



SACOG Board of Directors

June 12, 2014

Approve Request for Proposals for Public Opinion Research Services

Issue: SACOG procurement policies require an open competitive process for consulting services.

Recommendation: The Government Relations & Public Affairs Committee unanimously recommends that the SACOG Board release a Request for Proposals for consulting services for scientific polling services for the 2016 Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) Update and that it authorize the SACOG Chief Executive Officer to negotiate and sign a contract with the selected contractor.

Committee Action/Discussion: Scientific polling will be used as part of the outreach and engagement strategy for the update to the MTP/SCS. Staff discussed with the committee the possibility that the full set of services requested in the proposed Request for Proposal (RFP) may exceed budget proposed in the RFP. Committee members recommended that, if necessary, staff request potential vendors to identify the additional costs necessary to deliver the full scope in the RFP. If additional budget is needed, and can be identified within the agency's overall approved budget, the CEO would then be in a position to execute a contract for the additional services. Prior to executing a contract for such additional services, the CEO would consult with the SACOG Board Chair and Chair of the Government Relations & Public Affairs Committee.

In October 2013, staff began an early engagement process that creates three paths of public input for the board to consider in conjunction with staff research and analysis for the development of a draft preferred scenario for the 2016 MTP/SCS.

The three paths to gather public input are the sounding board, scientific polling, and public workshops which will occur in October 2014. Conducting scientific polling will allow for comparison of opinions from the regionally representative poll to the responses of workshop participants and online survey respondents. The survey questions will be developed with resources from the 2008 MTP, to allow for historical comparison where possible.

While the polling will be designed to serve as input to the Board on for the MTP/SCS staff believes that there will be opportunity to use the findings of the polling as part of the Sacramento Region Blueprint anniversary event which will happen in early 2015. Planning for the Blueprint event is in the early stages, but staff sees a connection in the themes from this poll being applied to the anniversary event.

To expedite the work that needs to be immediately completed, staff is requesting that the Board of Directors authorize the Chief Executive Officer to negotiate and execute a contract with the selected contractor.

Attachment A: Request for Proposals for Scientific Polling Services

Approved by:

Mike McKeever
Chief Executive Officer

MM:MH:GC:ts

Key Staff: Erik Johnson, Acting Manager of Policy and Administration, (916) 340-6247
Greg Chew, Senior Planner, (916) 340-6227
Monica Hernández, Public Information Coordinator, (916) 340-6237

REQUEST FOR PROPOSALS

PUBLIC ATTITUDE SURVEY FOR 2016 METROPOLITAN TRANSPORTATION PLAN/ SUSTAINABLE COMMUNITIES STRATEGY UPDATE

BUDGET: NOT-TO-EXCEED \$55,000

June 20, 2014



**SACRAMENTO AREA COUNCIL OF GOVERNMENTS
1415 L STREET, SUITE 300
SACRAMENTO, CALIFORNIA 95814
(916) 321-9000**

SACRAMENTO AREA COUNCIL OF GOVERNMENTS

REQUEST FOR PROPOSALS

**PUBLIC ATTITUDE SURVEY FOR 2016 METROPOLITAN TRANSPORTATION
PLAN/SUSTAINABLE COMMUNITIES STRATEGY UPDATE**

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I. INTRODUCTION

The Sacramento Area Council of Governments (SACOG) is a voluntary association of governments. Member jurisdictions include: the County of Sacramento (including the cities of Citrus Heights, Elk Grove, Folsom, Galt, Isleton, Rancho Cordova and Sacramento); the County of Yolo (including the cities of Davis, West Sacramento, Winters, and Woodland); the County of Sutter (including the cities of Live Oak and Yuba City); the County of Yuba (including the cities of Marysville and Wheatland); Placer County (including the cities of Auburn, Colfax, Lincoln, Rocklin, Roseville and Town of Loomis) and El Dorado County (including the City of Placerville).

SACOG is the federally designated Metropolitan Planning Organization (MPO) for the Sacramento, Davis and Marysville/Yuba City urbanized areas. SACOG is also the state designated Regional Transportation Planning Agency (RTPA) for the counties of Sacramento, Yolo, Sutter and Yuba.

II. BACKGROUND

This Request for Proposals (RFP) seeks a consultant (“consultant” or “contractor”) to design and conduct a scientifically valid telephone survey for SACOG to utilize in developing the 2016 Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS) Update. The MTP/SCS is a long-range transportation plan that identifies various constraints in the metropolitan transportation system and proposes solutions to those constraints. The survey will ask residents in the SACOG region questions regarding transportation and planning issues that are being addressed in the development of the 2016 MTP/SCS. A detailed Project Description is included in the next section below.

SACOG conducted a Public Attitude Survey for the 2008 MTP update (before the Sustainable Communities Strategy was a required component of the MTP). That survey asked a random sample of residents in the SACOG region to identify the most serious transportation issues in the region, the importance of different types of road improvements (e.g, new roads, maintaining existing roads, new freeways, etc.), and preferences for transit and other modes of travel (e.g, biking, walking). The 2008 Public Attitude Survey may be found on the SACOG website. SACOG is seeking a contractor to conduct a similar survey to assist SACOG in developing the 2016 MTP/SCS Update.

III. PROJECT SUMMARY AND DESCRIPTION

The contract for the Public Attitude Survey for the 2016 MTP/SCS Update will be an agreement between SACOG and the consultant. SACOG will provide contract administration services. The consultant will invoice SACOG for services rendered and SACOG will compensate the consultant for these services as set forth in the agreement. Funding for the consultant services

will be provided by SACOG. The SACOG Board of Directors will award the contract and project deliverables will be reviewed by the SACOG Project Manager.

The 2012 MTP/SCS set policies to guide transportation decisions and proposed a program of capital, operational, and management improvements needed by 2035. The contractor will conduct a Public Attitude Survey to ask residents in the SACOG region about issues such as the success of the 2012 MTP/SCS, residents' transportation needs and preferences, and residents' suggested solutions to transportation issues in the SACOG region.

The 2016 MTP/SCS Update will be the second update to address Senate Bill (SB) 375, which set regional targets for reducing greenhouse gas emissions. SB 375 requirements addressed in the 2012 MTP/SCS included: greenhouse gas (GHG) emissions as a performance target and metric; explicit integration of 2020 and 2035 land use patterns in the MTP/SCS with their impacts on Regional Housing Needs Allocations and transportation investment; and thorough analysis of transportation impacts to agriculture and natural resources in the Sacramento region. The survey conducted by the contractor should include questions regarding SACOG's efforts and other possible methods towards compliance with SB 375.

