



Association of Monterey Bay Area Governments

Request for Proposals

for

**Environmental Impact Report for the
2014 Metropolitan Transportation Plan/Sustainable Communities Strategy**

Not to Exceed \$250,000

Issued: February 20, 2013

Questions Due: March 1, 2013

Deadline (received by AMBAG by 4:00 p.m.): March 20, 2013

Submit all questions and proposals to:

Heather Adamson | AMBAG | 445 Reservation Rd. Suite G, Marina, CA 93933 | hadamson@ambag.org | fax 831.883.3755

Planning Excellence!

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Introduction

As the Metropolitan Planning Organization (MPO) for the tri-county region of Monterey, San Benito, and Santa Cruz counties the Association of Monterey Bay Area Governments (AMBAG) is charged with developing a Metropolitan Transportation Plan (MTP) including a Sustainable Communities Strategy (SCS). The MTP is the metropolitan long-range transportation plan for Monterey, San Benito, and Santa Cruz counties. The Council of San Benito County Governments (SBtCOG), the Santa Cruz County Regional Transportation Commission (SCCRTC), and the Transportation Agency for Monterey County (TAMC) are the state-designated Regional Transportation Planning Agencies (RTPAs) for San Benito, Santa Cruz and Monterey counties, respectively. Each RTPA prepares a county-level long-range Regional Transportation Plan.

The MTP is used to guide the development of the Regional and Federal Transportation Improvement Programs (RTIP and FTIP) as well as other transportation programming documents and plans. The MTP outlines the region's goals and policies for meeting current and future mobility needs, providing a foundation for transportation decisions by local, regional, and State officials that are ultimately aimed at achieving a coordinated and balanced transportation system. The MTP sets forth actions, programs, and projects to address these needs consistent with adopted policies and goals. The MTP also documents the financial resources needed to implement the plan.

The Sustainable Communities and Climate Protection Act of 2008 (SB 375, Steinberg) enhances California's ability to reach its AB 32 goals by promoting coordinated planning with the goal of creating more sustainable communities. SB 375 mandates regional greenhouse gas emission reduction targets for passenger vehicles. Pursuant to SB 375, the California Air Resources Board (CARB) established targets for 2020 and 2035 for each region covered by one of the State's 18 metropolitan planning organizations (MPOs). AMBAG, as the regional MPO, must prepare a SCS that demonstrates how the region will meet its greenhouse gas reduction target through integrated land use, housing, and transportation planning.

AMBAG is currently preparing the MTP/SCS for the region and plans to contract with a consultant to prepare an Environmental Impact Report (EIR) pursuant to California Environmental Quality Act (CEQA). The 2014 MTP/SCS EIR will analyze project impacts on the physical environment and identify strategies to avoid or mitigate significant environmental effects. It also will be an informational document intended to inform public decision-makers, responsible or interested agencies, and the general public of the potential environmental effects of a project.

AMBAG has issued this Request for Proposals (RFP) in an amount not to exceed \$250,000 for EIR services. The consultant will prepare a "first-tier" Program EIR for AMBAG that will address the Monterey, San Benito, and Santa Cruz County region. First-tier environmental documents provide analysis of large-scale cumulative impacts, such that the next tier of environmental documents does not have to repeat the previous analysis. These second-tier documents can instead focus on localized impacts in the vicinity of the smaller-scale individual plan or project under review.

CEQA requires that environmental documents address that which is “reasonably foreseeable” to result from projects to the extent they are known. Most, if not all, of the individual projects within the 2014 MTP/SCS will undergo project-specific design and environmental review subsequent to the MTP/SCS EIR. Hence, project level details are not available for the MTP/SCS EIR, and could not realistically be addressed in one document such as this.

Scope of Work & Project Deliverables

The following provides details of the scope of services required under this contract. Respondents to this RFP should build on this general description by proposing a scope of work with specific sub-tasks as deemed appropriate. Some tasks may require additional information from respondents as called out under the description of each task. Respondents also should refer to the Proposal Requirements, and Evaluation and Selection Process sections for additional requirements.

Additional tasks and work elements may be added or deleted during contract negotiations. Upon conclusion of the negotiation process, the selected consultant will be required to prepare a final work plan, schedule, and budget for inclusion into a final contract.

AMBAG seeks a qualified consultant to develop a Program Environmental Impact Report (EIR) for the AMBAG 2014 MTP/SCS. The EIR also will serve as the EIR for the three Regional Transportation Planning Agencies’ (RTPAs) Regional Transportation Plans (RTPs) in the AMBAG region. The EIR must conform to the requirements of the CEQA and may also require coordination with or reference to:

- The Moving Ahead for Progress in the 21st Century Act (MAP-21)
- The Federal Clean Air Act
- The California Clean Air Act
- California Senate Bill 375 (Steinberg)
- California Assembly Bill 32 (Nunez)
- California Executive Order S-3-05

The consultant will work under the direction of AMBAG’s EIR Project Manager. AMBAG will assist the consultant in coordinating work with the RTPAs and the public. The consultant will be responsible for soliciting input from the general public, public agencies, and the private sector, using information approved by AMBAG staff.

The 2014 MTP/SCS EIR will be a program-level document that will analyze the cumulative effects of proposed actions, as well as other transportation improvements to be included in the AMBAG 2014 MTP/SCS. The consultant will provide all work products in hard copy and digital format, including all maps, charts, figures, and graphs. Approval of the final EIR by the AMBAG Board of Directors must be completed no later than June 2014.

The consultant will be responsible for the following tasks:

- Project Management
- Determine Scope of EIR
- Preparation of Draft EIR
- Prepare Final EIR
- Public Outreach and Agency Coordination
- Optional Tasks

A. Project Management

The consultant will submit written monthly progress reports with invoices and will participate in bi-weekly conference calls with the AMBAG project manager. Progress reports will document specific accomplishments of each task, identify percent completion by task, difficulties encountered, and recommended adjustments to the project schedule. The consultant will maintain all electronic and hard copy files pertaining to the project and will provide AMBAG with an electronic version of all reports, technical memos, and backup data prior to completion of the project. Two versions of all deliverables will be provided, the first for AMBAG review and comment, and the second for stakeholder review and comment.

Within one week of the Notice to Proceed, the project manager and appropriate technical staff will attend a kick-off meeting with AMBAG to review the schedule and communication protocols. A final schedule and communication protocols will be established and agreed upon at the kick-off meeting.

Deliverables:

- *Finalize the schedule*
- *Discuss communication preferences*
- *One kickoff meeting including meeting agenda and meeting notes*
- *Bi-weekly conference call with AMBAG project manager and EIR Staff Team for the term of the contract*
- *Written monthly progress reports for the term of the contract*
- *Maintaining electronic and hard copy files of the project for the term of the contract*
- *Provide AMBAG with an electronic version of all reports, technical memos, and backup data prior to completion of the project*

Deadline:

Ongoing from April 2013 to June 2014

B. Determine EIR Scope

The consultant will prepare the Notice of Preparation (NOP) for distribution by AMBAG, including a project description, location map, potential alternatives, and list of probable environmental effects of the project. Once comments on the NOP are received, the consultant will compile all comments and create a matrix to be included in the EIR that shows comments received and where comments are addressed in the EIR. The consultant will advise AMBAG on early consultation efforts per the

State CEQA Guidelines. The consultant will conduct three scoping meetings (one in each county) during the scoping period.

