions, subrecipients, consultants, contractors, service providers, suppliers, independent contractors, professionals, managers, architects, engineers, and subcontractors.
- g. Upon request, Sub-Recipient shall provide information to the SCAG Project Manager regarding any existing solicitation including but not limited to Requests for Proposals, Invitation for Bids, Request for Qualifications, and Requests for Quotation (collectively “RFP”). For new RFPs developed or finalized after the Effective Date of this MOU, Sub-Recipient shall provide information to the SCAG Project Manager and obtain SCAG Project Manager’s written approval on any final RFP prior to its issuance. SCAG may require documentation of RFPs and Notices to Proceed before approval of invoice reimbursement.
- h. When requested, Sub-Recipient shall provide other related documentation of compliance, as determined by SCAG, with applicable procurement requirements and terms and conditions of this MOU within ten (10) days of the request.
- i. Sub-Recipient shall be responsible for conducting a complete detailed review: of Consultant(s)’ invoices prior to payment. The review shall include, but not be limited to, ensuring: (1) the work included in the invoice is correctly invoiced and supported; (2) hours worked equal hours invoiced; (3) charged rates are equal to the contracted rates; (4) materials and services were received; and (5) that the work performed is consistent with the Scopes of Work. Upon review, Sub-Recipient shall pay Consultant(s)’ invoices prior to submitting invoices to SCAG for reimbursement.
- j. Sub-Recipient shall be accountable to SCAG and HCD to ensure Consultant(s)’ performance. Sub-Recipient’s Project Manager shall be responsible for final approval of Consultant(s)’ deliverables

consistent with the Scopes of Work, as outlined in the most current fully executed SOW Approval Form(s); provided, however, that prior to approving a deliverable from the Consultant(s), Sub-Recipient's Project Manager shall consult with SCAG's Project Manager.

- k. Any and all notices, reports, or other communications required by this MOU, including but not limited to invoices, accounting reports, supporting documentation, and monitoring reports, shall be submitted under the penalty of perjury.
- l. Sub-Recipient shall be responsible for ensuring compliance with all applicable California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements, and, as applicable, shall serve as the implementing agency for environmental approval(s).
- m. In the performance of this MOU, Sub-Recipient and SCAG shall treat the Allowable Costs as included in, and not in excess of, the total amount of funds awarded to Sub-Recipient for the SRP 2.0 Program. All terms and conditions of this MOU apply to the Allowable Costs and the expenses incurred and services performed for the Initial Costs. In the event of any conflict between the terms and conditions of this MOU and the MOU for Reimbursement of Initial Costs, SCAG shall have sole discretion to make decisions and take action.

4. Project Management

- a. All work under this MOU shall be coordinated with SCAG and Sub-Recipient through the Project Managers.
- b. For purposes of this MOU, SCAG designates the following individual(s) as its Project Manager:

[Name]
[Title]
[Number]
[Email]

SCAG reserves the right to change this designation.

- c. For purposes of this MOU, Sub-Recipient designates the following individual(s) as its Project Manager:

[Name]
[Title]
[Number]
[Email]

Sub-Recipient reserves the right to change this designation upon written notice to SCAG.

5. Funding

- a. SCAG's contribution to the Projects is funded wholly with REAP 2.0 funds, in an amount not to exceed \$xxx ("Grant Funds"). The individual Projects shall be funded as follows ("Project Funds"): [NOTE: for each individual project list the project name and project budget]

[Project Name] – [Project Budget]

[Project Name] – [Project Budget]

Pursuant to the MOU for Reimbursement of Initial Costs, the Allowable Costs shall be included in, and not in excess of, the total amount of Grant Funds and Project Funds.

- b. SCAG shall not be obligated to make payments for any costs that exceed the Project Funds for that Project or the Grant Funds for the Projects. SCAG shall not be obligated to pay for any increase in costs which exceeds the budgets included in this MOU and the most current fully executed SOW Approval Form(s), the Project Funds for that Project, or the Grant Funds for the Projects. SCAG shall not be obligated to make payments from any source other than funds provided by HCD to SCAG pursuant to REAP 2.0. In the event HCD terminates its agreement to provide funds or reduces the funds provided, SCAG shall have the right to terminate this MOU, in accordance with Section 17, or to amend this MOU to reflect the changes in funding.
- c. SCAG shall make payments to Sub-Recipient only for work performed as part of the Scopes of Work, as outlined in the most current fully executed SOW Approval Form(s), and consistent with REAP 2.0 Goals and Objectives, REAP 2.0 Guidelines, and Program Guidelines.
- d. SCAG reserves the right, in its sole discretion, to discontinue funding any one or more of the Projects and/or terminate this MOU as described in Section 17.
- e. Any costs for which Sub-Recipient receives reimbursement or credit that is determined by a subsequent audit or other review by either SCAG, HCD, other State authorities or federal cognizant agency to be ineligible or otherwise unallowable, are to be repaid by Sub-Recipient within thirty (30) calendar days of Sub-Recipient receiving notice or a written demand for reimbursement from SCAG. Such repayment may include interest, penalties or related fees, as determined by HCD or other State authorities. Should Sub-Recipient fail to reimburse unallowable costs due to SCAG within thirty (30) calendar days of demand, or within such other period as may be agreed between both parties hereto, SCAG is authorized to withhold and/or off-set future payments to Sub-Recipient.

6. Invoices

- a. This MOU is a Cost Reimbursement agreement. Amounts claimed must reflect the actual incurred and paid cost of completed work. The actual incurred and paid costs may not exceed each Projects' budgets set forth in this MOU and the most current fully executed SOW Approval Form(s). All invoices submitted to SCAG for payment shall be e-mailed to accountspayable@scag.ca.gov and copy the SCAG Project Manager (file cannot exceed 10MB). All invoices submitted to SCAG for the Projects shall reference the OWP Project Number (OWP No. XXX-XXXX). A separate invoice must be submitted for each individual Project.