Additionally, the current SACOG Board of Directors directed that the 2016 MTP/SCS Update focus as much as possible on refinement and implementation of the current MTP/SCS, as opposed to drafting an entirely new MTP/SCS. As such, the Board adopted a "Policy Framework" of issues to address for the 2016 MTP/SCS Update:

- Transportation Funding: Can the region capture the revenues projected to come from all sources: local, state and federal?
- Investment Strategy: Is there enough emphasis on system maintenance ("fix-it-first") investments?
- Investment Timing: Should there be changes in the timing of transportation investment?
- Land Use Forecast: What is the economic viability of the projected greenfield and infill growth within the SACOG region?
- MTP/SCS Effects: How can the 2016 Update best follow through on the implementation commitments of the 2012 MTP/SCS and measure the effects of the 2012 MTP/SCS on different people and issue areas?

The Public Attitude Survey should incorporate this Policy Framework into the questions posed to residents.

IV. SCOPE OF WORK/SERVICES

The scope of work is described as follows:

The contractor will design and execute a Public Attitude Survey to evaluate the opinions of residents over the age of 18 years in the SACOG region on key issues related to the 2016 MTP/SCS Update. The contractor will meet twice with SACOG staff to discuss the contents of the survey. The survey will be conducted by telephone, will be approximately 12 minutes in length, and will include at least three open ended questions. SACOG is seeking a 95% confidence interval.

The survey questions will serve to assess public input on priority transportation investments and major issues related to the development of the 2016 MTP/SCS Update. The contractor will work with SACOG staff to determine the appropriate issues and questions. Types of issues that SACOG may wish to address include the following: additional funding and pricing for transportation infrastructure, air quality, freight and goods movement, linking transportation phasing with land development, alternative modes of transportation such as biking, walking and transit, river crossings, road maintenance and preservation, system retrofits, urban roadway expansion, and quantitative measures for transportation efficiency. Questions will also relate to issues such as transportation challenges, investment policies, overall themes regarding the SACOG region's transportation planning and sustainable communities, common transportation investment, and general corridor improvements.

The survey data collected should provide a representative sample of the SACOG region as a whole, each of the six counties within the SACOG region (El Dorado, Placer, Sacramento, Sutter, Yuba and Yolo), and the City of Sacramento. SACOG seeks the advice of the contractor to identify the appropriate sample sizes for each of the seven sub-groups identified above and the total sample size overall to reach a scientifically valid opinion poll.

The contractor will provide SACOG with the raw results as well as cross-tabulations, as negotiated between SACOG and the contractor. The contractor will prepare a report summarizing the results, make two presentations of the results, and transmit the survey instrument, data and results electronically to SACOG. The specific deliverables are listed below.

Please specify any other parameters that your proposal is based on to stay within the identified budget for the project, including the minimum total sample size and the sample size for each of the seven different subgroups. If you do not believe that the budget is adequate to meet the standard assumptions identified above, please note what you would recommend to stay within that budget and/or what it would cost to meet those assumptions. After a contractor is selected, the specific terms of the opinion poll (sample size, average time to conduct a survey, minimum sub-group sample sizes, etc.) and the associated budget to perform it may be negotiated with SACOG accordingly.

V. CONTRACT DELIVERABLES

The Contractor will provide the following deliverables:

1. Draft and final versions of written telephone survey.
2. Written explanation of sampling technique.
3. Raw data results in an Excel spreadsheet.
4. Cross-tabulations of telephone survey responses.
5. Written summary of survey results and methodology used.

VI. CONTACT PERSONS

The SACOG Project Manager for this project is:

Greg Chew, Senior Planner
1415 L Street, Suite 300
Sacramento, CA 95814
(916) 340-6227
gchew@sacog.org

Interested parties must register through the RFP section of the SACOG website to receive a notification of any addendums or updates to the RFP.

VII. PROJECT TIMETABLE

Friday, June 20, 2014	Issue Request for Proposals
Monday, July 7, 2014	Last day to submit questions for written SACOG response that will be publicly released
Wednesday, July 9, 2014	Release of SACOG written response to questions, if any
4 p.m., Monday, July 14, 2014	Closing date for receipt of proposals
Week of July 21, 2014	Finalists contacted to schedule interviews, if any
Week of Aug 4, 2014	Conduct interviews, if any; recommend consultant

Week of Aug 11, 2014	Contract award, execute contract
Week of Aug 11, 2014	Start of Project/Begin Work
Week of October 20, 2014	Contractor must complete all work

Proposals must be received by SACOG, in both hard copy and electronic (e-mail) form as further described below, no later than 4:00 p.m. on Monday, July 14, 2014. If mail delivery is used, the proposer should mail the proposal early enough to provide for arrival by this deadline. Proposer uses mail or courier service at their own risk. SACOG will not be liable or responsible for any late delivery of proposals. Proposers shall submit one originally signed proposal and five (5) copies in a sealed envelope or package clearly marked "Public Attitude Survey for 2016 Metropolitan Transportation Plan/Sustainable Communities Strategy Update." The Proposal must also be submitted in electronic version via e-mail to the Project Manager, as further specified in Section IX below.

By submitting a proposal, the proposer certifies that his or her name or the consultant firm's name, as well as the name of proposer subcontractors, does not appear on the Comptroller General's list of ineligible contractors for federally assisted projects.

VIII. GENERAL CONDITIONS

A. Limitations

This request for proposal (RFP) does not commit SACOG to award a contract, to pay any costs incurred in the preparation of proposals in response to this request, or to procure or contract for services or supplies. SACOG expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any proposer and of the suitability of the materials and/or services to be rendered. SACOG reserves the right to withdraw this RFP at any time without prior notice. Further SACOG reserves the right to modify the RFP schedule described above.

Until award of a contract, the proposals shall be held in confidence and shall not be available for public review. No proposal shall be returned after the date and time set for the opening thereof. All proposals become the property of SACOG. Upon award of a contract to the successful proposer, all proposals shall be public records.

B. Award

SACOG may ask RFP finalists to present oral briefings of their proposals. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. SACOG also reserves the right to award the contract without oral briefings or discussion, based upon the initial written proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint.

C. RFP Addendum

Any changes to the RFP requirements will be made by written addenda issued by SACOG and shall be considered part of the RFP. Upon issuance, such addenda shall be incorporated in the agreement documents, and shall prevail over inconsistent provisions of earlier issued documentation.

D. Verbal Agreement or Conversation

No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of SACOG shall affect or modify any terms or obligations of the RFP, or any contract resulting from this RFP.

E. Precontractual Expense

Precontractual expenses include any expenses incurred by proposers and selected contractor in:

1. Preparing proposals in response to this RFP
2. Submitting proposals to SACOG
3. Negotiations with SACOG on any matter related to proposals.
4. Other expenses incurred by a contractor or proposer prior to the date of award of any agreement.

