Request For Proposals
For
CONGESTION MITIGATION STRATEGIES RESEARCH

PROPOSALS DUE:
4 P.M.
October 21, 2002
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San Diego’s Regional Planning Agency

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Revised August 16, 2002
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Request For Proposals for

CONGESTION MITIGATION STRATEGIES RESEARCH

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 to conduct research on congestion evaluation and mitigation strategies in support of the SANDAG Congestion Mitigation Program (CMP).

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 Baja California, Mexico.

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 SUMMARY

A. Project Background

The Congestion Management Program (CMP) is a state-mandated program established with the passage of Proposition 111 in 1990. As the designated Congestion Management Agency (CMA) for the San Diego region, SANDAG is required to adopt and regularly update the CMP. The purpose of the CMP is to monitor the performance of the San Diego region’s transportation system, develop programs to address near-term and long-term congestion, and better integrate transportation and land use planning. The original CMP for the San Diego region was adopted by the SANDAG Board of Directors in 1991, and the 2002 update is scheduled for adoption in October 2002. Among other recommendations, the 2002 CMP update proposes additional research on techniques to identify and mitigate traffic impacts on the CMP roadway system. Based upon this research, specific recommendations to improve the CMP are to be developed and incorporated into the CMP at a future date.

B. Brief Project Description

The 2002 CMP update places increased emphasis on innovative congestion mitigation strategies that are low-cost and can be implemented in the short term. In addition, the CMP recognizes that changes in land use patterns and policies require a re-evaluation of the techniques currently used to evaluate the transportation impacts of new development. Based upon these considerations, the CMP recommends:

- Preparation of a workbook of potential congestion mitigation strategies for local agency use in mitigating the transportation impacts of new development and in preparing CMP Deficiency Plans. The intent is to provide a broad range of mitigation options that can be applied based upon local conditions and financial capabilities.
- Preparation of a voluntary, model Transportation Demand Management (TDM) program and ordinance for local agency use. There is currently limited use of local TDM programs and ordinances in the San Diego region.
- Updating CMP Traffic Impact Study (TIS) guidelines to account for mixed land use developments and alternative transportation impact mitigation strategies. The TIS guidelines are currently used to assess the transportation impacts of new development on the CMP roadway system.

These recommendations serve as the basis for the Scope of Required Services provided in Section IV.
C. **Fee Estimate Range**

1. The estimated range of the fee for the completion of the project is up to $125,000. This project is included in the SANDAG Fiscal Year 2003 Overall Work Program and Program Budget.

D. **Payment**

The selected consultant will be paid by the following method: monthly payments based upon fixed fees for deliverables or portion of work completed.

IV. **SCOPE OF REQUIRED SERVICES**

A. **Project Description**

The Consultant will be responsible for the following tasks:

**Task 1.0 Background Research/Local Agency Survey** – Conduct background research on congestion mitigation strategies and survey local agencies concerning their perspectives on potential congestion mitigation strategies identified.

1.1 Conduct a literature review and survey of congestion mitigation strategies used by other Congestion Management Agencies in California grouped into the following categories: land use, capital improvements, transportation demand management, and transportation systems management. For each potential strategy, obtain the following information:

- Strategy description
- Expected trip reduction
- Estimated cost to implement
- Estimated time to implement
- Implementation issues
- Resource and contact information

Special emphasis should be given to innovative and effective, low-cost strategies based upon actual experience that can be implemented in the near term. Summarize this information and incorporate into Task 1.3.

**Product:** Working Paper – Results of Strategies Research (5 copies, originals, and Microsoft Office compatible electronic format).

1.2 Review existing or proposed TDM programs and ordinances in the San Diego region, and other major metropolitan areas in California and the United States. Prepare a working paper summarizing the key features common to most programs. Special emphasis should be given to innovative programs. Include a bibliography of literature and agency contacts. Summarize this information and incorporate into Task 1.3.

1.3 Under the direction of SANDAG, prepare a survey of local agencies investigating their perspectives on potential congestion mitigation strategies identified in Tasks 1.1 and Task 1.2. The intent of the survey is to determine which strategies, from a local perspective, would be effective in mitigating congestion. In addition, the survey should also identify new mitigation measures that should be further investigated. Based upon discussions with SANDAG, revise the survey and determine the best method to conduct the survey (telephone, mail out, site visits, or a combination thereof).

Product: Final survey methodology/instrument (5 copies).

1.4 Conduct the survey in accordance with the agreed upon methodology, providing necessary follow-up. Analyze the survey results and prepare a draft report.


