



BOARD OF DIRECTORS REPORT

MEETING DATE: SEPTEMBER 7, 2021 **AGENDA ITEM: #9**

DEPARTMENT: COMPLIANCE

TYPE: ACTION ITEM

PREPARED BY: STEVE MAAS

Signature

REVIEWED BY: GENERAL MANAGER

Signature

SUBJECT: SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS (SBCAG) SUBRECIPIENT AGREEMENT

RECOMMENDATION:

- A. Approve agreement (attached) for SBCAG to be a subrecipient to MTD for \$400,000 of federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021 COVID relief funds. The SBCAG Board approved the agreement on July 15.
- B. Approve amendment (attached) to the subrecipient agreement. Subsequent to SBCAG's approval of the agreement, MTD staff discovered that certain information that is required by FTA in all subrecipient agreements was not included in the agreement. Amendment 1 to the agreement will add the required information. SBCAG staff will bring the amendment to their Board for approval.

DISCUSSION:

Santa Barbara County includes three recipients of Section 5307 Urbanized Area Formula Program funds from the Federal Transit Administration (FTA): MTD, Santa Maria (for Santa Maria Area Transit, or SMAT), and Lompoc (for City of Lompoc Transit, or COLT). FTA provided COVID relief funding under the Section 5307 "umbrella" in three bills:

- 1) Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act).
- 2) Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA).
- 3) American Rescue Plan Act of 2021 (ARPA).

SBCAG requested the three recipients of the COVID relief funds to provide a total of \$1.2 million in those funds to reimburse SBCAG for Clean Air Express expenses related to the pandemic. The three recipients agreed to each provide \$400,000 to SBCAG. Staff worked with SBCAG to develop the subrecipient agreement, which will allow MTD to pass through \$400,000 from the CRRSAA award to SBCAG.

MTD will be responsible to FTA to ensure that SBCAG complies with all federal requirements for the life of the award, and the agreement was developed with that in mind. A partial listing of requirements includes:

- Title VI Plan (Non-Discrimination)

BOARD OF DIRECTORS REPORT

- Disadvantaged Business Enterprise (DBE) Program
- Triennial DBE Goal
- Semi-Annual DBE Reports
- Equal Employment Opportunity (EEO) Plan
- Americans with Disabilities Act (ADA) compliance
- Drug and Alcohol Testing Program
- Drug Free Workplace Act Program
- Public Transportation Agency Safety Plan
- Transit Asset Management Program
- Satisfactory Continuing Control of FTA-Funded Assets
- Satisfactory Maintenance of FTA-Funded Assets
- Satisfactory Financial Capacity
- Satisfactory Technical Capacity
- Procurement Policies in Compliance with FTA Requirements
- Program of Projects
- Quarterly CRRSAA Award Reporting

ATTACHMENTS:

- Subrecipient Agreement for Federal Transit Administration Assistance
- Amendment 1 to the Subrecipient Agreement for FTA Assistance

**Santa Barbara Metropolitan Transit District
Subrecipient Agreement for
Federal Transit Administration Assistance**

WHEREAS, the Federal Transit Administration (hereafter "FTA") administers the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (hereafter "CRRSAA") public transit funding program for the purpose of operating and capital assistance for public transit services in the United States of America; and,

WHEREAS, the Santa Barbara Metropolitan Transit District (hereafter "DISTRICT" or "RECIPIENT") is established and existing under Part 9, Division 10, of the California Public Utilities Code, codified at Sections 95000-97100, and empowered to provide public transportation service in the South Coast of Santa Barbara County; and,

WHEREAS, the Santa Barbara County Association of Governments (hereafter "SBCAG" or "SUBRECIPIENT") is a Metropolitan Planning Organization in the County of Santa Barbara, California; and,

WHEREAS, SBCAG and DISTRICT periodically identify projects and services eligible for federal funds from FTA; and,

WHEREAS, DISTRICT is the sole direct recipient of Santa Barbara urbanized area funds from FTA; and

WHEREAS, SBCAG desires to receive FTA CRRSAA funds for eligible projects as a SUBRECIPIENT of DISTRICT; and,

WHEREAS, SBCAG agrees to comply with all FTA requirements and responsibilities required by DISTRICT of a SUBRECIPIENT of FTA funds and SBCAG agrees to commit its own local funds for this purpose; and,

WHEREAS, it is necessary that SBCAG enter into this agreement with DISTRICT to receive FTA funds as a SUBRECIPIENT to DISTRICT;

NOW, THEREFORE it is mutually agreed between the Parties that:

