



**MEMORANDUM
INFORMATION TECHNOLOGY**
County of Placer

TO: Honorable Board of Supervisors **DATE:** September 13, 2022
FROM: Jarrett Thiessen, Chief Information Officer
SUBJECT: Broadband Grant Agreement with Astound Broadband LLC to expand broadband services in Penryn

ACTION REQUESTED

Approve a Broadband Grant agreement, consistent with the attached contract and upon concurrence by County Counsel and Risk Management, with Astound Broadband LLC, a Washington limited liability company dba Wave Broadband of Roseville, CA in the amount of \$1,117,097 to provide broadband access to underserved households within the Penryn community.

Approve a FY 2022-23 budget amendment, AM# 00700 for CC01004 – Information Technology, in the amount of \$1,117,097, cancel Information Technology reserves in the amount of \$1,117,097, and transfer \$75,909 from the American Rescue Plan Fund.

Authorize the County's Chief Information Officer, or designee, to execute all required documents.

BACKGROUND

On June 14, 2022, Placer County established a Qualified List of service providers based on the competitive Request for Qualifications No. 20274 for broadband internet expansion services for the period of June 14, 2022, to May 31, 2025. The Information Technology (IT) Department seeks to establish an agreement with Astound Broadband to extend their existing broadband network to 638 households in the Penryn community. Astound Broadband is one of the eleven service providers on the Qualified List approved to participate in the Placer County Broadband Grant program.

The focus of the Placer County Broadband Grant program is to provide funding to new and existing internet service providers to invest in building broadband infrastructure that supports economic development, public safety, remote learning, telehealth services, and overall community prosperity in Placer County. The Broadband Grant Program establishes priority for projects using the following criteria:

- Project readiness and ability to fast track project to completion.
- Capacity to expand or be easily replicated.
- A comprehensive project proposal.
- Strength of project team's experience.
- Ability to leverage existing infrastructure to further support planned projects.
- Potential to support the goals of the County's general plan, specific plans, area plans, or other economic development plans.

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- An infrastructure acquired and installed that supports broadband services scalable to higher download and upload speeds without taking precedence over the number of locations or size of the area to be served.

On October 12, 2021, the Board approved a contract award to Astound Broadband to extend fiber broadband services to approximately 1,500 households and businesses within Auburn, North Auburn, and Penryn that are currently unserved or underserved at a total project cost of \$2,260,596. Placer County committed \$500,000 towards the expansion and Astound Broadband committed to contribute the remaining \$1,760,596.

Staff recommends a second project in the Penryn community to reach an additional 638 households and businesses. The total cost of the new Penryn project would be \$2,107,731, with the County providing \$1,117,097 in grant funding and Astound Broadband funding the remainder.

Placer County released a survey in October 2021 allowing citizens to communicate their broadband service challenges to the County. We received over 3,000 survey responses since the survey launched. Placer County staff mapped the survey results to visualize the areas of need for broadband expansion. Establishing an agreement with Astound Broadband to include the additional households in Penryn will allow the County to address one of the most underserved areas within the County according to the survey results. A map of the survey results is available to the public on the County's Rural Broadband Advocacy webpage at <https://www.placer.ca.gov/7557/Broadband>.

ENVIRONMENTAL IMPACT

The action requested is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301, 15303(d), and 15304(f).

FISCAL IMPACT

The total grant amount is \$1,117,097. A Budget Amendment, AM# 00700 to increase appropriations by \$1,117,097 in the FY 2022-23 budget for CC01004 – Information Technology Services, with a corresponding cancellation of reserves in the amount of \$1,041,188 and a transfer of \$75,909 of ARPA funding from FD13104 - American Rescue Plan Fund, is included for consideration and approval. There is no impact to the General Fund.

ATTACHMENTS

Attachment A: Standard Broadband Grant Agreement

**GRANT AGREEMENT
PLACER COUNTY DEPARTMENT OF INFORMATION TECHNOLOGY**

DESCRIPTION: Broadband Infrastructure Grant – [Penryn]
CONTRACT NO.
BEGINS:
ENDS:

This grant Agreement is made and operative as of the _____ day of _____, 2022, between the COUNTY OF PLACER, a political subdivision of the State of California, hereinafter referred to as “County”, and _____, hereinafter referred to as “RECIPIENT,” collectively referred to as the “PARTIES.”