Deliverables:

- *One electronic copy of the Notice of Preparation in MS Word and PDF format*
- *Compile NOP comments and create a matrix*
- *Three (3) scoping meetings*

Deadline:

May 2013

C. Prepare Draft EIR

1. Data Needs/Collection

The consultant will identify the data needs for the 2014 MTP/SCS EIR. The consultant will work with AMBAG staff to identify data currently available and anticipated to be available for use in the EIR. Any additional data anticipated to be needed to complete a thorough EIR analysis will be identified. The consultant will incorporate their data needs into the project schedule and prepare a master schedule to demonstrate appropriate timelines. The master schedule will provide date-certain timelines based on when the team receives the draft MTP network, draft MTP, and alternative land use and transportation scenarios, and air quality and traffic modeling results from AMBAG. Each of these elements will be built into the schedule. Critical path items will then be identified to ensure AMBAG meets the June 2014 deadline to allow federal funds to continue to be disbursed to the region.

2. Required Sections of the EIR

The Draft EIR will include all sections required by CEQA (in particular State CEQA Guidelines Sections 15120-15132) and will include the following components:

- Complete evaluation and comparison of alternative scenarios and work with AMBAG staff as well as AMBAG's consultant who is conducting the SCS scenario planning work to identify a reasonable range of alternatives
- Complete impact assessment of the proposed 2014 MTP/SCS and the alternatives for all identified impact categories
- Complete cumulative impact and growth-inducing impact evaluations
- Complete and finalize list of mitigation measures
- Complete all necessary appendices work

3. Administrative Draft Program EIR

Based on the work described above, the consultant will prepare the Administrative Draft Program EIR. The document will be provided to AMBAG staff for internal review. The draft will then be revised and provided to stakeholders (e.g. RTPA staff) for review and comment. The AMBAG 2014 MTP/SCS EIR will address all sections required by CEQA, in particular State CEQA Guidelines Sections 15120-15132, which address the components of a Draft and Final EIR. The EIR will focus on the unavoidable significant impacts of the project in accordance with State CEQA Guidelines Section 15126.2. The EIR will include, but is not limited to, the following components:

- a. Executive Summary
- b. Introduction
- c. Project Description
- d. Environmental Setting and Baseline Conditions
- e. Major Implementation Issues of the 2014 MTP/SCS
 - (1) Schedule
 - (2) CEQA Streamlining
- f. Environmental Impacts including, but not limited to, project-specific, cumulative, growth-inducing, and socioeconomic impacts.
 - (1) Air Quality and Health Impacts/Risks
 - (2) Climate Change/Greenhouse Gases
 - (3) Land Use
 - (4) Noise
 - (5) Traffic and Circulation
 - (6) Environmental Justice/Social Equity
 - (7) Energy
 - (8) Biological Resources
 - (9) Cultural and Historic Resources
 - (10) Hydrology/Water Quality
 - (11) Other Topic Areas
 - Aesthetics/Visual Resources
 - Agricultural Resources
 - Geology/Soils
 - Hazards and Hazardous Materials
 - Mineral Resources
 - Population and Housing
 - Recreation
 - Regional Water Supply
 - (12) Overview Impacts
- g. Growth Inducement
- h. Other Required CEQA Sections
 - (1) Cumulative impacts
 - (2) Significant effects that would not be avoided
 - (3) Significant irreversible effects

- (4) Effects found not to be significant
 - i. Alternatives
 - (1) Proposed 2014 MTP/SCS (Proposed Plan)
 - (2) No Project Alternative
 - (3) Alternative Scenario 1
 - (4) Alternative Scenario 2
 - j. MTP Consistency with Other Plans. This shall include analysis and identification of any potential conflicts or inconsistencies which may result from implementation of the 2014 MTP/SCS and any mitigated alternatives with the adopted goals, objectives, or policies contained within:
 - (1) Comprehensive, general, regional, or local transportation plans
 - (2) Comprehensive, general, regional, or local land use plans
 - (3) Local coastal programs
 - (4) Local or regional Short Range Transit Plans
4. Prepare Public Draft Program EIR

The consultant will revise the Administrative Draft Program EIR based on comments from AMBAG and key stakeholders. Once all comments have been responded to, the consultant will finalize the public Draft EIR for circulation and comment by the public.

Deliverables:

- *Administrative Draft EIR for AMBAG and key stakeholders*
 - *Electronic delivery to AMBAG staff*
- *Draft Program EIR and Technical Appendices*
 - *50 bound copies of Draft EIR with technical appendices*
 - *One original copy including technical appendices*
 - *Electronic version of the Program EIR in PDF to be posted to AMBAG's website*
 - *Up to 125 CDs for distribution*
- *Prepare the Notice of Availability and publish according to CEQA requirements*

Deadline:

December 2013 to January 2014

D. Prepare Final EIR

1. Prepare Administrative Final EIR in accordance with the requirements of CEQA Guidelines Section 15132 and SB 375.

The consultant will assemble the Administrative Final Program EIR and Mitigation Monitoring and Reporting Program (MMRP), incorporating by reference the Draft EIR. The Administrative Final Program EIR will include the following:

- An introduction that describes the content of the document and the environmental review process completed for the EIR

- Revisions, corrections, and additions since publication of the Draft EIR
- The MMRP
- Updated chapters which identifies specific changes to the Draft EIR to incorporate comments on the Draft Program EIR
- A list of persons submitting written comments or oral testimony at hearings on the Draft Program EIR
- The final copy of the comments and responses to comments
- Findings and Statement of Overriding Considerations (SOC)

2. Prepare Final Program EIR

Upon the receipt of comments on Administrative Final EIR and MMRP, the consultant will make requested corrections and modifications. The consultant will prepare the Final EIR, any Technical Appendices, and MMRP.

Deliverables:

- *Administrative Final Program EIR*
 - *One electronic copy of the Administrative Final Program EIR*
 - *One electronic version of the Draft Administrative MMRP*
- *Final Program EIR*
 - *50 bound hard copies of Final Program EIR including technical appendices, Findings, and SOC*
 - *50 bound hard copies of Final Program EIR Executive Summary, Findings, and SOC*
 - *One original hard copy of Final Program EIR including technical appendices, Findings, and SOC*
 - *Up to 125 CDs for distribution*
 - *One electronic version of the Final Program EIR, including appendices, Findings, and SOC in MS word, etc.*
 - *PDF electronic version of the Final Program EIR in PDF to be posted to AMBAG's website*

Deadline:

April to June 2014

E. Public Outreach and Agency Coordination

The consultant will prepare and conduct public workshops and hearings, prepare notices and displays, and meet and confer with agencies as necessary to identify and address concerns and comments. The consultant will work with AMBAG staff in the development of presentation materials for the public meetings. The consultant will be responsible for attending two (2) AMBAG Board of Directors meetings, one which will be to present the Final Program EIR, three (3) RTPA meetings, and three (3) public workshops. The consultant will be responsible for recording all public and Board comments and including a summarization of comments in the EIR. The consultant

will be responsible for preparing written responses to comments received during the EIR public review period. Comments and responses to comments are to be included in the EIR.