- b. By the twenty-first day following the start of a new month (i.e., January 21, February 21, March 21), Sub-Recipient shall submit an invoice for each Project to SCAG using the "Invoice Report" attached as Exhibit C. The Invoice Report must be submitted in both PDF format and the Excel file provided by SCAG. The Invoice Report contains a progress report portion which serves to confirm that the services have been performed and can be paid. All invoiced costs must be substantiated, by providing documented support for the expense incurred, such as copies of payroll reports, paid invoices, and proof of payment. The invoice progress report shall serve as the formal progress report for the Project and shall be signed by the Sub-Recipient. The progress report shall include, in narrative form, a description of services performed by Sub-Recipient's staff and Consultant(s) as well as progress toward completion of tasks related to the Projects for the invoiced period and progress achieved toward the REAP 2.0 Goals and Objectives. SCAG shall review the Invoice Report for compliance with this MOU. If SCAG determines that the Invoice Report is compliant with this MOU, SCAG shall approve the Invoice Report and issue payment to the Sub-Recipient. If SCAG determines that the Invoice Report is not compliant with this MOU or the most current fully executed SOW Approval Form, SCAG may withhold and/or off-set future payment(s) to the Sub-Recipient.
- c. Incomplete or inaccurate invoices may be returned to Sub-Recipient for correction without payment until corrected and approved. SCAG may, at its discretion, disallow any unsupported costs and process the invoice. If Sub-Recipient corrects the error, the disallowed items can be included in the next set of invoices.
- d. Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Human Resources for similar employees (i.e. non-represented employees) unless written verification is supplied that government hotel rates were not then commercially available to Sub-Recipient, and its Consultant(s) at the time and location required as specified in the California Department of Transportation's Travel Guide Exception Process, which can be found at the following link: http://www.dot.ca.gov/hq/asc/travel/ap_b/bul.htm. Also, a summary of travel reimbursement rules is accessible through the aforementioned link.
- e. The Parties acknowledge that SCAG's fiscal year is from July 1 to June 30. Sub-Recipient agrees to submit all invoices to SCAG for services rendered through June 30th, no later than July 21st during the Term of this MOU. SCAG shall not be obligated to pay Sub-Recipient for any invoice received after such date.
- f. Sub-Recipient shall submit its final invoice to SCAG within thirty (30) days of the completion of each individual Project, but no later than within thirty (30) days after all Grant Funds have been expended, whichever is first. SCAG shall not be obligated to pay-Sub Recipient for any invoice received after such date.
- g. Sub-Recipient will require that its Consultant(s) pay any contractors and subcontractors for satisfactorily completed work no later than ten (10) days of receipt of each payment from Sub-Recipient. The ten (10) calendar days period is applicable unless a shorter period is required by applicable law.

7. Reporting

- a. At any time during the term of this MOU, SCAG may request additional information, as needed, to demonstrate satisfaction of all requirements identified in the MOU and the most current fully executed SOW Approval Form.
- b. By February 10 of each year following receipt of funding pursuant to this MOU, Sub-Recipient shall submit an Annual Report using the "Report Template," attached as Exhibit D. Sub-Recipient shall submit a separate Annual Report for each Project. The Annual Report shall include, in narrative form, a description of services performed by Sub-Recipient's staff and Consultant(s) as well as progress toward completion of tasks related to each Project for the prior year, a reporting of all costs incurred for that period, and progress achieved toward the REAP 2.0 Goals and Objectives.
- c. When a Project is finalized, and no later than the Completion Date, Sub-Recipient shall submit a Close-Out Report for the Project. At the time of the execution of this MOU, HCD has not provided the requirements for the Close-Out Report due to HCD by all grantees at the conclusion of the grant performance period. Therefore, the Close-Out Report format required by SCAG of Sub-Recipient is not available at this time, but will be provided when it becomes available.
- d. All reports submitted to SCAG shall reference the OWP Project Number (OWP No. XXX-XXXX).

8. Accounting

- a. Sub-Recipient 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 as interim points of completion, and provide support for payment vouchers and invoices.
- b. Sub-Recipient shall establish a separate ledger account for receipts and expenditures of Project Funds and Grant Funds and maintain expenditure details in accordance with the Scopes of Work, as outlined in the most current fully executed SOW Approval Form(s), for each Project.
- c. Sub-Recipient shall maintain documentation of its normal procurement policy and competitive procurement bid process and completed procurements and financial records of expenditures incurred during the course of the Projects in accordance with GAAP.

9. Allowable Uses of Grant Funds

- a. Project Funds and Grant Funds shall be expended in compliance with the REAP 2.0 Goals and Objectives, and as required meets the definition for "Infill," as provided in the State REAP 2.0 Guidelines.
 - i. REAP 2.0 Goals ("Goals") are to invest in housing, planning, and infill housing-supportive infrastructure across the entire state in a manner that reduces Vehicle Miles Traveled ("VMT"), increases housing affordability, and advances equity. More detailed information on the Goals

can be found in Section 201 of the [REAP 2.0 Notice of Funding Availability \(“NOFA”\) and Final Guidelines for MPO Applicants](#) and are made a part of the provisions of this MOU as if set forth in full.

