Request For Proposals
For
A PROGRAM CONSULTANT FOR
TRANSNET EXTENSION WORK
PROGRAM IMPLEMENTATION AND
COORDINATION

PROPOSALS DUE:
4 P.M.
Monday, July 1, 2002
The 18 cities and county government are SANDAG serving as the forum for regional decision-making. The Association builds consensus, makes strategic plans, obtains and allocates resources, and provides information on a broad range of topics pertinent to the region’s quality of life.

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(Advisory Member)  
Hon. Rodulfo Figueroa Aramoni  
Consul General of Mexico

Revised May 6, 2002
# TABLE OF CONTENTS

I. INTRODUCTION .............................................................................................................................1

II. BACKGROUND ..............................................................................................................................1

III. PROJECT DESCRIPTION .................................................................................................................2
   A. Project Background .............................................................................................................2
   B. Project Description ..............................................................................................................2
   C. Fee Estimate Range .............................................................................................................2
   D. Payment ...............................................................................................................................3

IV. SCOPE OF REQUIRED SERVICES .................................................................................................3
   A. Project Description ..............................................................................................................3
   B. Project Schedule ..................................................................................................................3

V. PROPOSAL REQUIREMENTS .........................................................................................................4
   A. General .................................................................................................................................4
   B. Contents ...............................................................................................................................4
      1. Executive Summary ..........................................................................................................4
      2. Identification of the Proposer and Establishment of Proposer’s Fiscal Responsibility ..................................................4
      3. Experience and Technical Competence ..............................................................................5
      4. Proposed Method to Accomplish the Work .......................................................................5
      5. Knowledge and Understanding of Local Environment and Relevant Laws ..............................................................5
      6. Project Organization and Key Personnel ............................................................................5
      7. SANDAG’s Disadvantaged Business Enterprise (DBE) Program and Discrimination Policy ..............................................................6
      8. Previous Contracts with SANDAG ....................................................................................6
      9. Exceptions to this Request for Proposals ............................................................................6
     10. Addenda to this Request for Proposals ..............................................................................7
     11. Statement of Impartiality ....................................................................................................7
     12. Cost Estimate .....................................................................................................................7
VI. SUBMITTAL REQUIREMENTS........................................................................................................7

VII. PRE-SUBMITTAL ACTIVITIES.....................................................................................................8
   A. Questions Concerning Request for Proposals.................................................................8
   B. Revision to the Request for Proposals.................................................................8

VIII. CONSULTANT EVALUATION AND SELECTION PROCESS..................................................8

IX. EVALUATION CRITERIA...............................................................................................................9
   A. Project Experience [20 Points]....................................................................................9
   B. Proposed Methodology and Approach to Work [25 Points].........................................10
   C. Cost or Best Value [15 Points]....................................................................................10
   D. Understanding of SANDAG and the TransNet Program [20 Points]..........................10
   E. Staff Qualifications [20 Points]....................................................................................10

X. SCHEDULE FOR NOMINATION, SELECTION AND AWARD ...................................................10

XI. SPECIAL CONDITIONS ............................................................................................................11
   A. Reservations..............................................................................................................11
   B. Public Records.........................................................................................................11
   C. Right to Cancel .......................................................................................................11
   D. Additional Information.............................................................................................11
   E. Conflict of Interest..................................................................................................11
   F. Public Information.....................................................................................................11
   G. Contract for Services...............................................................................................11
   H. Insurance Requirements...........................................................................................12

XII. PROTESTS..............................................................................................................................12
   A. Protest Contents .......................................................................................................12
   B. Reply to Protest .......................................................................................................13
   C. Request for Protest Reconsideration........................................................................13

ATTACHMENTS

A. Standard Agreement for Services.....................................................................................14
B. Subconsultant List.........................................................................................................33
C. TransNet Extension Work Program and Timetable.........................................................34
Request For Proposals for

A PROGRAM CONSULTANT FOR TRANSNET EXTENSION WORK
PROGRAM IMPLEMENTATION AND COORDINATION

I. INTRODUCTION

Thank you for your interest in contracting opportunities with SANDAG. The San Diego Association of Governments (SANDAG) is seeking proposals from qualified firms for professional services for a program consultant to assist SANDAG in developing an Expenditure Plan and public education effort related to a ballot measure being planned for the November 2004 election to extend TransNet, the region’s ½% transportation sales tax program. This Request for Proposals (RFP) describes the project, the required scope of services, the consultant selection process, and the minimum information that must be included in the proposal.

Failure to submit information in accordance with the RFP requirements and procedures may be cause for disqualification.

II. BACKGROUND

SANDAG is the regional planning agency as well as the technical and informational resource for the area’s 18 incorporated cities and the county government, who collectively are the “Association of Governments.” Through this voluntary Association, local governments work together to solve current problems and plan for the future. SANDAG builds consensus, makes strategic plans, obtains and allocates resources, and provides information on a broad range of topics pertinent to the San Diego region’s quality of life.

SANDAG is governed by a board of directors composed of mayors, councilmembers, and a county supervisor from each of the region’s 19 local governments. Current members include all the incorporated cities in the region – Carlsbad, Chula Vista, Coronado, Del Mar, El Cajon, Encinitas, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, Oceanside, Poway, San Diego, San Marcos, Santee, Solana Beach, and Vista - and the County of San Diego.

Supplementing the voting members are advisory representatives from the California Department of Transportation (Caltrans), the Metropolitan Transit Development Board, the North San Diego County Transit Development Board, the U.S. Department of Defense, the San Diego Unified Port District, the San Diego County Water Authority, and Tijuana/Baja California.

SANDAG’s monthly board meetings provide the public forum and decision point for significant regional issues such as growth, transportation, environmental management, housing, open space,
air quality, energy, fiscal management, economic development, and criminal justice. SANDAG’s Directors adopt plans, allocate transportation funds, establish policies and develop programs for these regional issues which are used by local governments as well as other public and private organizations. Citizens, special interest groups and other agencies are involved in the planning and approval process by participating in SANDAG’s committees and task forces as well as attending workshops and public hearings.

III. PROJECT DESCRIPTION

A. Project Background

The TransNet Program expires in 2008. The SANDAG Board of Directors has established November 2004 as the target date for a ballot measure to extend the TransNet Program, and has approved a work program and timetable (Attachment C) for development of the proposed ballot measure. The attached TransNet Extension Work Program outlines a series of steps to develop a new expenditure plan for the proposed sales tax extension and to implement a public education effort in coordination with private sector and community support groups. A variety of issues will need to be resolved in developing the proposed ballot measure including the length of the extension and the types of projects and programs to be included for funding under the new ballot measure.

B. Project Description

The overall project is a two-year effort to develop a detailed ballot measure proposal that meets the needs of the region, that is supported by a wide range of interest groups, and that has the best chance of being approved by the voters. The effort will include discussions with numerous community groups and organizations to obtain input on and build consensus for the ballot measure proposal. A number of focus groups and public opinion surveys also are proposed to obtain additional input from likely voters. The consultant services being requested in this RFP are related to the role of Program Consultant to coordinate the implementation of the TransNet Extension Work Program, including the voter opinion research, technical staff efforts, and community interest group outreach. Attachment C outlines the activities and timetable for developing the ballot measure proposal. While Attachment C should be used as the basic framework for the kinds of activities anticipated to be included in the project, proposers should feel free to propose variations to the timetable and/or the specific activities to better meet the goals of the project. Innovative concepts and approaches are encouraged in order to maximize the eventual ballot measure’s chances of success.