After certification of the Final Program EIR by the AMBAG Board, the consultant shall file the EIR with all counties which require the document to be filed.

Deliverables:

- *Presentations to each of the three (3) RTPAs Board of Directors*
- *Two (2) Presentations to the AMBAG Board of Directors*
- *Public notices for NOP and Draft/Final Program EIRs published in local newspapers in each county*
- *Three (3) Public Workshops*
- *File certified Final Program EIR with all counties which require the filing fees for the Final Program EIR.*

Deadline:

Ongoing from May 2013 to June 2014

F. Optional Tasks

AMBAG may add additional tasks to the scope of work which would be executed at AMBAG's discretion if needed. The additional tasks could involve additional meetings or work beyond the tasks listed above that may be needed for the development of the EIR. This would be negotiated based on the rates included in the final contract.

Schedule

Task	Completion Date
Release RFP	February 20, 2013
Questions Due	March 1, 2013
Post responses to questions if addendum required	March 5, 2013
Proposals Due	March 20, 2013
Evaluation Committee Completes Proposal Review	March 26, 2013
Short listed consultants notified	March 27, 2013
Oral Interviews	March 29, 2013
Consultant Selection	April 3, 2013
AMBAG Board Approval of Consultant	April 10, 2013
Execute Contract	April 19, 2013
Project Kick Off Meeting	April 22, 2013
Issue EIR Notice of Preparation	May 3, 2013
Prepare Administrative Draft EIR	December 2013
Prepare Public Draft EIR	January 2014
Prepare Administrative Final EIR	April 2014
Prepare Public Final EIR	May 2014

Proposal Submittal

Interested consultants must submit both hard copies and a digital copy of the proposal to the Project Manager as follows:

Hard copy: One original, six copies

Digital: Send as a single PDF or PDF portfolio

All submissions must be received by AMBAG on or before March 20, 2013 at 4pm Pacific Standard Time (PST). 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's subcontractors, does not appear on the Comptroller General's list of ineligible contractors for federally assisted projects.

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

Submittal Questions and Addenda

All questions regarding the RFP should be received no later than March 1, 2013 at 4 p.m. PST by e-mail to Heather Adamson at hadamson@ambag.org or by fax to 831.883.3755. Responses that require that an addendum be issued to the RFP will be posted on the AMBAG website at www.ambag.org on or before March 5, 2013 by 4 p.m. PST. It is the responsibility of proposers to check the AMBAG website to determine if addenda have been issued. Any addenda to the RFP will become part of the RFP.

AMBAG reserves the right to revise the RFP prior to the date that proposals are due. It is the responsibility of proposers to check the AMBAG website to determine if a modified RFP has been issued.

Notice of Award

The short listed consultants will be interviewed. Interviews will take place on March 29, 2013. Shortlisted candidates will be contacted by March 27, 2013. The final selected consultant shall be informed by phone on or before April 3, 2013.

Project Manager

Heather Adamson, Principal Planner
Association of Monterey Bay Area Governments
445 Reservation Rd. Suite G, Marina, CA 93933
Email | hadamson@ambag.org (preferred communication)
Fax | 831.883.3755

Proposal Requirements

- A. Proposals should be concise, well organized and demonstrate the proposer's qualifications and experience applicable to the project. Proposals shall be limited to 50 one-sided pages (8.5 inches x 11 inches). The proposal must include a discussion of the proposer's approach to the project, a description of the firm's and any subconsultants' qualifications for the scope of work, and a cost estimate.
- B. The Proposal and any required certifications shall be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.
- C. Failure to comply with the requirements of the RFP may result in disqualification. AMBAG is not responsible for finding, correcting, or seeking clarification regarding ambiguities or errors in proposals. If a proposal is found to contain ambiguities or errors, it may receive a lower score during the evaluation process. AMBAG may, but is not required to, seek clarification from a proposer regarding information in a proposal. Errors and ambiguities in proposals will be interpreted in favor of AMBAG. Proposals and/or modifications received subsequent to the hour and date specified above will not be considered.
- D. The proposer shall certify whether it takes no exception(s) to this RFP and the draft contract. If the proposer does take exception(s) to any portion of the RFP or the draft contract, the specific portion to which exception(s) is taken must be identified and explained. Failure to make exceptions to the RFP or draft contract within the proposal will be deemed a waiver of any objection. Exceptions will be considered during the proposal evaluation process.
- E. AMBAG reserves the right to reject any or all proposals and to waive irregularities contained therein and to accept any proposals deemed most advantageous to AMBAG.

Evaluation and Selection Process

- A. Based upon the proposals and other appropriate evaluation factors, the top-ranked proposer(s) will be identified and short listed. Negotiations with the selected firm may cover: scope of work, contract schedule, contract terms and conditions, technical specifications, level of effort, and price.
- B. Proposers will be evaluated on the following criteria according to the weights assigned below. Oral interviews will be worth 100 points. AMBAG reserves the right to add the proposers' interview scores into the evaluation criteria or to select proposers based solely upon their proposal and/or oral interview.

- C. All proposals must be completed and convey all of the information requested in order to be considered responsive. The proposals then will be evaluated on the basis of the criteria listed below. The total number of points used to score the proposals is 100.
- D. Evaluation factors and point values will be as follows:

Criteria	Description	Points
Proposed method to accomplish the work	- Professional qualifications - Relevant experience	25
Project experience	Nature, quality, and relevance of recently completed projects	25
Staff Qualifications	Unique qualification of key personnel	20
Cost or Best Value	Ranking of comparative costs among proposed firms, providing the best value services offered	30
Total		100

All proposers must complete a Cost Estimate form (see RFP Attachment A) in addition to the written proposal.

The Evaluation Committee will review all submitted proposals. Proposers may be emailed and asked for further information, if necessary, and may be expected to appear for oral interviews on March 29, 2013. The Evaluation Committee will make recommendations to AMBAG's Executive Director on the basis of the proposal, oral interview, and reference check. AMBAG reserves the right to select a consultant based solely on written proposals and to not convene oral interviews.

AMBAG's Executive Director will review the Evaluation Committee's recommendation and make the final recommended selection to the AMBAG Board of Directors. If the Board of Directors selects a different consultant than the one recommended by the Evaluation Committee, the Project Manager, in consultation with the AMBAG Executive Director, will prepare a memo explaining the selection.

Contractual Information and Payment Schedule

The contract agreement for the 2014 MTP/SCS EIR will be between AMBAG and the Consultant. The consultant will invoice AMBAG for services rendered, and AMBAG will compensate the consultant for these services as set forth in the agreement. Funding for the consultant services will be provided by AMBAG. The project deliverables will be reviewed by the AMBAG Project Manager.