1.5 Based upon comments received, prepare a Final Survey Report. Incorporate the survey findings into Tasks 2.0 and 3.0.


Task 2.0 Toolbox of Congestion Mitigation Strategies – Prepare a workbook of potential congestion mitigation strategies relevant to the San Diego region, including information necessary for implementation.

2.1 Based upon feedback from Task 1.0 and SANDAG comments, develop a draft workbook of congestion mitigation strategies deemed to have the greatest potential for application in the San Diego region. For each potential strategy, provide the data within each category listed in Task 1.1. The workbook should be formatted to allow for easy revisions of individual sections.

Product: Draft Congestion Mitigation Strategies Workbook (5 copies, originals, and Microsoft Office compatible electronic format).

2.2 Based upon comments received, prepare a final recommended workbook of congestion mitigation strategies. The workbook should be formatted for a three-ring binder, with one section for each strategy.

Product: Final Congestion Mitigation Strategies Workbook (10 copies, originals, and Microsoft Office compatible electronic format).

Task 3.0 Model TDM Program and Ordinance – Prepare a model TDM program, including model ordinance(s), for local agency consideration and use.
3.1 Based upon feedback from Task 1.0 and SANDAG comments, prepare a draft model TDM program including, at a minimum, the following features:

- Guidelines for establishing and implementing local TDM programs.
- A model TDM ordinance(s) that would include design features for new development projects (varying by size of development) and establish operational guidelines for major employers to promote alternative methods of travel and to reduce peak period worksite trips generated.
- Guidelines for establishing and operating Transportation Management Associations (TMAs).
- Bibliography of resource material or contacts.

**Product:** Draft Model TDM Program/Ordinance(s) (5 copies, originals, and Microsoft Office compatible electronic format).

3.2 Based upon comments received, prepare a final recommended model TDM program and ordinance.

**Product:** Recommended Model TDM Program/Ordinance (10 copies, originals, and Microsoft Office compatible electronic format).


4.1 Review existing traffic impact studies guidelines, as well as those prepared by other California Congestion Management Agencies, and a representative sample of other agencies nationwide to determine how mixed use or smart growth developments are evaluated and how the mitigation impacts of TDM strategies are assessed. Include a bibliography of literature and agency contacts.

**Product:** Working Paper – Results of TIS Guidelines Research (5 copies, originals, and Microsoft Office compatible electronic format).

4.2 Summarize results of agency and literature review and present to the San Diego Traffic Engineers Council (SANTEC) at one of their regularly scheduled monthly meetings. Based upon SANTEC and SANDAG comments, identify and evaluate potential revisions to the current SANDAG CMP TIS guidelines, including but not limited to:

- Adjustments in criteria for determining significant impacts
- Adjustments in trip generation and/or distribution rates to reflect:
  - Mixed use developments
  - TDM mitigation strategies
- Potential exemptions for “smart growth” projects
- Incorporating CMP performance measures.

**Product:** Working Paper – Draft proposed TIS Guidelines and Trip Generation Rate Revisions (5 copies, originals, and Microsoft Office compatible electronic format).
Based upon comments received, prepare final recommended revisions to current SANDAG CMP TIS guidelines.

**Product:** Working Paper – Recommended TIS Guidelines Revisions (10 copies, originals, and Microsoft Office compatible electronic format).

**Task 5.0 Present Study Findings** - Summarize and present study findings.

5.1 Summarize study findings for Tasks 1.0, 2.0, and 3.0 (combined) and prepare a PowerPoint presentation. Present findings at up to five (5) committee and/or Board of Directors meetings.

**Product:** PowerPoint – Electronic file and 15 color copies of the slide presentation.

B. **Project Schedule**

SANDAG has established the following tentative milestones for the project:

1. Consultant Notice to Proceed – December 2002
2. Complete Background Research/Local Agency Survey – April 2003
3. Complete Congestion Mitigation Strategies Workbook – May 2003
4. Complete Model TDM Program/Ordinance – May 2003
5. Complete Updated TIS Guidelines Revisions – May 2003

The Consultant is to provide, as part of its proposal, a detailed project schedule to meet these milestones.

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 thirty (30) 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 firm and 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.
   i. Provide all license numbers for licenses relevant to or required for this project, the names of the holders of those licenses, and the names of the agencies issuing those licenses.

