

**GRANT AGREEMENT BETWEEN  
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS AND  
[JURISDICTION NAME]  
REGARDING [FULL PROJECT TITLE]**

**REGIONAL EARLY ACTION PROGRAM 2.0  
HOUSING ACCELERATION GRANT PROGRAM – CYCLE 2**

**SANDAG CONTRACT NO. [CMS NUMBER]**

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THIS GRANT AGREEMENT ("Agreement") is made and entered into effective as of the last signature date by and between the San Diego Association of Governments ("SANDAG") and [JURISDICTION NAME] ("Subgrantee"). This Agreement expires on **December 31, 2025**, unless amended in writing by mutual agreement of the parties.

The following recitals are a substantive part of this Agreement:

- A.** In January 2010, the SANDAG Board of Directors approved Board Policy No. 035: Competitive Grant Program Procedures, which is available in its updated version at <https://www.sandag.org/about/bylaws-and-policies>. This Agreement and the Subgrantee's performance are subject to Board Policy No. 035, which includes multiple "use it or lose it" provisions.
- B.** In 2019, the state legislature passed Assembly Bill 101, which created state grant fund programs to distribute one-time funding to regional entities to prioritize planning activities that accelerate housing production. Thereafter, the California Department of Housing and Community Development (HCD) established the Regional Early Action Planning grant program (REAP), which allocated \$6.8 million to SANDAG. Using these grant funds, SANDAG established a regional housing incentive program to collaborate on projects with a broader regional impact on housing.
- C.** REAP 2.0 was established as part of the 2021 California Comeback Plan under Assembly Bill 140, and HCD allocated SANDAG \$43 million. REAP 2.0 builds on the success of REAP 1.0 and expands the REAP program focus by addressing housing and climate goals in California through funding planning and capital activities related to the acceleration of housing production within infill areas that affirmatively further fair housing and reduce vehicle miles traveled.
- D.** On October 28, 2022, the SANDAG Board of Directors approved the program eligibility and evaluation criteria for the Housing Acceleration Program (HAP) Cycle 2 Call for Projects, including up to \$16 million in funding from REAP 2.0.
- E.** On May 7, 2023, SANDAG issued a call for projects from local jurisdictions in San Diego County who wish to apply for a portion of the HAP Cycle 2 funds for use on housing planning and capital improvement projects meeting certain criteria.
- F.** On [Month, Day, Year], the SANDAG Board of Directors approved a list of recommended HAP projects for this competitive grant cycle, and one of those projects is the subject of this Agreement (Project). The Project Scope of Work and Budget, and Project Schedule are included as Attachments A and B respectively.
- G.** The purpose of this Agreement is to establish the terms and conditions for SANDAG to provide Subgrantee with funding to implement the Project.

- H. Although SANDAG will be providing financial assistance to Subgrantee to support the Project, SANDAG will not take an active role or retain substantial control of the Project. Therefore, this Agreement is characterized as a funding agreement rather than a cooperative agreement.
- I. Subgrantee understands that REAP 2.0 funds were granted from HCD which have statutory requirements and an expenditure deadline of June 30, 2026. The SANDAG funding commitment to HAP Projects, including this Project, is subject to those statutory requirements and deadline, which may impact funding availability for this Project.

NOW, THEREFORE, it is agreed as follows:

**I. GRANT AWARD**

- A. The total amount payable by SANDAG to Subgrantee pursuant to this Agreement shall be the proportion of actual Project costs allocated to grant funding in the Project Budget (Attachment A) and shall not exceed the grant award of [dollar amount] (Fund Limit).
- B. It is agreed and understood that this Agreement Fund Limit is a ceiling and that SANDAG will only reimburse the allowable cost of services actually rendered as authorized by SANDAG at or below the Fund Limit.

**II. PROJECT BUDGET**

The Subgrantee and SANDAG have agreed to a Project Budget that is set forth in Attachment A. The Subgrantee and/or third-party contractor(s) will incur obligations to the Project only as authorized by the Project Budget. Subgrantee may, with prior written approval from the HAP Program Manager, reallocate funds between tasks in the Project Budget as long as all of the following conditions are met:

- 1. The funds to be reallocated do not exceed an aggregate amount of ten percent for any particular task in the Project Budget,
- 2. The reallocation does not negatively impact the benefits obtained from the Project, and
- 3. There is no increase to the Fund Limit or decrease to the matching funds.

Any other changes to the Project Budget require the issuance of an amendment to this Agreement.

**III. MATCHING FUNDS**

Subgrantee agrees to provide matching funds in an amount of [dollar amount] of the actual cost of the Project, estimated to be [number including two decimals (e.g., 15.00)] percent based on the Project Budget. If the actual cost of the Project exceeds the Project Budget, Subgrantee is responsible for 100 percent of the actual cost greater than the Project Budget.

**A. Availability of Grant Funding**

Except where expressly allowed in writing herein, credits for matching funds will be made or allowed only for work performed on and after the Notice to Proceed date and prior to the termination date of this Agreement, unless expressly permitted by SANDAG in writing.

**B. Reduction of Matching Funds**

The Subgrantee agrees that no reduction in the amount of matching funds may be made unless a reduction of the proportional share of the grant funding provided by SANDAG under this Agreement also is made.

**C. Prompt Payment of Subgrantee's Share of Matching Funds**

Subgrantee agrees to complete all actions necessary to provide its share of the Project costs at or before the time the matching funds are needed from Subgrantee to pay for Project costs. The Subgrantee agrees to provide not less than its cumulative required match amount of Project costs prior to invoicing SANDAG for reimbursement. Each of Subgrantee's invoices must include its matching fund contribution, along with supporting, descriptive and/or explanatory documentation for the matching funds provided.

**IV. PROJECT MANAGER**

Subgrantee's Project Manager is [Project Manager].

The HAP Program Manager is Tracy Ferchaw.

Project manager continuity and experience is deemed essential in Subgrantee's ability to carry out the Project in accordance with the terms of this Agreement. Should the Subgrantee change the Project Manager, it will provide written notice to the HAP Program Manager within 10 business days of the change, including contact information for the new Project Manager.

**V. NOTICE**

All notices required to be given, by either party to the other, shall be deemed fully given when made in writing and received by the parties at their respective addresses:

San Diego Association of Governments  
Attention: Grants Program Manager  
401 B Street, Suite 800  
San Diego, CA 92101

Subgrantee:  
[Jurisdiction Name]  
Attention: [Project Manager]  
[Address]  
[City, CA, ZIP]

**VI. PROJECT IMPLEMENTATION**

**A. General**

The Subgrantee agrees to carry out the Project as follows:

1. Project Description

Subgrantee agrees to perform the work as described in the Scope of Work included in Attachment A.

2. Subgrantee's Capacity

The Subgrantee agrees to maintain or acquire sufficient legal, financial, technical, and managerial capacity to: (a) plan, manage, and complete the Project as described in Attachment A and provide for the use of any Project property; (b) carry out any safety and security aspects of the Project; and (c) comply with the terms of the Agreement and all applicable laws, regulations, and policies pertaining to the Project and the Subgrantee,

including but not limited to the Pass-Through Provisions from REAP Agreement (Attachment C) and Board Policy No. 035.

3. Project Schedule

The Subgrantee agrees to complete the Project according to the Project Schedule included in Attachment B and in compliance with the Pass-Through Provisions from REAP Agreement (Attachment C) and Board Policy No. 035.

4. Project Implementation and Oversight Requirements

Subgrantee agrees to comply with the Performance Measures included in Attachment D.

5. Changes to Project Scope of Work

This Agreement was awarded to Subgrantee based on the application submitted by Subgrantee with the intention that the awarded funds would be used to implement the Project as described in the project application. Any substantive deviation from Subgrantee's Scope of Work during project implementation may require reevaluation or result in loss of funding. If Subgrantee knows or should have known that substantive changes to the Project will occur or have occurred, Subgrantee will immediately notify SANDAG in writing. SANDAG will then determine whether the Project is still consistent with the overall objectives of the grant program and whether the changes would have negatively affected the Project ranking during the competitive grant evaluation process. SANDAG reserves the right to have grant funding withheld from Subgrantee, or refunded to SANDAG, due to Subgrantee's failure to satisfactorily complete the Project or due to substantive changes to the Project not approved in advance by SANDAG.

**B. Application of Laws**

Should a federal or state law pre-empt or conflict with a local law, policy, or ordinance, the Subgrantee must comply with the federal or state law and implementing regulations. No provision of this Agreement requires the Subgrantee to observe or enforce compliance with any provision, perform any other act, or do any other task in contravention of federal, state, territorial, or local law, regulation, or ordinance. If compliance with any provision of this Agreement violates or would require the Subgrantee to violate any law, the Subgrantee agrees to notify SANDAG immediately in writing. Should this occur, SANDAG and the Subgrantee agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project or affected portions thereof expeditiously.