WHEREAS, the County recognizes a public benefit from expanded broadband internet access in its communities, especially in areas with no or limited access (defined as at least minimum speeds of 25 Mbps download and 3 Mbps upload).

WHEREAS, on January 6, 2022, the U.S. Department of the Treasury adopted the final rule implementing the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program, 35 CFR Part 35, part of the American Rescue Plan Act. Pursuant to the final rule, SLFRF funds may be used for necessary broadband infrastructure. The final rule encourages the use of funds towards fiber-optic infrastructure and projects that achieve last-mile connections.

WHEREAS, the County established a Broadband Infrastructure Grant Program intended to provide a certain standard of service to households and businesses with limited existing service, which is unlikely to be accomplished using private sources of funds. This investment in broadband infrastructure is therefore necessary and an appropriate use of SLFRF funds.

WHEREAS, through a Request for Qualifications process, the County established a qualified list of Internet Service Providers (ISPs) who were experienced in establishing internet networks, including broadband fiber networks.

WHEREAS, the County solicited proposals from ISPs on the qualified list to expand broadband infrastructure in [LOCATION NAME], and RECIPIENT was selected. The expansion of broadband infrastructure in this area serves a public purpose by promoting the general welfare of the County and its inhabitants, thus benefitting the County.

Therefore, in consideration of the mutual covenants and agreements of this Agreement, it is understood and agreed by and between the parties as follows:

1. **PROJECT**: As a condition of the grant funding provided in this agreement, RECIPIENT agrees to expand broadband infrastructure and available internet service as specifically set forth in Exhibit A (the “Project”), titled Project Requirements, attached hereto and incorporated herein by this reference.

2. **GRANT FUNDING**: County will provide grant funding to RECIPIENT pursuant to the terms of Exhibit B, titled Funding Provisions. The total grant funding provided under this Agreement shall not exceed _____ (\$_____).

3. **TERM**: Subject to the terms and conditions herein, this Agreement will continue from the date of execution above until [DATE]. Contract provisions that contain report deadlines or record obligations which occur after contract termination survive as enforceable continuing obligations.

4. **MERGER; EXHIBITS; AMENDMENTS:** This Agreement, including the Exhibits and Attachments, constitutes the sole Agreement between the Parties and correctly states the rights, duties, and obligations of each party as of this document's date. The exhibits listed on the signature page of this Agreement are incorporated into this Agreement by this reference. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments to this Agreement shall be in writing and signed by the parties.

5. **CONTINGENCY OF FUNDING:**

5.1. Funding or portions of funding for this Agreement may be directly contingent upon state or federal budget approval; receipt of funds from, and/or obligation of funds by, the State of California or the United States Government to County; and inclusion of sufficient funding for the services hereunder in the budget approved by the County Board of Supervisors for each fiscal year covered by this Agreement. If such approval, funding, or appropriations are not forthcoming or are otherwise limited, County may immediately terminate or modify this CONTRACT without penalty. Except in County's sole discretion, which discretion may be limited at law, RECIPIENT agrees and understands that in no event will any of County's obligations under this Agreement be funded from any specific County funding source.

5.2. Any adjustments in funding amount shall be made through a written contract amendment and shall include any resulting changes required to Exhibit A, Project Description. The amount of such adjustment shall not exceed any augmentation or reduction in funding to County by the County of Placer Board of Supervisors, state and/or the federal government. Amendments issued in response to adjustments in funding shall be considered fully executed when signed by authorized representatives of the RECIPIENT and County. RECIPIENT understands that any such amendments to this Agreement may not reflect the entire amount of any augmentation or reduction in funding provided to County for the subject services.

6. **STATE AND LOCAL FISCAL RECOVERY FUNDS (SLFRF):** This grant is comprised, in whole or in part, by SLFRF funding and as such is subject the following requirements. All subcontracts executed on the Project must comply with these provisions and contain these exact provisions.