In any event, SACOG shall not be liable for any precontractual expenses incurred by any proposer or selected contractor. Proposers shall not include any such expenses as part of the price proposed in response to this RFP. SACOG shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

F. Signature

The proposal will also provide the following information: name, title, address and telephone number of individual with authority to bind the consultant or consultant firm and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the consultant or consulting firm and shall contain a statement to the effect that the proposal is a firm offer for at least a sixty (60) day period. Execution of the contract is expected by the week of August 11, 2014.

G. Contract Arrangements

The successful consultant is expected to execute a contract similar to SACOG's Standard Agreement, which meets the requirements of MAP-21. A copy of SACOG's Standard Agreement is attached as Part A. While \$1 million per occurrence in commercial general liability coverage is required, under special circumstances SACOG may consider a lesser amount of insurance coverage, but not an amount less than \$500,000 per occurrence.

1. Disadvantaged Business Enterprise (DBE) Policy: It is the policy of SACOG, the California Department of Transportation ("Caltrans"), and the U.S. Department of Transportation that Disadvantaged Business Enterprises ("DBE's") shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. DBE's are for-profit small business concerns as defined in Title 49, Part 26.5, Code of Federal Regulations ("CFR").
2. DBE Obligation: The consultant and its subcontractor(s) must agree to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, the consultant and its subcontractor(s) shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. The consultant and its subcontractor(s) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of the contract.
3. Title VI of the Civil Rights Act of 1964: The consultant must agree to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 USC 2000d) and the regulations of the U.S. Department of Transportation issued thereunder in 49 CFR Part 21.
4. Equal Employment Opportunity: In connection with the performance of the contract, the consultant shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex or national original. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Each proposal, to be considered responsive, must include the following:

- (1) Consultant's affirmative action program, if required pursuant to the equal employment opportunity requirements of the U.S. Department of Labor Regulations (41 CFR Part 60, *et seq.*). These regulations require certain contractors to develop and maintain affirmative action programs, including service contractors (non-construction) with 50 or more employees and a federally assisted contract of \$50,000 or more.
- (2) Discussion of the consultant's proposed use of DBEs, if any, in the performance of this work, including the following:
 - The names and addresses of DBE firms that will participate.
 - The description of the work each named firm will perform.
 - The dollar amount of participation by each DBE firm

The consultant may satisfy the requirements of this section by completing and submitting the Disadvantaged Business Enterprise Information Form, attached hereto as Exhibit "C."

- (3) Conflict of Interest: Consultants and consultant firms submitting proposals in response to this RFP must disclose to SACOG any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for consultant services to be awarded pursuant to this RFP.

If the consultant or firm has no conflict of interest, a statement to that effect shall be included in the proposal.

IX. PROPOSAL CONTENT AND ORGANIZATION

Proposals should be limited to specific discussion of the elements outlined in this RFP. The intent of this RFP is to encourage responses which meet the stated requirements, and which propose the best methods to accomplish the work within the stated budget.

Proposals are also limited to a total of fifteen (15) pages for all content in items #1-7 below. The organization of the Proposal should follow the general outline below. Each proposal should consist of a technical proposal (items 1-7 below), work examples (item 8) and a cost proposal (item 9).

Form of Proposals: Proposals must be submitted in both hard copy and e-mail form to SACOG's Project Manager Greg Chew, at 1415 L Street, Suite 300, Sacramento, CA 95814 and gchew@sacog.org, no later than the closing date and time and with the proper number of copies, all as specified in Section VII above. The electronic mail form shall be a PDF version of the fully signed Proposal and shall be e-mailed to the Project Manager.

1. Transmittal Letter

The transmittal letter should include the name, title, address, phone number, and original signature of an individual with authority to negotiate on behalf of and to contractually bind the consultant or consulting firm, and who may be contacted during the period of proposal evaluation. Only one transmittal letter need be prepared to accompany all copies of the technical and cost proposals.

2. Table of Contents

A listing of the major sections in the proposal and the associated page numbers.

3. Introduction

In this section, the proposer should demonstrate an adequate understanding of the role and relationships of SACOG.

4. Technical Approach

This should include:

- a. A summary of the proposed approach
- b. An explanation of the consultant's intended role as related to the role of SACOG
- c. A thorough explanation of the consultant's proposed course of action. References should be made to RFP requirements and the consultant's plans for meeting those requirements. If the consultant proposes major changes to the RFP approach, those changes should be specified clearly. The consultant should specify its technical approach, especially data elements to be sampled, staff to be interviewed, and documents to be reviewed, etc.
- d. An itemized description of the proposed project schedule (including visits, draft and final deliverables) and the deliverables to be produced

5. Project Management

The proposer must prepare an explanation of the project management system and practices to be used to assure that the project is completed within the scheduled time frame and that the quality of the required products will meet SACOG's requirements.

6. Consultant and Subcontractor Staff

The proposal must describe the qualifications and experience of each professional who will participate in the project, including a resume for each member of the project team. A project manager must be designated, and an organizational chart showing the manager and all project staff must be included. A matrix must be presented indicating the effort, either in percentage of the total project or in person-hours, which will be contributed by each professional, during each

phase or task making up the project. If a subcontractor will be used, the proposer must include a letter from the subcontractor committing to perform at least the work shown for subcontractor professional in the above-described matrix.

In addition to the foregoing, the proposal must include the following information for the consultant and each subcontractor, as required by 49 CFR Section 26.11(c)(2). The consultant may satisfy the requirements of this section by completing and submitting the Disadvantaged Business Enterprise Information Form, attached hereto as Exhibit "C."

- Firm name;
- Firm address;
- Firm's status as a DBE or non-DBE;
- Age of the firm; and
- The annual gross receipts of the firm expressed in one of the following ranges:
 - Less than \$500,000;
 - \$500,000-\$1 million;
 - \$1 million-\$2 million;
 - \$2 million-\$5 million; or
 - Over \$5 million.

7. Consultant Qualifications and References

The proposal must describe the nature and outcome of projects previously conducted by the consultant's key personnel which are related to the work described within the RFP. Descriptions should include client contact names, address, phone numbers, descriptions of the type of work performed, approximate dates on which the work was completed, and professional staff who performed the work. If a subcontractor is proposed, two to three similar qualifications and references should be provided for the subcontractor. Up to two samples of the consultant's work on closely related projects can also be included with the proposal, if available. Additionally, the proposer must complete the Debarment Certification Form, attached hereto as Exhibit "B." The proposer must also complete the Levine Act Disclosure Statement attached hereto as Exhibit "D."

8. Related Work Examples (page limit does not apply)

Proposers may include up to three (3) examples of prior public opinion surveys conducted by the proposer, which were also designed to address transportation and planning related matters.

9. Cost Proposal

The cost proposal shall describe both the total and the detailed price for which the consultant will commit to complete the total scope of work and end products. The cost proposal detail shall

describe estimated costs (only the total amount is a binding offer) for each professional's time, for the completion of each proposed task, for travel and per-diem (if applicable), and for materials and supplies. Failure to provide adequate cost data will result in the proposal rejection as unresponsive.