**C. Changes in Project Performance**

The Subgrantee agrees to notify SANDAG immediately, in writing, of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event, including a force majeure event, that may adversely affect the Subgrantee's ability to perform the Project in accordance with the terms of the Agreement and as required by Board Policy No. 035. The Subgrantee also agrees to notify SANDAG immediately, in writing, of any current or prospective major dispute, breach, default, or litigation that may adversely affect SANDAG's interests in the Project; and agrees to inform SANDAG, also in writing, before naming SANDAG as a party to litigation for any reason, in any forum. At a minimum, the Subgrantee agrees to send each notice to SANDAG required by this subsection to SANDAG's Grants Program Manager.

**D. Compliance Information System (CIS)**

If Subgrantee will utilize persons other than its own employees to carry out work, Subgrantee and all of its subgrantees, third party contractors, and/or subcontractors (hereinafter "subcontractors") shall report payment details using the SANDAG web-based CIS by the 15th of each month following receipt of payment by SANDAG. CIS allows SANDAG to monitor promptness of payment to subcontractors and will allow Subgrantee and its subcontractors to manage their own records, maintain accurate contract information, and report payment details online. CIS is mandatory for Subgrantee and subcontractors to use unless SANDAG instructs otherwise. After execution of this Agreement, Subgrantee will receive instructions on how to set up its account and enter required subcontractor data into CIS via an internet browser. Subgrantee must require each of its subcontractors to enter required payment information into CIS. Failure of Subgrantee or its subcontractors to enter required information and confirm payments on a timely basis will result in delay of payment by SANDAG to Subgrantee until Subgrantee has cured any defects or provided the missing information. Should Subgrantee fail to provide the required information, SANDAG shall have sole discretion regarding whether to withhold payment or terminate this Agreement.

**E. Licenses and Permits**

Subgrantee represents and warrants to SANDAG that Subgrantee and its subcontractors will have all necessary licenses, permits, qualifications and approvals of whatever nature that are required to legally practice its profession and/or perform services under this Agreement at all times during the term of this Agreement.

**F. Registration with DIR and Prevailing Wage Requirements**

All provisions of this section shall be passed through to any subcontractors performing work related to this Agreement. Failure of Subgrantee or its subcontractors to comply with any of these requirements will result in delay of payment by SANDAG to Subgrantee. Additional requirements pertaining to public works projects are included in Attachment E.

1. Payment of Prevailing Wages

Subgrantee acknowledges that any work that qualifies as a "public work" within the meaning of California Labor Code section 1720 shall cause Subgrantee and its subcontractors to comply with the provisions of California Labor Code sections 1775 et seq, which includes the payment of prevailing wages to all workers performing prevailing wage work.

2. Public Works Contractor Registration With DIR

If Subgrantee or its subcontractors will engage in the performance of a public work as defined by California Labor Code sections 1720 et seq. and will utilize persons who are not employees of a public entity, registration and payment of an annual registration fee to the DIR shall be required of each entity performing the work. This requirement applies to anyone affected by the public works statutes found in the California Labor Code, including but not limited to landscapers, fencers, surveyors, soil testers, dredgers, heavy equipment operators, and inspectors. Registration can be completed online at <https://www.dir.ca.gov/public-works/contractor-registration.html>.

3. Subcontract Requirements

If Subgrantee will award any subcontracts for the performance of a public work:

- a. Subgrantee will create a Project Registration Form (aka PWC-100 form) for each subcontract using the California Department of Industrial Relations (DIR) online database.

- b. Subgrantee will provide to SANDAG the name, DIR registration number, and contractor's license numbers of each subcontractor so SANDAG can verify, prior to Subgrantee's award of the subcontract for a public work, that the selected subcontractor is currently licensed and registered with the DIR. If SANDAG finds that the selected subcontractor is not licensed and registered with the DIR, SANDAG will promptly notify Subgrantee and Subgrantee will not be permitted to award the subcontract to the selected subcontractor.
  - c. Subgrantee shall notify SANDAG ten business days prior to the subcontractor performing the prevailing wage work so SANDAG can prepare for labor compliance monitoring.
  - d. If there are any changes to a subcontractor or lower-tier subcontractor, Subgrantee will advise SANDAG of these changes as soon as those changes are known to the Subgrantee.
4. Certified Payroll Reporting to DIR

Grantee and all subcontractors performing a public work pursuant to this Agreement shall use the DIR's Electronic Certified Payroll Reporting (eCPR) System, available at <https://efiling.dir.ca.gov/eCPR/pages/eCPROnlineForm.jsp>, to furnish certified payroll records to the California Labor Commissioner. Subgrantee and its subcontractors are required to utilize the eCPR system throughout the entire duration of the public work.

5. Certified Payroll Reporting to SANDAG

In addition to the eCPR system, Subgrantee and all subcontractors performing a public work shall utilize the SANDAG Labor Compliance Monitoring System (LCMS), available at <https://www.sandag.org/about/work-with-us/labor-compliance-monitoring-program> to furnish certified payroll records to SANDAG. If Subgrantee desires to utilize a different system to provide certified payroll records to SANDAG, it must request prior authorization and receive approval in writing from the Grants Program Manager. SANDAG will provide Subgrantee and any first-tier subcontractors a log-on identification and password to access the SANDAG LCMS system. Subgrantee will be required to enter all of its second-tier and lower subcontractors' information into LCMS on an ongoing basis. In addition, the SANDAG LCMS will allow Subgrantee to convert certified payroll records to the XML file format for upload to the DIR system.

6. Retention and Inspection of Payroll Records and Employment of Registered Apprentices

Subgrantee agrees to comply and cause any of its applicable subcontractors to comply 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. In order to ensure compliance with the Labor Code, Subgrantee and its subcontractors shall be subject to site visits and spot-check audits by SANDAG. During these audits and inspections, SANDAG or its designee may request Subgrantee or subcontractor records, including but not limited to certified payroll, apprenticeship, and other ancillary records at any time during the term of the Agreement. If such an audit or site visit discloses that Subgrantee or a subcontractor has not kept complete and accurate records or complied with the requirements of the California Labor Code, the non-compliant entity performing the public work will be required to immediately stop work and DIR will be notified.

Additionally, if Subgrantee was provided an exception to utilizing the SANDAG LCMS, Subgrantee will be required to input and submit all applicable certified payrolls and accompanying documentation related to the Project, retroactive to the start of the Project, into the SANDAG LCMS.

## G. Standard of Care

Subgrantee expressly warrants that the work to be performed pursuant to this Agreement shall be performed in accordance with the applicable standard of care. Where approval by SANDAG, its management, or other representative of SANDAG is indicated in the Scope of Work, it is understood to be conceptual approval only and does not relieve the Subgrantee of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Subgrantee or its subcontractors.

## H. Third-Party Contracting

Although the Subgrantee may delegate any or almost all Project responsibilities to one or more third-party contractors, the Subgrantee agrees that it, rather than any third-party contractor, is ultimately responsible for compliance with all applicable laws, regulations, and this Agreement. The first invoice utilizing any third-party contractor shall be accompanied by evidence of compliance with the following requirements:

### 1. Competitive Procurement

Subgrantee shall not award contracts with a cumulative value over \$10,000 on the basis of a noncompetitive procurement for work to be performed under this Agreement without the prior written approval of SANDAG. Contracts awarded by Subgrantee, if intended as local match credit, must meet the requirements set forth in this Agreement regarding local match funds. Upon request by SANDAG, Subgrantee shall submit its Request for Proposals or bid solicitation documents to SANDAG staff for review and comment for consistency with the agreed upon Scope of Work with SANDAG and to ensure a competitive process was used.

If Subgrantee hires a third-party contractor to carry out work funded under this Agreement, Subgrantee shall: prepare an Independent Cost Estimate prior to soliciting proposals/bids; publicly advertise for competing proposals/bids for the work; for professional services, use cost as a significant evaluation factor in selecting the third-party contractor; document a record of negotiation establishing that the amount paid by Subgrantee for the work is fair and reasonable; and pass through the relevant obligations in this Agreement to the contractor.

### 2. Debarment

Subgrantee shall execute and cause its third-party contractors to execute debarment and suspension certificates stating they have not been disqualified from doing business with government entities. The documentation showing lack of debarment shall be obtained from the following two websites:

- Subgrantee will check the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov) to verify the prime contractor and all of its subcontractors are not currently debarred or suspended by the federal government.
- Entities in the United States are banned from doing business with companies with ownership based in countries such as Cuba, Sudan and China due to United States trade sanctions. A search on the US Treasury's Office of Foreign Assets Control (OFAC) website can ensure Subgrantee will not be doing business with a vendor that is subject to trade sanctions. This can be done at <https://sanctionssearch.ofac.treas.gov/>.