The Consultant will be paid based on work actually performed, and accepted in writing by AMBAG, during the preceding month. The consultant should forward a copy of all invoices for payment for work performed and associated expenses by the 15th day of the month. In order to receive payment from the Caltrans, AMBAG must submit the consultant's invoice first. AMBAG will issue payment to the consultant upon reimbursement by Caltrans.

Terms & Conditions

A. Limitations

This RFP does not commit AMBAG to award a contract, to pay any pre-contractual expenses, or to procure or contract for services or supplies. AMBAG 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. AMBAG reserves the right to withdraw this RFP at any time without prior notice. Further, AMBAG reserves the right to modify the RFP schedule described above.

B. Award

AMBAG 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. AMBAG 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. Verbal Agreement or Conversation

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

D. Pre-contractual Expenses

Pre-contractual expenses include any expenses incurred by Proposers and selected contractor in:

- Preparing proposals in response to this RFP
- Submitting proposals to AMBAG
- Negotiations with AMBAG on any matter related to proposals.

- Other expenses incurred by a contractor or Proposer prior to the date of award of any agreement.

In any event, AMBAG shall not be liable for any pre-contractual 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. AMBAG 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.

E. 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 ninety (90) day period. Execution of the contract is expected by no later than April 19, 2013.

F. Conflict of Interest Statement

Consultants and consultant firms submitting proposals in response to this RFP must disclose to AMBAG 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. The selected consultant shall refrain from and disclose subsequent potential conflicts during this contract. Consultant shall at all time avoid conflicts of interest, or the appearance of conflicts of interest, in the performance of this contract. Consultant shall file statements of financial interest on forms provided by AMBAG to the extent and at all times required by AMBAG's Conflict of Interest Code and applicable law.

G. Contract Arrangements

The successful consultant is expected to utilize the AMBAG Standard Contractual Agreement which included as Attachment C.

G1. Disadvantaged Business Enterprise (DBE) Policy: It is the policy of the U.S. Department of Transportation(USDOT) that minority-and women-owned business enterprises (hereby referred to as DBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.

G2. DBE Obligation: The recipient or its subcontractor agrees 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 provided under this agreement. In this regard, all recipients or subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of USDOT assisted contracts.

G3. Title VI of the Civil Rights Act of 1964: The contractor 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 there under in 49 CFR Part 21.

G4. Equal Employment Opportunity: In connection with the performance of the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex or national origin. 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) A copy of the consultant's affirmative action policy (applicable for firms with 50 or more employees)

(2) Discussion of the consultant's program for use of DBEs 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

H. Americans with Disabilities Act (ADA) Provisions

To comply with the nondiscrimination requirements of the Americans with Disabilities Act (ADA), it is the policy of AMBAG to make every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities. For persons with a disability needing a reasonable modification to participate in the procurement process, or for persons having questions regarding reasonable modifications of the procurement process, you may contact the AMBAG representative listed in this RFP.

IMPORTANT: To ensure that we can meet your need for ADA accommodations, it is best that we receive your request for reasonable modification at least 10 working days before the scheduled event (i.e., meeting, conference, workshop, etc.) or deadlines due date for procurement documents. In order to ensure the proposal is in compliance with Federal ADA guidelines, Proposers should review the Federal ADA guidelines at <http://www.ada.gov/>.

I. Alternative Protest Process

This procurement is being conducted under the provisions of the Alternative Protest Process. By submitting a proposal to this solicitation conducted under the Alternative Protest Process, the Proposer agrees that all protests of the proposed award shall be resolved by binding arbitration. During the protest period, any participating Proposer may protest the proposed award on the following grounds:

For major information technology acquisitions – that there was a violation of the solicitation procedure(s) and that the protesting Proposer’s proposal should have been selected; or For any other acquisition – that the protesting Proposer’s proposal should have been selected in accordance with the selection criteria in the solicitation document.

A written notice of intent to protest the proposed award of this solicitation must be received (facsimile acceptable) by the project manager before the close of business 5 p.m. PST on the third (3rd) day after notifying the Proposer of intent to award, as specified in the solicitation timeline. Failure to submit a timely, written notice of intent to protest waives the Proposer’s right to protest. The Proposer is to send the notice of intent to protest to the project manager at the following address:

Heather Adamson
Principal Planner
Association of Monterey Bay Area Governments
445 Reservation Road, Suite G Marina, CA 93933
Fax: 831-883-3755

Within seven (7) business days after the last day to submit a notice of intent to protest, the AMBAG project manager must receive from the protesting Proposer the complete protest filing including the signed, written, detailed statement of protest including exhibits, filing fee and deposit or small business certification, as applicable. Untimely submission of the complete protest filing waives the Proposer’s right to protest.

Protest bond amount for this Alternative Protest Process shall be ten percent (10%) of the contract amount as specified in the solicitation.

J. Requirements Protests

Protests regarding any issue other than selection of the successful Proposer are “requirements protests” to be heard by the Executive Director, or his or her designee, and may be appealed to, heard, and resolved by the Executive Committee of AMBAG, whose decision will be final. Before a requirements protest is submitted, the Proposer must make full and timely use of the procedures described in Clarification of Specifications section. This procurement procedure is designed to give the Proposer and AMBAG adequate opportunity to submit questions and discuss the requirements, proposals and counter proposals before the Final Proposal is due. The protest procedure is made available in the event that a Proposer cannot reach a fair agreement with AMBAG after exhausting these procedures.

All protests to the RFP requirements must be received by the Executive Committee as promptly as possible, but not later than the respective time and date in the Key Action Dates Section for such protests.

Requirements protests must be mailed or delivered to:

AMBAG Executive Committee
445 Reservation Road, Suite G

Marina, CA 93933

Incorporation of Attachments

The following documents are attached and incorporated by reference if the box next to document title is marked.

- ☒ RFP Attachment A – Cost Estimate
- ☒ RFP Attachment B – Subconsultant List
- ☒ RFP Attachment C – AMBAG Standard Contractual Agreement

COST ESTIMATE – RFP ATTACHMENT A

Project: _____

Consultant: _____

Services will commence on mm/dd/yy and be fully completed on mm/dd/yy.

Combined Overhead (%) +

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		Hours	Actual Rate/Hr	Loaded* Rate/Hr	Labor Amount	Total	Date Due
Task 1: Description							
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	mm/dd/yy
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	
						<u>\$0.00</u>	
						<u>\$0.00</u>	
Task 2: Description							
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	mm/dd/yy
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	
						<u>\$0.00</u>	
						<u>\$0.00</u>	
Task 3: Description							
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	mm/dd/yy
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	
Name	Classification		\$0.00	\$0.00	\$0.00	\$0.00	
						<u>\$0.00</u>	
						<u>\$0.00</u>	
Other Direct Costs							
Item 1	Classification		\$0.00	\$0.00	\$0.00	\$0.00	mm/dd/yy
Item 2	Classification		\$0.00	\$0.00	\$0.00	\$0.00	
						<u>\$0.00</u>	
						<u>\$0.00</u>	

Total Hours:

Total Cost:

\$0.00

* Loaded hourly rate: includes labor overhead, fringe benefit, and general administrative expenses (% of total direct labor cost)

Loaded hourly rate calculation: \$ actual hourly rate x (1 + combined of overhead & fringe %) x (1 + fee %)

Name and Title of Authorized Representative (typed)

Date

Signature of Authorized Representative

Date

SUBCONSULTANT LIST – RFP ATTACHMENT B

The proposal shall include a complete list of all proposed subconsultants. All subconsultants listed must be provided a meaningful element of work within the defined scope of work. Changes to this Subconsultant List will not be allowed without prior written approval from AMBAG.