X. PROPOSAL EVALUATION AND SELECTION

A proposal review panel made up of members of SACOG staff will evaluate the proposals. Proposers may be telephoned and asked for further information, if necessary, and may be expected to appear for oral interviews. Previous clients may also be called. The panel will make recommendations to the SACOG Chief Executive Officer on the basis of the proposal, oral interview, and reference check. SACOG reserves the right to select a consultant based solely on written proposals and not convene oral interviews.

Upon receipt of the proposals, a technical evaluation will be performed. Each of the major sections of the proposal will be reviewed and evaluated with criteria designed to help judge the quality of the proposal. In determining which proposal is most advantageous, SACOG will award the contract to the proposer whose proposal offers the best value. Evaluation criteria will include:

Technical Criteria	Maximum Points
Understanding of the background and requirements of the project, particularly in regards to transportation-related public opinion research.	25
The overall and technical approach proposed to conduct the Public Attitude Survey, and the tasks to be performed to achieve scientifically valid survey results, including detailed steps and resources required, and the proposed project schedule.	20
The relative allocation of resources, in terms of quality and quantity, to key tasks including the time and skills of personnel assigned to the tasks and consultant's approach to managing resources and project output.	10
Education and experience of proposed personnel, including prior experience in designing surveys specifically related to transportation issues.	10

Cost analysis and justification, and financial responsibility.	20
Demonstrated technical ability, and capability of developing innovative or advanced techniques.	10
Familiarity with state and federal procedures.	5
Total	100

In addition, the participation of qualified Disadvantaged Business Enterprises (DBE's) in this project is strongly encouraged. (See Section VIII. G. above.)

XI. PAYMENT SCHEDULE

The consultant will be paid in arrears, based upon the payment schedule agreed to in the contract. The consultant should forward a copy of all invoices for payment for work performed and associated expenses by the 15th day of the following month. At SACOG's discretion, SACOG may withhold ten percent (10%) of the payments until the successful completion of the project and the delivery and acceptance of all final products.

PART A

**SACRAMENTO AREA COUNCIL OF GOVERNMENTS
STANDARD AGREEMENT**

THIS AGREEMENT, is made and entered into this _____ day of _____ 2012, at Sacramento, California, by and between the Sacramento Area Council of Governments, a joint powers agency (hereinafter "SACOG"), through its duly appointed Chief Executive Officer, and _____, a _____ (hereinafter "Contractor").

RECITALS:

1. Contractor represents that it is specially trained and/or has the experience and expertise necessary to competently perform the services set forth in this Agreement; and
2. Contractor is willing to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement; and
3. SACOG desires to contract with Contractor to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Time of Performance: Contractor shall commence work upon execution of this Agreement and in accordance with the Scope of Work, attached hereto as Exhibit "A" and incorporated herein. Contractor shall complete work as expeditiously as is consistent with generally accepted standards of professional skill and care and the orderly progress of work. Work shall be completed and this Agreement shall expire on _____, unless otherwise terminated as provided for in this Agreement or extended by written agreement between the parties.

2. Scope of Work: Contractor agrees to fully perform the work described in Exhibit "A" - Scope of Work. In the event of any inconsistency between Exhibit "A" and other terms and conditions of this Agreement, Exhibit "A" shall control. SACOG reserves the right to review and approve all work to be performed by Contractor in relation to this Agreement. Any proposed amendment to the Scope of Work must be submitted by Contractor in writing for prior review and approval by SACOG's Chief Executive Officer. Approval shall not be presumed unless such approval is made by SACOG in writing.

3. Standard of Quality: All work performed by Contractor under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.

4. Compliance with Laws: Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders and decrees. Contractor warrants and

represents to SACOG that Contractor shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals that are legally required for Contractor to practice its profession or are necessary and incident to the performance of the services and work Contractor performs under this Agreement. Contractor shall provide written proof of such licenses, permits, insurance and approvals upon request by SACOG. SACOG is not responsible or liable for Contractor's failure to comply with any or all of the requirements contained in this paragraph.

5. Consideration: Payment to Contractor by SACOG shall be made as set forth in Exhibit "A". The amount to be paid to Contractor under this Agreement shall not exceed _____ dollars (\$ _____), unless expressly authorized in writing by the SACOG Chief Executive Officer. In no instance shall SACOG be liable for any payments or costs for work in excess of this amount, nor for any unauthorized or ineligible costs. Contractor shall be paid at the times and in the manner set forth in this Agreement. The consideration to be paid Contractor, as provided in this Agreement, shall be in compensation for all of Contractor's expenses incurred in the performance of work under this Agreement, including travel and per diem, unless otherwise expressly so provided.

- a. Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., (any subcontractors and subrecipients shall refer to the *Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments*) shall be used to determine the allowability of individual items of cost.
- b. Contractor also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- c. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq.; *Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments*; or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by Contractor to SACOG. Disallowed costs must be reimbursed to SACOG within sixty (60) days unless SACOG approves in writing an alternative repayment plan.
- d. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of Sections 5 (a) through (c) above.

6. Reporting and Payment:

- a. Contractor shall submit monthly billings in arrears to SACOG no later than the 15th of each month and in accordance with the Scope of Work. Contractor shall

be notified within fifteen (15) working days following receipt of its invoice by SACOG of any circumstances or data identified by SACOG in Contractor's written billing which would cause withholding of approval and subsequent payment. Contractor shall be paid within thirty (30) days after SACOG approval of each billing; however, SACOG, at its own discretion, may withhold at least ten percent (10%) of each invoice until the successful completion of the scope of work and the delivery and acceptance by SACOG of all final products. Said billings shall indicate the number of hours worked by each of Contractor's personnel and reimbursable costs incurred to the date of such billing since the date of the preceding billing, if any. The billings shall include documentation of reimbursable expenses and billed items sufficient for SACOG, in its opinion, to substantiate billings. SACOG reserves the right to withhold payment of disputed amounts.

Optional:

- b. SACOG shall reimburse Contractor for actual expenditures limited to costs for services or purchase of items identified in the line-item budget set forth in Exhibit "A" - Scope of Work, or approved in writing by SACOG.

7. Independent Contractor: The Contractor, and the agents and employees of the Contractor, in the performance of this Agreement, shall act as and be independent contractors and not officers or employees or agents of SACOG. Contractor, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit SACOG to any decision or course of action, and shall not represent to any person or business that they have such power. Contractor has and shall retain the right to exercise full control of the supervision of the services and work and over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of services under this Agreement. Contractor shall be solely responsible for all matters relating to the payment of its employees, including but not limited to compliance with social security and income tax withholding, workers' compensation insurance and all regulations governing such matters.