6.1. **Broadband Infrastructure Requirements.** Pursuant to the SLFRF requirements, the Project must, upon completion:

- (a) Reliably meet or exceed symmetrical 100 Mbps download and upload speeds;
or
- (b) In cases where it's not practicable to provide 100 Mbps symmetrical download and upload speeds, (i) reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and (ii) Be scalable to a minimum of 100 Mbps download and upload speed.

6.2. **Affordability Requirements.** Pursuant to the SLFRF requirements, RECIPIENT must either:

- (a) Participate in the Federal Communications Commission's Affordable Connectivity Program (ACP); or

- (b) Provide access to a broad-based affordability program to low-income consumers in the proposed service area that provides benefits to households commensurate with those provided under the ACP.

6.3. Prohibition on certain telecommunication equipment. RECIPIENT shall comply with 2 CFR 200.216, which prohibits the procurement of equipment, services or systems produced by the following entities or their subsidiaries and affiliates:

- (a) Huawei Technologies Company
- (b) ZTE Corporation
- (c) Hytera Communications Corporation
- (d) Hangzhou Hikvision Digital Technology Company
- (e) Dahua Technology
- (f) Any entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

6.4. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

6.5. Copeland Anti-Kickback Act. Any federally assisted construction contracts must include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6.6. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6.7. Clean Air Act and the Federal Water Pollution Control Act. RECIPIENT and subcontractors shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

6.8. Debarment and Suspension (Executive Orders 12549 and 12689). RECIPIENT shall not use funds under this Agreement to contract with parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). RECIPIENT and all subcontractors paid more than \$100,000 must file the required certification attached as Exhibit G.

6.10. Solid Waste Disposal Act. RECIPIENT and subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

6.11. Domestic Preferences for Procurement. RECIPIENT and subcontractors shall, to the greatest extent practicable under a Federal award, provide preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

- (a) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

6.12. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200).

- (a) Grant funds provided under this Agreement shall only be used towards allowable costs, as defined in 2 CFR 200.
- (b) RECIPIENT shall comply with all applicable COUNTY, state, and federal accounting laws, rules, and regulations. RECIPIENT shall establish and maintain accounting systems and financial records that accurately account for

and reflect all federal funds received, including all matching funds from the state, COUNTY, and any other local or private organizations. RECIPIENT'S records shall reflect the expenditure and accounting of said funds in accordance with all state laws and procedures for expending and accounting for all funds and receivables, as well as meet the financial management standards in 45 CFR Part 92 and in the Office of Management and Budget 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

- (c) If RECIPIENT or a subcontractor receives an aggregate amount of federal financial assistance in a given fiscal year that exceeds the Single Audit threshold are subject to the requirements in 2 CFR 200 Subpart F, Audit Requirements, unless otherwise specified in program-specific guidance
- (d) COUNTY, state, and federal agencies shall have the right to monitor all work performed under this Agreement to assure that all applicable state, and federal regulations are met. COUNTY, state, and federal governments shall have the right to audit all work, records, and procedures related to this Agreement to determine the extent to which the program is achieving its purposes and performance goals. COUNTY will have the right to review financial and programmatic reports and will notify RECIPIENT of any potential federal and/or state exception(s) discovered during such examination.

7. **RECORDS:**

7.1. This provision is intended to provide the minimum obligations with respect to records. If provisions contained elsewhere in this Agreement, or at law, provide greater obligations with respect to records or information, those obligations control. For purposes of this provision "records" is defined to mean any and all writings, as further defined in California Evidence Code section 250, whether maintained in paper or electronic form, prepared by or received by RECIPIENT, in relation to this Agreement.

7.2. RECIPIENT shall maintain, at all times, complete detailed records with regard to work performed under this Agreement in a form acceptable to County. RECIPIENT agrees to provide documentation or reports, compile data, or make its internal practices and records available to County or personnel of authorized state or federal agencies, for purpose of determining compliance with this Agreement or other applicable legal obligations. County will have the right to inspect or obtain copies of such records during usual business hours upon reasonable notice.