1. Effect of Recitals. The foregoing recitals are hereby made express provisions of this Agreement.
2. SUBRECIPIENT obligations:
 - a. To submit documents required by Federal and State law and implementing regulations and requirements pertaining to receipt of federal funds to authorities and to RECIPIENT, including, but not limited to the following: Title VI civil rights plan and compliance to noticing requirements, equal employment opportunity policy and compliance to noticing requirements, half fare policy and compliance to noticing requirements, Disadvantaged Business Enterprise (DBE) program, DBE

triennial goal, and DBE semiannual report, and noticing requirements, preventive maintenance program and documentation of performance, public participation plan, service and fare change policy, compliance with Americans with Disabilities Act, procurement policy, cost allocation plan and compliance with plan, compliance with drug and alcohol testing program and drug-free workplace policy, financial capacity plan, and school and charter bus service policy, if deemed applicable by FTA;

- b. To cooperate with RECIPIENT in the administration of federal funding by timely provision of documents, records, plans and procedures as requested;
- c. To cooperate with RECIPIENT in monitoring for, and preparation of, Triennial Reviews as mandated by FTA;
- d. To cooperate with RECIPIENT in monitoring for SUBRECIPIENT reviews as required by FTA;
- e. To coordinate with the RECIPIENT to produce information as needed in electronic format and/or hard copy for submission of the FTA Award Form;
- f. To submit Annual Certifications and Assurances and any other documents necessary for completing the Award Form discussed in Clause 6 below to appropriate authorities and to the RECIPIENT;
- g. To provide in a timely manner to RECIPIENT information required for quarterly Federal Financial Reports and Milestone Progress Reports by the 15th day of the month following close of each calendar year quarter;
- h. To prohibit use of any vehicle, equipment, personnel, facilities, or other asset funded with federal funds for any purpose other than public transportation;
- i. To comply with any changes to federal requirements which may occur during the term of this agreement;
- j. To allow federal and RECIPIENT administrators access to SUBRECIPIENT's records, and to allow federal and RECIPIENT administrators to audit SUBRECIPIENT's accounting documents, records, payroll, and accounts for the purpose of verifying compliance with the requirements of federal funding;
- k. To maintain all records for seven years from the date of the last use of the awarded FTA funds or the date of completion of any project financed by FTA funds, whichever is later;
- l. To provide in a timely manner procurement analyses to RECIPIENT to justify participation in consortium and/or piggyback procurements;
- m. To account and separately track all eligible expenditures for each federal project;
- n. To account and separately track all federal and local matching expenditures for each federal project; and
- o. To comply to the Uniform System of Accounts (USOA) and generally accepted accounting principles.

- p. If required by FTA, to commit local funds subject to matching requirements for federal programs in a form acceptable to RECIPIENT;
- q. If required by FTA, to provide additional local funds and/or to secure additional eligible funds to complete project(s) and/or services within ninety (90) days prior to close-out date of any project financed by FTA funds.

3. RECIPIENT obligations:

- a. Subject to SUBRECIPIENT's completion of requirements listed herein, to submit in a timely manner an amendment to DISTRICT's FTA CRRSAA award in FTA's Transit Award Management System (TrAMS);
 - b. To account and track SUBRECIPIENT's eligible FTA CRRSAA expenses;
 - c. To coordinate with SUBRECIPIENT in the development of the scope of work, procurement process, and technical details of the award;
 - d. To coordinate with SUBRECIPIENT to provide a letter of concurrence if required by FTA;
 - e. To coordinate with SUBRECIPIENT to amend the federal transportation improvement program, if required by FTA;
 - f. To submit quarterly Federal Financial Reports and Milestone Progress Reports to FTA;
 - g. To close CRRSAA award and prepare final Federal Financial Report and Milestone Progress Report for submittal to the Federal Transit Administration following completion of all award activities;
4. TERM. The term of this agreement is April 1, 2021 to June 30, 2024, unless earlier terminated or extended. Upon written mutual agreement, the parties may extend the term by one-year, for up to three additional years.
5. Indemnification. SUBRECIPIENT shall, to the extent permitted by law, protect, indemnify, defend, and hold RECIPIENT and its Board members, officers, employees, agents, and consultants harmless from and against any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses, suits, actions or proceedings, including reasonable expenses, costs and attorneys' fees incurred by RECIPIENT and/or its Board members, officers, employees, agents or consultants in the defense, settlement or satisfaction thereof, for any injury, death, loss or damage to persons or property of any kind whatsoever, arising out of, relating to or resulting from, the acts, errors or omissions of SUBRECIPIENT. Such indemnification will include, but not be limited to, acts, errors or omissions of SUBRECIPIENT's officers, employees, servants, agents, subcontractors and suppliers. Upon receipt of notice of any reason or basis for indemnification under this Agreement, and if given authority, SUBRECIPIENT shall settle at its own expense or undertake at its own expense the defense of any such suit, action or proceeding, including appeals, against RECIPIENT and its Board members, officers, employees, agents or consultants relating to such injury, death, loss or damage. Each party shall promptly notify the other in writing of notice or the assertion of any claim, demand, lien, encumbrance, judgment, award, suit, action or other proceeding potentially