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 and other local agencies’ regulations and policies; local environmental documentation requirements; geo-technical documentation requirements; geo-technical conditions in the project area; local building codes; and other local design criteria. 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. The DBE goal for this project is 8 percent. A proposer that will be a prime contractor is required to submit the DBE Bidder’s Information and Good Faith Effort forms with its proposal. These forms are Attachment C to this RFP. The proposer must provide all DBEs, vendors, and suppliers it agreed would provide a commercially useful function on a contract in order to receive credit toward the established DBE goal. If a firm cannot meet the established project goal, a documented good faith effort must be furnished to SANDAG. All steps of the good faith effort must be made before SANDAG can award a contract.
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 whether it takes 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. Certifications

As part of the proposal package, proposers must submit the following signed certifications:

a. Certifications on Lobbying (Exhibit E to Attachment A, the Standard Agreement for Services).

b. Certifications Regarding Debarment, Suspension and Other Responsibility Matters (Exhibit F to Attachment A, the Standard Agreement for Services).
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. Five (5) 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 P.M., local time, on October 21, 2002, at the office of:

Mario R. Oropeza, 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 P.M., on October 11, 2002 addressed to:

Mario R. Oropeza, Project Manager
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California 92101
e-mail: mor@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. Pre-proposal Meeting

A pre-proposal meeting will be held at SANDAG on Wednesday, October 9, 2002, from 10:30 AM to 11:30 AM in SANDAG Conference Room B. A summary of the questions and answers from the pre-proposal meeting will be posted on the project Web page within five business days after the pre-proposal meeting.

The pre-proposal meeting is not mandatory.

C. 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 at least one full business day prior to the deadline for proposals. 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, reference scores, and other appropriate evaluation factors, the Committee(s) will rank 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 an additional 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. Cost may be the deciding factor if there is no clearly superior candidate.

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

A. **Project Experience [25 Points]**

Qualified consultants will have a variety of experience in performing similar studies 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 [35 Points]

Proposers must demonstrate the ability to carry out the project by meeting the proposal requirements identified in Sections IV and V 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. Staff Qualifications [25 Points]

Project staff qualifications include a combination of experience, education, and background in research, development of congestion management strategies, and traffic engineering.

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 .............................................................. September 13, 2002
B. Pre-Proposal Meeting .............................................................. October 9, 2002
C. Last Day to Submit Questions Regarding RFP .................... October 11, 2002
D. Proposal Due Date .............................................................. October 21, 2002
E. Oral Interviews (if utilized) ...................................................... November 1, 2002
F. Selection and Notification of Intent to Award ......................... November 8, 2002
G. Contract Negotiations Complete ........................................... December 2, 2002
H. Approval of Contract ......................................................... December 13, 2002
I. Notice of Award/Notice to Proceed ....................................... December 20, 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 lowest bidder 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 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 P.M. on the deadlines discussed below. SANDAG will review only 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 re-advertisement 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 upon 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 92101
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.

D. **Appeal to Federal Funding Agency**

If the proposed or actual contract award is funded in whole or in part by the Federal Transit Administration (FTA), FTA may entertain a protest that alleges that SANDAG failed to have or follow written protest procedures. A protest to FTA must be filed with FTA not later than five (5) business days after SANDAG renders a final decision or five (5) business days after the protestor knows or has reason to know that SANDAG has failed to render a final decision.

A protest to FTA must be filed in accordance with FTA Circular 4220.1D.
RFP ATTACHMENT A

STANDARD AGREEMENT FOR SERVICES
AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS
AND
[CLICK TO INSERT CONSULTANT NAME]

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: Congestion Mitigation Strategies Research (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. Consultant’s proposal and SANDAG’s request for proposals concerning the Project are hereby incorporated by reference as part of the Scope of Work attached as Exhibit A.

II. AUTHORIZATION

Specific authorization to proceed (Notice to Proceed) with all or a portion of the work described in Exhibit A shall be granted in writing by SANDAG. Consultant shall not proceed with the work unless it is authorized. The Notice to Proceed shall set forth the date of commencement of work. Consultant shall commence work immediately upon receipt of the Notice to Proceed. This Agreement shall terminate on or before [insert date], unless extended by amendment. The consultant is advised that any recommendation for contract award or notice of intent to contract is not binding on SANDAG until the Agreement is fully executed by all authorized parties.
III. **PAYMENT**

A. SANDAG shall pay for services in accordance with the Payment Schedule [or Fee Schedule] attached hereto as Exhibit B. Any subcontract in excess of $25,000, entered into as a result of this Agreement, shall contain all of the provisions of this Article.

B. For services rendered pursuant to this Agreement, Consultant shall be paid a total not to exceed $[Consultant Payment]. This amount shall be known as the “maximum amount of the Agreement.”

C. Said sum 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 amount of this Agreement without SANDAG Executive Director approval.

D. 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. Reimbursement to Consultant shall be based upon fixed fees for deliverables or tasks. SANDAG shall pay the invoices within thirty (30) days of receipt. SANDAG shall retain ten percent (10%) from the amount invoiced until satisfactory completion of all work contracted for as described in Exhibit A.

