

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOLDEN STATE FINANCE AUTHORITY
AND
THE COUNTY OF LAKE
REGARDING DEVELOPMENT OF A BROADBAND STRATEGIC PLAN**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is dated June 22, 2021 and made between the **GOLDEN STATE FINANCE AUTHORITY** (“GSFA”) and the **COUNTY OF LAKE** (“County”). This MOU is made in reference to the following facts:

RECITALS:

- (a) GSFA is a joint powers authority organized and existing under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, exercising powers common to its thirty-six member counties and all additional powers given to a joint powers entity under any of the laws of the State of California.
- (b) Under that certain *Amended and Restated Joint Exercise of Powers Agreement* dated November 1, 2019, GSFA’s functions include establishing and operating programs and projects to promote economic development, and financing the construction, acquisition, and improvement of infrastructure.
- (c) County is a full member of GSFA, and a signatory to that certain *Amended and Restated Joint Exercise of Powers Agreement* dated November 1, 2019.
- (d) GSFA intends to apply to the U.S. Department of Commerce, Economic Development Administration for grant funding to support preparation of Broadband Strategic Plans on behalf of participating member counties.
- (e) County desires to participate in the grant application submitted by GSFA, and to cooperate with GSFA to develop a Broadband Strategic Plan for County.

THEREFORE, THE PARTIES SHALL JOINTLY EXERCISE THEIR COMMON POWER AS FOLLOWS:

- 1. Recitals Incorporated. The above recitals are true and correct, and are hereby incorporated into this MOU.
- 2. Authority. This MOU is authorized by Government Code sections 6500 et seq., 12100, 26100 et seq., 26227, and 52200 et seq., and Section 6 of that certain *Amended and Restated Joint Exercise of Powers Agreement* dated November 1, 2019.
- 3. Responsibilities of GSFA. GSFA will apply to the U.S. Department of Commerce, Economic Development Administration for funding under the

American Rescue Plan Act (Public Law No. 117-2) to support preparation of a Broadband Strategic Plan on behalf of County.

In the event that the application is approved, GSFA will provide all grant administration including required project and fiscal reporting, as well as project management support for grant activities. GSFA will also engage a qualified consultant to prepare a draft Broadband Strategic Plan for County, which will, at a minimum, include: information on all existing networks, internet service providers (ISPs), and services/speed provided; a description of unmet needs of existing businesses; conceptual designs for network that incorporates information from relevant regional CEDS or equivalent economic development plans, or connectivity plans; information on applicable federal and state funding opportunities for broadband infrastructure deployment; and, recommendations for key project opportunities.

4. Responsibilities of County. In the event the application is approved, County will be responsible for identifying and coordinating a local broadband task force to provide input for the Broadband Strategic Plan, and will cooperate with GSFA's selected consultant in development of the Plan. County will further be responsible for presenting the final draft Broadband Strategic Plan to County's Board of Supervisors and any other appropriate public bodies for consideration and possible adoption.
5. Match. U.S. Department of Commerce, Economic Development Administration grant funding requires a match of up to twenty percent (20%). GSFA will determine the match amount attributable to County, based upon the proportion of grant funding utilized for preparation of County's Broadband Strategic Plan and the applicable match percentage specified by the Economic Development Administration. County shall remit the applicable match amount to GSFA as set forth in this section. The estimated match amount for County is **\$25,000**, and the maximum amount payable by County under this MOU shall not exceed \$25,000.

County may elect to advance the estimated match of \$25,000 to GSFA pursuant to Government Code section 6504, in which case any unused amount will be reimbursed to County upon completion of this MOU as set forth in Section 6. Alternatively, after approval of grant by the Economic Development Administration, GSFA will invoice County for the applicable match amount determined in accordance with this section, and County will pay such invoice within thirty (30) days.

6. Term. This MOU shall become effective as of the date signed by both parties, and shall remain in effect until preparation of the draft Broadband Strategic Plan for County is complete. If the grant application submitted by GSFA is not approved, this MOU shall terminate upon GSFA's receipt of notice of disapproval.
7. Compliance with Law. GSFA and County shall perform all functions related to the services or activities described herein in accordance with all

applicable federal, state, county, district, and municipal laws, ordinances, regulations, and rules, and in accordance with the terms of the aforementioned grants.

8. Independent Contractor. GSFA shall, during the entire term of this MOU, be construed to be an independent contractor and nothing in this MOU is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow County to exercise discretion or control over the professional manner in which GSFA performs the services which are the subject matter of this contract. GSFA staff performing services under this MOU shall at all times remain employees of GSFA, and shall not be deemed employees of County for any purpose. GSFA shall be solely responsible for any and all compensation, payroll taxes, withholdings, workers' compensation and any other insurance or benefits of any kind for any GSFA employee providing services under this MOU.
9. Mutual Indemnification. In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties hereto pursuant to Government Code section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the parties agree, pursuant to Government Code section 895.4, as follows:
 - A. GSFA shall hold harmless, defend, and indemnify County, its agents, officers, and employees, against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees, expert fees, litigation costs, and investigation costs), damages, judgments or decrees by reason of any person's or persons' bodily injury, including death, or property (including property of County) being damaged by the negligent acts, willful acts, or errors or omissions of GSFA, or any person employed by or under GSFA in any capacity, during the provision of services provided for herein, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of County.
 - B. County shall hold harmless, defend, and indemnify GSFA, its agents, officers, and employees, against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees, expert fees, litigation costs, and investigation costs), damages, judgments or decrees by reason of any person's or persons' bodily injury, including death, or property (including property of GSFA) being damaged by the negligent acts, willful acts, or errors or omissions of County, or any person employed by or under County in any capacity, during the provision of services provided for herein, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of GSFA.

10. Insurance. GSFA and County shall each secure and maintain in full force and effect during the full term of this agreement commercial general liability insurance or participation in a self-insurance program, including coverage for owned and non-owned automobiles and other insurance necessary to protect the public, with limits of liability of not less than \$1 million combined single limit bodily injury and property damage. Policies shall be written by carriers reasonably satisfactory to each party. On request, a certificate evidencing the insurance requirements of this paragraph shall be provided.
11. No Third-Party Beneficiary. Nothing in this Agreement shall be construed to create any rights of any kind or nature in any other party not a named party to this Agreement.
12. Authorization. Each party executing this MOU and each person executing this MOU in any representative capacity, hereby fully and completely warrants to all other parties that he or she has full and complete authority to bind the person or entity on whose behalf the signing party is purporting to act.
13. Entire Agreement/Amendments. This MOU supersedes all previous agreements or understandings, and constitutes the entire understanding between the parties with respect to the above referenced services, terms of compensation, and otherwise. This MOU shall not be amended, except in a writing that is executed by authorized representatives of both parties.
14. Governing Law and Venue. This agreement shall be deemed to be made in, and shall be governed by and construed in accordance with the laws of the State of California (excepting any conflict of laws provisions which would serve to defeat application of California substantive law). Venue for any action arising from this agreement shall be in Sacramento County, California.

IN WITNESS WHEREOF, GSFA and County have executed this Memorandum of Understanding on the day and year set forth below.

Date: _____

GOLDEN STATE FINANCE AUTHORITY

By: _____

Executive Director


Date: _____

COUNTY OF LAKE

By _____

Chair, Board of Supervisors

APPROVED AS TO FORM:



anita grant (Jun 14, 2021 13:34 PDT)

County Counsel



GSFA General Counsel

Broadband Grant MOU


Final Audit Report


2021-06-14


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