- ii. REAP 2.0 Objectives (“Objectives”) include: (1) accelerating infill development that facilitates housing supply, choice, and affordability; (2) Affirmatively Furthering Fair Housing; (3) reducing vehicle miles traveled. More detailed information on the Objectives can be found in Section 202 of the [REAP 2.0 NOFA and Final Guidelines for MPO Applicants](#) and are made a part of the provisions of this MOU as if set forth in full.
- b. Project Funds and Grant Funds shall only be used by Sub-Recipient for activities approved by SCAG and included in the Scopes of Work, as outlined in the most current fully executed SOW Approval Form(s).
- c. Project Funds and Grant Funds may not be used for administrative costs of persons employed by Sub-Recipient for activities not directly related to eligible activities.
- d. Sub-Recipient shall use no more than X percent (X%) of the Project Funds for administrative costs related to a Project, or a maximum of XXX (\$XXX), whichever is lower. For purposes of this MOU, administrative costs are the costs incurred in direct support of grant administration that are not included in the organization’s indirect cost pool. Additional funds may be used from other sources solely contributed by Sub-Recipient to support Sub-Recipient’s administration of the Projects.
 - i. To be eligible for administrative costs, Sub-Recipient must have clearly indicated if funds would be used towards administrative costs on or before the date the initial SOW Approval Form is fully executed by both parties or within 30 days after the execution of this MOU, whichever is first.
 - ii. If Sub-Recipient is seeking reimbursement for indirect costs and/or fringe benefits costs, they must annually submit an Indirect Cost Allocation Plan (“ICAP”) or an Indirect Cost Rate Proposal (“ICRP”) to its cognizant agency for indirect costs and/or fringe benefits costs in accordance with Title 2 Code of Federal Regulations Part 200 (2 CFR 200) Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards. The cognizant agency for indirect costs and/or fringe benefits costs means the federal agency responsible for reviewing, negotiating, and approving ICAPs or ICRPs. Sub-Recipient must provide their approved indirect cost rate and/or fringe benefit rate and provide a copy to SCAG Project Manager of the approved negotiated indirect cost rate agreement (“NICRA”) for the current fiscal year and subsequent years throughout the performance period.
 - iii. If Sub-Recipient is seeking reimbursement for fringe benefits costs with absence of the approved NICRA and proposes to use a rate to allocate the fringe benefits costs on the basis of entity-wide salaries and wages of the employees receiving the benefits, they must annually prepare the fringe benefits cost allocation plan in accordance with 2 CFR 200 Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards and provide a letter from the Sub-Recipient’s independent auditor confirming the compliance for the current fiscal year and subsequent years throughout the performance period.

- iv. If Sub-Recipient elects a de minimis indirect cost rate as defined in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards, they must annually complete a certification form provided by SCAG Project Manager to confirm the eligibility and compliance with 2 CFR 200 Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards and submit the signed form to SCAG Project Manager for the current fiscal year and subsequent years throughout the performance period. The de minimis rate is to be applied to modified total direct costs (MTDC) as defined by 2 CFR Part 200.1.
- e. There must be a strong implementation component for the funded activity through REAP 2.0, including, where appropriate, agreement by Sub-Recipient to submit the completed planning document to the applicable board, council, or other entity for adoption or approval. If Sub-Recipient does not formally request adoption or approval of the funded activity, it may be subject to repayment of the Grant Funds.

10. Work Products

- a. For purposes of this MOU, "Work Products" shall mean all deliverables created or produced under this MOU including, but not limited to, all deliverables conceived or made either solely or jointly with others during the term of this MOU and during a period of six months after the termination thereof, which relates to the Projects. Work Products shall not include real property or capital improvements. Work Products includes all deliverables, inventions, innovations, improvements, or other works of authorship Sub-Recipient or Consultant(s) may conceive of or develop in the course of this MOU, whether or not they are eligible for patent, copyright, trademark, trade secret or other legal protection.
- b. Sub-Recipient shall submit one (1) electronic copy of all Work Products associated with the Projects to the assigned SCAG Project Manager.
- c. SCAG shall own all Work Products and may, at its sole discretion, grant to Sub-Recipient a perpetual royalty-free, non-assignable, non-exclusive and irrevocable license to reproduce, publish or otherwise use Work Products related to the Projects and developed as part of this MOU; provided, however, that any reproduction, publishing, or reuse of the Work Products will be at Sub-Recipient's sole risk and without liability or legal exposure to SCAG.

11. Amendments

No amendment or variation of the terms of this MOU shall be valid unless made in writing and signed by the Parties. If an amendment is to become effective before the date of full execution by the Parties, the effective date of such amendment shall be no earlier than the date that SCAG received the request.

12. Notices

Any notice or notices required or permitted to be given pursuant to this MOU may be personally served on the other Party by the Party giving such notice, or may be served by certified mail, return receipt requested, to the following addresses:

To SCAG: Cindy Giraldo
Chief Financial Officer
Southern California Association of Governments
900 Wilshire Blvd., Suite 1700
Los Angeles, CA 90017
(213) 630-1413
giraldo@scag.ca.gov

SCAG reserves the right to change this designation.

To Sub-Recipient: Name
Title
Agency
Address
Phone
Email

13. Insurance

- a. Sub-Recipient, at their own expense, shall procure and maintain policies of insurance, or provide evidence of self-insurance, of the types and amounts below, for the duration of the MOU. The policies shall state they afford primary coverage.

Insurance Type	Requirements	Limits
General Liability	Commercial General Liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01.	Not less than \$2,000,000 per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.
Automobile Liability	Automobile insurance at least as broad as Insurance Services Office form CA 00 01.	Covering bodily injury and property damage for all activities of the Sub-Recipient arising out of or in connection with work to be performed under this MOU, including coverage for any owned, hired, non-owned, or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.
Workers' Compensation/ Employer's Liability	Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Not required for sole proprietors or Sub-Recipients with no employees.	Including Occupational Diseases in accordance with California Law and Employers' Liability Insurance with a limit of not less than \$1,000,000 each accident.

Professional Liability Insurance	Professional Liability (Errors and Omissions) insurance appropriate to the Sub-Recipient's profession.	With limits of not less than \$1,000,000 per occurrence. In addition, it shall be required that the professional liability insurance policy remain in effect for three (3) years after the Completion Date of this MOU.
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- b. Higher Limits: no representation is made that the minimum insurance requirements of this agreement are sufficient to cover the indemnity or other obligations of the sub-recipient under this agreement.
- c. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - i. SCAG, its officials, employees, and volunteers are to be covered as additional insureds, as respects to liability arising out of the activities performed by or on behalf of Sub-Recipient; products and completed operations of Sub-Recipient; premises owned, occupied or used by Sub-Recipient; or automobiles owned leased, hired or borrowed by Sub-Recipient. The coverage shall contain no special limitations on the scope of protection afforded to SCAG, its officials and employees.
 - ii. For any claims related to this Project, Sub-Recipient's insurance coverage shall be primary insurance as respects SCAG, its officials and employees. Any insurance or self-insurance maintained by SCAG shall be excess of Sub-Recipient's insurance and shall not contribute with it.
 - iii. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to SCAG, its officials and employees.
 - iv. Sub-Recipient's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. The Workers' Compensation and Employer's Liability policies shall include a waiver of subrogation endorsement in favor of SCAG, its, officials, employees, and volunteers.
- e. Any deductibles or self-insured retentions in amounts over \$10,000 must be declared to and approved by SCAG.
- f. Insurance is to be placed with California admitted insurers with a current A.M. Best's rating of no less than A and be admitted, unless otherwise approved by SCAG.
- g. Sub-Recipient shall furnish SCAG with original endorsements and certificates of insurance evidencing coverage required by this clause. All documents are to be signed by a person authorized by that insurer to bind coverage on its behalf. All documents are to be received and approved by SCAG before work commences. Upon request of SCAG at any time, Sub-Recipient shall provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

