

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Broadband, Video and Market Branch**

**RESOLUTION T-17545  
February 9, 2017**

**R E S O L U T I O N**

**Resolution T-17545:** Approval of funding for the grant application of LCB Communications LLC (U-7243—C)/Digital Voice Service provider, South Valley Internet, Inc.,(U-1312-C) from the California Advanced Services Fund (CASF) in the amount of \$1,120,408 for the Light Saber Project in Paradise Valley, a portion of the rural unincorporated area of Santa Clara County.

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**I. Summary**

This Resolution approves funding in the amount of \$1,120,408 from the California Advanced Service Fund (CASF) for the grant application of LCB Communications LLC/South Valley Internet Inc. (LCB/SVI) for its Light Saber Project. The Light Saber Project consists of approximately 17 miles of fiber optic cable and will offer fiber-to-the-premise (FTTP) providing 100 Mbps and up to 1 Gbps synchronous service to 150 underserve households in the Paradise Valley community, a portion of the rural unincorporated area of Santa Clara County. The Light Saber project will cover 0.4 square miles and the cost per household is \$11,000.

The Light Saber project will provide the Paradise Valley community with improved access to e-health services, as well as online economic opportunities. It will also provide public safety benefits by enabling the local communications facilities that provide voice services to meet FCC standards for E911 service and battery backup.

**II. Applicant Request**

On November 19, 2015, LCB/SVI submitted a grant application requesting \$2,801,023 in CASF funding. In its application, LCB/SVI proposes to build 59 miles of fiber optic cable serving 515 underserved households in San Martin and Paradise Valley of the

unincorporated South Santa Clara County. LCB/SVI claimed that the total cost of the proposed project was \$4,681,672.

In November 2016, LCB/SVI submitted a revised application that removed the served households covered by RazzoLink Inc (RazzoLink). The revised application was a result of a challenge submitted by RazzoLink and CD's analysis of the proposed project area. LCB/SVI's revised application requests \$1,120,408 in CASF funding, and asserts that the project will cover 102 underserved households in Paradise Valley. The revised \$1,120,408 represents 60 percent of the total project cost of \$1,867,348.

*Topography:* The LCB/SVI's Light Saber project will serve Census Block 060855122001 covering 0.4 square miles. The proposed project encompasses the geographical area southwest of Morgan Hill bordering Llagas Creek, and includes the Paradise Valley community in southern Santa Clara County.

*Applicant:* South Valley Internet Inc. (SVI) was founded in 1994. In 2011, SVI created LCB Communications, LLC as a Competitive Local Exchange Carrier (CLEC) (U-7243—C) to be responsible for colocation and dealing with the Incumbent Local Exchange Carriers (ILECs). LCB/SVI has existing business in the south end of Santa Clara County, and has been working on colocation since 2014, in Morgan Hill and Gilroy, California.

*Project:* LCB/SVI plans to construct a fiber optic network consisting of approximately 17 miles of fiber optic cable. The network will serve the 0.4 square miles of the underserved Paradise Valley community. This network will offer fiber-to-the-home providing 100 Mbps and up to 1 Gbps synchronous service. The deployment of fiber optic will allow LCB/SVI to increase the underserved speed of its service offerings to meet subscriber demand in the area. The service area will be connected via diversely routed leased circuits to the Public Internet Backbone and Public Switched Telephone Network (PSTN). These circuits will be leased from existing providers such as AT&T and Global Crossings.

### **III. Notice and Challenges**

On November 19, 2015, Communications Division (CD) posted the proposed project area map, census block groups (CBGs), and zip codes for this project on the Commission's CASF webpage under "CASF Application Project Summaries," and sent notice regarding the project to its electronic service list. On December 8, 2015, CD received a challenge from RazzoLink for the proposed project area.

There were no commitments made by an existing provider to upgrade service before the November 1, 2014, “first right of refusal” deadline.

#### **IV. Project Review**

##### **A. Project Area Eligibility**

For the area to be project eligible, the CASF program requires an applicant to submit proof that the area is unserved or underserved by submitting shapefiles of the proposed project. CD reviews the submitted shapefiles and compares them with United States 2010 Census data and the California Interactive Broadband Availability map.<sup>1</sup> Once CD determines that the area is eligible either as an unserved or underserved area, CD evaluates all other information submitted by the applicant to determine if the project meets the requirements outlined in D.12-02-015.