7.3. Upon completion or termination of this Agreement, County may request RECIPIENT deliver originals or copies of all records to County. County will have full ownership and control of all such records. If County does not request all records from RECIPIENT, then RECIPIENT shall maintain them for a minimum of four (4) years after completion or termination of the Agreement. If for some reason RECIPIENT is unable to continue its maintenance obligations, RECIPIENT shall give notice to County in sufficient time for County to take steps to ensure proper continued maintenance of records.

7.4. RECIPIENT shall be subject to the examination and audit of the California State Auditor for a period of three years after final payment under contract (Government Code, section 8546.7). Should County or any outside governmental entity require or request a post-contract audit, record review, report, or similar activity that would require RECIPIENT to expend staff time and/or resources to comply, RECIPIENT shall be responsible for all such costs incurred as a result of this activity.

8. **LIMITATION OF COUNTY LIABILITY FOR DISALLOWANCES:**

8.1. Notwithstanding any other provision of the Agreement, County will be held harmless by RECIPIENT from any federal or state audit disallowance and interest resulting from payments made to RECIPIENT pursuant to this Agreement, less the amounts already submitted to the State for the disallowed claim.

8.2. To the extent that a federal or state audit disallowance and interest results from a claim or claims for which RECIPIENT has received payment from the County, County will recoup within 30 days from RECIPIENT through offsets to pending and future claims or by direct billing, amounts equal to the amount of the disallowance plus interest in that fiscal year, less the amounts already remitted to the State for the disallowed claim. All subsequent claims submitted to COUNTY applicable to any previously disallowed claim may be held in abeyance, with no payment made, until the federal or state disallowance issue is resolved.

8.3. RECIPIENT shall reply in a timely manner, to any request for information or to audit exceptions by County, federal and state audit agencies that directly relate to the services to be performed under this Agreement.

8.4. RECIPIENT will cooperate with County in any challenge of a disallowance by a federal or state agency.

9. **VIOLATIONS; BREACH:** As required by 2 CFR Part 200, Appendix II, this provision addresses the remedies available should RECIPIENT violate or breach the terms of this Agreement. In the event RECIPIENT violates the terms of this Agreement, County shall have all available remedies at law and equity.

10. **TERMINATION FOR CAUSE AND CONVENIENCE:** As required by 2 CFR Part 200, Appendix II, this provision addresses termination for cause and for convenience.

10.1. County will have the right to terminate this Agreement at any time for convenience by giving thirty (30) days' notice, in writing, of such termination to RECIPIENT.

10.2. County may terminate for cause upon written notice to RECIPIENT.

10.3. RECIPIENT may terminate its services under this Agreement upon sixty (60) calendar days' advance written notice to the County.

10.4. County will not in any manner be liable for lost profits which might have been made by RECIPIENT had RECIPIENT completed the Project. The foregoing is cumulative and does not affect any right or remedy which County may have in law or equity.

11. **CALIFORNIA PREVAILING WAGE:** RECIPIENT shall pay prevailing wage on all construction, alteration, installation, or repair work done under contract on the Project, as required under the California Labor Code. As the awarding body, RECIPIENT is responsible for understanding its obligations under the California Labor Code. RECIPIENT will indemnify, defend (with counsel reasonably acceptable to County), and hold harmless County against all claims related to the payment of wages under this Agreement.

12. **RELATIONSHIP OF PARTIES:** In the performance of this Agreement, RECIPIENT, its agents, and its employees are at all times acting and performing as independent contractors, and this Agreement creates no relationship of employer and employee as between County and RECIPIENT. RECIPIENT agrees neither it nor its agents and employees have any rights, entitlement, or claim against County for any type of employment benefits or workers' compensation or other programs afforded to County employees. RECIPIENT shall be responsible for all applicable state and federal income, payroll, and taxes, and RECIPIENT agrees to provide any workers' compensation coverage as required by California State laws. RECIPIENT shall

comply with all applicable federal, state, regional, County, and local laws, codes, ordinances, and regulations, including without limitation those applicable to payment of wages

13. **RECIPIENT NOT AGENT**: Except as County may specify in writing RECIPIENT shall have no authority, express or implied, to act on behalf of County in any capacity whatsoever as an agent. RECIPIENT shall have no authority, express or implied pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