requiring SUBRECIPIENT's obligation to indemnify RECIPIENT and/or its related parties hereunder. SUBRECIPIENT shall have the sole, obligation, charge and direction of the defense of such suit, action or proceeding. RECIPIENT shall not make any admission which might be materially prejudicial to SUBRECIPIENT, unless SUBRECIPIENT has failed to take over the conduct of any negotiations or defense within a reasonable time after receipt of the notice and authority above provided. RECIPIENT shall, at the written request of SUBRECIPIENT, furnish to SUBRECIPIENT reasonable assistance that may be necessary for the purpose of defending such suit, action or proceeding, and RECIPIENT shall be repaid by SUBRECIPIENT for all reasonable costs incurred in doing so. RECIPIENT shall have the right to be represented therein by advisory counsel of its own selection at its own expense. The obligations of SUBRECIPIENT under this section shall not extend to circumstances where the injury, death, or damage is plainly caused solely by the negligent acts, errors or omissions of RECIPIENT, its Board members, officers, employees, agents or consultants, including its sole negligence in the preparation of the Contract documents, or RECIPIENT's giving of directions or instructions with respect to the requirements of the Contract by written order.

6. Termination.

- a. Termination for Convenience. RECIPIENT may terminate this Agreement, in whole or in part, upon ten (10) calendar days written notice to SUBRECIPIENT when it is in RECIPIENT's best interest, at RECIPIENT's sole discretion. Upon the effective date of the written notice of termination, SUBRECIPIENT shall cease performance of the Project or the applicable portion thereof to the extent specified in the notice. RECIPIENT shall pay SUBRECIPIENT agreed costs and applicable agreed profit thereon incurred to the specified date of termination, plus any costs RECIPIENT deems reasonably necessary to effectuate such termination. SUBRECIPIENT shall promptly submit to RECIPIENT its termination claim for such costs.
- b. Termination for Default. If SUBRECIPIENT shall breach any covenant, term or condition of this Agreement, including failure to make progress so as to jeopardize performance of this contract in accordance with its terms, RECIPIENT may, by written notice, notify SUBRECIPIENT setting forth the manner in which SUBRECIPIENT is in default. RECIPIENT's right to terminate this Agreement, in whole or in part, for default may be exercised if SUBRECIPIENT does not cure the condition(s) constituting the breach within ten (10) calendar days after receipt of such written notice. If no such cure happens, SUBRECIPIENT shall cease performance of the Project or the applicable portion thereof to the extent specified in the notice, and RECIPIENT shall pay SUBRECIPIENT agreed costs and applicable agreed profit thereon incurred to the specified date of termination. SUBRECIPIENT shall promptly submit to RECIPIENT its termination claim for such costs. If it is later determined by RECIPIENT, in its sole discretion, that SUBRECIPIENT did not breach the Agreement and had a justifiable reason for not performing, RECIPIENT may at its sole discretion set up a revised delivery or performance schedule for the Agreement or applicable portion thereof and allow SUBRECIPIENT to continue work, or RECIPIENT may choose to treat the

termination as a termination for convenience. Excess Costs. RECIPIENT may acquire, under terms and in any manner RECIPIENT solely considers appropriate, equivalent Project services and, if the Agreement or an applicable portion thereof was terminated for default, SUBRECIPIENT shall be liable to RECIPIENT for any excess costs for such Project services. Waiver of Remedies for any Breach. In the event that RECIPIENT elects to waive its remedies for any breach by SUBRECIPIENT of any covenant, term or condition of this Agreement, such waiver by RECIPIENT shall not limit RECIPIENT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

- c. RECIPIENT Property. If, at termination, SUBRECIPIENT has in its possession any property, whether completed or in progress, associated with the Project belonging to RECIPIENT, SUBRECIPIENT shall return such property to RECIPIENT or otherwise dispense with it in the manner RECIPIENT directs.
7. Modification of Agreement. This writing constitutes the entire Agreement between the parties relative to the matter of this Agreement and no modification hereof shall be effective unless and until such modification is evidenced in writing signed by both parties to this Agreement. There are no understandings, agreements or condition with respect to the subject matter of the Agreement except those contained in this writing.
8. Mandatory Disclosures. Parties are subject to Mandatory Disclosures under Title 2, Code of Federal Regulations Section 200.113.
9. Conflict of Interest. Parties are subject Title 2, Code of Federal Regulations, Section 200.112 Conflict of Interest.
10. Federal Uniform Guidance. As applicable, the Parties agree to comply with the requirements of Title 2, Code of Federal Regulations, Part 1201 et seq. which are hereby incorporated by reference.
11. Section Headings. The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.
12. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
13. Remedies Not Exclusive. No remedy herein conferred upon or reserved to either party is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.
14. No Waiver of Default. No delay or omission of either party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein;