PROPOSED SUBCONSULTANTS

Subconsultant Firm Name and Address	Scope of Work	Dollar Amount of Work

Name of Firm

Printed name and Title of Signatory

Signature

Date

DRAFT AGREEMENT FOR SERVICES – RFP ATTACHMENT C

This Agreement is made and entered into this **xx day of month, 2013**, by and between **The Association of Monterey Bay Area Governments** (hereinafter referred to as "AMBAG" or "CLIENT"), and xxx (hereinafter referred to as "xxx" or "CONTRACTOR").

W I T N E S S E T H

WHEREAS, as the Metropolitan Planning Organization (MPO) for Monterey, Santa Cruz and San Benito Counties, AMBAG is charged with developing a Sustainable Communities Strategy (SCS) in the region's long range metropolitan transportation plan (MTP) per Senate Bill 375; and

WHEREAS, state and federal guidelines requires the preparation of an Environmental Impact Report of the MTP/SCS; and

WHEREAS, pursuant to its annual Overall Work Program (OWP), AMBAG will be engaged in many activities and projects that will require certain technical, professional or support services to complete the Environmental Impact Report; and

WHEREAS, the CONTRACTOR is qualified and experienced and has necessary technical and personnel resources to provide such services for development of an Environmental Impact Report for the 2014 MTP/SCS; and

NOW, THEREFORE, AMBAG and CONTRACTOR for the considerations hereinafter set forth, mutually agree as follows:

1. **SCOPE OF WORK**

CONTRACTOR shall perform those services described in the "Project Tasks/Services, Timeline and Budget," Exhibit A attached hereto and incorporated herein by this reference and shall comply with all relevant conditions as set forth in the AGREEMENT.

2. **TERM**

- A. The term of this Agreement shall be from the date of its execution until the completion of the work contemplated by this Agreement and its final acceptance by AMBAG unless terminated earlier as provided herein. CONTRACTOR shall complete all tasks **on or before June 30, 2014** unless otherwise extended by written authorization.
- B. Services performed under this Agreement shall commence only upon Notice to Proceed by AMBAG to CONTRACTOR.

This Agreement includes the following Exhibits:

Exhibit A. Project Tasks/Services, Timeline, and Budget

Exhibit B. Debarment and Suspension Certification

Exhibit C. Federal Tax Form W-9, Request for Taxpayer Identification Number and Certification

Exhibit D. Disadvantaged Business Enterprises (DBE) Information Form

3. COORDINATION/STAFFING

- A. CONTRACTOR shall assign **xx xxxx as Project Manager** to personally participate in said project. AMBAG also retains the right to approve any substitution of the Project Manager. No portion of the work included in this Agreement shall be subcontracted, except as provided herein, without the prior, written authorization of the AMBAG.
- B. Services described in the Scope of Work shall be performed by Contractor's staff, Subcontractor(s) or other members of the project team, hereinafter referred to as "Subcontractor(s)," listed in the "Project Tasks/Services, Timeline, and Budget," Exhibit A, attached hereto and incorporated by this reference.

4. COMPENSATION

AMBAG shall pay CONTRACTOR for services on a firm fixed price basis as shown in Exhibit A. In no event shall compensation exceed TWO HUNDRED AND FIFTY THOUSAND (\$250,000) without prior written consent of AMBAG. AMBAG has the discretion to amend the contract to include additional tasks as needed.

5. INVOICING

- A. Invoices for services must be presented to AMBAG no later than the fifteenth day of each month for the month prior. CONTRACTOR shall submit an invoice to AMBAG stating the amount due for such services on a monthly basis throughout the duration of the project. Said monthly invoicing shall reflect the task worked on, the percentage of the task completed, and the total dollar amount for the task in comparison to the invoiced amount based upon the percentage of the task then completed. AMBAG shall reimburse the CONTRACTOR as promptly as its fiscal procedures permit, upon receipt of itemized invoices submitted in accordance with this Agreement. Payment of the invoices will be made to CONTRACTOR after acceptance and approval by AMBAG and upon reimbursement by Caltrans. Such reimbursements shall be based upon actual eligible costs incurred by the CONTRACTOR consistent with the "Project Tasks/Services, Timeline, and Budget," Exhibit A. No interest or carrying charges shall accrue to CONTRACTOR by reason of delayed payment.
- B. Prompt Payment to Subcontractor(s): A CONTRACTOR shall pay any Subcontractor(s) for satisfactorily completed work no later than ten (10) days of

receipt of each payment from AMBAG. The ten (10) day period is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with AMBAG's prior written approval. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the CONTRACTOR or Subcontractor in the event of a dispute involving late payment or nonpayment by the CONTRACTOR, deficient Subcontractor performance, and/or noncompliance by a Subcontractor. This clause applies to both DBE and non-DBE Subcontractor.

- C. Invoicing Format and Content: All invoices submitted to AMBAG for payment shall be sent directly to:

Association of Monterey Bay Area Governments

ATTN: Accounts Payable

P.O. Box 809

Marina, CA 93933

1. The invoice shall be entitled "Invoice" or otherwise clearly identify that the document is an Invoice, and shall contain the following information:
 - i. AMBAG's "Bill To" information as stated in the above paragraph;
 - ii. Invoice number and/or billing number specified by CONTRACTOR. The invoice number must be unique for each invoice submitted;
 - iii. Invoice date;
 - iv. Billing period specified with beginning and ending dates. The beginning date must not be sooner than the Notice to Proceed date of the Agreement, or within any previous billing dates;
 - v. Total amount due for the billing period;
 - vi. Total Contract Value (as identified in 4A. above); and
 - vii. AMBAG Project Manager

6. **AGREEMENT COMPLETION RETAINER**

No retainage will be held by AMBAG from progress payments due to CONTRACTOR. CONTRACTOR is prohibited from holding retainage from Subcontractor(s). Any delay or postponement of payment may take place only for good cause and with AMBAG's prior written approval. Any violation of these provisions shall subject the violating CONTRACTOR to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code, if applicable. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONTRACTOR in the event of a dispute involving late payment or nonpayment by the CONTRACTOR, deficient Subcontractor(s) performance, and/or noncompliance by Subcontractor(s). This clause applies to both DBE and non-DBE Subcontractor(s).

7. SATISFACTORY PERFORMANCE

Payment for services under this Agreement is contingent upon AMBAG's determination that the performance of the CONTRACTOR has been satisfactory.