8. Termination:

- a. SACOG shall have the right to terminate this Agreement for any reason, with or without cause, at any time, by giving Contractor fifteen (15) days written notice. The notice shall be deemed served and effective for all purposes on the date it is deposited in the U.S. mail, certified, return receipt requested, addressed to Contractor at the address indicated in Section 17.
- b. If SACOG issues a notice of termination:
 - (1) Contractor shall immediately cease rendering services pursuant to this Agreement.

- (2) Contractor shall deliver to SACOG copies of all Writings, whether or not completed, which were prepared by Contractor, its employees or its subcontractors, if any, pursuant to this Agreement. The term "Writings" shall include, but not be limited to, handwriting, typesetting, computer files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including, letters, works, pictures, sounds, symbols computer data, or combinations thereof.
- (3) SACOG shall pay Contractor for work actually performed up to the effective date of the notice of termination, subject to the limitations in Section 5 less any compensation to SACOG for damages suffered as a result of Contractor's failure to comply with the terms of this Agreement. Such payment shall be in accordance with Section 6. However, if this Agreement is terminated because the work of Contractor does not meet the terms or standards specified in this Agreement, then SACOG shall be obligated to compensate Contractor only for that portion of Contractor's services which is of benefit to SACOG.

9. Assignment: The parties understand that SACOG entered into this Agreement based on the professional expertise and reputation of Contractor. Therefore, without the prior express written consent of SACOG, this Agreement is not assignable by the Contractor either in whole or in part.

10. Binding Agreement: This Agreement shall be binding on the parties hereto, their assigns, successors, administrators, executors, and other representatives.

11. Time: Time is of the essence in this Agreement.

12. Amendments: No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

13. Contractors and Subcontractors: Contractor shall not subcontract any portion of the work without the prior express written authorization of SACOG. If SACOG consents to a subcontract, Contractor shall be fully responsible for all work performed by the subcontractor.

a. SACOG reserves the right to review and approve any contract or agreement to be funded in whole or in part using funds provided under this Agreement.

b. Any contract or sub-contract shall require the contractor and its subcontractors, if any, to:

- (1) Comply with applicable State and Federal requirements that pertain to, among other things, labor standards, non-discrimination, the Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free

Workplace, and *Office of Management and Budget Circular A-87, Cost Principles for State, Local and Indian Tribal Governments.*

- (2) Maintain at least the minimum State-required Workers' Compensation Insurance for those employees who will perform the work or any part of it.
- (3) Maintain unemployment insurance and disability insurance as required by law, along with liability insurance in an amount that is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the Contractor or any subcontractor in performing work associated with this Agreement or any part of it.
- (4) Retain all books, records, computer records, accounts, documentation, and all other materials pertaining to the performance of this Agreement for a period of three (3) years from the date of termination of this Agreement, or three (3) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement and any amendments, whichever is later.
- (5) Permit SACOG and/or its designees, upon reasonable notice, unrestricted access to any or all books, records, computer records, accounts, documentation, and all other materials pertaining to the performance of this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.
- (6) Comply with all applicable requirements of Title 49, Part 26 of the Code of Federal Regulations, as set forth in Section 29, Disadvantaged Business Enterprise Participation.

14. Indemnity: Contractor specifically agrees to indemnify, defend, and hold harmless SACOG, its directors, officers, members, agents, and employees (collectively the "Indemnitees") from and against any and all actions, claims, demands, losses, costs, expenses, including reasonable attorneys' fees and costs, damages, and liabilities (collectively "Losses") arising out of or in any way connected with the performance of this Agreement, excepting only Losses caused by the sole, active negligence or willful misconduct of an Indemnitee. Contractor shall pay all costs and expenses that may be incurred by SACOG in enforcing this indemnity, including reasonable attorneys' fees. The provisions of this Section shall survive the expiration, termination, or assignment of this Agreement.

15. Insurance Requirements: Contractor hereby warrants that it carries and shall maintain, at its sole cost and expense, in full force and effect during the full term of this Agreement and any extensions to this Agreement, the following described insurance coverage:

POLICY	MINIMUM LIMITS OF LIABILITY
(1) Workers' Compensation; Employer's Liability.	Statutory requirements for Workers' Compensation; \$1,000,000 Employer's Liability.
(2) Comprehensive Automobile: Insurance Services Office, form #CA 0001 covering Automobile Liability, code 1 (any auto).	Bodily Injury/Property Damage \$1,000,000 each accident.
(3) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form #CG 0001).	\$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit, such limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
(4) Errors and Omissions/Professional Liability (errors and omissions liability insurance appropriate to the Contractor's profession as defined by SACOG).	\$1,000,000 per claim.
<p>a. <u>Deductibles and Self-insured Retentions:</u> Any deductibles or self-insured retentions in excess of \$5,000 must be declared to and approved by SACOG.</p>	
<p>b. <u>Required Provisions:</u> The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:</p>	
<p>(1) For any claims related to this Agreement, the Contractor's insurance coverage shall be primary insurance as respects SACOG, its directors, officers, employees and agents. Any insurance or self-insurance maintained by SACOG, its directors, officers, employees or agents shall be in excess of the Contractor's insurance and shall not contribute to it.</p>	
<p>(2) Any failure by Contractor to comply with reporting or other provisions of the policies including breaches of warrants shall not affect coverage provided to SACOG, its directors, officers, employees or agents.</p>	
<p>(3) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.</p>	
<p>(4) Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to SACOG.</p>	

- c. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise approved by SACOG.
 - d. Certificate of Insurance and Additional Insured Requirement: Contractor shall furnish to SACOG an original Certificate of Insurance on a standard ACORD form, or other form acceptable to SACOG, substantiating the required coverages and limits set forth above and also containing the following:
 - (1) Thirty (30) days prior written notice to SACOG of the cancellation, non-renewal, or reduction in coverage of any policy listed on the Certificate; and
 - (2) The following statement with respect to the Commercial General Liability policy: "SACOG and its directors, officers, employees and agents, are made additional insureds, but only insofar as the operations under this Agreement are concerned."
 - e. Certified Copies of Policies: Upon request by SACOG, Contractor shall immediately furnish a complete copy of any policy required hereunder, including all endorsements, with said copy certified by the insurance company to be a true and correct copy of the original policy.
 - f. Contractor's Responsibility: Nothing herein shall be construed as limiting in any way the extent to which Contractor may be held responsible for damages resulting from Contractor's operations, acts, omissions, or negligence. Insurance coverage obtained in the minimum amounts specified above shall not relieve Contractor of liability in excess of such minimum coverage, nor shall it preclude SACOG from taking other actions available to it under this Agreement or by law, including but not limited to, actions pursuant to Contractor's indemnity obligations.
16. Audit, Retention and Inspection of Records:
- a. SACOG or its designee shall have the right to review, obtain, and copy all books, records, computer records, accounts, documentation and any other materials (collectively "Records") pertaining to performance of this Agreement, including any Records in the possession of any subcontractors, for the purpose of monitoring, auditing, or otherwise examining the Records. Contractor agrees to provide SACOG or its designees with any relevant information requested and shall permit SACOG or its designees access to its premises, upon reasonable notice, during normal business hours, for the purpose of interviewing employees and inspecting and copying such Records to determine compliance with any applicable federal and state laws and regulations. Contractor further agrees to maintain such Records for a period of three (3) years after final payment under the Agreement or three (3) years from the conclusion or resolution of any and all

audits or litigation relevant to this Agreement and any amendments, whichever is later.