- h. Sub-Recipient agrees to ensure that its Consultant(s) provide the same minimum insurance coverage and endorsements required of Sub-recipient. Sub-Recipient agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section. However, in the event Sub-Recipient's Consultant(s) cannot comply with this requirement, which proof must be submitted to SCAG, Sub-Recipient shall be required to ensure that its Consultant(s) provide and maintain insurance coverage and endorsements sufficient to the specific risk of exposure involved with Consultant(s) scope of work and services, with limits less than required of the Sub-Recipient, but in all other terms consistent with the Sub-Recipient's requirements under this MOU. This provision does not relieve Sub-Recipient of its contractual obligations under the MOU and/or limit its liability to the amount of insurance coverage provided by its Consultant(s). This provision is intended solely to provide Sub-Recipient with the ability to utilize Consultant(s) who may be otherwise qualified to perform the work or services but may not carry the same insurance limits as required of Sub-Recipient under this MOU given the limited scope of work or services provided by the Consultant(s). Sub-Recipient agrees that upon request, all agreements with Consultant(s) will be submitted to SCAG for review.

14. Indemnification

Sub-Recipient shall fully defend, indemnify and hold harmless SCAG, its members, officers, employees, and agents from any and all claims, losses, liabilities, damages, expenses, suits or actions including attorneys' fees, brought forth or arising under any theories or assertions of liability, occurring by or resulting from or otherwise related to the Projects or this MOU. Such obligations shall not, however, extend to any claims, losses, liabilities, damages, expenses, suits or actions that arise from SCAG's gross negligence or willful misconduct.

15. Disputes

Except as otherwise provided in this MOU, any dispute arising under this MOU which is not resolved by mutual agreement shall be decided through binding arbitration by a three (3) member panel in accordance with the rules of the American Arbitration Association and as provided in this provision. If this provision differs from the rules of the American Arbitration Association, then this provision shall control. Sub-Recipient shall continue with the responsibilities under this MOU during any dispute until the dispute is resolved. A judgment upon the award rendered by arbitration may be entered into any court having jurisdiction thereof. The arbitration panel shall have the authority to grant any remedy or relief that would have been available to the Parties had the matter been heard in a court of law. Following arbitration, the arbitration panel shall prepare a written decision containing the essential findings and conclusions on which the award is based so as to ensure meaningful judicial review of the decision. All expenses and fees for the arbitrator and expenses for hearing facilities and other expenses of arbitration shall be borne equally by both Parties unless they agree otherwise or unless the arbitrator in the award assesses such expenses against one of the parties or allocates such expenses other than equally between the Parties. Either Party may bring an action in court to compel arbitration under this MOU and to enforce an arbitration award.

16. Noncompliance

- a. In the event of nonperformance or noncompliance with any requirement of this MOU, including but not limited to project eligibility, schedule, deliverables, or milestone timelines, as outlined in the most current fully executed SOW Approval Form(s), SCAG may:
 - i. Issue a written notice to stop work. If such notice is provided, Sub-Recipient and its Consultant(s) shall immediately cease all work under the MOU. SCAG has the sole discretion to determine that Sub-Recipient is in compliance with the terms and conditions after a stop work order, and to deliver a written notice to Sub-Recipient to resume work under this MOU.
 - ii. Require repayment of the Project Funds or the Grant Funds.
 - iii. Terminate this MOU pursuant to Section 17.
- b. Notwithstanding the provisions set forth above, or any other provision contained in this MOU, no remedy conferred by any of the specific provisions of this MOU or the SOW Approval Form(s), is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy existing at law or in equity or by statute or otherwise.

17. Termination of MOU

- a. Termination for Cancellation or Reduction in REAP 2.0 Funding. In the event HCD terminates or cancels funding to SCAG, this MOU is deemed to be terminated and SCAG shall be relieved of any and all obligations under this MOU as of the effective date of HCD's termination. In the event HCD reduces funding to SCAG, SCAG shall have the unilateral right to stop work, proportionally reduce funding to Sub-Recipient or terminate this MOU.
- b. Termination for Convenience. Either Party may terminate this MOU at any time by giving written notice to the other party of such termination at least thirty (30) calendar days before the effective date of such termination. Should SCAG terminate the MOU for convenience, upon receipt of the notice of termination, Sub-Recipient shall immediately take action to avoid incurring any additional obligation costs or expenses except as may be necessary to terminate its activities or the activities of its Consultant(s). SCAG shall pay Sub-Recipient its reasonable and allowable costs through the effective date of termination and is not liable for any expenses after termination, including any costs associated with Consultant(s). In such event, all finished or unfinished Work Products shall be provided to SCAG.
- c. Termination for Cause. If through any cause, either Party shall fail to timely and adequately fulfill its obligations under this MOU, or if either Party violates any of the covenants, terms, or stipulations of this MOU, the non-breaching Party shall thereupon have the right to terminate the MOU by giving not less than ten (10) calendar days written notice to the breaching Party of the intent to terminate and specifying the effective date thereof. The non-breaching Party shall provide a reasonable opportunity for the breaching Party to cure prior to termination. In no event shall such opportunity to cure extend beyond the term of the MOU. In the event that SCAG invokes this termination for cause provision, Sub-Recipient shall reimburse SCAG for all funds provided for the Projects and all finished or unfinished Work Products shall be provided to SCAG at its option.