The California Interactive Broadband Availability Map as of December 31, 2015, shows that the original project area is underserved by wireline, fixed wireless, and mobile wireless.

However, in its challenge, RazzoLink stated that it currently offers speeds of at least 10 Mbps download and 2 Mbps upload to residential and business customers in the San Martin area, including all of the areas covered by the proposed Light Saber project area. RazzoLink provided sample invoices of customers in the proposed project area. RazzoLink also indicated that that Etheric Networks Inc., another provider, is also present in the project area, and provides high speeds Internet services. According to RazzoLink, Verizon and AT&T are the Incumbent Local Exchange Carriers providing telephone and DSL based internet services in the proposed project area.

CD evaluated RazzoLink’s subscribership data. Based on its review, CD determined that RazzoLink only serve the San Martin area, and does not serve Paradise Valley. CD asked LCB/SVI to remove the served area, and revise the application to only include Paradise Valley. Based on evaluation of the challenge and analysis, CD determined that the households in the Paradise Valley section of the project area is underserved and is grant eligible for 60% funding.

##### **B. Project Criteria Evaluation**

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<sup>1</sup> The latest version of the California Interactive Broadband Availability Map uses wireline data as of December 31, 2015.

CD evaluated the application with respect to the scoring criteria defined in D.12-02-015, Appendix 1, Section VIII (Scoring Criteria). The scoring criteria includes: (i) Funds Requested per Potential Customer, (ii) Speed, (iii) Financial Viability, (iv) Pricing, (v) Total Number of Households in the Proposed Area, (vi) Timeliness of Completion of Project, (vii) Guaranteed Pricing Period, and (viii) Low-Income Areas. CD also conducted qualitative evaluation of the project area, existing infrastructure, and community needs.

*Funds per Household:* The CASF per-household subsidy is \$11,000, based on 102 households that would have access and total grant funds of \$1,120,408. This subsidy amount per households is higher than the average of similar last-mile projects awarded in the past.

*Speed:* The proposed speed offering of 100 Mbps download speed and up to 1 Gbps upload speed for synchronous services exceed the 6 Mbps/1.5 Mbps benchmark set by the Commission.

*Financial Viability:* CD determined that LCB/SVI is a financially viable company. CD's review of the submitted balance sheet, income statement, cash flow statements and other financial viability variables confirmed that LCB/SVI has the existing capital resources for the matching funds, as well as a sound financial framework for future operations.

LCB/SVI is expected to become profitable beginning in year 2018. LCB/SVI performed a market surveys and concluded that 92% of residents who responded would purchase at least one of the high-speed broadband service options proposed by LCB/SVI. LCB/SVI has projected a 68% take rate, or 102 residential customers out of the potential of 150, as subscribers to the proposed LCB/SVI broadband service offerings at the price points described in the surveys.

*Pricing:* LCB/SVI has committed to the following pricing for broadband services for two years after the project is completed. LCB/SVI has cancellation policy for its service contracts. Customer will pay a cancellation fee if they choose to cancel their two or three years contracts and the fee is the difference in the monthly recurring price they purchased and the actual contract fulfillment amount or \$500 whichever is less.<sup>2</sup>

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<sup>2</sup> Email from Elise Brentnall, dated December 14, 2016, titled "Proposed pricing."

**LCB/SVI Product Price Proposal**

SERVICE TYPE	TERM COMMITMENT	Download (Mbps)	Upload (Mbps)	Price per month
PK. 1	2 Year	50	50	\$109
PK. 2	3 Year	50	50	\$90
PK. 3	2 Year	100	100	\$199
PK. 4	3 Year	100	100	\$179
PK. 5	2 Year	1000	1000	\$289
PK. 6	3 Year	1000	1000	\$279
Add Voice for two and three Year plans	Voice			\$19.95

*Optical Network Terminal is included with the installation.  
Activation and installation fees will be waived.*

The prices for this project rank lower than the average prices of other last-mile projects in the area.

*Households in Project Area:* Based on the 2010 census block data, the project area consists of 150 households with a population of 400 and is covered by one Census Block Group.

*Timeliness of Completion:* LCB/SVI has submitted deployment documents, including a schedule with clear milestones to indicate the project will be completed within the required 24 months. This project scores are average compared to the timeline for the previous awarded projects.

