



**Item #13-1-4
Consent**

SACOG Board of Directors

January 10, 2013

Issue Request for Qualifications: Natural Resources and Regulations Assistance

Issue: Should SACOG issue a Request for Qualifications (RFQ) for ongoing consulting services relating to natural resources for a range of projects and programs at SACOG.

Recommendation: The Strategic Planning Committee recommends that the SACOG Board authorize staff to release an RFQ and to allow staff to bring a consultant contract directly to the SACOG Board at its February meeting.

Committee Action/Discussion: In the past, SACOG has hired consultants to execute a range of natural resources work for which the agency does not have in-house staff expertise. That work has included assisting with federal permitting for flood control projects in Yolo County, securing federal approvals for transportation projects in Placer County, helping settle land development CEQA lawsuits in Placer County, assisting with Habitat Conservation Plans (HCP) throughout the region, overseeing the Six-County Aquatic Resources Inventory, representing SACOG interests at federal agencies related to water resources management, providing background and strategies to improve forest management, and preparing the Environmental Impact Report for the Metropolitan Transportation Plan/Sustainable Communities Strategy.

As SACOG's role in HCP, water resources, and flood issues continues to evolve, staff envisions a need for consultant help with these efforts. In addition, SACOG's commitment—included in the MTP/SCS—to develop a regional open space plan will require assistance from an expert that has extensive knowledge of natural resource issues in the region, and the experience and ability to convene key stakeholders to craft a plan. Addressing environmental regulations and land conservation impediments affecting agriculture is also an important area where consultant help will be needed.

Given this range of ongoing natural resources work and the need for consistent and reliable support, staff is seeking approval to release a RFQ for ongoing natural resources consultant services. Funding for the consultant work contemplated under this RFQ is included in the OWP and Budget in the amount of \$200,000.

Approved by:

Mike McKeever
Chief Executive Officer

MM:rt

Key Staff: Kirk Trost, Chief Operating Officer/General Counsel, (916) 340-6210
David Shabazian, Senior Planner, (916) 340-6231

REQUEST FOR QUALIFICATIONS

NATURAL RESOURCES AND REGULATIONS ASSISTANCE

“Not to Exceed” Budget for All Services: \$200,000

January 18, 2013



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

Sacramento Area Council of Governments

Request for Qualifications (RFQ)

Natural Resources and Regulations Assistance

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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

SACOG is seeking proposals from consultants with qualifications and experience to provide professional general natural resources and regulations services to SACOG. This service entails providing review and advice to SACOG and the SACOG Board of Directors on a range of projects and programs relating to natural resources activities in the SACOG region. In addition to experience in the areas of state and federal environmental regulations, water resources and flood control, agriculture and forestry, resource conservation and land development, the consultant should have expertise in convening and facilitating stakeholder engagement processes to develop consensus around complex resources issues. The individual or firm may need to attend SACOG Committee and Board meetings.

III. PROJECT SUMMARY AND DESCRIPTION

In the past, SACOG has hired consultants to execute a range of natural resources work for which the agency does not have in-house staff expertise. That work has included:

- Assisting with federal permitting for flood control projects in Yolo County;
- Securing federal approvals for transportation projects in Placer County;
- Helping settle land development CEQA lawsuits in Placer County;
- Assisting with Habitat Conservation Plans (HCP) throughout the region;
- Overseeing the Six-County Aquatic Resources Inventory;
- Representing SACOG interests at federal agencies related to water resources management;
- Providing background and strategies to improve forest management; and
- Preparing the Environmental Impact Report for the Metropolitan Transportation Plan (MTP).

As SACOG's role in these and other similar efforts, particularly HCP, water resources and flood issues, continues to evolve, SACOG staff has identified a need for consultant help with these efforts. As well, SACOG's commitment to develop a regional open space plan will require assistance from an expert that has extensive knowledge of natural resource issues in the region and the experience and ability to convene key regional stakeholders to craft a plan. Addressing

environmental regulations and land conservation impediments affecting agriculture are also important areas where consultant help will be needed. Given this range of current and future work and the need for consistent and reliable support, SACOG is seeking ongoing natural resources consultant services. The selected consultant will be expected to perform all work necessary to support SACOG with the aforementioned projects and other natural resource related tasks as needed. The selected consultant will develop a scope of work with SACOG for natural resources projects in the Sacramento region and coordinate with SACOG staff members in order to complete the required tasks.