18. Records Retention

- a. Sub-Recipient and its Consultant(s) shall maintain and make available, in accordance with Section 19 of this MOU, all source documents, books and records connected with the Projects, documentation of its normal procurement policy and competitive procurement bid process and completed procurements related to the Projects, all work performed under this MOU, all evidence of environmental clearance, and evidence demonstrating the funding was used for the appropriate purposes for a minimum of five (5) years after all Grant Funds have been expended. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.
- b. 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 shall be retained and made available by Sub-Recipient and its Consultant(s) for five (5) years after: (a) the conclusion or resolution of the matter; (b) the date an audit resolution is achieved for each annual SCAG OWP; or (c) all Grant Funds have been expended, whichever is later.

19. Monitoring and Audits

- a. SCAG may monitor expenditures and activities of Sub-Recipient and its Consultant(s) as SCAG deems necessary to ensure compliance with the MOU, the Statutes, the REAP 2.0 Guidelines and the Program Guidelines.
- b. At any time during the term of this MOU, SCAG, HCD, the California Department of General Services, the California Bureau of State Audits, or their designated representatives may perform or cause to be performed a financial audit of any and all phases of the Projects. At their request, Sub-Recipient shall provide, at its own expense, a financial audit prepared by an independent certified public accountant.
- c. Sub-Recipient agrees that SCAG, HCD, the California Department of General Services, the California Bureau of State Audits, or their designated representatives shall have the right to review, obtain, and copy all records and supporting documentation related to the performance of this MOU. Sub-Recipient agrees to provide any relevant information requested. Copies shall be made and furnished to SCAG upon request at no cost to SCAG.
- d. Sub-Recipient agrees to permit SCAG, HCD, the California Department of General Services, the California Bureau of State Audits, or their designated representatives access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees who might reasonably have information related to such records and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this MOU, the Statutes, the REAP 2.0 Guidelines, or applicable state and federal laws, rules, and regulations.
- e. If there are audit findings from SCAG or HCD's audit, Sub-Recipient must submit a detailed response acceptable to SCAG or HCD for each audit finding within ninety (90) days of the audit finding report.

20. Small Business and Disabled Veteran Business Enterprise Participation

- a. If for this MOU Sub-Recipient made a commitment to achieve small business participation, then Sub-Recipient must within 60 days of receiving final payment under this MOU (or within such other time period as may be specified elsewhere in this MOU) report to SCAG the actual percentage of small business participation that was achieved. (Gov. Code § 14841.)
- b. If for this MOU Sub-Recipient made a commitment to achieve disabled veteran business enterprise (“DVBE”) participation, then Sub-Recipient must within 60 days of receiving final payment under this MOU (or within such other time period as may be specified elsewhere in this MOU) certify in a report to SCAG: (1) the total amount the Sub-Recipient received under the MOU; (2) the name and address of the DVBE(s) that participated in the performance of the MOU; (3) the amount each DVBE received from the Sub-Recipient; (4) that all payments under the MOU have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (M&V Code § 999.5(d); Gov. Code § 14841.)

21. Compliance with Laws, Rules, and Regulations

- a. Sub-Recipient agrees to comply with all federal, state and local laws, rules and regulations applicable to this MOU.
- b. Non-Discrimination/Equal Employment Opportunity
 - i. During the performance of this MOU, Sub-Recipient assures that no person shall be denied the MOU’s benefits, be excluded from participation or employment, be denied Project benefits, or be subjected to discrimination based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, under the Projects or any program or activity funded by this MOU, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 U.S.C. §§ 3601-20) and all implementing regulations, the Americans with Disabilities Act (“ADA”) of 1990 (42 U.S.C. §§ 12101 *et seq.*) and all applicable regulations and guidelines issued pursuant to the ADA, and the Age Discrimination Act of 1975 and all implementing regulations. Sub-Recipient shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.
 - ii. Sub-Recipient shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12900 *et seq.*), the regulations promulgated thereunder (Cal. Code Regs. tit. 2, § 11000 *et seq.*), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135-11139.5), and the regulations or standards adopted by HCD to implement such article.
 - iii. Sub-Recipient shall permit access by representatives of the Department of Fair Employment and Housing, SCAG, and HCD upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours’ notice, to such of its books, records, accounts, and

all other sources of information and its facilities as the Department of Fair Employment and Housing, SCAG, or HCD shall require to ascertain compliance with this Section.

- iv. Sub-Recipient shall give written notice of its obligations under this Section to labor organizations with which they have a collective bargaining or other agreement.
- v. Sub-Recipient shall adopt and implement affirmative processes and procedures that provide information, outreach and promotion of opportunities in the Projects to encourage participation of all persons regardless of race, color, national origin, sex, religion, familial status, or disability. This includes, but is not limited to, a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, as required by 24 C.F.R. § 92.351.
- c. Recycling Certification. Sub-Recipient shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to SCAG regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code § 12205).
- d. Anti-Trust Claims. Sub-Recipient, by signing this MOU, hereby certifies that if these services or goods are obtained by means of a competitive bid, the Sub-Recipient shall comply with Title 1, Division 5, Chapter 11 of the California Government Code (Gov. Code §§ 4550-4554).
- e. Child Support Compliance Act. If the Grant Funds provided under this MOU are in excess of \$100,000, Sub-Recipient acknowledges in accordance with Public Contract Code 7110, that:
 - i. Sub-Recipient recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
 - ii. Sub-Recipient, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- f. Priority Hiring Considerations. If this MOU includes services in excess of \$200,000, the Sub-Recipient shall give priority consideration in filling vacancies in positions funded by the MOU to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
- g. Loss Leader. If this MOU involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC § 10344(e).)