3. Flowdown

Subgrantee agrees to take appropriate measures necessary, including the execution of a subagreement, lease, third-party contract, or other, to ensure that all Project participants, including alternate payees or third-party contractors at any tier, comply with all applicable federal laws, regulations, policies affecting Project implementation and Agreement requirements. In addition, if an entity other than the Subgrantee is expected to fulfill any responsibilities typically performed by the Subgrantee, the Subgrantee agrees to assure that the entity carries out the Subgrantee's responsibilities as set forth in this Agreement, including but not limited to those in Attachment C.

4. No SANDAG Obligations to Third Parties

In connection with the Project, the Subgrantee agrees that SANDAG shall not be subject to any obligations or liabilities to any subcontractor, lessee, third party contractor at any tier or other person or entity that is not a party to the Agreement for the Project. Notwithstanding that SANDAG may have concurred in or approved any solicitation, subagreement, lease, alternate payee designation, or third-party contract at any tier, SANDAG has no obligations or liabilities to any entity other than the Subgrantee.

5. Equipment Purchases

Subgrantee shall maintain ownership of any equipment purchased using Agreement funding and shall use such equipment only for the purposes set forth in this Agreement. The parties agree to meet and confer in good faith to ensure the continued use of the equipment for the purposes intended, which may include reimbursement to SANDAG when the fair market value of the equipment at Project completion exceeds \$5,000. SANDAG and Subgrantee further agree that Subgrantee shall keep an inventory record for each piece of equipment purchased under this Agreement and maintain each piece of equipment in good operating order consistent with the purposes for which they were intended. SANDAG shall have the right to conduct periodic maintenance inspections for the purpose of confirming the existence, condition, and proper maintenance of the equipment.

**VII. ETHICS**

**A. Subgrantee Code of Conduct/Standards of Conduct**

The Subgrantee agrees to maintain a written code of conduct or standards of conduct that shall govern the actions of its officers, employees, council or board members, or agents engaged in the award or administration of subagreements, leases, or third-party contracts supported with the grant funding. The Subgrantee agrees that its code of conduct or standards of conduct shall specify that its officers, employees, council or board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from any present or potential subcontractor, lessee, or third-party contractor at any tier or agent thereof. The Subgrantee may set de minimis rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. The Subgrantee agrees that its code of conduct or standards of conduct shall also prohibit its officers, employees, board members, or agents from using their respective positions in a manner that presents a real or apparent personal or organizational conflict of interest or personal gain. As permitted by state or local law or regulations, the Subgrantee agrees that its code of conduct or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by its officers, employees, council or board members, or their agents, or its third-party contractors or subcontractors or their agents.



**B. Personal Conflicts of Interest**

The Subgrantee agrees that its code of conduct or standards of conduct shall prohibit the Subgrantee's employees, officers, council or board members, or agents from participating in the selection, award, or administration of any third-party contract or subagreement supported by the grant funding if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, board member, or agent, including any member of his or her immediate family, partner, or organization that employs, or intends to employ, any of the parties listed herein has a financial interest in a firm competing for award.

**C. Organizational Conflicts of Interest**

The Subgrantee agrees that its code of conduct or standards of conduct shall include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third-party contract or subagreement may, without some restrictions on future activities, result in an unfair competitive advantage to the third-party contractor or subcontractor or impair its objectivity in performing the contract work.

**D. SANDAG Code of Conduct**

SANDAG has established policies concerning potential conflicts of interest. These policies apply to Subgrantee. For all awards by SANDAG, any practices which might result in unlawful activity are prohibited including, but not limited to, rebates, kickbacks, or other unlawful considerations. SANDAG staff members are specifically prohibited from participating in the selection process when those staff have a close personal relationship, family relationship, or past (within the last 12 months), present, or potential business or employment relationship with a person or business entity seeking a contract with SANDAG. It is unlawful for any contract to be made by SANDAG if any individual Board member or staff has a prohibited financial interest in the contract. Staff also are prohibited from soliciting or accepting gratuities from any organization seeking funding from SANDAG. SANDAG's officers, employees, agents, and board members shall not solicit or accept gifts, gratuities, favors, or anything of monetary value from consultants, potential consultants, or parties to subagreements. By signing this Agreement, Subgrantee affirms that it has no knowledge of an ethical violation by SANDAG staff or Subgrantee. If Subgrantee has any reason to believe a conflict of interest exists with regard to the Agreement or the Project, it shall notify the SANDAG Office of General Counsel immediately.

**E. Bonus or Commission**

The Subgrantee affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its grant funding application for the Project.

**F. False or Fraudulent Statements or Claims**

The Subgrantee acknowledges and agrees that by executing the Agreement for the Project, the Subgrantee certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project, including, but not limited to, the Subgrantee's grant application, progress reports and invoices.

**VIII. PAYMENTS**

**A. Method of Payment**

The method of payment for this Agreement will be based upon actual, substantiated, and allowable costs described herein.

**B. Alternate Payee**

If the Subgrantee designates a party as an Alternate Payee, Alternate Payee is authorized to submit payment requests directly to SANDAG to receive reimbursement for allowable Project costs. This does not alleviate Subgrantee from all obligations under this Grant Agreement.

**C. Invoicing**

Subgrantee or Alternate Payee is required to submit invoices quarterly. Invoices must be accompanied by a quarterly report (template to be provided by SANDAG). SANDAG will make payments for eligible amounts to Subgrantee or Alternate Payee as promptly as SANDAG fiscal procedures permit upon receipt of Subgrantee's or Alternate Payee's itemized signed invoice(s) and confirmation by the HAP Program Manager that Subgrantee is in compliance with the reporting and other requirements in this Agreement. SANDAG shall retain 10 percent from the amounts invoiced until satisfactory completion of the Project. SANDAG shall promptly pay retention amounts to Subgrantee or Alternate Payee following satisfactory completion of work, receipt of final invoice, and all required documentation.

**D. Eligible Costs**

The Subgrantee agrees that Project costs eligible for grant funding must comply with the following requirements, unless SANDAG determines otherwise in writing. To be eligible for reimbursement, Project costs must be:

1. Consistent with the Project Scope of Work, Schedule, and Project Budget, and other provisions of the Agreement.
2. Necessary in order to accomplish the Project.
3. Reasonable for the goods or services purchased.
4. Actual net costs to the Subgrantee (i.e., the price paid minus any refunds, rebates, or other items of value received by the Subgrantee that have the effect of reducing the cost actually incurred, excluding program income). Project generated revenue realized by the Subgrantee shall be used in support of the Project. Project generated revenue and expenditures, if any, shall be reported at the end of the Agreement period.
5. Incurred for work performed on or after the SANDAG Notice to Proceed date, and before the termination date, and also must have been paid for by the Subgrantee.
6. Satisfactorily documented with supporting documentation, which is to be submitted with each invoice. Copies of invoices are required for goods or services provided by third parties.
7. Treated consistently in accordance with generally accepted accounting principles and procedures for the Subgrantee and any third-party contractors and subcontractors, (see Section entitled "Accounting Records").
8. Eligible for grant funding as part of the grant program through which the funds were awarded.

**E. Excluded Costs**

In determining the amount of REAP funds SANDAG will provide for the Project, SANDAG will exclude:

1. Any Project cost incurred by the Subgrantee before the Effective Date of the Agreement or applicable Amendment thereto
2. Any cost that is not included in the Project Budget
3. Any cost for Project property or services received in connection with a subagreement, lease, third-party contract, or other arrangement that is required to be, but has not been, concurred in or approved in writing by SANDAG
4. Any cost ineligible for SANDAG participation as provided by applicable laws, regulations, or policies
5. Any cost incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (any indirect cost). Typical indirect costs include facilities and administration costs such as heat/air conditioning, lighting, payroll, and the entity's accounting system. Administrative costs such as clerical and support staff salaries also are most often treated as indirect costs.

The Subgrantee understands and agrees that payment to the Subgrantee for any Project cost does not constitute SANDAG's final decision about whether that cost is allowable and eligible for payment under the Project and does not constitute a waiver of any violation by the Subgrantee of the terms of this Agreement or Board Policy No. 035. The Subgrantee acknowledges that SANDAG will not make a final determination about the allowability and eligibility of any cost until the final payment has been made on the Project or the results of an audit of the Project requested by SANDAG has been completed, whichever occurs latest. If SANDAG determines that the Subgrantee is not entitled to receive any portion of the grant funding requested or paid, SANDAG will notify the Subgrantee in writing, stating its reasons. The Subgrantee agrees that Project closeout will not alter the Subgrantee's responsibility to return any funds due to SANDAG as a result of later refunds, corrections, performance deficiencies, or other similar actions; nor will Project closeout alter SANDAG's right to disallow costs and recover funds provided for the Project on the basis of a later audit or other review. Upon notification to the Subgrantee that specific amounts are owed to SANDAG, whether for excess payments of grant funding, disallowed costs, or funds recovered from third parties or elsewhere, the Subgrantee agrees to promptly remit to SANDAG the amounts owed, including applicable interest, penalties and administrative charges.