The contract for the consulting services will be an agreement between SACOG and the consultant. The selected consultant will conduct all work necessary to complete the final negotiated scope of work. 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; project deliverables will be reviewed by the SACOG Project Manager

IV. SCOPE OF WORK/SERVICES

The general scope of work is described below. The consultant will receive general direction from SACOG staff working on natural resources issues or projects. Tasks may include the following:

1. Provide natural resources consulting services to SACOG through SACOG staff and Board members, and other designated personnel as needed;
2. Monitor and advise SACOG staff and Board members, and other designated personnel as needed, of natural resources projects, programs, or regulatory changes that may affect SACOG or member agencies;
3. Monitor and advise SACOG staff and Board members, and other designated personnel as needed, of environmental and land conservation programs, projects and regulations that affect agricultural industries in the region;
4. Provide review and advice on documents, agreements, regulations, and responsibilities related to natural resources;
5. Convene regional stakeholders, facilitate meetings and work with SACOG staff to craft a regional open space plan;
6. Represent SACOG interests with state and federal natural resources agencies;
7. Attend all relevant SACOG Board meetings, and/or other SACOG meetings deemed necessary or as requested by SACOG staff; and
8. Attend staff level or committee level meetings deemed necessary or as requested by the SACOG staff.

Statements of Qualifications may be submitted for any or all of the subjects identified above, and SACOG reserves the right to award contracts to different consultants covering some or all of the identified subjects.

SACOG reserves the right to negotiate with the selected firm(s) the contract amount of each task or task element, but the cumulative amount may not exceed two hundred thousand dollars (\$200,000) for all services.

V. CONTRACT DELIVERABLES

The contract deliverables will be negotiated with the selected consultant(s) as part of the development of the final project scope.

VI. CONTACT PERSONS

All questions may be directed to the SACOG RFQ Manager:

David Shabazian
Sacramento Area Council of Governments
1415 L Street, Suite 300
Sacramento, CA 95814
(916) 340-6232
dshabazian@sacog.org

VII. PROJECT TIMETABLE

January 18, 2013	Issue Request for Qualifications
January 31, 2013	Closing date for receipt of Statements of Qualifications (SOQ)
February 6, 2013	(Telephone) Interviews conducted, as necessary.
February 8, 2013	Begin scope and contract negotiation
February 13, 2013	Complete scope and contract negotiation
February 21, 2013	Contract awarded and executed
February 22, 2013	Start of Project/Begin Work

Statements of Qualifications must be received by SACOG, in both hard copy and electronic form as further described below, no later than 4 PM PDT on January 31, 2013. If mail delivery is used, the proposer should mail the proposal early enough to provide for arrival by this deadline. The 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 two (2) originally signed Statements of Qualification in a sealed envelope or package clearly marked “Natural Resources and Regulations Assistance.”** The Statements of Qualifications must also be submitted in electronic version via e-mail to the RFQ Manager, as further specified in Section IX below.

VIII. GENERAL CONDITIONS

A. Limitations

This request for qualifications (RFQ) does not commit SACOG to award a contract, to pay any costs incurred in the preparation of statements of qualifications in response to this request, or to procure or contract for services or supplies. SACOG expressly reserves the right to reject any and all statements of qualifications or to waive any irregularity or informality in any statements of qualifications or in the RFQ 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 RFQ at any time without prior notice. Further SACOG reserves the right to modify the RFQ schedule described above.

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

B. Award

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

C. RFQ Addendum

Any changes to the RFQ requirements will be made by written addenda issued by SACOG and shall be considered part of the RFQ. 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 RFQ, or any contract resulting from this RFQ.