14. **COMPLIANCE WITH LAWS; PERMITS & LICENSES**: RECIPIENT is an independent contractor and shall, at its sole cost and expense comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work, obtain all necessary permits and licenses therefore, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all federal and state taxes, insurance, and contributions for social security and unemployment which are measured by wages, salaries, or any remuneration paid to RECIPIENT'S employees, whether levied under existing or subsequently enacted laws, rules or regulations. RECIPIENT shall also pay all property tax assessments on materials or equipment used until acceptance by County. If any discrepancy or inconsistency is discovered in any of the Contract Documents in relation to any such law, rule, ordinance, regulation, order or decree, the RECIPIENT shall forthwith report the same to the County in writing.

15. **NONDISCRIMINATION**: During the performance of this Agreement, RECIPIENT shall comply with all applicable Federal, State and local laws, rules, regulations and ordinances, including the provisions of the Americans with Disabilities Act of 1990, and Fair Employment and Housing Act, and will not unlawfully discriminate against employees, applicants or clients because of race, sex, sexual orientation, color, ancestry, religion or religious creed, national origin or ethnic group identification, mental disability, physical disability, medical condition (including cancer, HIV and AIDS), age (over 40), marital status, or use of Family and Medical Care Leave and/or Pregnancy Disability Leave in regard to any position for which the employee or applicant is qualified.

16. **BACKGROUND CHECK**: RECIPIENT accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents, or representatives). Completion of a satisfactory livescan will also be needed if legally required. RECIPIENT further agrees to hold County harmless from any liability for injuries or damages (as outlined in the hold harmless clause contained herein) resulting from a breach of this provision or RECIPIENT'S actions in this regard.

17. **INSURANCE AND INDEMNIFICATION REQUIREMENTS**: In addition to any indemnification requirements in the body of this Agreement, Exhibit C sets forth applicable insurance and indemnification requirements. The County's insurance requirements are a material provision to this Agreement.

18. **CONFIDENTIALITY OF RECORDS AND INFORMATION**: RECIPIENT agrees to maintain confidentiality of information and records to the extent required by applicable Federal, State, and local laws, regulations, and rules.

19. **CONFLICT OF INTEREST**: RECIPIENT certifies that it has no current business or financial relationship with any COUNTY employee or official, or other County contract provider that could create a conflict with this Agreement and will not enter into any such business or financial relationships during the period of this Agreement. RECIPIENT attests that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest, and that no officer or employee who exercises any functions or responsibilities in connection with this Agreement shall have any legally prohibited personal financial interest or benefit which either directly or indirectly arises out of this Agreement. RECIPIENT shall establish safeguards to

prohibit employees or officers from using their positions for a purpose which could result in legally prohibited private gain or gives the appearance of being motivated for legally prohibited private gain for themselves or others, particularly those with whom they have family, business, or other ties. RECIPIENT certifies that no official or employee of the County, nor any business entity in which an official of the County has an interest, has been employed or retained to solicit or aid in the procuring of this Agreement. In addition, RECIPIENT agrees that no such person will be employed in the performance of this Agreement without immediately notifying the County.

20. **NOTICES:** All notices required or authorized by this Agreement shall be in writing and shall be deemed to have been served if delivered personally or deposited in the United States Mail, postage prepaid and properly addressed as follows. Changes in contact person or address information shall be made by notice, in writing, to the other party.

If to COUNTY:	Placer County Chief Information Officer
	Address
	Address
	Email
If to RECIPIENT:	Name
	Address
	Address
	Email

21. **ASSIGNMENT:** RECIPIENT may not subcontract or assign any rights, obligations, or duties under this Agreement without the express written consent of COUNTY, in advance of such assignment or subcontracting.

22. **NON-EXCLUSIVITY:** Nothing herein is intended nor shall be construed as creating any exclusive arrangement with RECIPIENT. This Agreement shall not restrict County from acquiring similar, equal or like goods and/or services from other entities or sources. RECIPIENT shall only provide those services as requested by County and County may cancel any service request.