*Low-Income Areas:* The proposed project area does not consist of low-income communities. According to the State Income Limits established by California Department of Housing and Community Development, a 4-person household with an income of below \$ 84,900 would qualify as low income in Santa Clara County. The median household income for the project area is \$102,226, which is well above the median in this area.

C. Safety and Community Input Considerations

LCB/SVI has provided a letter of support from Santa Clara County Supervisor Mike Wasserman who has stated that despite of the fact that the community is a short distance from the heart of Silicon Valley, it does not have high-speed Internet access. There are at least five other letters of support from residents of the local community expressing their support of this project. These letters complain about residents' lack of economic opportunity due to no access to high-speed Internet, and the disadvantage that students face trying to perform homework assignments and other activities such as telecommuting.

The proposed project will provide the Paradise Valley community with improved access to e-health services, as well as online economic opportunities. It will also provide public safety benefits by enabling the local communications facilities that provide voice services to meet FCC standards for E911 service and battery backup. The proposed project will also supply public safety agencies in the area with an interconnected public safety data communications network.

D. Staff Recommendation for Funding

CD has determined that LCB/SVI's grant application for the Light Saber project qualifies for funding as an underserved area. Based on CD's evaluation of the project, the December 31, 2015 date California Interactive Broadband Availability map data, and evaluation of the information provided by the challenger, RizzoLink, CD finds that the LCB/SVI's Paradise Valley area meets the requirements of D.12-02-015, provides safety benefits and aligns with the goal of the CASF program.

**V. Compliance Requirements**

LCB/SVI is required to comply with all the guidelines, requirements, and conditions associated with the grant of CASF funds as specified in D.12-02-015, D.14-02-018, and Resolution T-17443. Such compliance includes, but is not limited to:

A. California Environmental Quality Act (CEQA)

All CASF grants are subject to California Environmental Quality Act (CEQA) requirements unless the project is statutorily or categorically exempt pursuant to the CEQA Guidelines.

LCB/SVI has stated that its construction of Outside Plant network will be comprised of approximately 17 miles of fiber-optic cable in existing, previously disturbed, right-of-way. LCB/SVI will bury all cable, which will be placed in the public right-of-way a minimum of 30 inches, unless other depths are required by local highway, railroad, and municipal authorities. LCB/SVI will also install a passive network cabinet in the public right-of-way of the proposed service area.

LCB/SVI will construct a new network building (“hut”) in San Martin, CA. LCB/SVI will outfit the hut with network and transmission equipment and will provide connectivity to the hut by constructing a fiber optic point-to-point connection with LCB’s headquarters in San Martin (Approx. 1.2 miles away from LCB’s office and on the path to the proposed service area.) The hut will either be constructed on site or will be pre-fabricated and moved to the site. If LCB/SVI elects to use a pre-fabricated hut, the concrete pad for the pre-fab huts will be 17' x 22', and 6" deep in the center. The hut will have the necessary racking, cabling, environmental conditioning, emergency power backup, fire suppression, security and other ancillary equipment installed. LCB/SVI has stated that construction will comply with all applicable local, state and national codes.<sup>3</sup>

Based on the project description, above, the project qualifies for the following categorical exemptions from CEQA: CEQA Guidelines Section 15301 for existing facilities, Section 15304 for minor alterations to land, and Section 15303 for new construction of small structures.

B. Deployment Schedule

The Commission expects LCB/SVI to complete the project within 24 months from the start date (as determined by the procedure below). If LCB/SVI is unable to complete the proposed project within the 24-month timeframe requirement, it must notify the Director of CD as soon as LCB/SVI becomes aware of this possibility. If such notice is not provided, the Commission may reduce payment for failure to satisfy this requirement by timely notifying CD’s Director.

C. Execution and Performance

CD and LCB/SVI shall determine a project start date after LCB/SVI has obtained all approvals. Should LCB/SVI or any Contractor it retains fail to commence work by

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<sup>3</sup> SVI-Environmental Report-4, received by CD on 11/10/16.

designated date, upon five days written notice to LCB/SVI, the Commission may terminate the grant. In the event that LCB/SVI fails to complete the project in accordance with the terms of the CPUC approval as set forth in this resolution, LCB/SVI must reimburse some or all of the CASF funds that it has received. LCB/SVI must complete all construction covered by this grant on or before the grant's termination date.<sup>4</sup>

D. Performance Bond

The Commission does not require a Performance Bond if the applicant certifies that the percentage of the total project costs it is providing comes from their capital budget and is not obtained from outside financing. In its application, LCB/SVI certified that 40% of the total project costs it is providing will come from its existing capital budget. Therefore, a performance bond is not required for this project.