C. Fee Estimate Range

The estimated range of the fee for the completion of the total project is $250,000 to $300,000 over a two-year period, including the voter opinion research activities. The Program Consultant activities are estimated to be in the range of $140,000 to $170,000 for the two-year effort. The first year’s work under this project is included in the approved FY 2003 Overall Work Program and Program Budget and will be included in the initial task order. Work in FY 2004 will be dependent on, among other things, budget approval by the SANDAG Board of Directors for FY 2004 activities. These and any other efforts will be included in
subsequent task orders. Should the proposer feel that the objectives of this project cannot be met within this budget, an alternative methodology should be offered.

D. Payment

The selected consultant will be paid by the following method: monthly invoices based on specific rates of compensation, with a not to exceed total for each task order.

IV. SCOPE OF REQUIRED SERVICES

A. Project Description

As discussed above, the TransNet Extension Work Program approved by the SANDAG Board of Directors, included as Attachment C, provides the basic scope of services required for the project.

This RFP is focused on the program consultant services referred to in the TransNet Extension Work Program. Additional consultant services required for the focus groups and the telephone public opinion survey portions of the work program survey will be addressed in a separate future selection process.

The key elements of the services required from the Program Consultant are:

- Provide supervision and coordination of all voter opinion research, including the focus groups and telephone public opinion surveys discussed in the work program.
- Coordinate technical staff work by SANDAG and related agencies in the development of revenue projections, as well as cost and schedule estimates for potential projects and programs to be included in the ballot measure, with the voter research efforts and the development of the Expenditure Plan.
- Meet and establish effective working relationships with a wide range of community interest groups, local jurisdictions, and related agencies to solicit views on the extension of the TransNet Program, identify critical infrastructure needs, and build a consensus on the eventual package of projects and programs to be included in the ballot measure.

B. Project Schedule

SANDAG has established the tentative milestones for the project as described in Attachment C. The Consultant should provide any proposed revisions or refinements to the project schedule and describe how the revisions would better meet the objectives of the project.
V. PROPOSAL REQUIREMENTS

A. General

1. The proposal should be concise, well organized and demonstrate the proposer’s qualifications and experience applicable to the project. The proposal shall be limited to 20 one-sided pages (8.5 inches x 11 inches), inclusive of resumes, graphics, forms, pictures, photographs, dividers, front and back covers, cover letter, etc., but not of letters of commitment from subcontractors or DBE documentation. Type size and margins for text pages should be in keeping with accepted standard formats for desktop publishing and processing and should result in no more than five hundred (500) words per page.

2. The written proposal must include a discussion of the proposer’s approach to the project, a breakdown and explanation of project tasks, a proposed project schedule, an estimate of costs and documentation of the consultant’s qualifications for the scope of work.

3. The proposer will be evaluated based upon the information submitted in accordance with Section V. B, the evaluation criteria in Section IX, and compliance with all requirements of this RFP.

B. Contents

Proposals submitted in response to this RFP shall be in the following order and shall include:

1. Executive Summary

   Include a 1-2 page overview of the entire proposal describing the most important elements of the proposal.

2. Identification of the Proposer and Establishment of Proposer’s Fiscal Responsibility

   Please provide the following information:

   a. Legal name and address of proposer’s company.

   b. Number of years proposer’s company has been in business.

   c. Legal form of company (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture and provide all information required within this section for each member. If a corporation, certify that the corporation is in good standing with the Secretary of State.

   d. If company is wholly-owned subsidiary of a “parent company,” provide the legal name and form of the parent company.

   e. Address(es) of office(s) that will work on this project.

   f. If DBE certified, identify certifying agency, as well as gender and ethnicity.

   g. Name, title, address, email address and telephone number of the person to contact concerning the proposal.
h. State whether the proposer has filed bankruptcy in the last ten (10) years and provide any other relevant information concerning whether the proposer is financially capable of completing this project.

3. Experience and Technical Competence

Describe the proposer’s experience in completing similar consulting efforts. List three (3) successfully completed projects of a similar nature. For each completed project, provide the name of the company and project manager the proposer performed work for, telephone numbers, type of work performed, and dollar value of the contracts. A project currently being performed may be submitted for consideration as one of the references.

4. Proposed Method to Accomplish the Work

Describe the proposer’s technical and management approach to the project and how the proposer will plan for and accommodate each into the project effort. Provide a proposed project schedule. Discuss how and what lines of communication will be implemented to maintain the project schedule.

5. Knowledge and Understanding of Local Environment and Relevant Laws

Describe the proposer’s experience working in the local environment and proposed local presence for interfacing with SANDAG’s Project Manager and staff. The environment includes, but is not limited to: cities, county, transit operators, Caltrans and other local agencies’ regulations and policies. Describe proposer’s experience with and knowledge of relevant State and Federal laws.

6. Project Organization and Key Personnel

a. Describe proposed project organization, including identification and responsibilities of key personnel. Indicate role and responsibility of prime consultants and all subconsultants, including DBE subconsultants. If applicable, indicate how local firms are being utilized to ensure a strong understanding of State and local laws, ordinances, regulations, policies, requirements and permitting. Indicate the extent of the commitment of key personnel for the duration of the project and furnish resumes of key personnel. Provide an indication of the staffing level for the project. SANDAG’s evaluation of the proposal will consider the proposer’s entire team; therefore, no changes in the team composition will be allowed without prior written approval of SANDAG. Subconsultant letters of commitment are required.

b. Describe the experience of the proposer’s project team in detail, including the team’s project manager, and other key staff members, on projects of similar size, capacity, and dollar value. For each similar project, include the client’s name and telephone number. It is SANDAG’s policy to interview proposers’ references.
7. SANDAG’s Disadvantaged Business Enterprise (DBE) Program and Discrimination Policy

a. Proposers are urged to obtain disadvantaged business enterprise (DBE) participation on this project, although there is no specific project goal for DBE participation. It is SANDAG policy to provide disadvantaged, minority, and women-owned business enterprises, as defined in Part 26, Title 49 CFR, an equitable opportunity to participate in all contracting opportunities. SANDAG’s DBE Program, which includes minority and women-owned business enterprises, is designed to administer contracts, consultant selection, and all related procurement activities without regard to race, color, religion, disability, political beliefs, age, national origin, gender, or cultural background. Accordingly, no firm or individual shall be denied the opportunity to compete for SANDAG contracts by reasons so stated or implied. A copy of SANDAG’s DBE Program is available on SANDAG’s Web site at http://www.sandag.org/index.asp?fuseaction=notices.home.

b. SANDAG requires all potential SANDAG consultants to comply with Title VI and Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act, as amended, and all other applicable discrimination laws. SANDAG will not tolerate illegal discrimination or harassment by its consultants.

c. Describe the proposer’s overall plan to make contracting opportunities available to all interested and qualified firms. This includes a strategy to identify the available subcontracting resources and a willingness to make subcontracting opportunities available to such firms.

d. Submit a subconsultant list, Attachment B, which lists all subconsultants for this project, DBE status (if applicable), scope of work, and approximate percentage of the work (as a percentage of the total award to the prime consultant). In accordance with current federal regulations, DBEs and joint ventures involving DBEs must be certified for eligibility by Caltrans, by other qualified Department of Transportation recipients or by other certifying public agencies. Documentation verifying DBE status must be submitted in the proposal for all firms (prime consultant or subconsultant) claiming such status.

8. Previous Contracts with SANDAG

The proposer shall submit a list which indicates all prime contracts and/or amendments awarded to the proposer by SANDAG for the last three (3) years. The list shall include a short description of the project, the project scope of work, award date, completion date, name of SANDAG’s assigned project manager, and contract value.

9. Exceptions to this Request for Proposals

The proposer shall certify that it takes no exception(s) to this RFP, including but not limited to SANDAG’s Standard Agreement for Services (Attachment A). If the proposer does take exception(s) to any portion of the RFP or contract, the specific portion to which exception(s) is taken must be identified and explained. Failure to make
exceptions to the RFP or contract will be deemed a waiver of any objection. Exceptions may be considered during the proposal evaluation process.