22. Public Works and Construction

Without limiting the generality of Section 21.a., Sub-Recipient agrees to ensure compliance with all applicable legal authority regarding construction standards and requirements, including but not limited to the following:

a. Labor Code Requirements

- i. Sub-Recipient is hereby put on notice that the one or more of the Projects under the MOU may qualify as a public works project and Sub-Recipient will therefore be required to determine whether the Project falls under a classification that would require payment of prevailing wages. Services constituting public works are described in California Labor Code Sections 1720-1861, as may be amended or recodified by legislative action from time-to-time.
 - ii. If a Project qualifies as a public works project, Sub-Recipient shall be the Awarding Body for the public works project and required to comply with all requirements applicable to the Awarding Body.
 - iii. If Sub-Recipient or its Consultant(s) will perform services that require payment of prevailing wages, they are required to register with the California Department of Industrial Relations (DIR) in order to be compliant with the law. Neither Sub-Recipient nor its Consultant(s) may work on a public works project without a current and active DIR registration.
 - iv. In the event that Sub-Recipient or its Consultant(s) engages in the performance of a public work under this MOU as defined by Labor Code Section 1770 *et seq.*, Sub-Recipient and its Consultant(s) shall be required to cause such employees who are entitled to prevailing wages, to be paid the required wage amounts pursuant to applicable state law. Sub-Recipient and its Consultant(s) shall ensure compliance with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
 - v. Sub-Recipient further acknowledges that any work that qualifies as a public work within the meaning of California Labor Code Section 1720 shall require Sub-Recipient and its Consultant(s) to comply with the provisions of California Labor Code Sections 1775 *et seq.* Sub-Recipient agrees to ensure compliance with Labor Code Section 1776 regarding retention and inspection of payroll records and noncompliance penalties, Labor Code Section 1777.5 regarding employment of registered apprentices, and Labor Code Section 1813 regarding forfeiture for violations of the maximum hours per day and per week provisions contained in the same chapter.
- b. Sub-Recipient shall comply with all applicable federal, state, and local procurement requirements for public works and construction projects and shall advertise, open bids, award, and approve all construction contracts in accordance with the California Public Contract Code and the California Labor Code.
- c. All construction contracts for the Projects shall be administered and managed by Sub-Recipient. Sub-Recipient shall prepare or have prepared a detailed schedule of performance for the Projects, ensuring that all construction is completed within the timeline allowed by the MOU. Sub-Recipient

shall be responsible for requiring the construction contractor to furnish any applicable labor and material bonds and payments and performance bonds naming the Sub-Recipient as obligee, and SCAG as additional obligee, or an insurance policy in lieu of such bonds.

- d. Sub-Recipient agrees to procure any and all permits, licenses and approvals necessary to complete the Projects, including those necessary to perform design, construction, operation and maintenance, and to comply with all California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements applicable to the Projects. Sub-Recipient shall pay all charges and fees and give all notices necessary or incidental to the Projects.
- e. Sub-Recipient shall prepare, or have prepared, all plans, specifications and estimates for the Projects and ensure that the Projects comply with all applicable federal and state accessibility requirements, including but not limited to the Americans with Disabilities Act, including its implementing regulations at 24 CFR Part 8 and any amendments, and California Government Code Section 4450, and applicable requirements and guidance provided in Title 24 of the California Code of Regulations, for the construction of buildings, structures, sidewalks, curbs and related facilities for accessibility and usability.
- f. Sub-Recipient shall conduct all necessary due diligence for the Projects, including but not limited to performing necessary environmental assessments/review of environmental hazard reports, conducting engineer/geotechnical review, commissioning title reports to identify and evaluate the condition of title and encumbrances on the subject property, including but not limited to any covenants, conditions and restrictions, determining the entity(ies) with site control, including whether any third parties have ownership or site control rights, and determining the suitability for the Projects.
- g. Sub-Recipient shall ensure any contractors or subcontractors are paid in accordance with applicable laws and regulations.
- h. Sub-Recipient shall comply with the procedure set forth in Public Contracts Code Section 9204 for processing contractor claims, paying undisputed amounts, and requiring mediation of disputed amounts.
- i. Sub-Recipient shall be responsible for ensuring ongoing maintenance of the Projects after completion. SCAG shall not be responsible for ongoing maintenance of the Projects after completion.

23. Conflict of Interest

The Parties shall comply with all applicable federal and state conflict of interest laws, regulations, and policies.

24. Independent Contractor

Sub-Recipient and its Consultant(s) shall be independent contractors in the performance of this MOU, and not officers, employees, or agents of SCAG.

25. Assignment

Neither Party shall assign any rights or interests in this MOU, or any part thereof, without the written consent of each Party to this MOU, which consent may be granted, withheld or conditioned in the consenting Party's sole and absolute discretion. Any assignment without such written consent shall be void and unenforceable. The covenants and agreement of this MOU shall inure to the benefit of and shall be binding upon each of the Parties and their respective successors and assignees.

26. Release of Information

- a. Subject to any provisions of law, including but not limited to the California Public Records Act, any Work Product or materials deemed confidential by either Party shall be held confidential by the receiving Party who shall safeguard such confidential materials from unauthorized disclosure, using the same standard of care to avoid disclosure as the receiving Party treats its confidential information, but in no case less than reasonable care. Nothing furnished to either Party which is otherwise known or is generally known, or has become known, to the related industry shall be deemed confidential.
- b. Sub-Recipient shall not release any information or Work Products to a third party or otherwise publish or utilize any information or Work Products obtained or produced by it as a result of or in connection with the performance of services under this MOU without the prior written authorization of SCAG, except as provided under this MOU or as required by law (including, without limitation, pursuant to the California Public Records Act).
- c. All public-facing communications materials relating to this MOU or its subject matter shall acknowledge SCAG. Communications materials include, but are not limited to, site signage, printed information materials, print and online publications, websites, advertisements, video, public service announcements, social media postings, events, media advisories, news releases, and all other related materials.
- d. To ensure consistency of public information about SCAG programs and funded work products, Sub-Recipient is required to notify and coordinate with SCAG Project Manager who will coordinate with SCAG's Manager of Media & Public Affairs or a specified designee on any media inquiries or plans for proactively providing information to media outlets.
- e. All communication materials must be provided to SCAG Project Manager prior to completion so that inclusion of this element can be confirmed.

27. Non-Exclusivity

Nothing herein is intended nor shall be construed as creating an exclusive arrangement between SCAG and Sub-Recipient. This MOU shall not restrict SCAG from acquiring similar, equal or like services from other entities or sources.