- b. If so directed by SACOG upon expiration of this Agreement, the Contractor shall cause all Records to be delivered to SACOG as depository.

17. Project Managers: SACOG's project manager for this Agreement is _____ unless SACOG otherwise informs Contractor. Any notice, report, or other communication required by this Agreement shall be mailed by first-class mail to the SACOG Project Manager at the following address:

Name, Title

Sacramento Area Council of Governments
1415 L Street, Suite 300
Sacramento, California 95814

Contractor's project manager for this Agreement is _____. No substitution of Contractor's project manager is permitted without the prior written agreement of SACOG, which agreement shall not be unreasonably withheld. With the exception of notice pursuant to Section 8 (a) above, any notice, report, or other communication to Contractor required by this Agreement shall be mailed by first-class mail to:

Name, Title

Contractor

Address

Address

18. Successors: This Agreement shall be binding on the parties hereto, their assigns, successors, administrators, executors, and other representatives.

19. Waivers: No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of SACOG to enforce at any time the provisions of this Agreement or to require at any time performance by the Contractor of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of SACOG to enforce these provisions.

20. Litigation: Contractor shall notify SACOG immediately of any claim or action undertaken by it or against it that affects or may affect this Agreement or SACOG, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of SACOG.

21. National Labor Relations Board Certification: Contractor, by signing this Agreement, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court which orders Contractor to comply with an order of the National Labor Relations Board (Public Contract Code § 10296).

22. Americans with Disabilities Act (ADA) of 1990: By signing this Agreement, Contractor assures SACOG that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101, et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

23. Compliance with Non-Discrimination and Equal Employment Opportunity Laws:

It is SACOG's policy to comply with state and federal laws and regulations including Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990 (ADA) and other federal discrimination laws and regulations, as well as the Unruh Civil Rights Act of 1959, the California Fair Employment and Housing Act, and other California State discrimination laws and regulations. SACOG does not discriminate on the basis of race, color, sex, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, sexual orientation or gender identity in conducting its business. SACOG prohibits discrimination by its employees, contractors and consultants.

Contractor assures SACOG that it complies with, and that Contractor will require that its subcontractors comply with, the following non-discrimination and equal opportunity laws. Any failure by Contractor to comply with these provisions shall constitute a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as SACOG may deem appropriate.

- a. Contractor and its subcontractors shall comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., with U.S. D.O.T. regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act", 49 C.F.R. Part 21, and with any applicable implementing federal directives that may be issued.
- b. Contractor and its subcontractors shall comply with all applicable equal employment opportunity (EEO) provisions of 42 U.S.C. §§ 2000e, implementing federal regulations, and any applicable implementing federal directives that may be issued. Contractor and its subcontractors shall ensure that applicants and employees are treated fairly without regard to their race, color, creed, sex, disability, age, or national origin.
- c. Contractor and its subcontractors will not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religion, national origin, physical disability, mental disability, medical condition, age or marital status. Contractor and its subcontractors will insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractors will comply with all applicable federal and state employment laws and regulations including, without limitation, the provisions of the California Fair Employment and Housing Act (Government Code § 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, § 7285.0, et seq.). The applicable

regulations of the Fair Employment and Housing Commission implementing Government Code §§ 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- d. Contractor will include the non-discrimination and equal employment opportunity provisions of this section (provisions a. through c. above) in all contracts to perform work funded under this Agreement.

24. Drug-Free Certification: By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code § 8350, et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or the organization's policy of maintaining a drug-free workplace;
 - (3) Any available counseling, rehabilitation, and employee assistance programs; and
 - (4) Penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee of Contractor who works under this Agreement shall:
 - (1) Receive a copy of Contractor's Drug-Free Workplace Policy Statement; and
 - (2) Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.

25. Union Organizing: By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code § 16645 through § 16649 to this Agreement, excluding § 16645.2 and § 16645.7.

- a. Contractor will not assist, promote, or deter union organizing by employees performing work on this Agreement if such assistance, promotion, or deterrence contains a threat of reprisal or force, or a promise of benefit.

- b. Contractor will not meet with employees or supervisors on SACOG or state property if the purpose of the meeting is to assist, promote, or deter union organizing, unless the property is equally available to the general public for meetings.

26. Debarment, Suspension, and Other Responsibilities: Contractor certifies and warrants that neither the Contractor firm nor any owner, partner, director, officer, or principal of Contractor, nor any person in a position with management responsibility or responsibility for the administration of funds:

- a. Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency.
- b. Has within the three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- c. Is presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commissions of any of the offenses enumerated in paragraph "b" above.
- d. Has within a three-year period preceding this Agreement, had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.
- e. Contractor shall complete the Debarment Certification Form, attached hereto as Exhibit "B."

27. Conflicts of Interest: Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with SACOG's interest. During the term of this Agreement, Contractor shall not accept any employment or engage in any consulting work that would create a conflict of interest with SACOG or in any way compromise the services to be performed under this Agreement. Contractor shall immediately notify SACOG of any and all potential violations of this paragraph upon becoming aware of the potential violation.

28. Political Reform Act Compliance: Contractor is aware and acknowledges that certain contractors that perform work for governmental agencies are "consultants" under the Political Reform Act (the "Act") (Government Code § 81000, et seq.) and its implementing regulations (2 California Code of Regulations § 18110, et seq.). Contractor agrees that any of its officers or employees deemed to be "consultants" under the Act by SACOG, as provided for in the Conflict of Interest Code for SACOG, shall promptly file economic disclosure statements for the disclosure categories determined by SACOG, to be relevant to the work to be performed

under this Agreement and shall comply with the disclosure and disqualification requirements of the Act, as required by law.

29. Prohibition of Expending State or Federal Funds for Lobbying:

a. Contractor certifies, to the best of his or her knowledge or belief, that:

- (1) No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal contract, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal Agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

b. This certification is a material representation of fact upon which reliance was placed when this Agreement was entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. 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.

c. Contractor also agrees by signing this Agreement that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

30. Disadvantaged Business Enterprise (DBEs) Participation: This Agreement is subject to Title 49, Part 26 of the Code of Federal Regulations (CFR) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Financial Assistance Programs." DBE's and other small businesses, as defined in Title 49 CFR Part 26, are encouraged to participate in the performance of agreements financed in whole or in part with federal funds; however, DBE participation is not a condition of award. In any event, Contractor shall complete the DBE Information Form attached to this Agreement as Exhibit "C" so that SACOG may compile statistics for federal reporting purposes.