## **IX. ACCOUNTING, REPORTING, RECORD RETENTION, AND ACCESS**

### **A. Project Accounts**

The Subgrantee and/or Alternate Payee agree to establish and maintain for the Project either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project. The Subgrantee and/or Alternate Payee also agree to maintain documentation of all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents related in whole or in part to the Project so that they may be clearly identified, readily accessible, and available to SANDAG upon request and, to the extent feasible, kept separate from documents not related to the Project.

### **B. Reports**

1. The Subgrantee agrees to submit to SANDAG all reports required by law and regulation, policy, this Agreement, or any other reports SANDAG may specify. SANDAG reserves the right to specify that records be submitted in particular formats. Subgrantee may be required to attend meetings of SANDAG staff and committees, including but not limited to the Regional Planning

Committee and the SANDAG Board of Directors, to report on its progress and respond to questions from Board Members or the public.

2. Subgrantee's performance shall be monitored for consistency with the Scope of Work. SANDAG will utilize Performance Measures (Attachment D) and the SANDAG Grant Monitoring Checklist provided by the HAP Program Manager, to document compliance with this Agreement. Subgrantee's performance will be measured against the Performance Measures during the term of this Agreement. If the Subgrantee does not comply with provisions in this Agreement or achieve minimum performance requirements, SANDAG will issue Subgrantee a written Notice to Complete a Recovery Plan (Notice). Subgrantee's Recovery Plan shall include a detailed description of how Subgrantee intends to come into compliance with the Agreement or Performance Measures. Subgrantee's Recovery Plan must include an implementation schedule that reflects compliance with the Agreement as referenced in the Notice, or achievement of its performance measure minimums within three months following the issue date of the Notice. Subgrantee must submit its Recovery Plan to the HAP Program Manager within 30 calendar days following the issue date of the Notice. If Subgrantee's performance is inconsistent with that proposed in its Recovery Plan, SANDAG in its sole discretion may terminate this Agreement.
3. Subgrantee must submit quarterly reports and invoices to SANDAG, detailing accomplishments in the quarter, anticipated progress next quarter, pending issues and actions toward resolution, and status of budget, schedule, and Performance Measure. Subgrantee will not be paid until all reports are completed and provided to SANDAG in the format SANDAG requires. Furthermore, the Subgrantee agrees to provide project milestone information (such as presentations to community groups, other agencies, and elected officials, groundbreaking, and ribbon-cuttings) to support media and communications efforts. Subgrantee needs to document and track in-kind contributions designated as matching funds as part of project management. Subgrantee must provide all deliverables identified in the Scope of Work.
4. Press materials shall be provided to SANDAG staff before they are distributed. SANDAG logo(s) should be included in press materials and other project collateral based on logo usage guidelines to be provided by SANDAG. Subgrantee agrees to provide project milestone information to support media and communications efforts.
5. Subgrantee is responsible for the following photo documentation:
  - Existing conditions photos (as applicable), which should illustrate the current conditions of the project site and demonstrate the need for improved facilities
  - Project milestone photos (such as workshops, presentations to community groups, other agencies, and elected officials)
  - Photos should be high resolution (at least 4 inches by 6 inches with a minimum of 300 pixels per inch) and be accompanied by captions with project descriptions, dates, locations, and the names of those featured, if appropriate. Subgrantees must obtain consent of all persons featured in photos (or that of a parent or guardian of persons under the age of 18) by using the SANDAG Photo and Testimonial Release form to be provided by SANDAG, or a similar release form developed by Subgrantee and agreed upon by SANDAG.

### **C. Record Retention**

During the course of the Project and for three years thereafter from the date of transmission of the final invoice, the Subgrantee agrees to maintain, intact and readily accessible, all communications, data, documents, reports, records, contracts, and supporting materials relating to the Project, as

SANDAG may require. All communications and information provided to SANDAG become the property of SANDAG and public records, as such, may be subject to public review. Please see SANDAG's Board Policy No. 015: Records Management Policy, which is available at <https://www.sandag.org/about/bylaws-and-policies>, for information regarding the treatment of documents designated as confidential.

**D. Meeting Records**

Subgrantee shall provide SANDAG with agendas and meeting summaries for all community meetings. SANDAG staff may attend any meetings as appropriate.

**E. Access to Records of Subgrantees and Subcontractors**

The Subgrantee agrees to permit, and require its subcontractors to permit, SANDAG or its authorized representatives, upon request, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Subgrantee and its subcontractors pertaining to the Project.

**X. PROJECT COMPLETION, AUDIT, SETTLEMENT, AND CLOSEOUT**

**A. Project Completion**

Within 90 calendar days following Project completion or termination by SANDAG, or by February 28, 2026, whichever occurs first, the Subgrantee agrees to submit a final invoice of Project expenses and final reports, as applicable. All payments made to the Subgrantee shall be subject to review for compliance by SANDAG with the requirements of this Agreement and shall be subject to an audit upon completion of the Project.

**B. Project Audit**

The Subgrantee agrees to have financial, performance, and compliance audits performed as SANDAG may require. The Subgrantee agrees that Project closeout will not alter the Subgrantee's audit responsibilities. Audit costs are allowable Project costs.

**C. Performance Audit**

The Subgrantee agrees to cooperate with SANDAG with regard to any performance audit that is performed on the Project.

**D. Project Closeout**

Project closeout occurs when SANDAG notifies the Subgrantee that SANDAG has closed the Project, and, if applicable, either forwards the final grant funding payment and or acknowledges that the Subgrantee has remitted the proper refund. The Subgrantee agrees that Project closeout by SANDAG does not invalidate any continuing requirements imposed by the Agreement or any unmet requirements set forth in a written notification from SANDAG.

**XI. TIMELY PROGRESS AND RIGHT OF SANDAG TO TERMINATE**

**A.** Subgrantee shall make diligent and timely progress toward completion of the Project within the timelines set forth in the Project Schedule.

**B.** In the event Subgrantee encounters or anticipates difficulty in meeting the Project Schedule, the Subgrantee shall immediately notify the HAP Program Manager in writing, and shall provide pertinent details, including the reason(s) for the delay in performance and the date by which

Subgrantee expects to complete performance or delivery. This notification shall be informational in character only and receipt of it shall not be construed as a waiver by SANDAG of a project delivery schedule or date, or any rights or remedies provided by this Agreement, including Board Policy No. 035 requirements.

- C. Subgrantee agrees that SANDAG, at its sole discretion, may suspend or terminate all or any part of the grant funding if the Subgrantee fails to make reasonable progress on the Project and/or violates the terms of the Agreement or Board Policy No. 035, or if SANDAG determines that the purpose of the laws or policies authorizing the Project would not be adequately served by the continuation of grant funding for the Project.
- D. In general, termination of grant funding for the Project will not invalidate obligations properly incurred by the Subgrantee before the termination date to the extent those obligations cannot be canceled. If, however, SANDAG determines that the Subgrantee has willfully misused grant funding by failing to make adequate progress, or failing to comply with the terms of the Agreement, SANDAG reserves the right to require the Subgrantee to refund to SANDAG the entire amount of grant funding provided for the Project or any lesser amount as SANDAG may determine.
- E. Expiration of any Project time period established in the Project Schedule will not, by itself, automatically constitute an expiration or termination of the Agreement for the Project, however, Subgrantee must request and SANDAG may agree to amend the Agreement in writing if the Project Schedule will not be met. An amendment to the Project Schedule may be made at SANDAG's discretion if Subgrantee's request is consistent with the provisions of Board Policy No. 035 and the REAP 2.0 requirements.

## **XII. CIVIL RIGHTS**

The Subgrantee agrees to comply with all applicable civil rights laws, regulations and policies and shall include the provisions of this section in each subagreement, lease, third-party contract or other legally binding document to perform work funded by this Agreement. Applicable civil rights laws, regulations and policies include, but are not limited to, the following:

### **A. Nondiscrimination**

SANDAG implements its programs without regard to income level, disability, race, color, and national origin in compliance with the Americans with Disabilities Act and Title VI of the Civil Rights Act. Subgrantee shall prohibit discrimination on these grounds, notify the public of their rights under these laws, and utilize a process for addressing complaints of discrimination. Furthermore, Subgrantee shall make the procedures for filing a complaint available to members of the public and will keep a log of all such complaints. Subgrantee must notify SANDAG immediately if a complaint is lodged that relates to the Project or program funded by this grant. If Subgrantee receives a Title VI-related or ADA-related complaint, Subgrantee must notify SANDAG in writing within 72 hours of receiving the complaint so that SANDAG can determine whether it needs to carry out its own investigation.

### **B. Equal Employment Opportunity**

During the performance of this Agreement, Subgrantee and all of its subcontractors, if any, shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family and medical care leave, denial of pregnancy disability leave, veteran status, or sexual orientation. Subgrantee and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Subgrantee and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Section 12900, et seq.) and the

applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by this reference and are made a part hereof as if set forth in full. Subgrantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

### **XIII. DISPUTES AND VENUE**

#### **A. Choice of Law**

This Agreement shall be interpreted in accordance with the laws of the State of California.