8. UNTIMELY PERFORMANCE BY CONTRACTOR

Timely delivery of project deliverables is crucial to this project. Accordingly, late fees shall be assessed against the CONTRACTOR for every **calendar day** a milestone or delivery date is not met. Milestone dates and delivery schedules have been negotiated between the CONTRACTOR and AMBAG and shall be assessed as follows:

- Days one (1) through five (5): 0.01 percent of contract total per day
- Days six (6) through fifteen (15): 0.02 percent of contract total per day
- Days sixteen (16) through thirty (30): 0.03 percent of contract total per day

9. OWNERSHIP, CONFIDENTIALITY AND USE OF WORK PRODUCTS

- A. Ownership of any reports, data, studies, surveys, charts, memoranda, and any other documents, which are developed, compiled, or produced as a result of this Agreement, whether or not completed, shall vest with AMBAG. AMBAG reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the data.
- B. AMBAG shall receive copyright and ownership to all data and materials delivered under this contract upon formal acceptance, except for those data and materials that are subject to ownership or copyright of others prior to the execution of this contract. No distribution of the original or derived works shall be made prior to acceptance by AMBAG unless specified in the task order or authorized by the contracting officer. The contractor may maintain copyright and ownership of all original or derived works which are not required submittals under this contract.
- C. Methodology and materials developed under this Agreement are the property of AMBAG and may be used by AMBAG as it sees fit, including the right to revise or publish the same without limitation. CONTRACTOR shall not be liable for use of such methodology, materials, software logic, and systems for purposes other than that for which it is developed.
- D. Subject to the California Public Records Act, all Work Products and Related Work Materials including Intellectual Property shall be held confidential by CONTRACTOR. Nothing furnished to CONTRACTOR, which is otherwise known to CONTRACTOR or is generally known, or has become known, to the related industry shall be deemed confidential.
- E. The CONTRACTOR shall not use, release, reproduce, distribute, publish, adapt for future use or otherwise use Work Products and Related Work Materials for purposes other than the performance of the Scope of Work, nor authorize others to do so, without prior written permission of AMBAG Legal Counsel; nor shall such materials be disclosed to any person or entity not connected with the performance of the work.

CONTRACTOR shall also safeguard such confidential materials from unauthorized disclosure, using the same standard of care to avoid disclosure, as the CONTRACTOR treats its confidential information, but in no case less than reasonable care.

- F. All equipment, including, but not limited to, computer hardware, printing and duplication equipment, multimedia equipment, software tools and programs, and upgrade packages to existing equipment, procured in whole or part by funds provided under this Agreement, are the property of AMBAG. AMBAG shall determine the disposition of all such property upon completion or termination of this Agreement.
- G. AMBAG may utilize any Work Products or Related Work Materials provided by CONTRACTOR pursuant to this Agreement, in any manner which AMBAG deems appropriate without additional compensation to CONTRACTOR.

10. TERMINATION

A. Termination of Convenience of AMBAG

AMBAG may terminate this Agreement at any time by giving notice to the CONTRACTOR of such termination (including the effective termination date) at least thirty (30) calendar days before the effective date of such termination. In such event, all finished or unfinished documents and other materials as described in this Agreement, at the option of AMBAG, become AMBAG's property. If this Agreement is terminated by AMBAG, as provided herein, AMBAG's only obligation shall be the payment of fees and expenses incurred prior to the termination date, for work deemed satisfactory to AMBAG, in accordance with the cost provisions of this Agreement.

B. Termination for Cause

If through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the CONTRACTOR violates any of the covenants, terms, or stipulations of this Agreement, AMBAG shall thereupon have the right to terminate the Agreement by giving not less than ten (10) working days written notice to the CONTRACTOR of the intent to terminate and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the CONTRACTOR under this Agreement shall, at the option of CONTRACTOR, become AMBAG's property.

11. AMENDMENT OF SCOPE OF WORK

The parties may amend the Scope of Work subject to mutual prior written modification of the Agreement.

12. CORRECTION OF WORK

The performance of services or acceptance of information furnished by CONTRACTOR shall not relieve the CONTRACTOR from obligation to correct any defective, inaccurate or incomplete work subsequently discovered and all such work shall be remedied by the CONTRACTOR on demand without cost to AMBAG.

13. DELAYS AND EXTENSIONS

Time is of the essence concerning performance of this Agreement; however, the CONTRACTOR will be granted time extensions for delays beyond the Contractor's control. Time extensions will be equal to the length of the delay or as otherwise agreed upon in writing between the CONTRACTOR and AMBAG.

14. RECORDS RETENTION AND AUDITS

CONTRACTOR shall maintain adequate records of contract performance costs, expenses, etc., and make these records available for inspection, audit, and copying by AMBAG and Caltrans, FHWA, FTA at the Contractor's principal place of business during the agreement period and for a period of three (3) years from the date of final payment, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until AMBAG, Caltrans, FHWA, FTA, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

15. SUBCONTRACTING

In accordance with Government Code Section 7550, CONTRACTOR agrees to state in a separate section of any filed report the numbers and dollars amounts of all contracts and subcontracts relating to preparation of the report.

16. ASSIGNMENT

The Agreement shall not be assigned by the CONTRACTOR, in whole or in part, without the prior written consent of AMBAG.

17. INDEMNIFICATION

To the full extent permitted by law, CONTRACTOR shall indemnify, hold harmless, release and defend AMBAG, its officers, employees and agents from and against any and all actions, claims, demands, damages, disability, losses, expenses including attorney's fees and other defense costs and liabilities of any nature that may be asserted by any person or entity including CONTRACTOR, in whole or in part, arising out of Contractor's activities hereunder, including the activities of other persons employed or utilized by CONTRACTOR in the performance of this Agreement (including design defects and regardless of AMBAG's approval, use or acceptance of the work or work product hereunder) excepting liabilities due to the admitted or adjudicated sole negligence or willful

misconduct of AMBAG. If the adjudicated or admitted sole negligence or willful misconduct of AMBAG has contributed to a loss, CONTRACTOR shall not be obligated to indemnify AMBAG for the proportionate share of such loss caused by such sole negligence or willful misconduct. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for CONTRACTOR under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by CONTRACTOR and shall continue to bind the parties after termination/completion of this Agreement.

18. CIVIL RIGHTS

- A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
 - 1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
 - 2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
 - C. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.
20. FEDERAL CHANGES - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.
21. ENERGY CONSERVATION - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
22. NO OBLIGATION BY THE FEDERAL GOVERNMENT
- A. AMBAG and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to AMBAG, CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
 - B. The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration (FTA). It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.
23. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS
- A. The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or

- the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.
- B. The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.
- C. The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

24. SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the CONTRACTOR is required to verify that none of the its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The CONTRACTOR is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting the contract, the CONTRACTOR shall certify those clauses described in the “Debarment and Suspension Certification,” Exhibit B attached hereto and incorporated herein by this reference and shall comply with all relevant conditions as set forth in the AGREEMENT.

25. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- A. The CONTRACTOR agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the CONTRACTOR agrees to obtain the express consent of the Federal Government before the CONTRACTOR or its employees operate a system of records on behalf of the Federal Government. The CONTRACTOR understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that

Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

- B. The CONTRACTOR also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

26. INSURANCE/NOTIFICATION

Prior to the beginning, and throughout the duration, of the work, CONTRACTOR will maintain insurance in conformance with the requirements set forth below. CONTRACTOR will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, it will be amended to do so. CONTRACTOR acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to AMBAG.