10. Addenda to this Request for Proposals

The proposer shall confirm in its proposal the receipt of all addenda issued to this RFP.

11. Statement of Impartiality

The nature of this project requires an impartial unbiased approach on the part of the consultant team. This proposal shall include a statement declaring that the consultants and subconsultants are not currently, and will not, during the performance of these services, participate in any other similar work involving a third party with interests currently in conflict or likely to be conflict with SANDAG's interests.

12. Cost Estimate

   a. Provide an estimate of the total direct and indirect costs to complete all tasks identified in the scope of work. A detailed cost breakdown shall be provided identifying: 1) the number of staff hours and hourly rates for each professional and administrative staff person who will be committed to this project, including fringe and overhead costs; 2) an estimate of all other direct costs, such as materials and reproduction costs; and 3) an estimate of subconsultant services, if needed.

VI. SUBMITTAL REQUIREMENTS

A. Six copies of the proposal shall be submitted. Proposals submitted by facsimile or email are not acceptable and will not be considered.

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. The proposal must be addressed to and received no later than 4:00 P.M., local time, on July 1, 2002, at the office of:

   Craig Scott, Project Manager
   San Diego Association of Governments
   401 B Street, Suite 800
   San Diego, California 92101

   Postmarks will not be accepted in lieu of this requirement.

D. Proposals are to be submitted in sealed packages with the following information clearly marked on the outside of each package:

   1. Name of proposer
   2. Project title
3. Package Number (e.g., 1 of, 2 of)

E. Failure to comply with the requirements of the RFP may result in disqualification. SANDAG 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. SANDAG reserves the right to disqualify a proposal cost estimate with mathematical or clerical errors, inconsistencies or missing information which prevent SANDAG from fully evaluating the proposal. SANDAG 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 SANDAG.

F. Proposals and/or modifications received subsequent to the hour and date specified above will not be considered.

VII. PRE-SUBMITTAL ACTIVITIES

A. Questions Concerning Request for Proposals

All questions relating to the RFP must be received in writing via mail, facsimile, E-mail or hand delivery no later than 4:00 P.M., on June 21, 2002 addressed to:

Craig Scott, Project Manager
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California 92101
E-mail: csc@sandag.org

A Web page will be developed, maintained, and devoted to this RFP. It can be accessed from www.sandag.org/rfps.

Responses to all questions received concerning this RFP will be posted on the Web page devoted to this project (shown above) on an on-going basis. All responses and all timely questions received concerning this RFP will be posted at least three (3) days prior to the proposal due date or can be obtained by contacting the Project Manager. It is the responsibility of proposers to check the Web page for questions and responses related to this RFP.

B. Revision to the Request for Proposals

SANDAG reserves the right to revise the RFP prior to the date that proposals are due. Revisions to the RFP shall be posted on the Web page devoted to this RFP by June 24, 2002. It is the responsibility of the proposer to check the Web site for any revisions related to this RFP.

VIII. CONSULTANT EVALUATION AND SELECTION PROCESS

A. SANDAG will establish one or more consultant evaluation committee(s) (“Committee(s”)” for this project and will include representatives from SANDAG, and when deemed in SANDAG’s
best interest, representatives of its member agencies, the general public, or individuals with experience and expertise in the related discipline(s).

B. Based upon the proposals submitted, the Committee may select a short-list of qualified firms for this project. SANDAG reserves the right to make final consultant selection based solely upon evaluation of the written proposals, without short-listing firms or conducting oral interviews, should it find it to be in its best interest to do so. The Committee(s) may interview the short-listed firms. Based upon the written proposal, interview, and reference scores, and other appropriate evaluation factors, the Committee(s) will short-list the qualified finalists.

C. The Committee(s) will recommend the top-ranked proposer to SANDAG’s Executive Director; and will request authority to enter into negotiations with the selected firm. The Executive Director has final authority for selection. The proposer selected for negotiations will be sent a Notice of Intent to Award. Proposers who are not selected for negotiations will be sent a Notice of Intent to Enter Negotiations With Another Proposer.

D. Upon receipt of the Executive Director’s authorization to negotiate, the Project Manager will establish a negotiating team and enter into negotiations with the selected firm. The negotiations may cover: scope of work, contract schedule, contract terms and conditions, technical specifications, level of effort and price. If the negotiating team is unable to reach an acceptable agreement with the selected firm, the negotiating team will recommend to the Executive Director that negotiations be terminated and that negotiations with the second ranked firm be initiated. The Executive Director has final authority to terminate negotiations and begin negotiations with another proposer.

E. After negotiation of a proposed agreement that is fair and reasonable, the negotiating team will recommend to the Executive Director that SANDAG enter into the proposed agreement. Final authority to approve the agreement rests with the Executive Director.

IX. EVALUATION CRITERIA

Proposers will be evaluated on the following criteria according to the weights assigned below. If oral interviews are conducted, they will be worth 25 points. SANDAG reserves the right to add the proposers’ interview scores into the evaluation criteria or to select proposers based solely upon their written proposal or oral interview.

Proposers’ cost estimates and/or a determination of which proposal offers the best value to SANDAG will be part of the evaluation process. Proposers’ cost estimate will have the value assigned below in the evaluation criteria descriptions.

Proposers will be evaluated on the following criteria according to the weights assigned below.

A. Project Experience [20 Points]

Qualified consultants will have experience in performing similar work with public, government, private, not-for-profit, and other agencies as specified in Section V. B. 3 of this RFP. SANDAG’s inability to obtain positive feedback on a proposer during reference-checks or
to confirm a proposer’s history of financial responsibility may reduce that proposer’s score in this category.

**B. Proposed Methodology and Approach to Work [25 Points]**

Proposers must demonstrate the ability to carry out the project by meeting the proposal requirements identified in Sections IV, V, and VI of the RFP. High quality, clear, and complete proposals showing proposer’s understanding of the Project and willingness to comply with standard contract requirements will receive higher scores in this category. While proposers are required to meet the goals and deadlines for the project as described in this RFP, proposers may receive higher scores in this category if they demonstrate innovative, advanced and/or well-thought-out methodologies that SANDAG may not have specifically identified in this RFP.

**C. Cost or Best Value [15 Points]**

Proposals will be evaluated for providing the best methodology and services at the lowest cost and with the least amount of risk.

**D. Understanding of SANDAG and the TransNet Program [20 Points]**

Qualified consultants must demonstrate an understanding of SANDAG, the existing TransNet Program, the overall needs of the region, and the key groups and agencies that need to be consulted in developing a successful ballot measure.

**E. Staff Qualifications [20 Points]**

Project staff qualifications include a combination of experience, education and background in transportation and related infrastructure planning and financing, intergovernmental and community group coordination work, voter opinion research, and ballot measure development.

**X. SCHEDULE FOR NOMINATION, SELECTION AND AWARD**

SANDAG anticipates the process for nominating and selecting a consultant, and awarding the contract will be according to the following tentative schedule:

A. Advertise and Issue RFP ................................................................. June 10, 2002
B. Last Day to Submit Questions Regarding RFP ............................... June 21, 2002
C. Proposal Due Date ......................................................................... July 1, 2002
D. Oral Interviews (if utilized) ................................................................. July 8, 2002
E. Selection and Notification of Intent to Award ................................. July 9, 2002
F. Contract Negotiations Complete ..................................................... July 24, 2002
G. Approval of Contract ..................................................................... July 25, 2002
H. Notice of Award/Notice to Proceed ............................................... July 25, 2002
XI. SPECIAL CONDITIONS

A. Reservations

This RFP does not commit SANDAG to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work. SANDAG may reject bids without providing the reason(s) underlying the declination. A failure to award a contract to the proposer giving the lowest cost will not result in a cause of action against SANDAG.