#### **B. Dispute Resolution Process**

In the event Subgrantee has a dispute with SANDAG during the performance of this Agreement, Subgrantee shall continue to perform unless SANDAG informs Subgrantee in writing to cease performance. The dispute resolution process for disputes arising under this Agreement shall be as follows:

1. Subgrantee shall submit a statement of the grounds for the dispute, including all pertinent dates, names of persons involved, and supporting documentation, to the HAP Program Manager. The HAP Program Manager and other appropriate SANDAG staff will review the documentation in a timely manner and reply to Subgrantee within 20 calendar days. Upon receipt of an adverse decision by SANDAG, Subgrantee may submit a request for reconsideration to SANDAG's Chief Executive Officer or designee. The request for reconsideration must be received within ten calendar days from the postmark date of SANDAG's reply. The Chief Executive Officer or designee will respond in writing to the request for reconsideration within ten working days.
2. If Subgrantee is dissatisfied with the results following exhaustion of the above dispute resolution procedures, Subgrantee shall make a written request to SANDAG for appeal to the SANDAG Regional Planning Committee. SANDAG shall respond to a request for mediation within 30 calendar days. The decision of the Regional Planning Committee shall be final.

#### **C. Venue**

If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, litigation and collection expenses, witness fees, and court costs as determined by the court.

### **XIV. ASSIGNMENT**

Subgrantee shall not assign, sublet, or transfer (whether by assignment or novation) this Agreement or any rights under or interest in this Agreement.

### **XV. INDEMNIFICATION AND HOLD HARMLESS**

#### **A. Generally**

With regard to any claim, protest, or litigation arising from or related to the Subgrantee's performance in connection with or incidental to the Project or this Agreement, Subgrantee agrees to

defend, indemnify, protect, and hold SANDAG and its agents, officers, Board members, and employees harmless from and against any and all claims, including, but not limited to prevailing wage claims against the Project, asserted or established liability for damages or injuries to any person or property, including injury to the Subgrantee's or its subcontractors' employees, agents, or officers, which arise from or are connected with or are caused or claimed to be caused by the negligent, reckless, or willful acts or omissions of the Subgrantee and its subcontractors and their agents, officers, or employees, in performing the work or services herein, and all expenses of investigating and defending against same, including attorney fees and costs; provided, however, that the Subgrantee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of SANDAG, its Board of Directors, agents, officers, or employees.

**B. Intellectual Property**

Upon request by SANDAG, the Subgrantee agrees to indemnify, save, and hold harmless SANDAG and its Board of Directors, officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Subgrantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Subgrantee shall not be required to indemnify SANDAG for any such liability caused solely by the wrongful acts of SANDAG employees or agents.

**XVI. INDEPENDENT CONTRACTOR**

**A. Status of Subgrantee**

Subgrantee shall perform the services provided for within this Agreement as an independent contractor, and not as an employee of SANDAG. Subgrantee shall be under the control of SANDAG as to the result to be accomplished and not the means, and shall consult with SANDAG as provided for in the Scope of Work. The payments made to Subgrantee pursuant to this Agreement shall be the full and complete compensation to which Subgrantee is entitled. SANDAG shall not make any federal or state tax withholdings on behalf of Subgrantee. SANDAG shall not be required to pay any workers' compensation insurance on behalf of Subgrantee. Subgrantee agrees to indemnify SANDAG for any tax, retirement contribution, social security, overtime payment, or workers' compensation payment which SANDAG may be required to make on behalf of Subgrantee or any employee of Subgrantee for work done under this Agreement.

**B. Actions on Behalf of SANDAG**

Except as SANDAG may specify in writing, Subgrantee shall have no authority, express or implied, to act on behalf of SANDAG in any capacity whatsoever, as an agent or otherwise. Subgrantee shall have no authority, express or implied, to bind SANDAG or its members, agents, or employees, to any obligation whatsoever, unless expressly provided for in this Agreement.

**XVII. SEVERABILITY AND INTEGRATION**

If any provision of the Agreement is determined invalid, the remainder of that Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable laws or regulations.

This Agreement with its attachments and the resolution from Subgrantee's governing body submitted with its application, represents the entire understanding of SANDAG and Subgrantee as to those matters contained in it. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing, signed by SANDAG and the Subgrantee.



**XVIII. SIGNATURES**

The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

SAN DIEGO ASSOCIATION OF  
GOVERNMENTS

[JURISDICTION NAME]

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**SUSAN HUNTINGTON**  
Director of Financial Planning, Budgets,  
and Grants

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[FULL NAME]  
[Title]

APPROVED AS TO FORM:

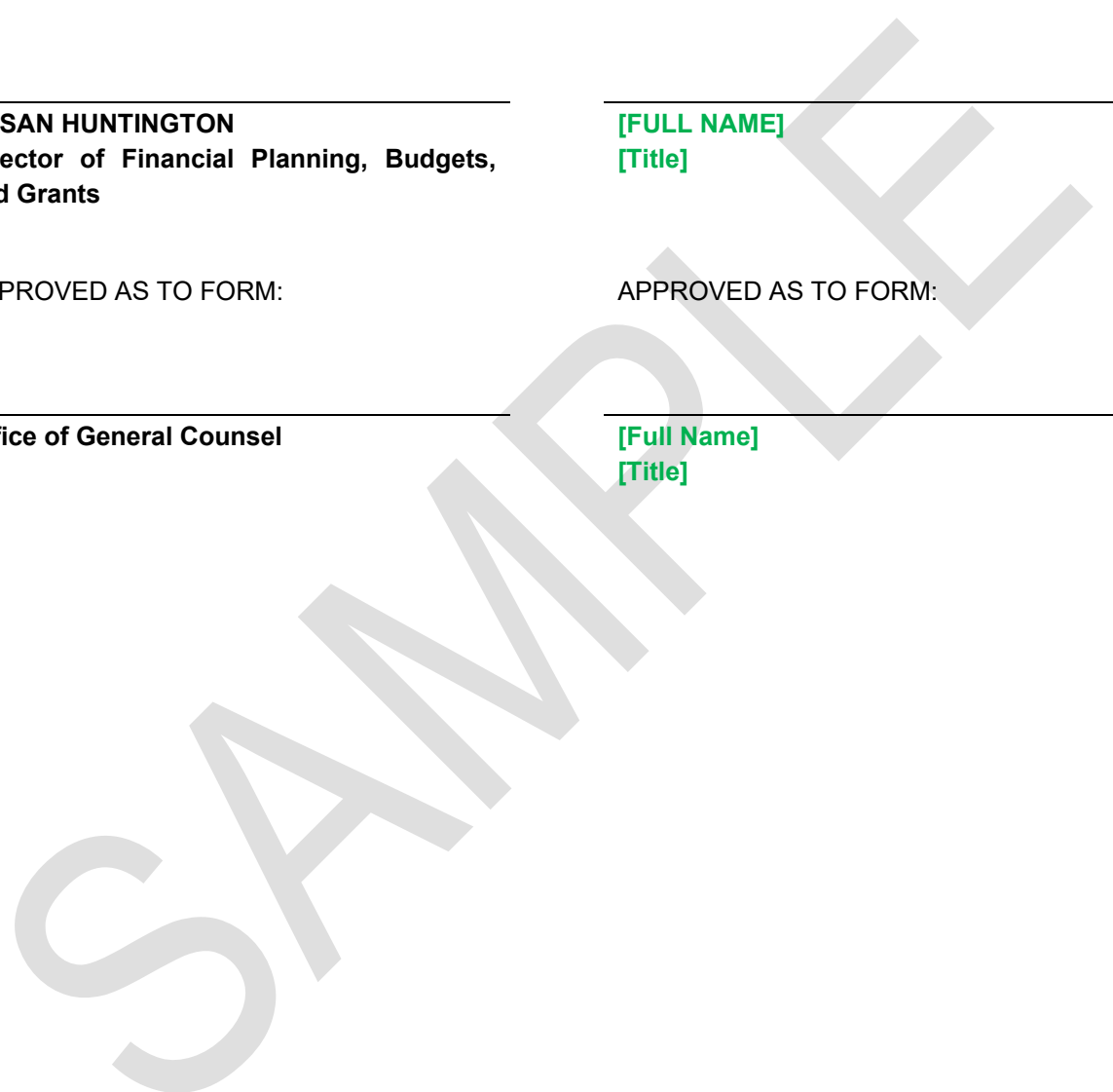
APPROVED AS TO FORM:

---

Office of General Counsel

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[Full Name]  
[Title]



**ATTACHMENT A**  
**SCOPE OF WORK AND PROJECT BUDGET**

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*(Insert final Scope and Project Budget from Excel file)*

SAMPLE

**ATTACHMENT B  
PROJECT SCHEDULE**

---

*(Insert final Project Schedule from Excel file)*

SAMPLE

**ATTACHMENT C**  
**PASS-THROUGH PROVISIONS FROM REAP AGREEMENT**

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The following pages are labeled as REAP2 Terms and Conditions and are a copy of Exhibit D to SANDAG's Agreement with HCD (HCD Agreement). The HCD Agreement requires compliance with the Local Government Planning Support Grant Program (Health & Safety Code §50515.06 et seq.) The REAP Terms and Conditions refer to SANDAG as Grantee. Section 9B of the document requires that if SANDAG enters into any contracts with subrecipients such as Subgrantee as a result of the HCD Agreement, such contract must contain all the provisions in the HCD Agreement.