23. **TIME OF PERFORMANCE:** RECIPIENT agrees to complete all work and services in a timely fashion.

24. **ENTIRETY OF AGREEMENT:** This Agreement contains the entire agreement of County and RECIPIENT with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party which is not contained in this Agreement shall be binding or valid.

25. **GOVERNING LAW AND VENUE:** The Parties enter into this Agreement in the County of Placer, California. The laws of the State of California shall govern its interpretation and effect. The parties agree that Placer County Superior Court is the proper venue for any dispute related to the Agreement.

26. **SIGNATURES:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument. The Parties agree that an electronic copy of a signed contract, or an electronically signed contract, shall have the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the Parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this contract amendment as of the day first above stated:

<p>_____ (“RECIPIENT”)*</p> <p>_____ Signature</p> <p>_____ Print Name</p> <p><input type="checkbox"/> Chair of the Board, <input type="checkbox"/> President, or <input type="checkbox"/> Vice President</p> <p>Date: _____</p>
<p>_____ Signature</p> <p>_____ Print Name</p> <p><input type="checkbox"/> Secretary, <input type="checkbox"/> Asst. Secretary, <input type="checkbox"/> Chief Financial Officer, or <input type="checkbox"/> Asst. Treasurer</p> <p>Date: _____</p>

<p>COUNTY OF PLACER (“COUNTY”)</p> <p>_____ Chief Information Officer</p> <p>Date: _____</p>
<p>Approved as to Form Office of Placer County Counsel</p> <p>_____ Date: _____</p>

EXHIBITS:

- Exhibit A – Project Description
- Exhibit B – Funding Provisions
- Exhibit C – Reporting Requirements
- Exhibit D – Insurance and Indemnification Requirements
- Exhibit E – Federally Funded Contracts
- Exhibit F – Certification Regarding Lobbying

*Agreement must have two signatures, one in each of the two categories of corporate offices indicated above. Check the box indicating the corporate office of the signing party. The same person may sign the contract twice if that person holds an office in each of the two categories. (California Corporations Code § 313) One signature will suffice, if the corporation’s board of directors has passed a resolution that gives one person authority to sign. A copy of the most recent resolution must be sent with the signed contract, even if it is the same as the previous year.

EXHIBIT A
PROJECT DESCRIPTION

1. RECIPIENT will:
 - A. perform all services and provide all staffing, equipment and materials, funding, and other resources necessary to design, permit, make purchases for the Project, as set forth herein. RECIPIENT shall pay for all costs and expenses necessary to complete the Project, subject to funding from the County as provided in this Agreement
 - B. obtain all approvals for and shall execute the Project so that within 12 months after the Effective Date of this Agreement (or within 24 months if a contract extension is granted at the discretion of the County), the Project shall be completed to the satisfaction of, and accepted by, the County; provided that said timeframe may be extended by mutual written agreement of the parties. Any funds not utilized by RECIPIENT within this timeframe shall be returned to or retained by County
 - C. be solely responsible for the proper execution of and on-going operation and maintenance of the Project, and for full compliance with all legal requirements including, but not limited to, safety codes, accessibility laws, development regulations and permitting requirements, CEQA/NEPA, and legal requirements relating to public contracting and construction, and public bidding
 - D. shall pay all costs and expenses associated with maintenance and operation of the Project and shall keep the Project and all portions thereof in a good, safe, and useable condition
 - E. recognize the County in all online and print marketing and communication materials; RECIPIENT may use the County logo and the following text: "Made possible by the County of Placer's "Broadband Expansion Services Grants Program."
 - F. use fiber technology to the end-use customers' households, businesses, or community institutions
 - G. use alternate technologies whenever fiber technology is not feasible
2. Additional Provisions
 - A. The Project to be funded pursuant to this Grant Agreement shall remain property of the RECIPIENT and shall be used for purposes of Project as set forth herein for a minimum of three (3) years after the Completion Date. If the Project or any portion thereof is closed, materially damaged, destroyed or otherwise made unavailable for purposes of Project prior to the expiration of this three (3) year period, the three (3) year period shall be extended by the amount of time the Project or portion thereof is not available for public use; provided, however, that closures for brief periods to perform routine maintenance and repairs shall not extend this three (3) year period. RECIPIENT shall notify County in writing in the event of any such closures, whether temporary or permanent. In the event that the Project or any portion thereof is permanently closed to the public before the expiration of the three (3) year period and any extension thereof, RECIPIENT shall refund a pro-rata share of County's contribution under this Agreement based upon the percentage of the three (3) year period that the Project will not be available for public use.