E. Price Commitment Period

The minimum required price commitment period for broadband service to all households within the project area is two years. LCB/SVI guarantees the price of broadband services offered in the project area for two years.

F. Project Audit

The Commission has the right to conduct any necessary audit, verification, and discovery during project implementation/construction to ensure that CASF funds are spent in accordance with Commission approval.<sup>5</sup> LCB/SVI's invoices will be subject to a financial audit by the Commission at any time within three years of completion of the work.

G. Providing Voice Service

LCB/SVI has certified that its voice service offered is standard analog telephone service and it meets the Federal Communications Commission (FCC) standards for E-911 service and battery backup.

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<sup>4</sup> The Commission has the authority to enforce the terms and conditions of the grant award and to impose penalties under P.U. Code §§ 2111 and 2108. (D.14-02-018, p. 36).

<sup>5</sup> P.U. Code §§ 270 and 281.



H. Submission of Form 477

The FCC currently requires broadband providers to biannually submit the Form 477, which includes speed data. While there is an imperfect match between the data that is reported in the Form 477 and to the CASF, the Form 477 data will be useful in documenting CASF deployment for the new service area of the carrier. Pursuant to General Order 66-C, service providers in California must submit a copy of their Form 477 data directly to the CPUC, concurrent with their submission of the same data to the FCC. CASF recipients must continue to submit their Form 477 data to the FCC for a five-year period after completion of the project.<sup>6</sup>

I. Reporting

LCB/SVI must submit quarterly progress reports on the status of the project irrespective of whether grantees request reimbursement or payment.

Quarterly progress reports are due on January 1, April 1, July 1, and October 1. Before full payment of the project, LCB/SVI must submit a project completion report. Progress reports shall use the schedule for deployment, major construction milestones and costs submitted in the proposal; indicate the actual date of completion of each task/milestone as well as problems and issues encountered, and the actions taken to resolve these problems and issues during project implementation and construction; and identify future risks to the project.

LCB/SVI shall also include test results on the download and upload speeds on a CBG and zip code basis in the final completion report. LCB/SVI must certify that each progress report is true and correct under penalty of perjury.

## **VI. Payments to CASF Recipients**

Submission of invoices from and payments to LCB/SVI shall be made at 25 percent completion intervals, in accordance with Section XI of Appendix 1 of D.12-02-015 and according to the guidelines and supporting documentation required in D.12-02-015.

Payment to LCB/SVI shall follow the process adopted for funds created under P.U. Code § 270. The Commission generally processes payments within 20-25

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<sup>6</sup> Approval of the California Advanced Services Fund (CASF) Application Requirements and Scoring Criteria for Awarding CASF Funds (2008) Cal. P.U.C. Res. No. T-17143 at 4.

business days, including CD and Administrative Services review time. The State Controller's Office (SCO) requires an additional 14- 21 days to issue payment from the day that requests are received by SCO from Administrative Services. LCB/SVI must submit a project completion report before full payment.

## **VII. Comments on Draft Resolution**

In compliance with P.U. Code § 311(g), a notice letter was e-mailed on January 4, 2017, informing all parties on the CASF Distribution List of the availability of the draft of this resolution for public comments at the Commission's website at <http://www.cpuc.ca.gov/PUC/documents/>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at this same website.

## **VIII. Findings**

1. On November 19, 2015, LCB/SVI, submitted a CASF grant application to build last-mile fiber infrastructure to provide broadband Internet to underserved community of San Martin and Paradise Valley in Southern Santa Clara County. LCB/SVI revised its project area removing the San Martin and the revised CBG impacted by the project is 060855122001.
2. On November 19, 2015, CD posted the proposed project area map, CBG and zip code for LCB/SVI's Light Saber project on the Commission's CASF webpage under "CASF Application Project Summaries". On December 8, 2015, CD received a challenge from RazzoLink to this project.
3. LCB/SVI revised its application to include only the Paradise Valley section of the original project area. LCB/SVI is now requesting \$1,120,408, which represents 60 percent of the estimated total project cost of \$1,867,348. The CASF per-household subsidy is \$11,000, based on 102 households that will be given access at served speeds by the grant.
4. CD reviewed and analyzed data submitted from the LCB/SVI grant application to determine the project's eligibility for CASF funding. This data includes but is not limited to proof that the applicant has a CPCN from the Commission; description of current and proposed broadband infrastructure; number of potential subscriber households and average income; project construction

schedule; project budget; proposed pricing and commitment period for new subscribers; and financial viability of the applicant.