B. Public Records

All proposals submitted in response to this RFP become the property of SANDAG and are public records and, as such, may be subject to public review.

C. Right to Cancel

SANDAG reserves the right to cancel or revise, for any or no reason, in part or in its entirety, this RFP. If SANDAG cancels the RFP prior to the deadline for proposals or revises the RFP, notification will be placed on SANDAG’s Web site.

D. Additional Information

SANDAG reserves the right to request additional information and/or clarification from any or all proposers to this RFP, but is under no obligation to do so.

E. Conflict of Interest

SANDAG has established a policy concerning potential conflict of interest in program management, design and construction. This policy applies to all proposers and their proposed consultants/subconsultants. See Standard Agreement for Services (Attachment A) for additional information and required certifications by consultants and their subconsultants.

F. Public Information

Consultants who wish to release information to the public regarding consultant selection, contract award or data provided by SANDAG must receive prior written approval from SANDAG before disclosing such information to the public.

G. Contract for Services

The selected consultants will be required to sign a customized version of the attached “Standard Agreement for Services” (Attachment A) and to provide the insurance certificates and all other required documentation within fifteen (15) calendar days of issuance of the Notice of Intent to Award.
H. Insurance Requirements

SANDAG requires consultants doing business with it to obtain insurance, as shown in the Standard Agreement for Services. The required insurance certificates must comply with all requirements of the standards as shown in the contract and must be provided within fifteen (15) days of issuance of the Notice of Intent to Award and prior to the commencement of any work on the project.

XII. PROTESTS

Pursuant to the requirements set forth in FTA Circular 4220.1D, “Third Party Contracting Requirements,” the following procedures shall be used by SANDAG to fairly and promptly respond to any protests received regarding third party contracts or the contracting process.

SANDAG will consider all protests or objections regarding the contracting process or the award of a contract submitted by 4:00 P.M. on the deadlines discussed below. SANDAG will only review protests submitted by an actual or prospective proposer or someone else whose direct economic interest would be affected by the award of a contract or by failure to award a contract. A protest by any adversely affected person must be made in writing and must be mailed or hand delivered to SANDAG. A protest which does not strictly comply with SANDAG’s protest procedures will be rejected.

Protests relating to the content of the RFP package must be filed within ten (10) business days after the date the RFP is made available to the public by SANDAG. Protests relating to the intent to make an award solicited by an RFP must be filed within ten (10) business days after the Notice of Intent to Enter Into Negotiations With Another Proposer is issued to the proposers. The date of filing shall be the date of receipt of protests by SANDAG. Untimely protests will be rejected.

If deemed necessary, SANDAG shall notify all proposers of record that a protest has been filed and that the award has been postponed until further notice. If necessary, proposers will be asked to extend the time for acceptance of their proposal in order to avoid the need for readvertisement of the solicitation.

A. Protest Contents

A letter of protest must set forth detailed grounds for the protest and be fully supported with technical data, documentary evidence, names of witnesses and other pertinent information related to the subject being protested. The protest must also state the law, rule, regulation or practice on which the protest is based. The protestor must demonstrate or establish a clear violation of a specific law or regulation, e.g., a violation of the Buy America requirements.

If the protestor considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest document, and alleged proprietary information shall be so identified wherever it appears.
Protests shall be addressed to:

Director of Finance & Administration
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California  2101

B. Reply to Protest

A SANDAG Protest Committee appointed by the Executive Director will review all protests in a timely manner and reply to the protest, in writing, within ten (10) business days. All material submitted by the protestor will be considered. Such material will not be withheld from any interested party outside of SANDAG or any agency which may be involved with the contract except to the extent that the withholding of information is permitted or required by law or regulation.

C. Request for Protest Reconsideration

Upon receipt of an adverse decision by SANDAG, the protestor may file a request for protest reconsideration. A request for protest reconsideration must be directed to the Executive Director in writing and received within ten (10) full business days from the postmark date of the reply from SANDAG. The Executive Director will respond to the request for protest reconsideration within ten (10) full business days. The decision of the Executive Director will be in writing and final. No further protests will be heard by SANDAG.
STANDARD AGREEMENT FOR SERVICES BETWEEN
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS
AND
[CLICK TO INSERT CONSULTANT NAME]

ATTACHMENT A

THIS AGREEMENT shall be effective as of this [Day] day of [Month], [Year], by and between the San Diego Association of Governments (hereinafter referred to as “SANDAG”), 401 B Street, Suite 800, San Diego, California, and [Consultant Name and Address] (hereinafter referred to as “Consultant”) in view of the following facts:

RECITALS

The following recitals are a substantive part of this Agreement:

SANDAG is in need of professional services for the following project: Program Consultant for the TransNet Extension Work Program Implementation and Coordination (hereinafter referred to as the “Project”).

A. Consultant represents that [it/he/she] is duly licensed and qualified to provide such services and has the personnel and other resources necessary to accomplish the work within the required time.

B. The purpose of this Agreement is to establish the terms and conditions for SANDAG to retain Consultant to provide the services described herein.

NOW, THEREFORE, it is agreed as follows:

I. SERVICES

Consultant shall provide SANDAG the services as described in the Scope of Work attached hereto as Exhibit A upon receipt of a Task Order from SANDAG. Task Order 1 will be issued upon full execution of this Agreement. Task Order 1 shall cover services to be provided by Consultant during FY 2003. Each year thereafter, for a maximum of 2 additional years, SANDAG may issue additional Task Orders to Consultant. Consultant is not authorized to perform services for SANDAG beyond the termination date set forth in each Task Order. This Agreement shall terminate on or before June 30, 2005, unless amended in writing.
II. AUTHORIZATION

Specific authorization to proceed shall be given by SANDAG via one or more Task Orders. Each Task Order shall describe the work to be performed by Consultant, the dates of performance and maximum amount that SANDAG will pay for the services described therein. Consultant shall commence work for the applicable time period immediately upon receipt of a Task Order.

III. PAYMENT

A. For work performed pursuant to Task Order 1, SANDAG shall pay a maximum of $100,000. For any Task Orders that may be issued subsequent to Task Order 1, the parties will negotiate the amount of payment due based on the fee schedule in Exhibit B. The task order under which the parties are currently operating at any given time during the term of this Agreement shall be known as the “current Task Order.” If SANDAG issues Task Orders over the full 3 year period contemplated by this Agreement, SANDAG estimates the maximum amount to be paid to Consultant will be $300,000. Notwithstanding the foregoing, under no circumstances should Consultant presume that additional Task Orders beyond the current Task Order will be issued or that it will receive more than the maximum cost agreed to by the parties for the current Task Order. SANDAG reserves the right to increase or decrease the amount of estimated funds allocated to each Task Order.

B. The maximum cost set forth in each Task Order shall include all applicable costs such as salaries and wages, overhead, travel, materials and supplies, subcontract costs, and fixed fees or profit. Consultant is expressly put on notice that no employee of SANDAG has authority to authorize, in writing or otherwise, an increase in the maximum cost of the current Task Order or this Agreement without SANDAG Executive Director approval.

C. Consultant shall submit monthly invoices for services satisfactorily rendered and for reasonable allowable expenses incurred. For purposes of this Agreement, an expense is not “incurred” unless Consultant’s accounting department has issued payment for said expense. SANDAG will not make reimbursement or payment to Consultant in advance of the expense being incurred.