[INSERT MAPS AND PROJECT SPECIFICATIONS]

EXHIBIT B
FUNDING PROVISIONS

1. **Payment in Installments.** County shall issue funding to RECIPIENT upon the completion of project phases specified below.

Project Phase	Installment Amount
TO BE NEGOTIATED	

Before issuing payment, COUNTY has the right to review all documentation from RECIPIENT to confirm completion of the specific project phase and may require additional documentation.

Payment will be issued within 30 days of the COUNTY'S completion of its review of any documentation.

DRAFT

EXHIBIT C
REPORTING REQUIREMENTS

On a quarterly basis, or as requested by County, RECIPIENT shall submit a written accounting of County funds expended on the Project. RECIPIENT will provide a final accounting upon expenditure of all County funds and upon completion of the project to support a finding that expenditures have been made in accordance with the grant agreement.

As part of the required reports, RECIPIENT shall provide a summary report that includes the following sections for eligible and ineligible expenses:

1. **Project Overview Narrative:** This section shall provide an overview update of the total project progress, including the number of unserved and underserved households or businesses eligible to be served, the number of households or businesses being served, and any unexpected challenges, delays, or other unanticipated impacts to the project.
2. **Project Phase Narrative:** This section shall provide a detailed narrative on the work completed for the invoiced project phase including detailed information for all expenses of project phase including labor, equipment, permits and any other administrative costs.
3. **Project Financial Reporting:** This section shall provide detailed financial documentation on the overall project and project phase that includes:
 - A. Project Operating Statement,
 - B. Project Balance Sheet, and
 - C. Eligible Expenses.

Back-up documentation may include but is not limited to project receipts, accounts payable and any other applicable documentation that may be requested COUNTY.

4. **Project Phase Accounting:** All accounting reports shall include:
 - A. A breakdown of total project phase costs, and
 - B. Total project phase cost.
5. **Quarterly Report Deadlines:** Reports shall be due in writing by:
 - A. January 1
 - B. April 1
 - C. July 1
 - D. October 1

EXHIBIT D

PLACER COUNTY INSURANCE AND INDEMNITY REQUIREMENTS

RECIPIENT shall file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A-:VII evidencing all coverages, limits, and endorsements listed below:

1. **HOLD HARMLESS AND INDEMNIFICATION AGREEMENT**

The RECIPIENT hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. RECIPIENT agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the RECIPIENT. RECIPIENT also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against RECIPIENT or the COUNTY or to enlarge in any way the RECIPIENT'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from RECIPIENT'S performance pursuant to this contract or agreement.

As used above, the term PLACER COUNTY means Placer County or its officers, agents, employees, and volunteers.

2. **INSURANCE:**

RECIPIENT shall file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A-:VII showing.

3. **WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to RECIPIENT'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer".

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the RECIPIENT.

RECIPIENT shall require all contractors and subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

4. GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of RECIPIENT, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by RECIPIENT in this Agreement.

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If RECIPIENT carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

- One million dollars (\$1,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

D. If RECIPIENT carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) for Products-Completed Operations
 - Two million dollars (\$2,000,000) General Aggregate
- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

RECIPIENT shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than:
 - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - One million dollars (\$1,000,000) aggregate for Products Completed Operations
 - Two million dollars (\$2,000,000) General Aggregate
- (2) The insurance coverage provided by RECIPIENT shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

5. ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the RECIPIENT, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

6. AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

7. ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The RECIPIENT shall be responsible for all deductibles in all of the RECIPIENT'S insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

RECIPIENT'S Obligations - RECIPIENT'S indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

Verification of Coverage - RECIPIENT shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the RECIPIENT'S obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the RECIPIENT to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

EXHIBIT E
Federally Funded Contracts

COUNTY will inform RECIPIENT of any changes related to funding sources in this agreement. If changes are needed to reflect updated Federal Funding, this Exhibit is subject to modification with written approval of the County Contract Administrator and the Revenue and Budget Manager. COUNTY will provide the updated Exhibit to RECIPIENT.