- a. Non-Discrimination: Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor or subcontractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as SACOG may deem appropriate. Each subcontract signed by Contractor in the performance of this Agreement must include this nondiscrimination clause.
- b. Prompt Payments to DBE and Non-DBE Subcontractors:
- (1) Contractor agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 30 days from the receipt of each payment Contractor receives from SACOG. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of SACOG. This clause applies to both DBE and non-DBE subcontracts.
 - (2) Contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of SACOG. Pursuant to 49 CFR Section 26.29, a subcontractor's work will be deemed satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by SACOG. If SACOG makes an incremental acceptance of a portion of the work hereunder, the work of a subcontractor covered by that acceptance will be deemed satisfactorily completed. This clause applies to both DBE and non-DBE subcontracts.
 - (3) The foregoing requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to Contractor or subcontractor in the event of a dispute involving late payment or non-payment to the Contractor or deficient subcontract performance or noncompliance by a subcontractor.
- c. Records: Contractor shall maintain records of all subcontracts entered into with certified DBE subcontractors and records of materials purchased from certified DBE suppliers. The records shall show the name and business address of each DBE subcontractor or vendor and the total dollar amount actually paid each DBE subcontractor or vendor. The records shall show the date of payment and the total dollar figure paid to all firms. Upon completion of the contract, a summary of these records shall be prepared and submitted to SACOG.
- d. Termination of a DBE: In conformance with 49 CFR Section 26.53:

- (1) Contractor shall not terminate a listed DBE subcontractor unless Contractor has received prior written authorization from SACOG's Project Manager. SACOG's Project Manager will authorize termination only if the Project Manager determines that Contractor has good cause to terminate the DBE subcontractor. As used in this Section, "good cause" includes those circumstances listed in 49 CFR Section 26.53(f)(3).
 - (2) Prior to requesting SACOG's authorization to terminate and/or substitute a DBE subcontractor, Contractor shall give notice in writing to the DBE subcontractor, with a copy to SACOG, of its intent to request termination and/or substitution, and the reason for the request. The DBE subcontractor shall have five days to respond to the Contractor's notice and state the reasons, if any, why it objects to the proposed termination of its subcontract and why SACOG should not approve the Contractor's action. SACOG may, in instances of public necessity, approve a response period shorter than five days.
 - (3) If a DBE subcontractor is terminated or fails to complete its work for any reason, Contractor shall be required to make good faith efforts to replace the original DBE subcontractor with another DBE.
- e. DBE Certification and Decertification: If a DBE subcontractor is decertified during the life of the contract, the decertified subcontractor shall notify Contractor in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the contract, the subcontractor shall notify Contractor in writing with the date of certification. Contractor shall then provide to the Project Manager of SACOG written documentation indicating the DBE's existing certification status.
- f. Noncompliance by Contractor. Contractor's failure to comply with any requirement of this Section is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as SACOG may deem appropriate.

Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

31. Campaign Contribution Disclosure. Contractor has complied with the campaign contribution disclosure provisions of the California Levine Act (Government Code § 84308) and has completed the Levine Act Disclosure Statement attached hereto as Exhibit "D."

32. Costs and Attorneys' Fees: If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and reasonable attorneys' fees.

33. Governing Law and Choice of Forum: This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Sacramento County.

34. Integration: This Agreement represents the entire understanding of SACOG and Contractor as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 12.

35. Severability: If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law, unless the exclusion of such term or provision, or the application of such term or provision, would result in such a material change so as to cause completion of the obligations contemplated herein to be unreasonable.

36. Headings: The headings of the various sections of this Agreement are intended solely for convenience of reference and are not intended to explain, modify, or place any interpretation upon any of the provisions of this Agreement.

37. Authority: Each person signing this Agreement on behalf of a party hereby certifies, represents, and warrants that he or she has the authority to bind that party to the terms and conditions of this Agreement.

38. Ownership; Permission:

- a. Contractor agrees that all work products, including but not limited to, notes, designs, drawings, reports, memoranda, and all other tangible personal property produced in the performance of this Agreement, shall be the sole property of SACOG, provided that Contractor may retain file copies of said work products. Contractor shall provide said work products to SACOG upon request.
- b. Contractor represents and warrants that: (i) all materials used or work products produced in the performance of this Agreement, including, without limitation, all computer software materials and all written materials, are either owned by or produced by Contractor or that all required permissions and license agreements have been obtained and paid for by Contractor; and (ii) SACOG is free to use, reuse, publish or otherwise deal with all such materials or work products except as otherwise specifically provided in Exhibit "A." Consultant shall defend, indemnify and hold harmless SACOG and its directors, officers, employees, and agents from any claim, loss, damage, cost, liability, or expense to the extent of any violation or falsity of the foregoing representation and warranty.

39. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

40. Payee Data Record Form: Contractor shall complete the Payee Data Record form attached to this Agreement as Exhibit "D", in lieu of IRS W-9, so that SACOG may submit payment information to its auditor/treasurer (Sacramento County).

IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AGREEMENT AS OF THE DATE HEREIN ABOVE APPEARING:

SACRAMENTO AREA COUNCIL OF GOVERNMENTS

MIKE MCKEEVER
Chief Executive Officer

APPROVED AS TO FORM:

Miller & Owen
Legal Counsel to SACOG

RECOMMENDED BY:

Director

CONTRACTOR COMPANY

Name, Title

EXHIBIT “A”

Scope of Work

(Include detailed description of tasks to be performed and timing)

(Include detailed description of terms of payment, e.g., specify fixed amount with no reimbursable costs, specify hourly rate with identified reimbursable costs up to a “not to exceed” figure)

EXHIBIT "B"
DEBARMENT CERTIFICATION FORM

The Contractor certifies that, neither the Contractor firm nor any owner, partner, director, officer, or principal of the Contractor, nor any person in a position with management responsibility or responsibility for the administration of federal funds:

(a) Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency;

(b) Has within a three-year period preceding this certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or

(d) Has within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.

The Contractor further certifies that it shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency.

Dated this _____ day of _____, 20 _____

By _____
Authorized Signature for Contractor

Printed Name and Title

Contractor Firm Name and Type of Entity (*Corp., Partnership, Sole Proprietor*)

Address

City/State/Zip Code

Area Code/Telephone Number and E-Mail Address

EXHIBIT C

DISADVANTAGED BUSINESS ENTERPRISE INFORMATION FORM

Background

The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR). It is the policy of the Sacramento Area Council of Governments (SACOG), the California Department of Transportation (“Caltrans”), and the U.S. Department of Transportation that DBE’s have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal transportation funds. A certified DBE may participate in the performance of SACOG contracts as a contractor, subcontractor, joint venture partner, or as a vendor of material or supplies.