SAMPLE

**EXHIBIT D - REAP2 TERMS AND CONDITIONS**

**1. Accounting and Records**

- A. The Grantee, its employees, contractors, and subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for payment vouchers and invoices. Grantees may establish and maintain an accounting system and reports, as described above, on behalf of contractors and subcontractors.
- B. The Grantee must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the budget and timeline. Separate bank accounts are not required. As appropriate, Grantees must establish separate ledgers for State General funds and other funds associated with proposed uses not provided by the REAP 2.0 Program.
- C. The Grantee shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of the project in accordance with GAAP.
- D. The Grantee agrees that the Department or designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Agreement.
- E. The Grantee agrees to maintain such records for a possible audit after the final payment for at least five years after all funds have been expended or returned to the State unless a longer period of records retention is stipulated. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.
- F. Contractors and subcontractors employed by the Grantee and paid with moneys under the terms of this Agreement shall be responsible for maintaining accounting records as specified above.

**2. Invoicing**

- A. Grant funds cannot be disbursed until the Agreement has been fully executed.
- B. The Grantee will be responsible for compiling and submitting all invoices and reporting documents.
- C. The Grantee must bill the Department based on clear deliverables outlined in the Agreement or budget timeline. Generally, approved and eligible costs incurred for work after execution of the Agreement and completed during the grant term will be reimbursable. However, eligible activities conducted prior to award will be

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reimbursable to July 1, 2021. Approved and eligible costs incurred prior to July 1, 2021, are ineligible.

- D. Grantees who received advance funds shall expend all such funds or demonstrate substantial progress prior to requesting additional advanced funding by submitting an updated project timeline and budget, including expenditure progress for their eligible projects from the application and any supporting documentation.
- E. Project invoices may be submitted to the Department by the Grantee on a quarterly basis or upon completion of a deliverable, subject to the Department's approval.
- F. The Department may consider advance payments or alternative arrangements to reimbursement and payment methods based on demonstrated need. The Department may consider factors such as available funds for eligible activities. Suballocations must request funds in increments, schedule for advance payments or other form approved by the Department, and report progress according to an implementation and expenditure timetable.
- G. Supporting documentation may include, but is not limited to, purchase orders, receipts, progress payments, subcontractor invoices, timecards, reports, or any other documentation as deemed necessary by the Department to support the reimbursement to the Grantee for expenditures incurred.
- H. Invoices must be accompanied by supporting documentation where appropriate. Invoices without supporting documentation will not be paid. The Department may withhold up to 10 percent of the grant until grant terms have been fulfilled, including all required reporting.

3. **Audits**

- A. At any time during the term of the Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the award. At the Department's request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The Department has the right to review project documents and conduct audits during project implementation and over the project life.
- B. The Grantee agrees that the Department or the Department's designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance of this Agreement.
- C. The Grantee agrees to provide the Department, or the Department's designee, with any relevant information requested.
- D. The Grantee agrees to permit the Department or the Department's designee 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

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material that may be relevant to a matter under investigation for the purpose of determining compliance with statutes, REAP 2.0 Guidelines, and the Agreement.

- E. The Department may request additional information, as needed, to meet other applicable audit requirements.
- F. The Department may monitor expenditures and activities of a Grantee or its designees, contractors or subcontractors, as the Department deems necessary, to ensure compliance with REAP requirements.
- G. Grantees using federal or state transportation planning funds administered through the Overall Work Program (OWP) shall clearly identify the source of funds.
- H. If there are audit findings, the Grantee must submit a detailed response acceptable to the Department for each audit finding within 90 days from the date of the audit finding report.
- I. The Grantee agrees to maintain such records for possible audit after the final payment for at least five years after all funds have been expended or returned to the State unless a longer period of records retention is stipulated. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.
- J. If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, all records must be retained by the Grantee and its designees, contractors, and sub-contractors until completion of the action and resolution of all issues which arise from it. In any contract that it enters into in an amount exceeding \$10,000, the Grantee shall include the Department's right to audit the contractor's records and interview their employees.
- K. The Grantee shall comply with and be aware of the requirements and penalties for violations of fraud and for obstruction of investigation as set forth in California Public Contracts Code Section 10115.10.

4. **Remedies and Non-performance**

- A. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Department's Housing Policy Development Manager, or the Manager's designee, who may consider any written or verbal evidence submitted by the Grantee. The decision of the Department's Housing Policy Development Manager or Designee shall be the Department's final decision regarding the dispute, not subject to appeal.
- B. Neither the pendency of a dispute nor its consideration by the Department will excuse the Grantee from full and timely performance in accordance with the terms of this Agreement.

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- C. In the event that it is determined, at the sole discretion of the Department, that the Grantee is not meeting the terms and conditions of the Agreement, immediately upon receiving a written notice from the Department to stop work, the Grantee shall cease all work under the Agreement. The Department has the sole discretion to determine that the Grantee meets the terms and conditions after a stop work order, and to deliver a written notice to the Grantee to resume work under the Agreement.
- D. The Department has the right to terminate the Agreement at any time upon 30 days written notice. The notice shall specify the reason for early termination and may permit the Grantee or the Department to rectify any deficiency(ies) prior to the early termination date. The Grantee will submit any requested documents to the Department within 30 days of the early termination notice.
- E. The applicant must demonstrate a clear and significant nexus to REAP 2.0 Program goals and objectives and must carry out provisions to meet the Program goals and objectives and other requirements, including, but not limited to, adoption or completion of activities toward Policy Outcomes and implementation of eligible use activities funded through a suballocation process. Any lack of action or action inconsistent with REAP 2.0 requirements may result in review and could be subject to repayment of the grant.
- F. At any time, if the Department finds the Grantee included false information in the advance or final application or as part of the application review, the Department may require the repayment of funds.
- G. Grantees are responsible for suballocations meeting all REAP 2.0 requirements.
- H. Examples of a breach of this Agreement:
  - 1. Grantee's failure to comply with any term or condition of this Agreement.
  - 2. Use of, or permitting the use of, grant funds provided under this Agreement for any ineligible costs or for any activity not specified and approved under this Agreement.
  - 3. Any failure to comply with the deadlines set forth in this Agreement unless approved by the Program Manager in writing.
- I. The Department may, as it deems appropriate or necessary, require the repayment of funds from a Grantee, or pursue any other remedies available to it by law for failure to comply with all REAP 2.0 Program requirements.
- J. In addition to any other remedies that may be available to the Department in law or equity for breach of this Agreement, the Department may at its discretion, exercise a variety of remedies, including but not limited to:
  - 1. Revoke existing REAP 2.0 award(s) to the Grantee;

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2. Require the return of unexpended REAP 2.0 funds disbursed under this Agreement;
  3. Require repayment of REAP 2.0 Funds disbursed and expended under this Agreement;
  4. Seek a court order for specific performance of the obligation defaulted upon, or the appointment of a receiver to complete the obligations in accordance with the REAP 2.0 Program requirements; and
  5. Other remedies available at law, by and through this Agreement. All remedies available to the Department are cumulative and not exclusive.
  6. The Department may give written notice to the Grantee to cure the breach or violation within a period of not less than 15 days.
- K. The Grantee may be subject to amendment of this section as a result of subsequent applications and awards.
5. **Reporting**
- A. At any time during the term of the Agreement, the Department may request a performance report that demonstrates satisfaction of all requirements identified in the Agreement with emphasis on eligible activities, eligible uses, and expenditures according to timelines and budgets referenced in the Agreement.
- B. Grantees shall submit a report, in the form and manner prescribed by the Department, to be made publicly available on its website, by April 1 of the year following the receipt of those funds, and annually thereafter until those funds are expended, that contains the following information:
1. The status of the Proposed Uses and expenditures listed in the Grantee's advance and full applications for funding and progress of each Proposed Use toward all the objectives of the REAP 2.0 program as provided in the Guidelines and explained in the applications.
  2. An explanation and quantification, where appropriate, of the progress achieved toward all of the objectives of the REAP 2.0 program, barriers and solutions for each Proposed Use that is consistent with and incorporates the metrics in the full application, including, but not limited to:
    - i. Housing units accelerated,
    - ii. Reductions in Vehicle Miles Traveled Per Capita,
    - iii. Location of investment,
    - iv. Socioeconomic statistics about the impacted geography, and
    - v. Regional impact explanation

The report must identify whether Proposed Uses overlap with other programs that share the same objectives as REAP 2.0. The Grantee should also identify

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any measurement challenges that persist and highlight any administrative barriers that prevent it from obtaining the information it needs to perform better analysis of progress made achieving REAP 2.0 Objectives and make adjustments to the extent possible in subsequent reporting years.