1. **SINGLE AUDIT OF FEDERAL FUNDS:** RECIPIENT acknowledges that this Agreement is funded in whole or in part with federal funds. Local governments and non-profit organizations that expend a combined total of more than \$750,000 in federal financial assistance in any fiscal year must have a single audit for that year. RECIPIENT agrees to provide a copy of the Single Audit report and/or other types of required audit reports, within the earlier of 30 days after receipt of the report or nine months after the end of the audit period, whichever occurs first, or unless a longer period is agreed to in advance by the COUNTY with approval from the cognizant or oversight agency. The report(s) shall be submitted to the address below:

2. **FEDERAL AWARD IDENTIFICATION:**

Subgrantee Name: RECIPIENT Name
Subgrantee DUNS Number:
Federal Award Identification Number (FAIN): _____
Federal Funds Obligated to the Subgrantee under this Agreement:
Federal Awarding Agency: Name of Agency
Pass Through Entity: County of Placer
Catalog of Federal Domestic Assistance (CFDA) Name: _____
CFDA Number: _____
Research and Development Grant: Yes (Project Grant) / No (Formula Grant)
Indirect Cost Rate: 10% / Not Applicable

Should the Subgrantee be determined to be a Subrecipient, pursuant to the criteria of 2 CFR Part 200 (the "Uniform Guidance"), the Subrecipient shall be subject to the Subrecipient Monitoring requirements outlined in the Uniform Guidance. Per 2 CFR Section 200.331, all pass-through entities must ensure that every sub-award is clearly identified to the subgrantee as a sub-award. As part of the Subrecipient Monitoring requirements, additional information will provided to RECIPIENT at the time of the of the subaward or when modified. Authorized Federal, State and County representatives shall have the right to monitor and evaluate the Subrecipient's administrative, fiscal and program performance pursuant to this Agreement. The Subrecipient agrees to cooperate with monitoring and evaluation processes and will make any administrative program and fiscal staff available during scheduled monitoring processes including but not limited to administrative processes, policies, procedures and procurement, audits, inspections of project premises, and interviews of project staff and participants.

EXHIBIT F

Certification Regarding Lobbying

CERTIFICATION REGARDING LOBBYING AND DISCLOSURE OF LOBBYING ACTIVITIES:

The undersigned certifies, to the best of their knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making, awarding or entering into of this Federal contract, Federal grant, or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of this Federal contract, grant, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States Government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities" in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants and cooperative agreements) of \$100,000 or more, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C., any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name of RECIPIENT

Printed Name of Person Signing for RECIPIENT

Contract/Grant Number

Signature of Person Signing for RECIPIENT

Date

Title

STANDARD FORM LLL – DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB 0348-0046

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application</p> <p><input type="checkbox"/> b. initial award</p> <p><input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial filing</p> <p><input type="checkbox"/> b. material change</p> <p>For Material Change Only:</p> <p>Year _____ quarter _____</p> <p>date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee</p> <p style="padding-left: 100px;">Tier _____, if known:</p> <p>Congressional District, If known:</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, If known:</p>	
<p>6. Federal Department/Agency</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p style="text-align: center;">\$</p>	
<p>10.a. Name and Address of Lobbying Registrant <i>(If individual, last name, first name, MI):</i></p>	<p>b. Individuals Performing Services <i>(including address if different from 10a. (Last name, First name, MI):</i></p>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person that fails to file the required disclosure shall be subject to a not more than \$100,000 for each such failure.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>	
<p>Federal Use Only</p>		<p>Authorized for Local Reproduction Standard Form-LLL (Rev. 7-97)</p>

INSTRUCTIONS FOR COMPLETION OF SF-LLL – DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001".
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
 - (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.