D. Upon completion of all deliverables and tasks under the current Task Order to the satisfaction of SANDAG, Consultant shall submit a final invoice showing the cumulative costs incurred by Consultant, not to exceed maximum cost of the current Task Order. Final payment on each Task Order shall be made within thirty (30) days of receipt of the final invoice. Notwithstanding the foregoing, all payments are subject to the conditions set forth elsewhere in this Agreement or which are otherwise required by law. Payments shall be subject to review for compliance by SANDAG with the requirements of this Agreement, and shall be subject to an audit upon completion of all services. No other compensation will be paid except for work done under an amended agreement approved pursuant to Article X, “Changes in Work.”
IV. TIME OF PERFORMANCE AND NOTICE REGARDING LATE DELIVERY

Time is of the essence in this Agreement and each covenant and term is a condition herein. Consultant shall perform all services in a prompt and timely manner in accordance with the Activity Schedule shown in Exhibit C. In the event Consultant encounters difficulty in meeting the Activity Schedule or anticipates difficulty in complying with the Activity Schedule, the Consultant shall immediately notify the SANDAG Project Manager and shall provide pertinent details, including, the reason(s) for the delay in performance and the date by which Consultant expects to complete performance or make delivery. This notification shall be informational in character only and receipt of it shall not be construed as a waiver by SANDAG of a contract delivery schedule or date, or any rights or remedies provided by law under this Agreement. Any additional time for performance or delivery must be approved in writing in a document signed by both parties.

V. STANDARD OF CARE

A. Consultant’s services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. All services shall be performed to SANDAG’s satisfaction.

B. Consultant acknowledges and understands that the data and/or information it collects and/or provides to SANDAG will be relied upon by SANDAG and other persons or entities that are now or will in the future be under contract with SANDAG. Should information provided by Consultant be inaccurate and cause SANDAG to incur damages or additional expenses, SANDAG shall notify Consultant and Consultant shall immediately place its insurance carrier on notice of a potential claim.

VI. ASSIGNMENT AND SUBCONTRACTING

A. Consultant shall not assign, sublet or transfer (whether by assignment or novation) this Agreement or any rights under or interest in this Agreement without the written consent of SANDAG, which may be withheld for any reason, provided however, that claims for money due to Consultant from SANDAG under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notice of such assignment or transfer shall be promptly furnished to SANDAG in writing.

B. Nothing contained herein shall prevent Consultant from employing independent professional associates, subconsultants and consultants as Consultant may deem appropriate to assist in the performance of services hereunder. The Consultant shall not enter into any agreement to perform subcontracted work in connection with this Agreement without first obtaining SANDAG’s written approval as to the scope of work and the subconsultant.

C. If Consultant subcontracts any of the work to be performed under this Agreement, Consultant shall be as fully responsible to SANDAG for the acts and omissions of Consultant’s subconsultant and of the persons employed by the subconsultant as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in this Agreement shall create any contractual relationship between any subconsultant of Consultant
and SANDAG. Any subcontract in excess of $25,000, entered into as a result of this Agreement, shall contain all of the provisions stipulated in this Agreement to be applicable to the subconsultant. Consultant shall bind every subconsultant and every subconsultant of a subconsultant to the terms of this Agreement, unless specifically noted to the contrary in the subcontract in question, approved in writing by SANDAG.

VII. STATUS OF THE CONSULTANT

A. Consultant shall perform the services provided for within this Agreement as an independent contractor, and not as an employee of SANDAG. Consultant shall be under the control of SANDAG as to the result to be accomplished and not the means, and shall consult with SANDAG as provided for in the Scope of Work. The payment made to Consultant pursuant to this Agreement shall be the full and complete compensation to which Consultant is entitled. SANDAG shall not make any federal or state tax withholdings on behalf of Consultant. SANDAG shall not be required to pay any workers’ compensation insurance on behalf of Consultant. Consultant agrees to indemnify SANDAG for any tax, retirement contribution, social security, overtime payment, or workers’ compensation payment which SANDAG may be required to make on behalf of Consultant or any employee of Consultant for work done under this Agreement.

B. Except as SANDAG may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of SANDAG in any capacity whatsoever, as an agent or otherwise. Contractor shall have no authority, express or implied, to bind SANDAG or its members, agents or employees, to any obligation whatsoever, unless expressly provided in this Agreement.

VIII. INTEGRATION

This Agreement represents the entire understanding of SANDAG and Consultant as to those matters contained in it. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by SANDAG and Consultant.

IX. DELIVERABLES

The term “deliverables” includes, but is not limited to, all reports, memorandums, and other documents or work products developed for the Project.

X. CHANGES IN WORK

If changes in the work seem merited by Consultant or SANDAG, and informal consultations with the other party indicate that a change is warranted, it shall be processed by SANDAG in the following manner: A letter outlining the changes shall be forwarded to SANDAG by Consultant, with a statement of estimated changes in fee or time schedule. If SANDAG determines the change is merited, is due to an unexpected circumstance, and was caused through no fault of the Consultant, an amendment to the Agreement may be prepared by SANDAG. SANDAG will not be required to pay for the changes in work unless the amendment is executed by both parties before performance
of such services commences. Consultant is expressly put on notice that no employee of SANDAG has authority to authorize, in writing or otherwise, any additional work which would increase the cost of the current Task Order without SANDAG Executive Director approval. Such amended agreement shall not render ineffective or invalidate unaffected portions of this Agreement.

XI. PROGRESS REPORTING

It shall be the responsibility of Consultant to advise SANDAG on a monthly basis of the progress of its work, expenditures incurred, and information regarding whether the Project is projected to comply with the Activity Schedule and Project budget limits. Consultant shall document the progress and results of work performed under this Agreement to the satisfaction of SANDAG, and if applicable, to the satisfaction of any government agency as directed by SANDAG. This may include progress and final reports, plans, specifications, estimates, or other evidence of attainment of the Agreement objectives.

XII. INSURANCE

A. Consultant shall procure and maintain during the period of performance of this Agreement, and for 12 months following completion, policies of insurance from insurance companies authorized to do business in the State of California. The policy and certificate(s) of insurance must provide for the following:

1. Commercial General Liability: Combined single limit of $1,000,000 per occurrence and $2,000,000 general aggregate for personal and bodily injury, including death, and broad form property damage. The certificate of insurance or a policy endorsement must include an acceptable “Waiver of Subrogation” in favor of SANDAG. The certificate of insurance must name SANDAG as an additional insured.

2. Professional liability: (errors and omissions) for negligent acts, errors or omissions of a professional nature in the amount of $1,000,000 per claim and aggregate. The policy must be a “claims made” policy.

3. Workers’ compensation and employer’s liability: comply with the laws of the State of California. The certificate of insurance or a policy endorsement must provide an acceptable “Waiver of Subrogation” in favor of SANDAG. The policy must provide for a minimum of $1,000,000 in employer’s liability coverage.

B. Consultant shall furnish satisfactory proof by one or more certificates (original copies) that it has the foregoing insurance. The certificate(s) shall be attached to this Agreement as Exhibit D. The insurance shall be provided by an acceptable insurance provider, as determined by SANDAG, which satisfies the following minimum requirements:

1. An insurance carrier qualified to do business in California and maintaining an agent for service of process within the state. Such insurance carrier shall maintain a current A.M. Best rating classification of “A-” or better, and a financial size of “$10 million to $24 million (Class V) or better,” or
2. A Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for service of process in California.

C. Certificates of insurance shall be filed with SANDAG. Consultant is responsible for ensuring that its carrier(s) send SANDAG updated certificates of insurance throughout the term of the Agreement. The general liability and property damage insurance, as well as automobile liability insurance, shall include SANDAG as an additional insured. Consultant’s policies shall be primary insurance as to SANDAG so that any other coverage held by SANDAG shall not contribute to any loss under Consultant’s insurance. Said certificates of insurance must contain a provision which states: “Such insurance as is afforded by these policies shall be Primary and Non-contributory to the full limits stated in the declarations, and if SANDAG, its Board of Directors, officers, employees or agents have other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only.” Each insurance certificate of insurance shall state that the policies may not be canceled without first giving thirty (30) days advance written notice to SANDAG. For purposes of this notice requirement, any material change in the policy prior to its expiration may be considered a cancellation.

