



**Contract Number**

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**SAP Number**

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## County Administrative Office

<b>Department Contract Representative</b>	Matthew Erickson
<b>Telephone Number</b>	(909) 387-5423
<b>Contractor</b>	San Bernardino County Fire Protection District DUNS No. 027766398
<b>Contractor Representative</b>	Fire Chief Dan Munsey
<b>Telephone Number</b>	(909) 387-5779
<b>Contract Term</b>	February 8, 2022 through December 31, 2024
<b>Original Contract Amount</b>	\$2,100,000
<b>Amendment Amount</b>	
<b>Total Contract Amount</b>	
<b>Cost Center</b>	

### AGREEMENT BETWEEN SAN BERNARDINO COUNTY AND THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT RELATED TO THE AMERICAN RESCUE PLAN ACT AND THE CORONAVIRUS LOCAL FISCAL RECOVERY FUND

WHEREAS, on March 4, 2020, the State of California declared a state of emergency as a result of the Coronavirus Disease 2019 (COVID-19) outbreak and on March 13, 2020, by Proclamation 9994, the President declared a national emergency concerning the COVID-19 pandemic. The COVID-19 pandemic continues to cause significant risk to the public health and safety of the Nation; and

WHEREAS, on March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President. The law is intended to combat the COVID-19 pandemic, including the public health and economic impacts; and

WHEREAS, pursuant to Section 9901 of the ARPA, San Bernardino County (County) received a disbursement from the United States Department of the Treasury of money associated with the Coronavirus Local Fiscal Recovery Fund (CLFRF) for Local Governments under Section 603(a); and

WHEREAS, County agreed to comply with the U.S. Department of the Treasury Coronavirus State Fiscal Recovery Fund Award Terms and Conditions (Terms and Conditions) identified in the U.S. Department of the Treasury and San Bernardino County agreement (OMB Approved No. 1505-0271)

(U.S. Department of the Treasury Agreement), which is on file with the County and incorporated herein by this reference; and

WHEREAS, the Assistance Listing Number (ALN)/Federal Assistance Identification Number (FAIN) for the ARPA CLFRF is 21.027/SLT-0628 respectively; and

WHEREAS, the ARPA provides that payments from the CLFRF may be used for the following: i) to respond to the public health emergency with respect to COVID–19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; ii) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work; iii) for the provision of government services to the extent of the reduction in revenue due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; or iv) to make necessary investments in water, sewer, or broadband infrastructure; funding provided under ARPA must be obligated by December 31, 2024 and expended by December 31, 2026; and

WHEREAS, the County desires to transfer and San Bernardino County Fire Protection District (SBCFPD) desires to accept a transfer from ARPA CLFRF in the amount of \$2,100,000 for expenditures identified in Exhibit A related to Consolidated Fire Agencies (CONFIRE) for their efforts in providing additional COVID-19 emergency response to the residents of the County and SBCFPD.

NOW, THEREFORE, in consideration of the above, the County and SBCFPD agree as follows:

**1. The ARPA CLFRF.**

- a. This Agreement applies to following ARPA CLFRF transfers:  
The transfer by the County of an amount not to exceed \$2,100,000 to SBCFPD on a reimbursement basis for expenditures identified in Exhibit “A”. Exhibit “A” is attached hereto and incorporated herein by this reference. County acknowledges and agrees that SBCFPD will be administering the transfer of funds for the expenditures identified in Exhibit “A” by separate agreement between SBCFPD and CONFIRE. In the separate SBCFPD and CONFIRE agreement, CONFIRE shall provide SBCFPD quarterly reports of actual cash expenditures to date under this Agreement, and estimated cash expenditures through December 31<sup>st</sup> of each year. SBCFPD shall provide said CONFIRE reports to County. County, through its Chief Executive Officer (CEO), in the CEO’s sole discretion, reserves the right to reduce the transfer amount identified in this Agreement with fifteen (15) days advance written notice provided to SBCFPD. The reduction would be based: A) on CONFIRE’s estimated cash expenditures through December 31<sup>st</sup> of each year; or B) a later determination by the United States Department of the Treasury, County, or SBCFPD that the costs identified in this Agreement are ineligible for ARPA CLFRF.
- b. SBCFPD certifies that the use of funds that will be submitted for reimbursement from the CLFRF under Paragraph 1.a. and Exhibit “A” of this contract will be used only to cover those costs that: i) respond to the public health emergency with respect to COVID–19 or its negative economic impacts; and ii) were incurred during the period that begins February 8, 2022, and will end December 31, 2024. For purposes of this Agreement and pursuant to federal guidance, expended or obligated costs are costs incurred by SBCFPD during the time period referenced above that are allowable for reimbursement. Any cost obligated by SBCFPD as of December 31, 2024, must be expended by December 31, 2026 to meet the eligible costs timeframe as defined by the U.S. Department of the Treasury.