28. Severability

If any provision of this MOU is held to be illegal, invalid, or unenforceable, in whole or in part, such provision shall be modified to the minimum extent necessary to make it legal, valid, and enforceable, and the legality, validity, and enforceability of the remaining provisions shall not be affected thereby.

29. Survival

The following sections survive expiration or termination of this MOU:

- Section 5 (Funding)
- Section 10 (Work Products)
- Section 12 (Notices)
- Section 13 (Insurance)
- Section 14 (Indemnification)
- Section 15 (Disputes)
- Section 18 (Records Retention)
- Section 19 (Monitoring and Audits)
- Section 21 (Compliance with Laws, Rules, and Regulations)
- Section 22 (Public Works and Construction)
- Section 23 (Conflict of Interest)
- Section 26 (Release of Information)
- Section 31 (Jurisdiction and Venue)
- Section 32 (Waiver)

30. Flow-Down Provisions

Sub-Recipient shall include the following provisions in all agreements entered into containing funds provided under this MOU, require the provisions below that survive expiration or termination of this MOU to survive, and shall include a requirement in all agreements that each of them in turn include the requirements in all contracts and subcontracts they enter into to perform work under the Project. SCAG does not have a contractual relationship with Sub-Recipient's Consultants, and Sub-Recipient shall be fully responsible for monitoring and ensuring compliance with these provisions.

- Section 3.c. (Scope of Work and Sub-Recipient's Responsibilities – nexus to REAP 2.0)
- Section 3.e. – 3.g. (Scope of Work and Sub-Recipient's Responsibilities – procurements)
- Section 3.k. (Scope of Work and Sub-Recipient's Responsibilities – penalty of perjury)
- Section 5.e. (Funding – repayment of ineligible costs)
- Section 6 (Invoices)
- Section 7 (Reporting)
- Section 8 (Accounting)
- Section 9 (Allowable Uses of Grant Funds)
- Section 10 (Work Products)
- Section 13 (Insurance)
- Section 14 (Indemnification)
- Section 18 (Records Retention)
- Section 19 (Monitoring and Audits)

Section 20 (Small Business and Disabled Veteran Business Enterprise Participation)
Section 21 (Compliance with Laws, Rules, and Regulations)
Section 22 (Public Works and Construction)
Section 23 (Conflict of Interest)
Section 24 (Independent Contractor)
Section 25 (Assignment)
Section 26 (Release of Information)

Upon SCAG's request, Sub-Recipient shall provide SCAG a copy of any such agreement.

31. Jurisdiction and Venue

This MOU shall be deemed an agreement under the laws of the State of California and for all purposes shall be interpreted in accordance with such laws. Subject to the provisions in Section 15, the Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that the venue of any action brought thereunder shall be Los Angeles County, California.

32. Waiver

No delay or failure by either Party to exercise or enforce at any time any right or provision of this MOU shall be considered a waiver thereof of such Party's right thereafter to exercise or enforce each and every right and provision of this MOU. A Waiver to be valid shall be in writing but need not be supported by consideration. No single waiver shall constitute a continuing or subsequent waiver.

33. Standard of Care

Sub-Recipient and its Consultant(s) shall perform the work required for the Project under this MOU in accordance with generally accepted industry standards, practices, and principles applicable to such work.

34. Force Majeure

Neither Party shall be liable or deemed to be in default for any delay or failure in performance under this MOU or interruption of services resulting, directly or indirectly, from acts of nature, civil or military authority, acts of public enemy, war, strikes, labor disputes, pandemics, or any other similar cause beyond the reasonable control of the Parties, provided that the Party seeking to delay or excuse its performance as a result of such event shall notify the other Party in writing of such circumstances within not more than ten (10) days following the first occurrence of the event forming the basis of the delay or excuse of performance. In the event that the Party seeking to delay or excuse its performance fails to timely deliver the notice described in the previous sentence, then such event shall not relieve the Party from its timely performance.

35. Entire MOU

This MOU, comprised of these terms and conditions, the attached exhibits, and any properly executed amendments, represents and contains the entire agreement of the Parties with respect to the matters

set forth herein. This MOU supersedes any and all prior negotiations, discussions and, if any, previous agreements between the Parties with respect to the matters set forth herein.

36. Execution

This MOU, or any amendments related thereto, may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. The signature page of this MOU or any amendments may be executed by way of a manual or authorized digital signature. Delivery of an executed counterpart of a signature page to this MOU or an amendment by electronic transmission scanned pages shall be deemed effective as a delivery of a manually or digitally executed counterpart to this MOU or any amendment.

37. Effective Date

This MOU shall be effective as of the last date on which the document is executed by all Parties.

38. Authority

Sub-Recipient warrants and certifies that it possesses the legal authority to execute this MOU and to undertake the Projects, and, if applicable, that a resolution, motion, or similar action has been fully adopted or passed, as an official act of Sub-Recipient's governing body, authorizing receipt of the Grant Funds, and directing and designating the authorized representative(s) of Sub-Recipient to act in connection with the Projects and to provide such additional information as may be required by SCAG.

**SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
No. M-0XX-25**

IN WITNESS WHEREOF, the Parties have caused this Memorandum of Understanding to be executed by their duly authorized representatives as of the dates indicated below:

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS ("SCAG")

By: _____
Cindy Giraldo
Chief Financial Officer
Date _____

APPROVED AS TO FORM:

By: _____
Jeffery Elder
Chief Counsel
Date _____

xxx ("Sub-Recipient")

By: _____
Name
Title
Date _____

APPROVED AS TO FORM:

By: _____
Name
Title
Date _____



Southern California Association of Governments (SCAG)
Regional Early Action Planning (REAP) 2.0 Program
Subregional Partnership (SRP) 2.0 Program

SCOPE DESCRIPTION, APPROACH AND DELIVERABLES

Project 2 AFFH Implementation Technical Assistance (TA)

Applicant: Ventura Council of Governments

Describe each principle task identified in the Budget & Timeline, provide scope, approach, and list deliverable(s). Add or delete rows as needed.