5. Based on its review, CD determined that the revised proposed project area is underserved.
6. Based on its review, CD determined that the proposed project qualifies for funding under D.12-02-015 and recommends Commission approval of CASF funding for the revised LCB's Light Saber project.
7. The Commission finds CD's recommendation to fund LCB/SVI's Light Saber project, as summarized in Appendix A, to be reasonable and consistent with Commission orders and, therefore, adopts such recommendation.
8. The LCB/SVI's Light Saber project is categorically exempt from CEQA review pursuant to the following exemptions: CEQA Guidelines Section 15301 for existing facilities, Section 15304, minor alterations to land, and Section 15303 new construction of small structures.
9. LCB/SVI is not required to post a performance bond because 40% of the total project cost will be financed through LCB/SVI's existing capital budget.
10. This project provides benefits to the Paradise Valley community. CD finds that upgrading and offering faster broadband services to residents and businesses and extending its faster service availability to the community will enhance public safety in the LCB/SVI Light Saber project area.
11. LCB/SVI is required to comply with all guidelines, requirements, and conditions associated with the granting of CASF funds as specified in D.12-02-015, D.14-02-018, Resolution T-17443, and this Resolution. LCB/SVI must submit the FCC Form 477, as specified in Resolution T-17143.
12. A notice was e-mailed on January 4, 2017, informing all applicants filing for CASF funding and parties on the CASF distribution list of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/documents/>. This notice also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website.

**THEREFORE, IT IS ORDERED that:**

1. The Commission shall award \$1,120,408 to LCB/SVI for the Light Saber project as described herein and as summarized in Appendix A of this Resolution.
2. The program fund payment of \$1,120,408 for this project in underserved areas shall be paid out of the CASF Infrastructure Grant Account in accordance with the guidelines adopted in D.12-02-015.
3. Payments to LCB/SVI shall be in accordance with Section XI of Appendix 1 of D.12-02-015 and in accordance with the process defined in the "Payments to CASF Recipients" section of this Resolution. If LCB/SVI does not provide service to each customer within the project area that requests service at the prescribed rates during the commitment period, the Commission reserves the right to reduce payment accordingly.
4. LCB/SVI must complete all construction covered by the grant on or before the grant's termination date. If the project will not be completed within the 24-month time frame, LCB/SVI must notify the Director of CD as soon as it becomes aware of this possibility. If such notice is not provided, the Commission may reduce payment for failure to satisfy this requirement by timely notifying CD's Director.
5. LCB/SVI, shall comply with all guidelines, requirements and conditions associated with the CASF funds award as specified in D.12-02-015, D.14-02-018 and this Resolution, and must submit the FCC Form 477 to the Commission, as specified in Resolution T-17143.
6. In the event that LCB/SVI fails to complete the project in accordance with the terms of CPUC approval as set forth in this resolution, LCB/SVI must reimburse some or all of the CASF funds that it has received.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 9, 2017. The following Commissioners approved it:

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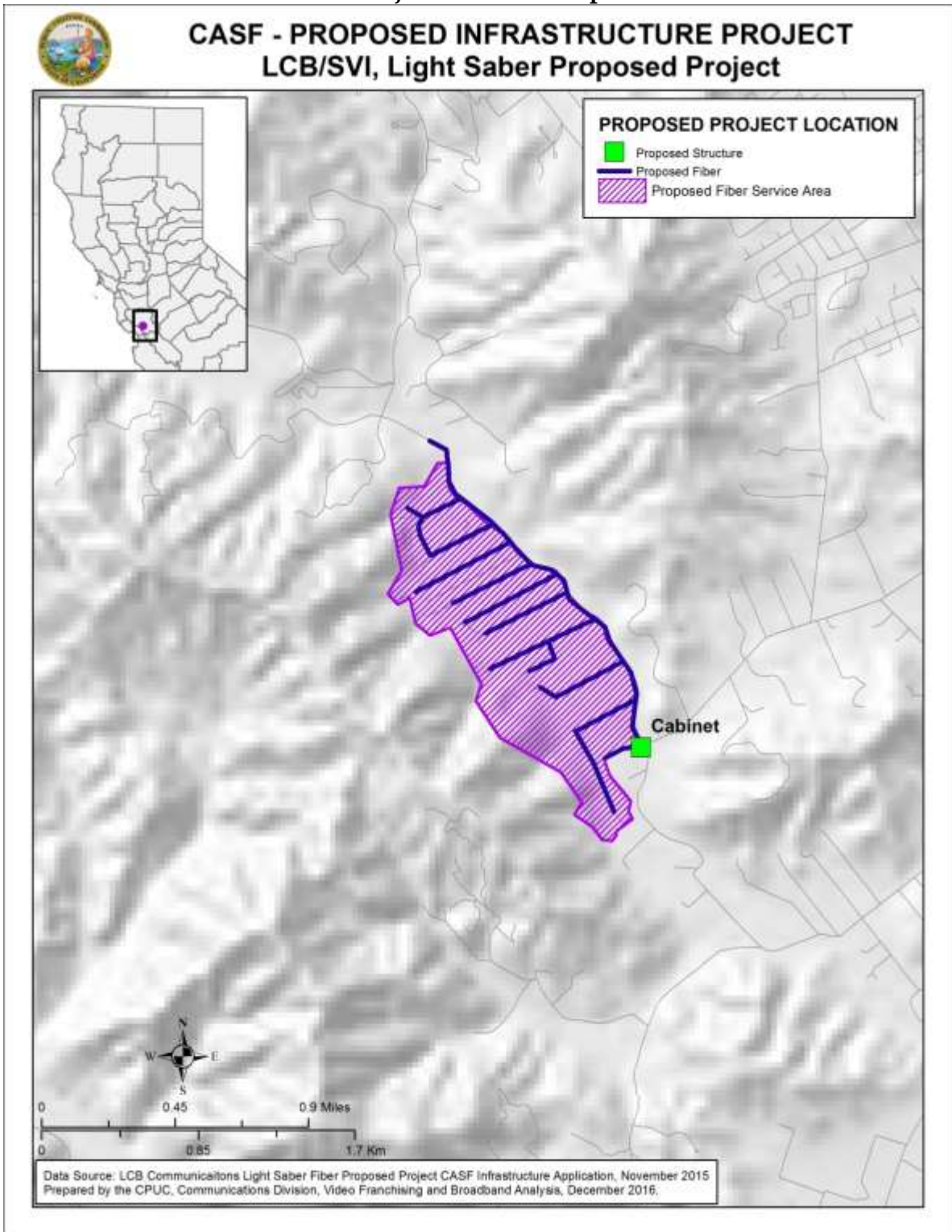
TIMOTHY J. SULLIVAN  
Executive Director