- c. Based on a certification SBCFPD received from CONFIRE through an agreement between SBCFPD and CONFIRE, SBCFPD certifies that the use of funds submitted for reimbursement from the CLFRF under Exhibit "A" of this contract will be used only to cover those costs that: i) respond to the public health emergency with respect to COVID-19 or its negative economic impacts; and ii) were incurred during the period that begins February 8, 2022, and will end December 31, 2024.
- d. SBCFPD agrees that the funds provided pursuant to this Agreement cannot be used: i) as a revenue replacement for lower than expected tax or other revenue collections; ii) for expenditures for which SBCFPD has received any other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense; or iii) as a deposit into any pension fund.
- e. SBCFPD shall prepare and submit to County an invoice for reimbursement of eligible funding expenses identified in Paragraph 1.a., above. Invoices may be submitted to County as frequently as monthly. Invoices will be reviewed and approved for compliance with terms of this Agreement. County shall reimburse to SBCFPD the amount of approved invoices submitted within thirty (30) days of receipt. If an invoice is rejected, or revisions are requested, SBCFPD will work with CONFIRE to obtain the required revisions.
- f. Both County and SBCFPD agree to comply with any and all ARPA requirements, as well as any and all applicable County, SBCFPD, State, and Federal laws, regulations, policies and procedures pertaining to the funding described in this Agreement. SBCFPD agrees to comply with the Terms and Conditions applicable to County as identified in the U.S. Department of the Treasury Agreement. Therefore, for purposes of this Agreement, the term "Recipient" in the U.S. Department of the Treasury Agreement Terms and Conditions shall mean SBCFPD and any SBCFPD subrecipient. County and SBCFPD shall comply with 2 CFR Part 200, including, but not limited to 2 CFR 200.303 (internal control), 200.331 thru 200.333 (subrecipient monitoring and management), and subpart F (audit). The use of funds must also adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Any funds expended by SBCFPD or its subcontractor(s) in any manner that does not adhere to official federal guidance shall be returned to the County. County and SBCFPD also agree that as additional federal guidance becomes available, an amendment to this Agreement may become necessary.
- g. SBCFPD shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with Section 200.334 Retention requirements for records of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Such documentation shall be produced to County upon request and may be subject to audit. Unless otherwise provided by Federal or State law (whichever is the most restrictive), SBCFPD shall maintain all documentation connected with its performance under this Agreement for a minimum of five (5) years from the date of the last payment made by County or until audit resolution is achieved, whichever is later, and to make all such supporting information available for inspection and audit by representatives of the County, the State or the United States Government during normal business hours at SBCFPD. Copies will be made and furnished by SBCFPD upon written request by County.
- h. SBCFPD shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support SBCFPD's requests for reimbursement which segregate and accumulate costs of SBCFPD and produce monthly reports which clearly identify reimbursable costs, matching fund costs, indirect cost allocation, and other allowable expenditures by SBCFPD. SBCFPD shall provide a

monthly report of expenditures under this Agreement no later than the 20<sup>th</sup> day of the following month.