Task #	Task Title	Scope Description and Approach	Deliverable(s)
1	Program Administration (5%)		
1.1	Grant reporting, invoicing, closeout/final report	Submit reports as required by SCAG (e.g. quarterly, annually), submit monthly invoicing documents to SCAG, gather final documents and produce a final report.	Grant reports Invoices Final Report
2	Project Management		
2.1	Project Management	Project 2 management, VCOG Board interaction, networking with City Managers and City/County Planners, working with SCAG staff, draft RFP, select consultant, review contract	Monthly VCOG invoices with task descriptions various reports, agendas, and other documents
3	Procure Consultant		
3.1	RFP Released and Consultant Selected	COG will work with SCAG to develop and release a Request for Proposals (RFP) through SCAG's REAP 2.0 consultant bench, evaluate and select, negotiate, and finalize a contract with the selected consultant(s).	RFP Executed contract
4	Develop AFFH Technical Assistance Scope and TA		
4.1	Review 11 Housing Elements: AFFH programs, Infill Areas, Priority Populations, and Outreach History	VCOG staff (with support from Consultant if onboarded) will review 11 Housing Elements and the Countywide 2020 Analysis of Impediments to Fair Housing and 5-Year Regional Consolidated Plan to characterize and cluster: 1) AFFH program tasks; 2) priority populations; 3) applying infill test; and 4) outreach methods, contacts, and effectiveness.	AFFH Programs task typology Priority populations characterization and locations Public engagement methods, contacts, and effectiveness
4.2	Develop AFFH TA Draft Program	VCOG staff (with support from Consultant if onboarded) will identify clusters of AFFH tasks that qualify for REAP implementation assistance actions and scope a technical assistance plan/MOU for each city or groups of cities with three general components: 1) actions suitable to countywide implementation resulting in economies of scale and consistent outreach, 2) regional or subregional analysis or study with specific transformative actionable recommendations focused on PGA's and priority populations in state-defined infill locations with no significant VMT impacts, and 3) preparation of #2 template actionable documents.	Consultant RFP, selection record, contracts Draft AFFH Technical Assistance project MOUs with city/cities Actionable documents
4.3	Circulate to VCOG Jurisdictions and Community Representatives	VCOG staff (with support from Consultant if onboarded) will circulate Draft AFFH Technical Assistance program, template MOU, and Draft Outreach Plan to cities, county, and community representatives for comment for 30 days. Apply the infill review to all tasks.	List of AFFH Community Representatives AFFH TA project review comment request
4.4	Revise and adopt Final AFFH Technical Assistance project, template MOU, and Outreach Plan	VCOG staff (with support from Consultant if onboarded) will prepare Final AFFH Technical Assistance project, template MOU, and Final Outreach Plan for adoption by VCOG with certification that programs comply with SCAG and HCD requirements and/or MOU conditions require SCAG and/or VCOG reviews. Apply the infill review to all tasks.	Comments on Draft documents Final TA Project and Outreach Plan VCOG adoption staff report MOU conditions to ensure REAP 2.0 qualification

**Southern California Association of Governments (SCAG)
Regional Early Action Planning (REAP) 2.0 Program
Subregional Partnership (SRP) 2.0 Program**

SCOPE DESCRIPTION, APPROACH AND DELIVERABLES

4.5	Provide TA to jurisdictions	Consultant to provide responsive and timely technical and analytical support on an on-call basis to jurisdictions to address specific challenges, questions, and/or needs related to the 6th cycle housing element. Technical assistance projects should incorporate a robust public outreach plan that addresses AFFH by ensuring the broadest representation of participants through equitable actions. The state REAP 2.0 guidelines require all uses that include rezoning or that guide development by updating planning documents, development standards, and zoning ordinances, including general plans, community plans, specific plans, SCS, and local coastal programs; that all uses that include the creation of planning documents be accompanied by a commitment to adopt by the expenditure deadline. The commitment to adopt will be maintained in the project scope.	Actionable Outcomes from the Technical Assistance provided Adoption date(s) and Governing Body(ies) as applicable to meet REAP 2.0 requirements
5	Prohousing Designations		
5.1	Webinar/workshop on Prohousing Scoring; Determine jurisdictional interest	VCOG staff will determine interest from each jurisdiction in taking the actions necessary to be eligible and filing with HCD for prohousing designation. VCOG staff contacts up to 11 jurisdiction staff and/or Electeds to determine each jurisdiction's intent to: 1) not seek Prohousing at this time, 2) submit draft application as is, or 3) improve Prohousing score by augmenting housing programs.	Memo documenting the jurisdictions intested in participating and committing to taking actions needed to be eligible to file for prohousing designation. Webinar/Workshop presentation and Q&A followup
5.2	Compile Prohousing scores	VCOG staff prepare and present a Ventura-specific Prohousing kickoff program review, scoring format, and initial scoring potential for each participating VCOG jurisdiction, and range of REAP 2 qualifying assistance.	Initial scoring potential report
5.3	Provide individual jurisdictional action plans for Prohousing eligibility	VCOG staff and Consultant shall prepare an action plan for prohousing designation for each participating jurisdiction.	Action plan for each participating jurisdiction
5.4	Assist completing actions needed for Prohousing Designation	As time permits, VCOG staff and consultant shall work with requesting jurisdictions to complete actions that augment its Prohousing score, and incorporate into score.	Actions completed that augment score
5.5	Prepare and Submit Prohousing Applications	As time allows, Consultant shall assist jurisdictions with preparation, completion, and submittal of the Prohousing application to HCD within the expenditure deadline.	Applications for those jurisdictions that applied
5.6	Prepare Final report	Consultant shall prepare a summary report of jurisdictions that completed the prohousing designation application and recommended next steps to increase participation if not all cities participated	Summary report of jurisdictions that completed the prohousing designation, and recommended next steps to increase participation if not all cities participated.

Project Name: VCOG EAP 2.0	Budget
Project 1 - AFFH Implementation Technical Assistance	\$366,756
Project 2 - Continuation of ADU Program with OCCOG*	\$45,000
*still pending approval	
Total	\$411,756