E. Precontractual Expense

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

1. Preparing statements of qualifications in response to this RFQ

2. Submitting statements of qualifications to SACOG
3. Negotiations with SACOG on any matter related to statements of qualifications
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 RFQ. 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 RFQ.

F. Signature

The statement of qualifications 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 qualifications evaluation. The qualifications shall be signed by an official authorized to bind the consultant or consulting firm and shall contain a statement to the effect that the statement of qualifications is a firm offer for at least a one-hundred and twenty (120) day period. Execution of the contract is expected by February 21, 2013.

G. Contract Arrangements

The successful consultant is expected to execute a contract similar to SACOG's Standard Agreement, which meets the requirements of SAFETEA-LU and anticipated requirements of MAP 21. A copy of SACOG's Standard Agreement is attached as Exhibit "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 ("DBEs") 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 or 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, 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. Consultants and their subcontractors 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 agrees 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 statement of qualifications, 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 statements of qualifications in response to this RFQ 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 RFQ.

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

IX. STATEMENT OF QUALIFICATIONS CONTENT AND ORGANIZATION

The Statement of Qualifications (SOQ) should be limited to specific discussion of the elements outlined in this RFQ. The intent of this RFQ is to encourage responses which meet the stated requirements, and which propose the best methods to accomplish the work within the stated budget.

The organization of the SOQ should follow the general outline below. Each SOQ should consist of a technical proposal (items 1-8 below) and a cost proposal (item 9).

Form of Statement of Qualifications: SOQs must be submitted in both hard copy (2) and electronic form to RFQ Manager David Shabazian, 1415 L Street, Suite 300, Sacramento, CA, 95814, dshabazian@sacog.org, 916-340-6231, no later than the closing date and time and with the proper number of copies, as specified in Section VII above. The electronic form shall be a PDF version of the fully signed SOQ, including all attachments, and shall be e-mailed to the RFQ 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 SOQ evaluation. Only one transmittal letter need be prepared to accompany all copies of the SOQ.

2. Summary of Qualifications

A brief company profile and summary of the firm's qualifications in relation to the scope of work. The company profile should include: a brief history of the firm, office locations, size of the firm, services offered and areas of expertise that are relevant to the study, and number of local and out-of-region (listed separately) staff who would be available to work on the scope of work.

3. Description(s) of Relevant Project(s)

Descriptions of relevant projects performed within the past four years by the lead staff person and technical support staff proposed for the scope of work. The description should include the following:

- Project Name
- Project category/title
- One paragraph description of the purpose of the project and the firm's scope of work
- Duration of the project (e.g., 6 months) and year of completion
- Client agency and other participating agencies
- Consultant's fee for the project
- Who, of the staff proposed for the study, worked on the project, and their role.

4. Organizational Chart; Staff Qualifications

An organizational chart and summary of qualifications of the lead, technical support, and technical expert staff proposed for the scope of work, their availability, and the location of the office out of which they do most of their work. Staff who are proposed to contribute the majority of work hours should be highlighted on the organizational chart. Staff qualifications should include: a one-paragraph description of relevant experience, proposed role, length of work experience, and, for the lead and technical expert staff only, areas of expertise.

5. Project Management; References

Descriptions of the firm or project manager's approach to managing projects and personnel, and maintaining quality control; and three references who can attest to key staff's experience in performing work substantially similar to the services covered by this RFQ. References should include contact information and the name of the project or projects done by the consultant for that client. Letters of endorsements may be included as an appendix.

6. Project Approach

Provide a three to five page statement of your approach to the project.

7. Required Forms

Provide signed Disadvantaged Business Enterprise Information Form, Debarment Certification Form and Levine Act Disclosure Statement.

8. DBE Certification

Provide a copy of a current Disadvantaged Business Enterprise (DBE) certification, if your firm or a proposed subcontractor is a DBE.

9. Hourly Rate

In a separate sealed envelope provide a description of the consultant's hourly rates. Rates shall include all direct and indirect costs.