- i. SBCFPD shall cooperate in having an audit completed by County, at County's option and expense. Any audit required by ARPA will be completed by SBCFPD and/or CONFIRE, as applicable, at SBCFPD and/or CONFIRE's expense.
  - j. SBCFPD shall repay to County any reimbursement for ARPA funding that is determined by subsequent audit to be unallowable under the ARPA within the time period required by the ARPA, but no later than one hundred twenty (120) days of SBCFPD receiving notice of audit findings, which time shall include an opportunity for SBCFPD to respond to and/or resolve the findings. Should the findings not be otherwise resolved and SBCFPD fail to reimburse moneys due County within one hundred twenty (120) days of audit findings, or within such other period as may be agreed between both parties or required by the ARPA, County reserves the right to withhold future payments due SBCFPD from any source under County's control.
2. This Agreement may be terminated by County, through the County's CEO, for any reason, with a thirty (30) day written notice to SBCFPD of termination. Upon such termination, payment will be made to SBCFPD for the expenses reasonably incurred prior to the effective date of termination. This Agreement may also be terminated immediately by County in the event of a breach of the Agreement terms by SBCFPD. In such event, County shall be entitled to pursue any available remedies authorized by law or regulations.
  3. This Agreement is from the Effective Date defined in Paragraph 10 through December 31, 2024. **County shall only reimburse costs incurred through the dates identified in Exhibit "A"**. Paragraphs 1f through 1j, 4 and 5 shall survive the termination of this Agreement. The costs to be reimbursed under this Agreement do not include Research and Development as defined in 2 CFR 200.1, nor do they include indirect costs.
  4. County agrees to indemnify, defend (with counsel reasonably approved by SBCFPD) and hold harmless SBCFPD and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from the County's negligent acts or omissions which arise from County's performance of its obligations under this Agreement.

SBCFPD agrees to indemnify, defend (with counsel reasonably approved by County), and hold harmless County and its officers, employees, agents, and volunteers from any and all claims, actions or losses, damages, and/or liability resulting from the SBCFPD's negligent acts or omissions which arise from SBCFPD's performance of its obligations under this Agreement.

In the event the County and/or SBCFPD is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the County and/or SBCFPD shall indemnify the other to the extent of its comparative fault.

5. SBCFPD and County are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability, Worker's Compensation and Property Damage and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this Agreement.
6. This Agreement shall be governed by the laws of the State of California. The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino

County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

7. During the term of the Agreement, SBCFPD shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. SBCFPD shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.
8. SBCFPD certifies that neither it nor its principals or subcontracts is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Any contracts funded by this Agreement shall be with vendors that meet this certification.
9. If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Agreement is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Agreement or any other portion thereof.
10. The recitals of this Agreement are incorporated into the body of this Agreement by this reference.
11. This Agreement shall take effect on the date it is signed and approved by authorized representatives of both County and the SBCFPD (Effective Date).
12. Time is of the essence for each and every provision of this Agreement.
13. Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party.
14. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
15. Nothing contained in this Agreement shall be construed as a relinquishment of any rights now held by the County or SBCFPD.
16. Without the prior written consent of the County, the Agreement is not assignable by SBCFPD either in whole or in part.

17. If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.
18. This Agreement and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.
19. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.
20. SBCFPD and its sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.
21. Any publications produced with funds from this award must display the following language:  
*"This project [is being] [was] supported, in whole or in part, by federal award number SLT-0628 awarded to County of San Bernardino by the U.S. Department of the Treasury."*
22. In accordance with 41 U.S.C. § 4712, SBCFPD may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following: i) a member of Congress or a representative of a committee of Congress; ii) an Inspector General; iii) the Government Accountability Office; iv) a Treasury employee responsible for contract or grant oversight or management; v) an authorized official of the Department of Justice or other law enforcement agency; vi) a court or grand jury; or vii) a management official or other employee of the County, contractor, or subcontractor who has the responsibility to investigate,

discover, or address misconduct. SBCFPD shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

23. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), the County encourages SBCFPD to adopt and enforce on-the-job seat belt policies and programs for their employees when operating entity-owned, rented or personally owned vehicles.
24. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), the County encourages SBCFPD to adopt and enforce policies that ban text messaging while driving.

**IN WITNESS WHEREOF**, the San Bernardino County and the San Bernardino County Fire Protection District have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

**SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT**

▶ \_\_\_\_\_  
Curt Hagman, Chairman, Board of Directors

Dated: \_\_\_\_\_  
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell, Secretary

By \_\_\_\_\_  
Deputy

**SAN BERNARDINO COUNTY**

▶ \_\_\_\_\_  
Curt Hagman, Chairman, Board of Supervisors

Dated: \_\_\_\_\_  
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell, Clerk

By \_\_\_\_\_  
Deputy

**FOR COUNTY USE ONLY**

Approved as to Legal Form

▶ \_\_\_\_\_  
Scott Runyan, Supervising Deputy County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance

▶ \_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department

▶ \_\_\_\_\_

Date \_\_\_\_\_