XIII. INDEMNITY - HOLD HARMLESS

A. The Consultant expressly warrants that the work to be performed pursuant to this Agreement shall be performed in accordance with the standards specified in Article V, Standard of Care. Where approval by SANDAG, the Executive Director or other representative of SANDAG is indicated, it is understood to be conceptual approval only and does not relieve the Consultant of responsibility for complying with all laws, codes, industry standards and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Consultant or its subconsultants.

B. With regard to the Consultant’s performance in connection with or incidental to the Project, but excluding its performance of professional services and the indemnification and hold harmless aspects thereto as set forth below, the Consultant agrees to defend, indemnify, protect and hold SANDAG and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to the Consultant’s or its subconsultants’ employees, agents or officers, which arise from or are connected with or are caused or claimed to be caused by the negligent, reckless or willful acts or omissions of the Consultant and its subconsultants and their agents, officers or employees, in performing the work or services herein, and all expenses of investigating and defending against same, including attorney fees and costs; provided, however, that the Consultant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of SANDAG, its agents, officers or employees.

C. With regard to the Consultant’s performance of professional services, the Consultant agrees to defend, indemnify and hold harmless SANDAG, its officers, agents and employees from and against any and all claims, costs, suits and damages, including attorney's fees, arising from the willful misconduct or negligent acts, errors or omissions of the Consultant and/or its subconsultants associated with the Project.
XIV. AUDIT AND INSPECTION OF RECORDS

The Consultant shall maintain complete and accurate records with respect to actual time and allowable costs incurred under this Agreement. All such records shall be maintained on a generally-accepted accounting basis and shall be clearly identified. The Consultant shall provide reasonable access to the representatives of SANDAG, or its designees, including representatives of the applicable government agencies if this Agreement is funded in whole or in part with state or federal funds, to such books and records and any other books, documents, papers or records of the Consultant that are related to this Agreement. SANDAG, the State, the State Auditor, FHWA, FTA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations shall have the right to examine and audit such books and records and to make transcripts or copies from them as necessary. Consultant shall allow inspection of all work data, documents, proceedings, and activities related to this Agreement for a period of five (5) years from the date of final payment under this Agreement. This Article must be included in any subcontract entered into as a result of this Agreement.

XV. LAWS, VENUE AND DISPUTE RESOLUTION

A. This Agreement shall be interpreted in accordance with the laws of the State of California.

B. In the event Consultant has a dispute with SANDAG during the performance of this Agreement, Consultant shall continue to perform unless SANDAG informs Consultant in writing to cease performance. Consultant shall submit a statement of the grounds for the dispute including all pertinent dates, names of persons involved, and supporting documentation to SANDAG’s Project Manager. The Project Manager and other appropriate SANDAG staff will review the documentation in a timely manner and reply to Consultant within 20 days. Upon receipt of an adverse decision by SANDAG, Consultant may submit a request for reconsideration to SANDAG’s Executive Director. The request for reconsideration must be received within ten days from the postmark date of SANDAG’s reply. The Executive Director will respond to the request for reconsideration within ten working days. The decision of the Executive Director will be final and in writing.

C. If Consultant is dissatisfied with the results following exhaustion of the above dispute resolution procedures, Consultant shall make a written request to SANDAG for mediation. SANDAG shall respond to a request for mediation within ten business days. If SANDAG agrees mediation is appropriate, a mutually acceptable mediator shall be selected by the parties and the parties will proceed to mediation of the dispute.

D. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Diego, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorneys’ fees, as determined by the court.
XVI. TERMINATION OR ABANDONMENT

A. Upon receipt of notice of termination, Consultant shall immediately cease all services unless the notice indicates otherwise, and notify SANDAG’s Project Manager of the status of Consultant’s performance.

1. Termination for Cause: Except as otherwise provided herein, if the Consultant fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant violates any of the covenants, conditions, or terms of this Agreement, SANDAG shall have the right to terminate this Agreement by giving at least five (5) days written notice to the Consultant of such termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, deliverables and reports prepared by the Consultant for this Project, whether completed or in process, shall be delivered by Consultant to SANDAG within 10 days and shall be SANDAG property. The Consultant shall not be relieved of liability to SANDAG for damages sustained by SANDAG by virtue of any breach of the Agreement by the Consultant, nor shall SANDAG be liable for any costs other than the fees or portions thereof specified herein.

2. Termination for Convenience: SANDAG may at any time terminate this Agreement for any reason by giving fifteen (15) days written notice of termination. Upon termination, the Consultant will be paid the reasonable value for services actually performed, based upon proration of the payment schedule set forth in this Agreement. All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, deliverables and reports prepared by the Consultant for this Project, whether completed or in process, shall be delivered by Consultant to SANDAG within 10 days of notice of termination and shall be SANDAG property. SANDAG shall have no other liability to Consultant or its subconsultant(s) in the event of termination for convenience. Under no circumstances shall Consultant be paid an amount in excess of the maximum amount of the Agreement [or current Task Order] or for profit on unperformed portions of service. In the event of a dispute as to the reasonable value of the services rendered by Consultant, the decision of SANDAG’s Executive Director shall be final.

3. Termination Settlement Expenses: Termination settlement expenses shall be reimbursed in accordance with 48 CFR, Federal Regulations System, Chapter 1, Part 31. Notwithstanding the foregoing, subpart 31.205-42(c), concerning initial costs, shall not apply to architectural and engineering contract terminations.

XVII. CONFORMITY TO LEGAL REQUIREMENTS

A. Consultant shall comply with all Federal, State and local laws and ordinances applicable to this Agreement. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code section 1775 when applicable. Consultant shall cause all completed deliverables to conform to all applicable requirements of law: federal, state and local.
B. Consultant shall be aware of the requirements of the Immigration Reform and Control Act of 1986 and shall comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, consultants, and subconsultants that are included in this Agreement.

XVIII. OWNERSHIP OF DELIVERABLES

A. All deliverables including, but not limited to, reports, documents, supporting materials, and as herein required are the property of SANDAG, whether the work for which they are made be completed or not. In the event this Agreement is terminated, all deliverables shall be delivered within ten (10) days from the date of termination to SANDAG.

B. Consultant shall have the right to make a copy of the deliverables solely for the purpose of recordkeeping. Consultant may not sell, reuse, or distribute deliverables prepared under this Agreement in any form without SANDAG’s express written permission.

C. In the event SANDAG decides not to issue a Task Order subsequent to the current Task Order, Consultant shall deliver all undelivered deliverables to SANDAG within ten (10) days after the current Task Order expires.

XIX. INTELLECTUAL PROPERTY RIGHTS

Consultant agrees that any and all property rights, including intellectual property rights such as copyrights or patents that arise from creation of the work pursuant to this Agreement shall be vested in SANDAG and hereby agrees to relinquish all claims to such property rights in favor of SANDAG.

XX. PROHIBITED INTEREST/COVENANTS AGAINST CONTINGENT FEES

A. No elected official(s) of SANDAG or any of its member agencies, the State of California or the United States Government shall become directly or indirectly interested in or personally benefit from the financial proceeds of this Agreement or in any part of it. No officer or employee of SANDAG shall become directly or indirectly interested in or benefit from the financial proceeds of this Agreement or any part of it.

B. Consultant warrants that its firm has not employed, retained, paid, or agreed to pay any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, SANDAG shall have the right to annul this Agreement without liability, or at its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.
XXI. CONFLICT OF INTEREST

A. Consultant shall file a Conflict of Interest Statement with SANDAG’s Executive Director. Consultant is responsible for determining it is a “Consultant” for purposes of the Political Reform Act and for compliance with any applicable financial disclosure requirements. Consultant represents that to its knowledge, entry into this Agreement will not result in a conflict of interest prohibited by California Government Code section 1090 for SANDAG’s employees or Board of Directors.