3. All status and impact reports shall be categorized based on the eligible uses specified in Section 50515.08 of the Statute.
- C. Grantees shall post, make available, and update, as appropriate on its internet website, land use maps and Vehicle Miles Traveled generation maps produced in the development of its adopted SCS, as applicable.
- D. Grantees shall collaborate and share progress, templates, and best practices with the Department and fellow recipients in implementation of funds. To the greatest extent practicable, Grantees shall coordinate with other Eligible Entities in the development of applications, consider potential for joint activities, and seek to coordinate Housing and transportation planning across regions.
- E. Upon completion of all deliverables within the Agreement, the Grantee shall submit a close out report in a manner and form prescribed by the Department.
  1. Grantee may include a line item for advance payment or reimbursement, as part of its administrative costs, for its final report that is due by June 30, 2026. Funding requests for final reports must be submitted no later than March 31, 2026.

6. **Indemnification**

Neither the Department nor any officer, employee or designee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted by the Grantee, its officers, employees, agents, its contractors, its sub-recipients or its subcontractors under or in connection with any work, authority or jurisdiction conferred upon the Grantee under this Agreement, Guidelines or Statute. It is understood and agreed that the Grantee shall fully defend, indemnify and save harmless the Department and all of the Department's staff from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by the Grantee, its officers, employees, agents, contractors, sub-recipients, or subcontractors under this Agreement, Guidelines or Statute.

7. **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement, or to require at any time, performance by the Grantee of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

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8. **Relationship of Parties**

It is expressly understood that this Agreement is an agreement executed by and between two independent governmental entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

9. **Third Party Contracts**

- A. All state-government funded procurements must be conducted using a fair and competitive procurement process. The Grantee may use its own procurement procedures as long as the procedures comply with all City/County laws, rules and ordinances governing procurement, and all applicable provisions of California state law.
- B. Any contract entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement and shall be applicable to the Grantee's sub-recipients, contractors, and subcontractors. Copies of all agreements with sub-recipients, contractors, and subcontractors shall be submitted to the Department's program manager.
- C. The Department does not have a contractual relationship with the Grantee's sub-recipients, contractors, or subcontractors, and the Grantee shall be fully responsible for monitoring and enforcement of those agreements and all work performed thereunder.

10. **Compliance with State and Federal Laws, Rules, Guidelines and Regulations**

- A. The Grantee agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the grant, the Grantee, its contractors or subcontractors, and any other grant activity.
- B. During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, ancestry, national origin, sex, gender, gender identity, gender expression, genetic information, age, disability, handicap, familial status, religion, or belief, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations.
- C. The Grantee shall include the nondiscrimination and compliance provisions of this clause in all agreements with its sub-recipients, contractors, and subcontractors, and shall include a requirement in all agreements that each of them in turn include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts they enter into to perform work under the REAP 2.0 Program.

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- D. The Grantee shall, in the course of performing project work, fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
- E. The Grantee shall adopt and implement affirmative processes and procedures that provide information, outreach and promotion of opportunities in the REAP project 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 CFR 92.351.

11. **Litigation**

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Grantee shall notify the Department immediately of any claim or legal action undertaken by or against it, which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or legal action consistent with the terms of this Agreement and the interests of the Department.

12. **Changes in Terms/Amendments**

- A. The Grantee may be subject to amendments to this section as a result of subsequent applications and awards.
- B. This Agreement may only be amended or modified by mutual written agreement of both parties.

13. **State-Owned Data**

A. Definitions

1. Work:

The work to be directly or indirectly produced by the Grantee, its employees, or by and of the Grantee's contractor's, subcontractor's and/or sub-recipient's employees under this Agreement.

2. Work Product:

All deliverables created or produced from Work under this Agreement including, but not limited to, all Work and deliverables conceived or made or, hereafter

Regional Early Action Planning Grants of 2021 (REAP 2.0)

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conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six months after the termination thereof, which relates to the Work commissioned or performed under this Agreement, are considered Work Product. Work Product includes all deliverables, inventions, innovations, improvements, or other works of authorship Grantee and/or Grantee's contractor subcontractor and/or sub-recipient may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret or other legal protection.

**B. Sharing of Work Product and Rights**

All Work Product shall be shared with the Department and its partners for various purposes, including education, outreach, transparency and future learning.

**14. Special Conditions**

The State reserves the right to add any special conditions to this Agreement it deems necessary to assure that the policy and goals of the Program are achieved.

## **ATTACHMENT D**

### **PERFORMANCE MEASURES**

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#### **Performance Measures Metrics to Be Provided in Final Progress Report**

Below are examples that could be used, depending on the type of project funded through the HAP.

- Number of housing units produced during the grant term (total, type, affordable, and per acre)
- Number of housing units produced during the grant term that are affordable to lower income households
- Amount of time to approve housing permits at the end of the grant term.
- Amounts charged by Subgrantee to developers per unit of housing at the end of the grant term
- Number of improvements to the mix of land use types (multifamily, single-family, and non-residential) in jurisdiction
- Number of acres Subgrantee avoided converting from agricultural, natural, or working lands to land eligible for development
- Number of new or enhanced active transportation capital and infrastructure projects completed during the grant term
- Number of projects providing new or enhanced connectivity to the non-automotive transportation network during the grant term
- Number of improved neighborhood projects with safety features to promote active mobility completed during the grant term
- Number of new linkages to transit and/or pedestrian and bicycle infrastructure created during the grant term
- Number of new infrastructure services created in areas of concentrated poverty or similar areas during the grant term
- Number of new housing units created during the grant term in mobility hub areas identified in the 2021 Regional Plan
- Number of individual persons reached by Subgrantee using direct engagement with community stakeholders concerning the topics of affordable housing or sustainable development during the grant term
- Number of existing housing units available and affordable within jurisdiction
- Number of affordable housing units available for ownership or rent
- Number of housing units located on an infill site surrounded by urban uses such as shopping, restaurants, and jobs available to rent or own
- Number of housing units produced during the grant term (total, type, affordable, and per acre)
- Number of housing units produced during the grant term that are affordable to lower income households

**ATTACHMENT E**  
**PUBLIC WORKS REQUIREMENTS**

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Any subcontract entered into as a result of the Agreement, shall contain all the provisions of these Public Works Requirements. Use of the term "Contractor" herein shall refer to "Subgrantee and its subcontractors" as defined in the Agreement and use of the term "Contract" herein shall refer to the "Agreement".

**7 1.01A      LABOR CODE REQUIREMENTS**

**7 1.01A(1)      HOURS OF LABOR**

Eight (8) hours labor constitutes a legal day's work. The Contractor or any subcontractor under the Contractor shall forfeit, as a penalty to SANDAG, twenty five dollars (\$25) for each worker employed in the execution of the Contract by the respective Contractor or subcontractor for each calendar day during which that worker is required or permitted to work more than 8 hours in any one calendar day and forty (40) hours in any one calendar week in violation of the requirements of the Labor Code, and in particular, §§1810 - 1815, thereof, inclusive, except that work performed by employees of Contractors in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one half times the basic rate of pay, as provided in §1815 thereof.

**7 1.01A(2)      PREVAILING WAGE**

The Contractor shall pay wage rates consistent with the State of California Labor Code and the California Department of Industrial Relations.

The wage rates determined by the Director of Industrial Relations can be found in the State Prevailing Wage Rates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, said published rate of wage shall be in effect for the life of this Contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the Department of Industrial Relations, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Contract, each successive predetermined wage rate shall apply to this Contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Contract, such wage rate shall apply to the balance of the Contract.

Contractor and any subcontractor under Contractor shall comply with Labor Code §§1774 and 1775. Pursuant to Section 1775, the Contractor and any subcontractor under the Contractor shall forfeit to SANDAG a penalty of not more than two-hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the Contract by the Contractor or by any subcontractor under the Contractor in violation of the requirements of the Labor Code and in particular, Labor Code §§ 1770 to 1780, inclusive. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or subcontractor in meeting their respective prevailing wage obligations, or the willful failure by the Contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or subcontractor had knowledge of the obligations under the Labor Code. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each

worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor or subcontractor. If a worker employed by a subcontractor on a public works project is not paid the general prevailing per diem wages by the subcontractor, the prime contractor of the project is not liable for the penalties described above unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

- A. The contract executed between Contractor and the subcontractor for the performance of work on the Project shall include a copy of the requirements in §§1720.9, 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.
- B. Contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.
- C. Upon becoming aware of the subcontractor's failure to pay the specified prevailing rate of wages to the subcontractor's workers, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.
- D. Prior to making final payment to the subcontractor for work performed on the public works project, Contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to the subcontractor's employees on the public works project and any amounts due pursuant to Section 1813 of the Labor Code.