Requirements and Purpose of Form

The awardee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Even if no DBE participation will be reported, the awardee shall check the “No DBE Participation” option below (Option #1), and sign and return this form.

Resources

The California Unified Certification Program (CUCP) may be used for DBE certification and to identify firms eligible to participate as DBE’s. The CUCP database may be accessed on-line at <http://www.californiaucp.com>. If you believe a firm is certified but cannot locate it in the CUCP database, you may contact the CalTrans Office of Certification toll free number 1-866-810-6346 for assistance. If you do not have internet access, you may order a written directory of certified DBE firms from the CalTrans Division of Procurement and Contracts/Publication Unit, 1900 Royal Oaks Drive, Sacramento, CA 95815, Telephone: (916) 445-3520.

DBE Participation Information

(Awardee must check at least one of the options below, provide required information regarding certified DBE’s, and sign this Information Sheet on page 3)

_____ **Option #1 - No Certified DBE participation proposed for this contract.**

_____ **Option #2 - It is proposed that the following DBE(s) be used on this contract:**
(Please attach an additional sheet if necessary)

Name of Certified DBE

DBE Certification No.

DBE Address

DBE Telephone No.

DBE E-Mail Address

EXHIBIT “D”
LEVINE ACT DISCLOSURE STATEMENT

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an Officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the Officer, or received by the Officer on behalf of any other Officer, or on behalf of any candidate for office or on behalf of any committee. The Levine Act also requires disclosure of such contributions by a party to be awarded a specified contract. Please refer to the attachment for the complete statutory language.

Current members of the SACOG Board of Directors are: (as of 1/9/14; check for current list)

Cecilia Aguiar-Curry	Tony Hesch	David Sander
John Buckland	Diane Hodges	Don Saylor
Christopher Cabaldon	Robert Jankovitz	Phil Serna
Stanley Cleveland	Kevin Johnson	Jeff Slowey
Steve Cohn	Paul Joiner	Tom Stallard
Mark Crews	Joe Krovoza	Brian VeerKamp
Gary Davis	Roberta MacGlashan	Rick West
Jack Duran	Steve Miklos	Dave Wheeler
Mary Jane Griego	Susan Peters	Scott Yuill
Carl Hagen	Susan Rohan	
Kevin Hanley	Ricky Samayoa	

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any SACOG Director(s) in the 12 months preceding the date of the issuance of this request for proposal or request for qualifications?

YES NO

If yes, please identify the Director(s): _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any SACOG Director(s) in the three months following the award of the contract?

YES NO

If yes, please identify the Director(s): _____

Answering yes to either of the two questions above does not preclude SACOG from awarding a contract to your firm. It does, however, preclude the identified Director(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

California Government Code Section 84308

- (a) The definitions set forth in this subdivision shall govern the interpretation of this section.
 - (1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.
 - (2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.
 - (3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.
 - (4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.
 - (5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.
 - (6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.
- (b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.
- (c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of

the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7. If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

- (d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.
- (e) Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported.

For more information, contact the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814, (916) 322-5660.

County of Sacramento

County of Sacramento
Payee Data Record
(REV November 2013)

PURPOSE OF FORM

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you for real estate transaction.

ARE YOU A RESIDENT OR A NONRESIDENT?

Each corporation, individual/sole proprietor, partnership, estate or trust doing business with the County of Sacramento must indicate their residency status along with their taxpayer identification number.

A corporation will be considered a "resident" if it has a permanent place of business in California. The corporation has a permanent place of business in California if it is organized and existing under the laws of this state or, if a foreign corporation has qualified to transact intrastate business. A corporation that has not qualified to transact intrastate business (e.g., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state that is permanently staffed by its employees.

For individual/sole proprietorship, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose or any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose which will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For withholding purposes, a partnership is considered a resident partnership if it has a permanent place of business in California. An estate is considered a California estate, if the decedent was a California resident at the time of death and a trust is considered a California trust if at least one trustee is a California resident.

More information on residency status can be obtained by calling the Franchise Tax Board at the numbers listed below:

From within the United States, call.....1-800-852-5711
From outside the United States, call.....1-916-845-6500
For hearing impaired with TDD, call.....1-800-822-6268

EXEMPTIONS

If you are exempt from backup withholding and/or FATCA reporting, enter in the Exemption box, any code(s) that may apply to you. See Exempt payee code and Exemption from FATCA reporting code on page 3 of IRS Form W-9 (Rev. 8-2013) for the codes.

ARE YOU SUBJECT TO NONRESIDENT WITHHOLDING?

Payments made to nonresident payees, including corporations, individuals, partnerships, estates, and trusts, are subject to withholding. Nonresident payees performing services in California or receiving rent, lease or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for state income taxes. However, no withholding is required if total payments to the payee are \$1500 or less for the calendar year.

A nonresident payee may request that income taxes be withheld at a lower rate or waived by sending a completed form FRB 588 to the address below. A waiver will generally be granted when a payee has a history of filing California returns and making timely estimated payments. If the payee activity is carried on outside of California or partially outside of California, a waiver or reduced withholding rate may be granted. For more information, contact:

State of California
Franchise Tax Board
Nonresident Withholding Section
Attention: State Agency Withholding Coordinator
P.O. Box 651 Sacramento, CA 95812-0651
Telephone: (916) 845-4900
FAX: (916) 845-4831

WEB SITE: www.ftb.ca.gov

If a reduced rate of withholding or waiver has been authorized by the Franchise Tax board, attach a copy to this form.

PRIVACY STATEMENT

Section 7(b) of the Privacy Act of 1974 (Public Law 93-5791) requires that any federal, state, or local governmental agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

The County of Sacramento requires that all parties entering into business transactions that may lead to payment(s) from the County must provide their valid Taxpayer Identification Number (TIN) as required by the State Revenue and Taxation Code, Section 18646 to facilitate tax compliance enforcement activities and to facilitate the preparation of Form 1099 and other information returns as required by the Internal Revenue Code, Section 6109(a). The TIN for an individual and a sole proprietorship is the Social Security Number (SSN). The Internal Revenue Service (IRS) considers a TIN as incorrect if either the name or the number shown on an account does not match a name and number combination in their files or the files of the Social Security Administration (SSA). Section 3406 of the Internal Revenue Code requires that we withhold 28% in tax, called backup withholding, if the correct Payee name/TIN combination is not provided.

It is mandatory to furnish the information required. Federal law requires that payments for which the requested information is not provided be subject to a 28% withholding and state law imposes noncompliance penalties of up to \$20,000.

700 H Street, Room 3650 • Sacramento, CA 95814 • Phone (916) 874-7411 • Fax (916) 874-6182 • email: W9@saccounty.net