B. Consultant shall not make or participate in making or in any way attempt to use Consultant’s position to influence a governmental decision in which Consultant knows or has reason to know Consultant has a financial interest other than the compensation promised by this Agreement. Consultant represents that Consultant has diligently conducted a search and inventory of Consultant’s economic interests, as defined in the regulations promulgated by the Fair Political Practices Commission, and has determined that Consultant does not, to the best of Consultant’s knowledge, have an economic interest which would conflict with Consultant’s duties under this Agreement. Consultant agrees to scrupulously avoid performing services for any person or entity or entering into any contractual or other relationship with any person or entity which might create a conflict with the rendering of services under this Agreement. Consultant will immediately advise the General Counsel of SANDAG if Consultant learns of an economic interest or other prohibited conflict of interest of Consultant’s during the term of this Agreement.

XXII. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

A. SANDAG has not established goals for the participation of DBE for this Agreement. The Consultant, however, is responsible for being fully informed of the requirements of Part 26, Title 49 of the Code of Federal Regulations and SANDAG’s DBE Program, which are incorporated herein by reference. Consultant is urged to obtain DBE participation should a clearly defined portion of the work become available.

B. It is SANDAG’s policy that certified DBE firms shall have an equal opportunity to participate in performance of contracts financed in whole or in part with federal funds. The Project covered by this Agreement will be financed in whole or in part with federal funds. Therefore, the Consultant shall ensure that certified DBE firms, as defined in 49 CFR Part 26, have an equal opportunity to participate in the performance of this Agreement and shall take all necessary and reasonable steps, as set forth in 49 CFR Part 26, for such assurance. Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this Agreement. Consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure to carry out these requirements shall constitute a material breach of this Agreement, which may result in termination of this Agreement or such other remedy as SANDAG deems appropriate.

C. If DBE participation is obtained, Consultant shall maintain records of all subconsultant agreements entered into with DBE subconsultants and records of materials purchased from DBE suppliers, regardless of tier. Such records shall show each subconsultant’s and vendor’s name and address and the actual dollars paid to each. Upon completion of the Agreement, a summary of these records shall be prepared, certified correct and submitted on the form
entitled “Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors” attached as Exhibit G, or its equivalent, by the Consultant or its authorized representative to SANDAG’s Project Manager showing total dollars paid to each DBE subconsultant and supplier. Consultant will not receive final payment until this Exhibit is filled in and provided to SANDAG.

D. If a DBE subconsultant is decertified during the life of the project, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the project, the subconsultant shall notify Consultant in writing with the date of certification. Consultant shall immediately furnish the written documentation to SANDAG’s Project Manager. Upon completion of the Agreement, “Disadvantaged Business Enterprise (DBE) Certification Status Change” Form CEM-2403(f) indicating the DBE’s existing certification status shall be signed and certified correct by Consultant.

E. Any DBE firm working as a subconsultant under this Agreement must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing, and supervising the work.

F. Consultant shall make every reasonable effort to replace a certified DBE firm that is unable to perform the provisions of this Agreement with another certified DBE firm.

XXIII. SUCCESSORS OR ASSIGNS

Subject to the provisions of Article XIII, “Indemnity - Hold Harmless,” all terms, conditions, and provisions hereof shall inure to and shall bind each of the parties hereto, and each of their respective heirs, executors, administrators, successors, and assigns.

XXIV. NONDISCRIMINATION

A. Consultants doing business with SANDAG must be equal opportunity employers who achieve or attempt to achieve parity in the representation of women and minorities in their work force.

B. The Consultant shall ensure equal employment opportunity for all persons. Consultant and its subconsultants shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, sexual orientation, national origin, ancestry, age, medical condition, physical or mental disability, Vietnam-era veteran or special disabled veteran status, marital status or citizenship, within the limits imposed by law. These principles are to be applied by the Consultant in all employment practices, including recruiting, hiring, transfers, promotions, training, compensation, benefits, layoffs, and terminations.

C. During the performance of this Agreement, Consultant agrees to comply with all the requirements imposed by Title VI and Title VII of the Civil Rights Act of 1964, as amended, and the regulations issued thereunder (Executive Order 11246), the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, and any other applicable federal
D. Consultant agrees to comply with and assure that Subconsultant complies with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA) and all U.S. DOT regulations regarding nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance. No otherwise qualified person with a disability shall solely, by reason of his or her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

E. During the performance of this Agreement, the Consultant further agrees as follows:

1. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, 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. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. Consultant will, in all solicitations or advancements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

3. Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Consultant's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.


5. Consultant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of Consultant's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, as amended, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No.
7. Consultant will include the provisions of this Article in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended so that such provisions will be binding upon each subconsultant or vendor. Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction, Consultant may request the United States to enter into such litigation to protect the interests of the United States." [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

XXV. EQUIPMENT PURCHASES

A. Prior authorization in writing by the Project Manager shall be required before the Consultant enters into any non-budgeted purchase order or subcontract exceeding $500 for supplies, equipment, or consultant services. If the non-budgeted purpose will cause the Project budget to exceed the Maximum Amount of the Agreement, then prior approval from SANDAG’s Executive Director is also required. The Consultant shall provide an evaluation of the necessity or desirability of incurring such costs. For purchase of any item, service or consulting work not covered in the Consultant’s Cost Proposal and exceeding $500, with prior authorization by the Project Manager, three competitive quotations must be submitted with the request or the absence of bidding must be adequately justified.

B. The Consultant shall maintain an inventory record for each piece of non-expendable equipment purchased or built with funds provided under the terms of this Agreement. The inventory record of each piece of such equipment shall include the date acquired, total cost, serial number, model identification (on purchased equipment), and any other information or description necessary to identify said equipment. Non-expendable equipment so inventoried are those items of equipment that have a normal life expectancy of one year or more and an approximate unit price of $5,000 or more. In addition, theft-sensitive items of equipment costing less than $5,000 shall be inventoried. A copy of the inventory record must be submitted to SANDAG on request by SANDAG.

C. At the conclusion of the Agreement or if the Agreement is terminated, the Consultant may either keep the equipment and credit SANDAG in an amount equal to its fair market value or sell such equipment at the best price obtainable, at a public or private sale, in accordance with established procedures, and credit SANDAG in an amount equal to the sales price. If the Consultant elects to keep the equipment, fair market value shall be determined, at the Consultant’s expense, on the basis of a competent, independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to SANDAG and Consultant. If it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by SANDAG.
D. CFR 49, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than $5,000, is credited to the project.

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

XXVI. ADMINISTRATION

SANDAG’s Request for Proposals (RFP) and Consultant’s proposal concerning the Project are hereby incorporated by reference except to the extent they may conflict with the terms of the Agreement. In the event of conflicting provisions, the following order of precedence will apply: 1) the Agreement; 2) Consultant’s proposal; 3) the RFP.

XXVII. ADMINISTRATION

Consultant proposes to assign [name of person] as its Project Manager to provide supervision and have overall responsibility for this Agreement for Consultant. The Project Manager shall not be removed from the project or reassigned without prior approval of SANDAG. Consultant must obtain approval from SANDAG in writing before assigning a new project manager to the Project. No subcontracting of these professional services shall be made without prior approval of SANDAG.

XXVIII. HEADINGS

Article headings in this Agreement shall not be used to alter the plain meaning of the text in this Agreement.

XXIX. NOTICE

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

San Diego Association of Governments
401 B Street, Suite 800
San Diego, CA 92101
Attn: Craig Scott

Consultant:
[Consultant Name]
[Consultant Street Address]
[City, State, Zip]
Attn: [Consultant Project Manager]
and shall be effective upon receipt thereof.
XXX. PRESERVATION OF AGREEMENT

Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall be severable and enforceable.