Pursuant to Section 1775 of the Labor Code, the Division of Labor Standards Enforcement shall notify a contractor on a public works project within fifteen (15) days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages. If the Division of Labor Standards Enforcement determines that employees of a subcontractor were not paid the general prevailing rate of per diem wages and if SANDAG did not retain sufficient money under the Contract to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, Contractor shall withhold an amount of moneys due the subcontractor sufficient to pay those employees the general prevailing rate of per diem wages if requested by the Division of Labor Standards Enforcement. Contractor shall pay any money retained from and owed to a subcontractor upon receipt of notification by the Division of Labor Standards Enforcement that the wage complaint has been resolved. If notice of the resolution of the wage complaint has not been received by the Contractor within 180 days of the filing of a valid notice of completion or acceptance of the public works project, whichever occurs later, Contractor shall pay all moneys retained from the subcontractor to SANDAG. These moneys shall be retained by SANDAG pending the final decision of an enforcement action.

Pursuant to the requirements in Labor Code §1773, SANDAG has obtained the general prevailing rate of wages (which rate includes employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided for in Labor Code §1773.1, apprenticeship or other training programs authorized by Labor Code §3093, and similar purposes) applicable to the work to be done, for straight time, overtime, Saturday, Sunday and holiday work. The holiday wage rate listed shall be applicable to all holidays recognized in the collective bargaining agreement of the particular craft, classification or type of workmen concerned.

The general prevailing wage rates and any applicable changes to these wage rates are available at the California Department of Industrial Relations' website at: <http://www.dir.ca.gov>.

The wage rates determined by the Director of Industrial Relations for the project refer to expiration dates. Prevailing wage determinations with a single asterisk after the expiration date are in effect on the date of advertisement for bids and are good for the life of the Contract. Prevailing wage determinations with



double asterisks after the expiration date indicate that the wage rate to be paid for work performed after this date has been determined. If work is to extend past this date, the new rate shall be paid and incorporated in the Contract. The Contractor shall contact the Department of Industrial Relations as indicated in the wage rate determinations to obtain predetermined wage changes.

Pursuant to §1773.2 of the Labor Code, general prevailing wage rates shall be posted by the Contractor at a prominent place at the site of the Work.

Changes in general prevailing wage determinations that conform to Labor Code §1773.6 and Title 8 California Code of Regulations §16204 shall apply to the Project when issued by the Director of Industrial Relations at least ten (10) days prior to the date of the Notice to Contractors for the Project.

Pursuant to Labor Code §1720.9, "public works" shall include the hauling and delivery of ready-mixed concrete to carry out a public works contract for SANDAG.

### **7 1.01A(2)(A) TRAVEL AND SUBSISTENCE PAYMENTS**

Contractor shall make travel and subsistence payments to each workman, needed to execute the work, in conformance with the requirements in Labor Code Section 1773.1.

### **7 1.01A(3)(A) PAYROLL RECORDS – LABOR CODE REQUIREMENTS**

Attention is directed to the requirements in Labor Code §1776, a portion of which is quoted below. Regulations implementing Labor Code §1776 are located in §§16200 et seq. of Title 8, California Code of Regulations.

"(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, last 4 digits of social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1720.9, 1771, 1811, and 1815 of the Labor Code for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of

preparation by the contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in a manner so as to prevent disclosure of an individual's name, address and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated.

(f) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(g) The contractor or subcontractor shall have 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the ten (10) day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section."

The penalties specified in subdivision (h) of Labor Code Section 1776 for noncompliance with the requirements in Section 1776 may be deducted from any moneys due or which may become due to the Contractor.

A copy of all payrolls shall be uploaded weekly to the SANDAG Labor Compliance Monitoring System (LCMS) no later than ten calendar days after the payroll week end date. Payrolls shall contain the full name, address and Social Security number of each employee, the employee's correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. They shall also indicate apprentices and ratio of apprentices to journeymen. The employee's address and social security number must be entered on all payrolls. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or the employer's agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the Contract. The "Statement of Compliance" shall be on forms furnished by SANDAG or on any form with identical wording. The Contractor shall be responsible to ensure submission of subcontractor payrolls in the LCMS and the Department of Industrial Relations (DIR) eCPR systems. In addition, the Contractor is responsible for maintaining physical copies of all (prime/subcontractor) payrolls for DIR auditing purposes.

Submitted certified payrolls for hauling and delivering ready-mix concrete must be accompanied by a written time record. The time record must include the following information and be uploaded to LCMS:

- Truck driver's full name
- Name and location of the batch plant
- Time the concrete was loaded

- Time the truck returned to the batch plant
- Truck driver's signature certifying under penalty of perjury that the information contained in it is true and correct.

### **7 1.01A(3)(B) PAYROLL RECORDS – ADDITIONAL REQUIREMENTS**

The Contractor shall also maintain its records in conformance with the following:

A. The Contractor will be provided with all necessary forms from the SANDAG current labor compliance consultant. The Contractor shall submit weekly a copy of all payrolls to the SANDAG labor compliance consultant. The copy shall be accompanied by a statement signed by the employer or its agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor or the State of California Labor Code, and that the classifications set forth for each laborer or mechanic conform to the work which he or she performed. The Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor shall make the records required under the labor standards clauses of the Contract available for inspection by authorized representatives of SANDAG and the Department of Labor and shall permit such representatives to interview employees during working hours on the job.

B. Contractor, and each subcontractor having contracts exceeding \$10,000, shall submit monthly a report of manpower utilization of the total work force for all work performed during the month. If Contractor or subcontractor does not perform work on the project during the month, a negative report shall be submitted. The reports shall be submitted by the 15th of the following month. Contractor shall be responsible for submission of reports of all subcontractors. If any required manpower utilization report is not received by the designated due date, SANDAG will retain 10 percent (10%) of the estimated value of the work during the month from the next monthly estimate, except that such retentions shall not exceed \$10,000, nor be less than \$1,000. Retentions for failure to submit manpower utilization reports will be additional to all other retentions provided for in this Contract. Retentions for failure to submit manpower utilization reports will be released for payment on the monthly estimate for partial payments next following the date that all the delinquent reports for which the retention was made are submitted

C. The Contractor shall make its records available and is responsible for making its subcontractors' records available for inspection by authorized representatives of SANDAG or the state or federal government and shall permit such representatives to interview employees during working hours on the job.

### **7 1.01A(5) APPRENTICE REQUIREMENTS**

A. Contractor and its subcontractors are required to meet the apprenticeship ratio of one hour of apprentice work for every five hours of journeyman work per Title 8 California Code of Regulations, §230.1 for its public works projects exceeding \$30,000, with the exception of design build projects, which have a higher ratio requirement that graduates from 20% to 60% between 2016 and 2020. California Labor Code §1777.5 requires all public works contractors and subcontractors to submit contract award information to applicable apprenticeship programs that can supply apprentices to the site of the public work, employ registered apprentices, and make training fund contributions to approved apprenticeship programs.

B. Contractor and its subcontractors shall comply with §§1777.5, 1777.6, and 1777.7 of the California Labor Code and Title 8, California Code of Regulations §200 et seq. To ensure compliance and complete understanding of the law regarding apprentices, and specifically the required ratio thereunder, each contractor or subcontractor should, where some question exists, contact the Division of Apprenticeship Standards, or one of its branch offices prior to commencement of work on this Contract. Responsibility for compliance with this Section lies with Contractor.

C. SANDAG encourages the employment and training of apprentices on public works contracts as may be permitted under local apprenticeship standards.

**7 1.01A(7) WORKERS' COMPENSATION**

Pursuant to the requirements in Labor Code §1860, the Contractor will be required to secure the payment of workers' compensation to the Contractor's employees in conformance with the requirements in Labor Code §3700.

**7 1.01A(8) RECOVERY OF PENALTIES AND FORFEITURES**

Attention is directed to Labor Code §§1730 to 1742, which calls for the Labor Commissioner to issue a civil wage and penalty assessment to Contractor or subcontractor or both if the Labor Commissioner determines after investigation that there has been a violation of the laws regulating public works contracts. Contractor or subcontractor may obtain review of a civil wage and penalty assessment by transmitting a written request for a hearing to the office of the Labor Commissioner that appears on the assessment within 60 days after service of the assessment.

**7 1.01B CONTRACTOR'S LICENSING LAWS**

Attention is directed to the provisions of Chapter 9 of Division 3 of the Business and Professions Code (commencing with §7000) concerning the licensing of contractors.

All Contractors and subcontractors shall be licensed in accordance with the laws and regulations of the State of California and with the requirements of this Contract and any Contractor or subcontractor not so licensed is subject to the penalties imposed by those laws. Contractor must also provide the license number for any subcontractor completing work in excess of one half of one percent of the total bid.