## APPENDIX

**APPENDIX A**  
**Resolution T-17545, LCB/SVI, Light Saber Project**  
**CASF Applicant Key Information**

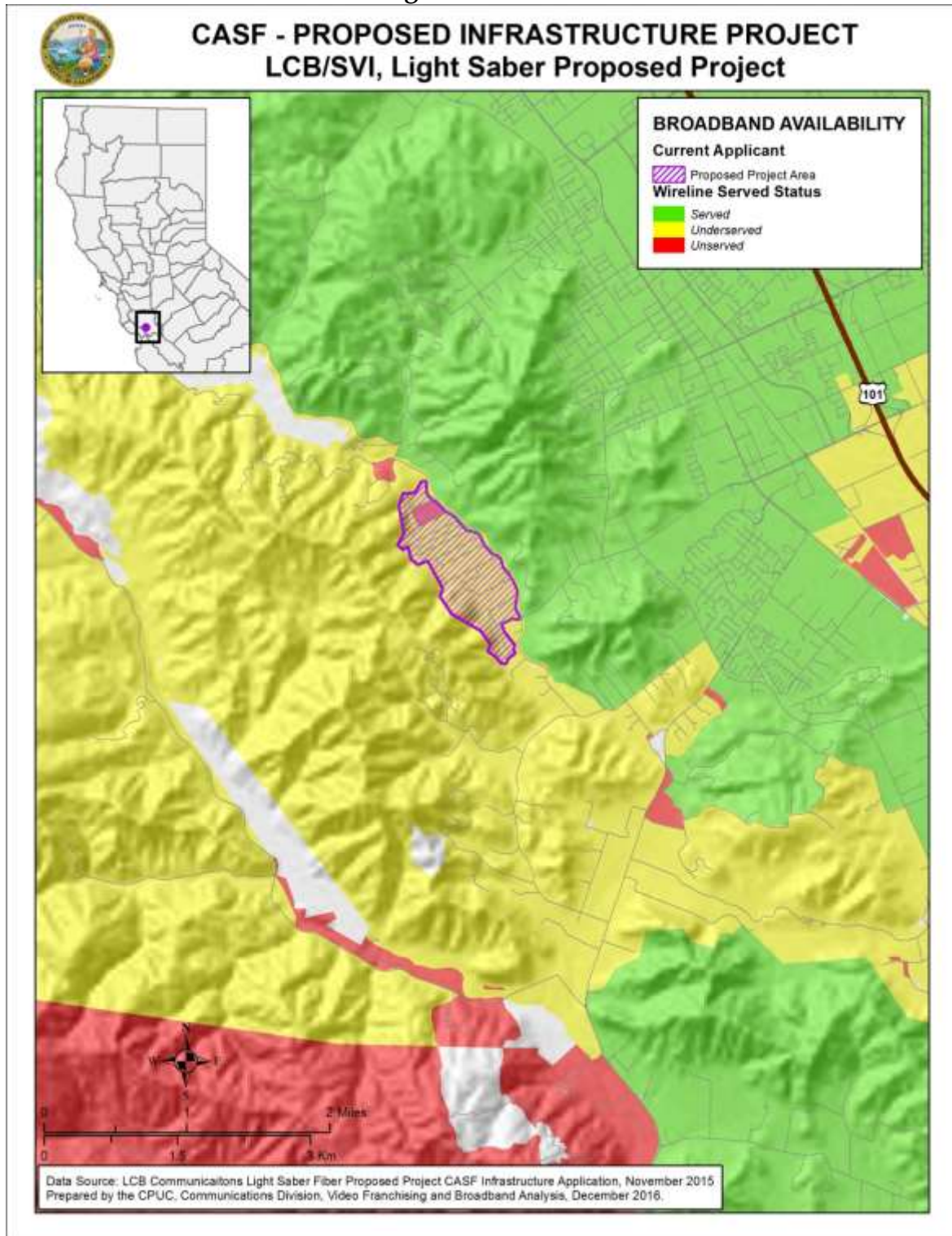
<i>Project Name</i>	<b>LCB Communications LLC/ South Valley Internet, Inc.</b>
<i>Project Plan</i>	LCB/SVI plans to construct a fiber optic network consisting of approximately 17 miles of fiber optic cable to serve the proposed service area in Southern Santa Clara County. LCB/SVI will utilize this network to offer fiber to the home based solutions to provide 100 Mbps and up to 1 Gbps synchronous service.
<i>Project Size (in square miles)</i>	0.4
<i>Download/Upload speed</i>	100 Mbps and up to 1 Gbps synchronous service
<i>Location</i>	Southern Santa Clara County
<i>Community Names</i>	Paradise Valley
<i>Census Block Groups</i>	60855122001
<i>Median Household Income (by Census Block Group)</i>	\$102,266
<i>Zip Codes</i>	95037
<i>Estimated potential subscriber size</i>	150 households
<i>Applicant expectations</i>	102 subscribers based on 68% take rate
<i>Pricing Plan (Monthly)</i>	\$109 for 50/50 Mbps & 2 years; \$90 for 50/50 Mbps & 3 years; \$199 for 100/100 Mbps & 2 years; \$179 for 100/100 Mbps & 3 years; \$289 for 1000/1000 Mbps & 2 years; \$279 for 1000/1000 Mbps & 3 years; \$19.95 for additional Voice lines. All services include one voice line. No installation fees
<i>Deployment Schedule (from Commission approval date)</i>	24 months
<i>Proposed Project Budget (Total)</i>	\$1,870,000
<i>Amount of CASF funds requested (60%)</i>	\$1,120,408
<i>Applicant funded (40%)</i>	\$749,592