XXXI. SIGNATURES

The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date written above.

SAN DIEGO ASSOCIATION OF GOVERNMENTS

__________________________
GARY L. GALLEGOS [Consultant Representative]
Executive Director [Consultant Representative Title]

APPROVED AS TO SUFFICIENCY OF FORM AND LEGALITY:

__________________________
DEBRA A. GREENFIELD Consultant Federal Tax Number:
General Counsel [Consultant Federal Tax Number]
or
JULIE D. WILEY
Deputy General Counsel
The TransNet Extension Work Program approved by the SANDAG Board of Directors, included as Attachment C to the RFP, provides the basic scope of services required for the project.

This RFP is focused on the program consultant services referred to in the TransNet Extension Work Program. Additional consultant services required for the focus groups and the telephone public opinion survey portions of the work program survey will be addressed in a separate future selection process.

The key elements of the services required from the Program Consultant are:

- Provide supervision and coordination of all voter opinion research, including the focus groups and telephone public opinion surveys discussed in the work program.

- Coordinate technical staff work by SANDAG and related agencies in the development of revenue projections, as well as cost and schedule estimates for potential projects and programs to be included in the ballot measure, with the voter research efforts and the development of the Expenditure Plan.

- Meet and establish effective working relationships with a wide range of community interest groups, local jurisdictions, and related agencies to solicit views on the extension of the TransNet Program, identify critical infrastructure needs, and build a consensus on the eventual package of projects and programs to be included in the ballot measure.
Exhibit B

PAYMENT SCHEDULE

The Consultant is to be paid on a monthly basis based on invoices reflecting specific rates of compensation, with a not to exceed limit for each task order. The specific rates of compensation are set forth below:
Exhibit C

ACTIVITY SCHEDULE

SANDAG has established the tentative milestones for the project as described in the TransNet Extension Work Program and Timetable included as Attachment C to the RFP and incorporated herein by reference.
Exhibit D

CERTIFICATES OF INSURANCE
and
ADDITIONAL INSURED ENDORSEMENTS

The certificates must be provided by the Consultant before the contract is signed.
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 SANDAG.

All businesses, including prime consultants, claiming MBE/WBE/DBE status must be certified by Caltrans, by another qualified Department of Transportation recipient, or other certifying public agency at the time the proposal is submitted.

### PROPOSED CONSULTANTS

<table>
<thead>
<tr>
<th>Subconsultant</th>
<th>MBE/WBE/DBE Certifying Agency</th>
<th>Gender</th>
<th>Ethnicity*</th>
<th>Scope of Work</th>
<th>Approved % of Project Cost</th>
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*Use following numeric designations to denote Ethnicity

1. Asian-Indian
   1a India
   1b Pakistan
   1c Bangladesh

2. Asian-Pacific
   2a Japan
   2b China
   2c Taiwan
   2d Korea
   2e Laos
   2f Cambodia
   2g Vietnam

3. Black
4. Caucasian
5. Hispanic

6. Native American
   6a American Indian
   6b Eskimo
   6c Aleut
   6d Native Hawaiian

7. Pacific-Islanders
   7a Samoa
   7b Guam
   7c Philippines
   7d Northern Marianas
   7e U.S. Trust Territories of the Pacific
TransNet Extension Work Program and Timetable
TransNet Extension Work Program

<table>
<thead>
<tr>
<th>SANDAG ACTIVITIES</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
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<tbody>
<tr>
<td>Initial RTP/TransNet Outreach Efforts</td>
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<td>Workshops on Trans. Needs/Issues</td>
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<td>Focus Groups</td>
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<td>Expenditure Plan Options/Issues</td>
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<td>Base Poll - Expenditure Plan</td>
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<td>Develop Draft Expenditure Plan</td>
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<td>Tracking Polls</td>
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<tr>
<td>Workshops on Expenditure Plan</td>
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<tr>
<td>Final Expenditure Plan Adoption</td>
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<tr>
<td>Public Education/Info regarding Expenditure Plan</td>
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<tr>
<th>PRIVATE SECTOR EFFORTS</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
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<tbody>
<tr>
<td>Initial SANDAG Coordination with Interest Groups</td>
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<tr>
<td>Participate in RTP/TransNet Workshops</td>
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<td>Organize Support Organization</td>
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<td>Speaker’s Bureau/Education Effort</td>
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<td>Campaign Committee Organizes</td>
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<tr>
<td>Campaign Efforts</td>
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<tr>
<th>2030 RTP PROCESS</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
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<tbody>
<tr>
<td>Development of Draft RTP</td>
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<tr>
<td>Draft RTP Review/Final Adoption</td>
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<tr>
<th>REGIONAL PLAN DEVELOPMENT</th>
<th>2002</th>
<th>2003</th>
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<tbody>
<tr>
<td>Vision Component</td>
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<tr>
<td>Development of Draft Plan</td>
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<td>Draft Review/Final Plan Adoption</td>
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### Target Dates

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<tr>
<th>Target Dates</th>
<th>SANDAG Actions</th>
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<tbody>
<tr>
<td><strong>June to September 2002</strong></td>
<td><strong>Initial RTP/TransNet Outreach Efforts:</strong> Initial community outreach (private, small group meetings with opinion leaders, interest groups, etc.) / Public education programs focused on long-term transportation needs versus revenue limits. These efforts to be coordinated with 2030 RTP development process.</td>
</tr>
<tr>
<td><strong>September 2002 to March 2003</strong></td>
<td><strong>Workshops on Transportation Needs/Issues:</strong> Transportation Committee/Board workshop discussions on various program elements and transportation issues. Discussions to be coordinated with 2030 RTP process. Efforts also begin in this timeframe in support of legislation to reduce the voter threshold.</td>
</tr>
<tr>
<td><strong>March to May 2003</strong></td>
<td><strong>Focus Groups:</strong> A series of focus groups to be conducted to gain input on issues, projects and programs related to the development of an expenditure plan.</td>
</tr>
<tr>
<td><strong>June to September 2003</strong></td>
<td><strong>Expenditure Plan Options/Issues:</strong> Based on focus group findings, Staff/Consultant to work with Transportation Committee/Board on refining issues and options for the expenditure plan. Potential for a short tracking poll to frame issue for baseline poll later.</td>
</tr>
<tr>
<td><strong>October to November 2003</strong></td>
<td><strong>Base Poll Expenditure Plan:</strong> Conduct Expenditure Plan baseline poll focusing on key program and project options, remaining policy issues, and testing of ballot language options.</td>
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<tr>
<td><strong>December 2003 to January 2004</strong></td>
<td><strong>Develop Draft Expenditure Plan:</strong> Based on survey results and ongoing discussions with interest groups, etc., staff/consultant develop a draft expenditure plan</td>
</tr>
<tr>
<td><strong>December 2003 to March 2004</strong></td>
<td><strong>Tracking Polls:</strong> One or two short tracking polls may be needed to test outstanding issues and refine Expenditure Plan components.</td>
</tr>
<tr>
<td><strong>February to March 2004</strong></td>
<td><strong>Workshops on Expenditure Plan:</strong> Transportation Committee / Board to hold workshops/hearings to obtain input on Draft Expenditure Plan.</td>
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</tbody>
</table>
### Target Dates | SANDAG Actions
--- | ---
March to April 2004 | **Final Expenditure Plan Adoption:** Based on any refinements needed after the draft review process, the first and second readings of the final expenditure plan and ordinance are conducted (to be completed after 55% vote threshold measure is decided, if on the Primary Ballot).
March or June 2004 Primary Election | Potential vote on constitutional measure to lower the voter threshold to 55%
Immediately After Final Expenditure Plan Process to November 2004 | **Public Education/Info. regarding Expenditure Plan:** Public education/ speakers bureau to provide factual explanation of the adopted Expenditure Plan and Ordinance