X. STATEMENT OF QUALIFICATIONS EVALUATION AND SELECTION

A SOQ review panel will evaluate the qualifications. Firms submitting an SOQ may be telephoned and asked for further information, if necessary, and may be expected to participate in telephone interviews. Previous clients may also be called. The panel will develop a ranking or score on the basis of the SOQ, interview (if any), and reference check. SACOG reserves the right to select a consultant based solely on written proposals and not convene interviews.

Upon receipt of the SOQ, a technical evaluation will be performed. Each of the major sections of the qualifications will be reviewed and evaluated with criteria designed to help judge the quality of the qualifications. Evaluation criteria will include such considerations as:

- Understanding of the background and requirements of the project.
- The overall and technical approaches to be followed and the tasks to be performed, including detailed steps and resources required and proposed project schedule.
- 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.
- Cost analysis and justification.
- Education and experience of proposed personnel.

In addition, the participation of qualified Disadvantaged Business Enterprises (DBEs) in this project is strongly encouraged.

The panel members will evaluate written SOQs to develop a 'short list' of firms to be considered for selection. Interviews may be held with short-listed firms, and references may be contacted for any or all of the short-listed firms. A scope of work and contract(s) will be negotiated with the top ranked firm or firms; if negotiation with the top ranked firm is unsuccessful then negotiations with the top ranked firm will cease and negotiation begin with the second ranked firm. The final negotiated contract and scope of work will be brought to the SACOG Board for approval and award per the project schedule in section VII.

Firms' hourly rates are considered secondary to qualifications in the evaluation. However, SACOG reserves the right, after the firms have been ranked, to decline to enter into a contract with a firm whose rates are unreasonable in SACOG's sole discretion.

SACOG reserves the right to select consultants based solely on the written SOQ and not convene oral interviews. Further, SACOG reserves the right to accept or reject any and all SOQs submitted, to waive minor irregularities in SOQs, and to request additional information from the consultants. Any awards made will be to firms whose qualifications are best suited to the Program and most advantageous to SACOG, based on evaluation criteria outlined 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.

**SACRAMENTO AREA COUNCIL OF GOVERNMENTS
STANDARD AGREEMENT**

THIS AGREEMENT, is made and entered into this _____ day of _____ 200____, 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.

- a. Deductibles and Self-insured Retentions: Any deductibles or self-insured retentions in excess of \$5,000 must be declared to and approved by SACOG.
- b. Required Provisions: The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
- (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.
 - (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.
 - (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.
 - (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.

- 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.

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's Name
Director's Title

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

Annual Gross Receipts (check one): Less than \$500,000 _____
 \$500,000-\$1 million Age of Firm
 \$1 million-\$2 million
 \$2 million-\$5 million
 Over \$5 million

Capacity of DBE (*e.g., contractor, subcontractor, vendor*) _____ \$ Amount DBE Participation _____

 Description of services or materials to be provided by DBE

Name of Certified DBE DBE Certification No. _____

 DBE Address DBE Telephone No. _____

 DBE E-Mail Address

Annual Gross Receipts (check one): Less than \$500,000 _____
 \$500,000-\$1 million Age of Firm
 \$1 million-\$2 million
 \$2 million-\$5 million
 Over \$5 million

Capacity of DBE (*e.g., contractor, subcontractor, vendor*) _____ \$ Amount DBE Participation _____

 Description of services or materials to be provided by DBE

Submitted by:

Signature **Date** _____

Print Name and Title

Name of Contractor, if different than signatory

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 10/1/12; check for current list)

Cecilia Aguiar-Curry	Steven Harvey	Barbara Payne
John Allard	Peter Hill	Susan Peters
Christina Billeci	Diane Hodges	David Sander
Christopher Cabaldon	Jim Holmes	Don Saylor
Steve Cohn	Robert Jankovitz	Walt Scherer
Tom Cosgrove	Kevin Johnson	Phil Serna
Gary Davis	John Knight	Jeff Slowey
James Gallagher	Joe Krovoza	Tom Stallard
Mary Jane Griego	Roberta MacGlashan	Rick West
Carl Hagen	Steve Miklos	
Kevin Hanley	Larry Montna	

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.