**Appendix B**  
**Resolution T-17545, LCB/SVI, Light Saber Project**  
**Project Location Map**

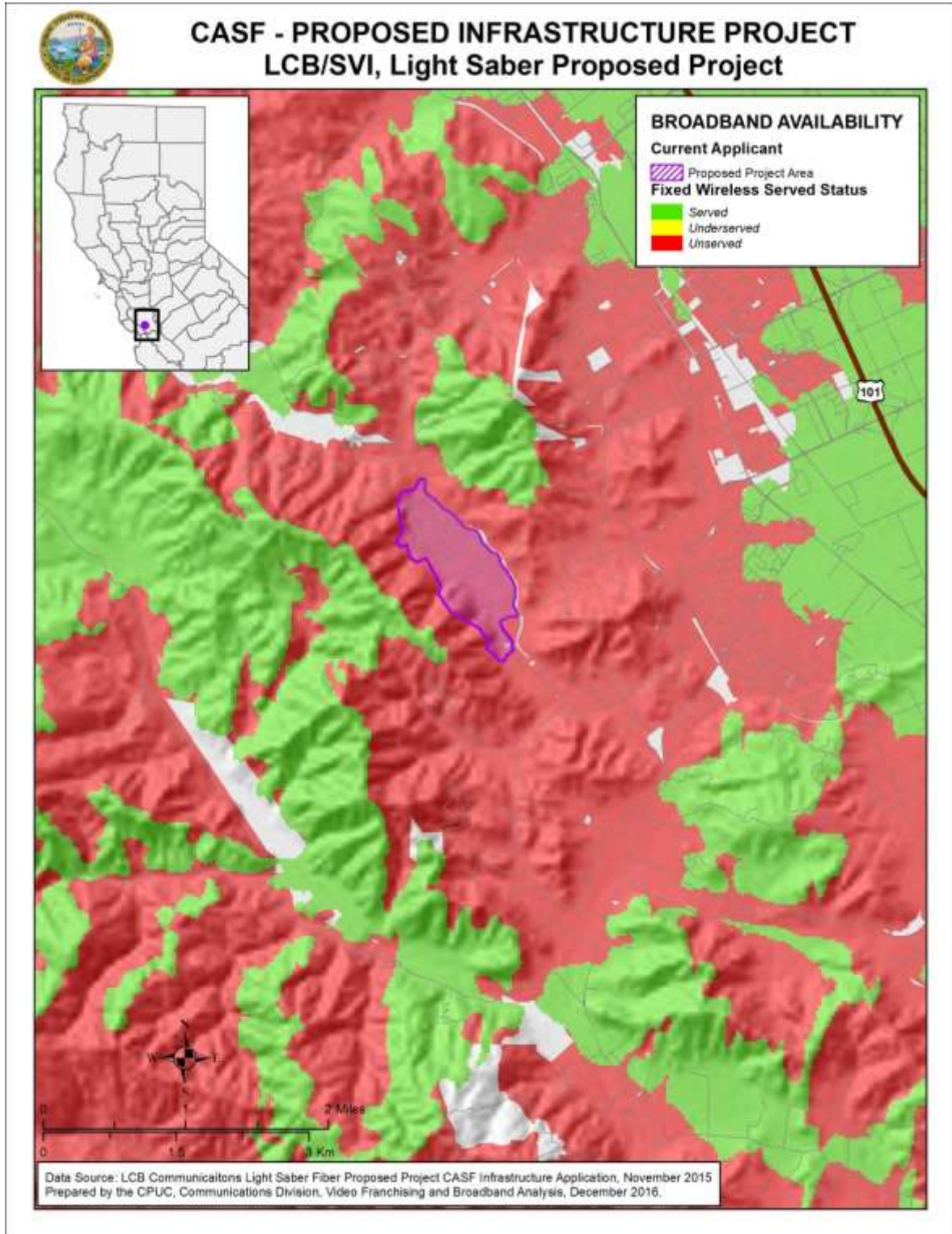




Appendix C  
Resolution T-17545, LCB/SVI, Light Saber Project  
Existing Wireline Service Levels



Appendix D  
Resolution T-17545, LCB/SVI, Light Saber Project  
Existing Fixed Wireless Service Levels



Appendix E  
Resolution T-17545, LCB/SVI, Light Saber Project  
Existing Mobile Wireless Services Levels