CONTRACTOR is covered by, and agrees to maintain, general liability insurance for bodily injury and property damage arising directly from its negligent acts or omissions with limits as specified below. Certificates of insurance shall be provided to AMBAG prior to commencement of work by CONTRACTOR. CONTRACTOR agrees to indemnify, protect, defend and name AMBAG, its public officials, officers and employees as additional insured on the Commercial General Liability and Business Auto Insurance and hold harmless from any loss, damage or liability arising directly from any negligent act or omission by CONTRACTOR. CONTRACTOR shall not be responsible for any loss, damage or liability arising from any act or omission by AMBAG, its officials, officers or employees.

CONTRACTOR shall provide the following types and amounts of insurance:

- A. Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Limits shall be no less than \$1,000,000 per occurrence for all covered losses and no less than \$2,000,000 general aggregates.
- B. Workers' Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses.
- C. Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including owned, non-owned and hired autos, or the exact equivalent. Limits shall be no less than \$1,000,000 per accident, combined single limit. If CONTRACTOR owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If CONTRACTOR or CONTRACTOR'S

employees use personal autos in any way on this project, CONTRACTOR shall obtain evidence of personal auto liability coverage for each such person.

- D. Errors and Omissions Liability CONTRACTOR shall provide evidence of professional liability insurance on a policy form appropriate to Contractor's profession. Limits shall be no less than \$1,000,000/claim.
- E. Certificate of Insurance CONTRACTOR shall file a certificate of insurance completed and filed with AMBAG within fifteen (15) days of execution of this Agreement and prior to engaging any operation or activities set forth in this Agreement. The foregoing policies shall provide that no cancellation, major change in coverage, or expiration by insurance company or insured during the term of this contract shall occur without thirty (30) days written notice to AMBAG prior to the effective date of such cancellation or change in coverage.
- F. All such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of two (2) years after completion of the contract.
- G. The Commercial General Liability and Business Auto insurance policies shall provide an endorsement naming AMBAG, its officers, agents, employees and volunteers as Additional Insured, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by AMBAG and that the insurance of the Additional Insured shall not be called upon to contribute to a loss covered by the insurance AMBAG.

27. CONFLICT OF INTEREST

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

CONTRACTOR shall at all time avoid conflicts of interest, or the appearance of conflicts of interest, in the performance of this contract. CONTRACTOR shall file statements of financial interest on forms provided by AMBAG to the extent and at the times required by AMBAG's Conflict of Interest Code and applicable law.

28. STATEMENT OF ECONOMIC INTEREST

If AMBAG determines CONTRACTOR comes within the definition of CONTRACTOR under the Political Reform Act (Government Code §87100), CONTRACTOR shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with AMBAG disclosing CONTRACTOR and/or such other person's financial interests.

29. MERGER

This Agreement shall constitute the entire Agreement between the parties and shall supersede any previous agreements, whether verbal or written, concerning the same subject matter. No modification of this Agreement shall be effective unless and until evidence by a writing is signed by both parties.

30. DEFAULT

If CONTRACTOR should fail to perform any of his obligations hereunder, within the time and in the manner herein provided or otherwise violate any of the terms of this Agreement, AMBAG may terminate this Agreement by giving CONTRACTOR written notice of such termination, stating the reason for such termination. In such event, CONTRACTOR shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the agreement as the services satisfactorily rendered hereunder by CONTRACTOR bear to the total services otherwise required to be performed for such total fee; provided, however, that AMBAG may withhold payments not yet made to CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due AMBAG from CONTRACTOR is determined.

31. NO WAIVER OF BREACH/ TIME

The waiver by AMBAG of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement. Time is of the essence in carrying out the duties hereunder.

32. THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

33. ATTORNEYS' FEES, APPLICABLE LAW AND FORUM

In the event either party brings an action or proceeding for damages arising out of the other's performance under this Agreement or to establish the right or remedy of either party, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs as part of such action or proceeding, whether or not such action or proceeding is prosecuted to judgment. This Agreement shall be construed and interpreted according to California law, and any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in the County of Monterey.

34. INDEPENDENT CONTRACTOR

The parties intend that CONTRACTOR, in performing the services specified herein, shall act as an independent contractor and shall have control of the work and the manner in which

it is performed. CONTRACTOR is not to be considered an agent or employee of AMBAG and is not entitled to participate in any pension plan, insurance, bonus or similar benefits AMBAG provides its employees. In the event AMBAG exercises its right to terminate this Agreement, CONTRACTOR expressly agrees that he/she shall have no recourse nor right of appeal under rules, regulations, ordinances or laws applicable to employees.

35. TAXES

CONTRACTOR agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. CONTRACTOR agrees to indemnify and hold AMBAG harmless from any liability which it may incur to the United States or to the State of California as a consequence of CONTRACTOR'S failure to pay, when due, all such taxes and obligations.

36. FEDERAL TAX FORMS

Prior to issuing the initial claim under this Agreement, the CONTRACTOR shall submit Federal Tax Form W-9, Request for Taxpayer Identification Number and Certification to the following address:

Association of Monterey Bay Area Governments

ATTN: Accounts Payable

P.O. Box 809

Marina, CA 93933

or by FAX to: (831) 883-3755. Unless AMBAG receives a completed Tax Form W-9, payments for services performed under this AGREEMENT shall be subject to federal backup withholding.

37. COMPLIANCE WITH LAWS, RULES, AND REGULATIONS

- A. CONTRACTOR shall study and comply with all applicable federal, state and local laws, rules and regulations affecting the CONTRACTOR and his/her work hereunder. CONTRACTOR represents and warrants to AMBAG that CONTRACTOR has and will keep in effect during the term of this Agreement all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for CONTRACTOR to practice Contractor's profession and to do the work hereunder.
- B. CONTRACTOR agrees to abide by the requirements of the Immigration and Control Reform Act pertaining to assuring that all employees of CONTRACTOR performing any services under this Agreement have a legal right to work in the United States of America, that all required documentation of such right to work is inspected, and that INS Form 1-9 (as it may be amended from time to time) is completed and on file for

each employee. CONTRACTOR shall make the required documentation available upon request to AMBAG for inspection.

38. FEDERAL AND STATE LOBBYING ACTIVITIES CERTIFICATION (43 CFR PART 18)

By signing this AGREEMENT, the CONTRACTOR certifies, to the best of its knowledge and belief, that no State or Federal funds have been paid or will be paid, by or on behalf of AMBAG, 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 Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.

If any funds other than State or Federal 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 an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Federal Standard Form-L, "Disclosure Form to Report Lobbying," in accordance with those form instructions.

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 pursuant to 31 U.S.C. 1352 and 49 C.F.R. Part 19, Appendix A, Section 7.

The CONTRACTOR also agrees by signing this Agreement that it will require that the language of this certification be included in all subcontracts funded wholly or in part by any funds provided herein and which exceed \$100,000 and that all such Subcontractor(s) shall certify and disclose accordingly.