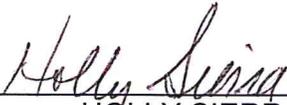
and every power and remedy given by this contract shall be exercised from time to time and as often as may be deemed necessary.

This Agreement is entered into on the _____ day of _____ 20____ by and between the Santa Barbara Metropolitan Transit District ("RECIPIENT") and the Santa Barbara County Association of Governments ("SUBRECIPIENT") in Santa Barbara, California.

RECIPIENT
SANTA BARBARA METROPOLITAN
TRANSIT DISTRICT

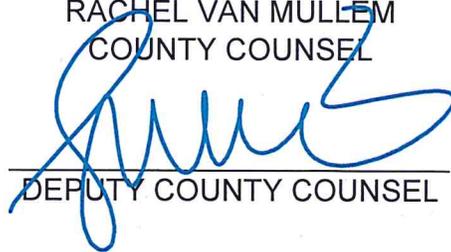
JERRY ESTRADA
GENERAL MANAGER, MTD

SUBRECIPIENT
SANTA BARBARA COUNTY
ASSOCIATION OF GOVERNMENTS



HOLLY SIERRA
CHAIR, SBCAG

APPROVED AS TO FORM
RACHEL VAN MULLEM
COUNTY COUNSEL



DEPUTY COUNTY COUNSEL

Amendment 1
Santa Barbara Metropolitan Transit District
Subrecipient Agreement for Federal Transit Administration Assistance

Required Agreement Information	
Information	Comment
Federal award identification	
Subrecipient name (which must match the name associated with its unique entity identifier)	Santa Barbara County Association of Governments
Subrecipient's unique entity identifier (DUNS)	789509382
Federal award identification number (FAIN)	CA-2021-100-00
Federal award date of award to the recipient by the Federal agency	7/15/2021
Subaward period of performance start and end date	4/20/2021 & 6/30/2022
Amount of Federal funds obligated by this action by the pass-through entity to the subrecipient	\$400,000
Total amount of Federal funds obligated to the subrecipient by the pass-through entity including the current obligation	\$400,000
Total amount of the Federal award committed to the subrecipient by the pass-through entity	\$400,000
Federal award description as required to be responsive to the Federal Funding Accountability and Transparency Act	Operating Assistance for the Santa Barbara County Association of Governments (SBCAG) for their Clean Air Express contracted commuter service, as a subrecipient to SBMTD, from April 20, 2021 through June 30, 2022.
Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the pass-through entity	Federal Transit Administration, Santa Barbara Metropolitan Transit District, Jerry Estrada jestrada@sbmtd.gov
Catalog of Federal Domestic Assistance (CFDA) number and name; the pass-through entity must identify the dollar amount made available under each Federal award	20507, 5307 - Urbanized Area Formula Grants (CRRSAA), \$4,481,888
Identification of whether the award is research and development (R&D)	The award is not R & D
Indirect cost rate for the Federal award (including if the application of the de minimis rate per §200.414 Indirect (F&A) costs)	n/a

Pass-through Requirements:	
All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award, i.e. federally required clauses	See Clause 2.a.through 2.q. of the Agreement
Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports	See Clause 2.a.through 2.q. of the Agreement
Indirect Costs: If a federally approved indirect cost rate is negotiated between the subrecipient and the Federal government, this rate must be used. If no such rate exists, the subrecipient may either negotiate a rate with the pass-through entity and the subrecipient (in compliance with this part), or elect the de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f), if eligible.	n/a
A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part	See Clause 2.j. of the Agreement
Appropriate terms and conditions concerning closeout of the subaward	See Clause 3.g. of the Agreement

This Amendment to the Agreement incorporates the FTA Master Agreement by reference. This Amendment to the Agreement is entered into on the 7 day of September, 2021 by and between the Santa Barbara Metropolitan Transit District (“RECIPIENT”) and the Santa Barbara County Association of Governments (“SUBRECIPIENT”) in Santa Barbara, California.

Recipient
Santa Barbara
Metropolitan Transit District

Subrecipient
Santa Barbara County
Association of Governments

Jerry Estrada
General Manager, MTD

Holly Sierra
Chair, SBCAG