39. CERTIFICATIONS AND ASSURANCES

A. CONTRACTOR shall adhere to the requirements contained in AMBAG's annual Certification and Assurances (FHWA and FTA "Metropolitan Transportation Planning Process Certification") submitted as part of AMBAG's OWP, pursuant to 23 CFR 450.334 and 23 U.S.C. 134. This Certification shall be published annually in AMBAG's OWP. Such requirements shall apply to CONTRACTOR to the same extent as AMBAG and may include, but are not limited to:

1. Title VI of the Civil Rights Act of 1964 and Title VI Assurance executed by California under 23 U.S.C. 324 and 29 U.S.C. 794;

2. Pub. Law 105-178, 112 Stat. 107 and any successor thereto, regarding the involvement of disadvantaged business enterprises in FHWA and FTA funded projects (Sec. 105(f), Pub. L. 970424, 96 Stat. 2100, 49 CFR part 26); and
 3. The Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, as amended) and the United States Department of Transportation (US DOT) implementing regulations (49 CFR 27, 37, and 38).
- B. CONTRACTOR shall additionally comply with the requirements contained in the annual FTA "Certifications and Assurances for FTA Assistance," including "Certifications and Assurances Required of Each Applicant" and the "Lobbying Certification" in compliance with 49 U.S.C. Chapter 53; published annually in AMBAG's OWP. Such assurances shall apply to CONTRACTOR to the same extent as AMBAG, and include but are not limited, the following areas:
1. Standard Assurances
 2. Debarment, Suspension, and Other Responsibility Matters for Primary Covered Transactions
 3. Drug Free Work Place Agreement
 4. Intergovernmental Review Assurance
 5. Nondiscrimination Assurance
 6. DBE Assurance
 7. Nondiscrimination on the Basis of Disability
 8. Certification and Assurances required by the U.S. Office of Management and Budget
- C. The CONTRACTOR shall require its Subcontractor(s) to comply with these Certifications, and agrees to furnish documentation to AMBAG to support this requirement that all of its agreements with Subcontractor(s) contain provisions requiring adherence to this section in its entirety.

40. COST PRINCIPLES

- A. CONTRACTOR agrees to comply with the following:
1. the Contract Cost Principles and Procedures, 48 Code of Federal Regulations, 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)," shall be used to determine the allowability of individual project cost items, and
 2. the Federal administrative procedures in accordance with 49 Code of Federal Regulations, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- B. Any costs for which CONTRACTOR receives payment or credit that is determined by a subsequent audit or other review by either AMBAG, Caltrans or other State or Federal

authorities to be unallowable under, but not limited to, OMB Circular A-87; 48 CFR, Chapter 1, Part 31; or 49 CFR, Part 18, are to be repaid by CONTRACTOR within thirty (30) days of CONTRACTOR receiving notice of audit findings. Should CONTRACTOR fail to reimburse moneys due AMBAG within thirty (30) days of demand, or within such other period as may be agreed between Parties hereto, AMBAG is authorized to withhold future payments due CONTRACTOR.

- C. CONTRACTOR agrees to furnish documentation to AMBAG to support this requirement that all of its agreements with Subcontractor(s) contain provisions requiring adherence to this section in its entirety.

41. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- A. The CONTRACTOR and its Subcontractor(s) shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of State or DOT-assisted contracts or in the administration of AMBAG's DBE Program. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as AMBAG deems appropriate.
- B. It is the policy of AMBAG, Caltrans, and DOT, that the Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, shall have an equal opportunity to receive and participate in DOT-assisted contracts. The CONTRACTOR and its Subcontractor(s) shall comply with the requirements of 49 CFR Part 26 and with AMBAG's DBE Program, as amended.
- C. A "DBE Information Form" is attached hereto and incorporated herein by this reference as Exhibit D. Even if no DBE participation will be reported, the CONTRACTOR shall complete and sign such form at the time this AGREEMENT is executed
- D. During the period of this Agreement, the CONTRACTOR shall maintain records of all applicable subcontracts advertised and entered into germane to this AGREEMENT, documenting the actual DBE participation and records of materials purchased from DBE suppliers. Such documentation shall show the name and business address of each DBE Subcontractor(s) or vendor, and the total dollar amount actually paid each DBE Subcontractor(s) or vendor. Upon completion of the AGREEMENT, regardless of whether DBE participation is obtained, a summary of the DBE records shall be prepared, certified correct, and submitted on a form that shall be provided by AMBAG.

42. FLOW-DOWN PROVISIONS

Any subcontract entered into as a result of this AGREEMENT shall contain the following provisions of this Agreement:

Section 3 (Coordination/Staffing); Section 5 (Invoicing for Payment); Section 6 (Agreement Completion Retainer); Section 7 (Satisfactory Performance); Section 9 (Ownership, Confidentiality, and Use of Work Products); Section 10 (Termination); Section 11 (Disputes); Section 15 (Records Retention and Audits); Section 18 (Indemnification);

Section 19 (Civil Rights); Section 23 (Program Fraud and False or Fraudulent Statements and Related Acts); Section 27 (Conflict of Interest); Section 34 (Independent Contractor); Section 37 (Compliance with Laws, Rules, and Regulations); Section 38 (Federal and State Lobbying Activities Certification); Section 39 (Certifications and Assurances); Section 40 (Cost Principles); and Section 41 (Disadvantaged Business Enterprise)

43. INTERPRETATION

Notwithstanding the fact that one or more provisions of this Agreement may have been drafted by one of the parties to this Agreement, such provisions shall be interpreted as though they were a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

AMBAG:

Signature:_____

Name: Maura F. Twomey

Title: Executive Director

Association of Monterey Bay Area Governments (AMBAG)

CONTRACTOR:

Signature:_____

Name:

Title: President

APPROVED TO AS TO FORM:

By:_____

Don Freeman, AMBAG Legal Counsel

P.O. Box 805, Carmel CA 93921

EXHIBIT A. PROJECT TASKS/SERVICES, TIMELINE, AND BUDGET

EXHIBIT B. DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29
DEBARMENT AND SUSPENSION CERTIFICATION

1. All persons or firms, including Subcontractor(s), must complete this certification and certify, under penalty of perjury, that, except as noted below, he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not, within the three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them 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 under a public transaction, 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. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and
 - d. Have not, within the three (3) year period preceding this certification, had one or more public transactions (Federal, state, and local) terminated for cause or default.
2. If such persons or firms later become aware of any information contradicting the statements of paragraph (1), they will promptly provide that information to AMBAG.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of actions.

The certification in this clause is a material representation of fact relied upon by AMBAG. If it is later determined that the CONTRACTOR knowingly rendered an erroneous certification, in addition to remedies available to AMBAG, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The CONTRACTOR agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The CONTRACTOR

further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Name of Firm

Signature (original signature required)

Date

**EXHIBIT C. FEDERAL TAX FORM W-9,
REQUEST FOR TAXPAYER IDENTIFICATION
NUMBER AND CERTIFICATION**

EXHIBIT D. DISADVANTAGED BUSINESS ENTERPRISES (DBE) INFORMATION FORM