E. Upon completion of all deliverables and work tasks to the satisfaction of SANDAG, Consultant shall submit a final invoice showing the cumulative costs incurred by Consultant, not to exceed maximum amount of the Agreement, and the Final Utilization Report (Exhibit G) completed with the appropriate information. Final payment of retained amounts shall be made following Consultant’s submittal of all required documentation and completion of the Project. Notwithstanding the foregoing, all payments are subject to the conditions set forth elsewhere in this Agreement or which are otherwise required by law. SANDAG may withhold all payments to Consultant if Consultant fails to comply with the requirements of the Agreement. Payments shall be subject to review by SANDAG for compliance with the requirements of this Agreement, and payment may be withheld if Consultant is not in compliance with the Agreement. Payments 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. Consultant 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

A. The term “deliverables” includes, but is not limited to, all original drawings, reports, and other documents, including detailed calculations, digital/electronic databases, source code, data sets, analyses, maps, and other work products developed for the Project. Digital or electronic data is required as a deliverable under this Agreement. Consultant must submit deliverables in a format identified by SANDAG as one it can decipher. Documentation and metadata must accompany the data in order for the deliverable to be accepted by SANDAG.

B. All deliverables including, but not limited to, reports, documents, supporting materials source code, digital or electronic files and databases, and any other deliverables required by the Agreement 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.

C. 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.
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 this Agreement 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 [quarterly, monthly, biweekly, or weekly] 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. Automobile Liability: For personal and bodily injury, including death, and property damage in an amount not less than $1,000,000.

3. 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.
4. 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 Lloyd’s of London program provided by syndicates of Lloyd’s 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) sends 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 ten (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 ten (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 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. CONFIDENTIALITY

Consultant shall not use for personal gain or make other improper use of privileged information that is acquired in connection with this Agreement. For purposes of this Agreement, “privileged information” includes, but is not limited to, trade secret information, medical records, personnel records, home addresses and phone numbers of any person, social security numbers, and knowledge of selections of contractors or subcontractors in advance of an official announcement by SANDAG.

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 deliverables or other work product required by 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.

C. Certifications on Lobbying are required for contracts exceeding $100,000. Consultant assures that no federal funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of this Agreement. Exhibit E to this Agreement, entitled “Certifications On Lobbying,” which was submitted by Consultant at the time its proposal was submitted, is hereby incorporated by reference.

D. Consultant agrees to comply with the provisions of 31 U.S.C. Section 1352, which prohibit the use of federal funds for lobbying any official or employee of any federal agency, or member or employee of Congress; and require Consultant to disclose any lobbying of any official or employee of any federal agency, or member or employee of Congress in connection with federal assistance. Consultant agrees to comply with U.S. DOT regulations, “New Restrictions on Lobbying,” 49 C.F.R. Part 20.

XXI. CONFLICT OF INTEREST

A. Consultant shall file a Conflict of Interest Statement with SANDAG’s Executive Director if it is required by SANDAG’s Conflict of Interest Code. Consultant is responsible for determining it is a “Consultant” for purposes of the Political Reform Act and such code, 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. In connection with the performance of this Agreement, the Consultant will cooperate with the Department of Transportation (DOT) and SANDAG in meeting their commitments and goals with regard to the maximum utilization of DBEs. It is DOT, as well as SANDAG, policy that DBEs shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with DOT funds. This Agreement will be financed in whole or in part with DOT funds.

B. The Consultant shall carry out applicable requirements of 49 CFR, Part 26, of the Code of Federal Regulations, entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” (the Regulations) in the award and administration of this Agreement. The Regulations in their entirety are incorporated herein by reference. The Consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement.

C. The DBE participation for this Agreement is eight percent. Only firms with certified DBE status will be counted toward the DBE goal. A minority or woman-owned business will receive DBE credit on a federal project only if the minority or woman-owned business is certified by Caltrans as DBE. Consultant shall provide all DBEs, vendors, and suppliers it agreed would provide a commercially useful function on this contract in order to receive credit toward the established DBE goal.

D. General DBE Participation Requirements

1. Noncompliance by the Consultant with the requirements of the Regulations is a material breach of this Agreement and may result in termination of the Agreement or other such appropriate remedy as SANDAG deems appropriate.

2. The Consultant shall include the following in each subcontract the Consultant signs with a subconsultant:
   a. Subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement.
   b. Subconsultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this Agreement.
   c. Language providing for the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes.
   d. If subconsultant is a DBE and is decertified during the life of the Agreement, within five (5) working days, the decertified subconsultant shall notify the Consultant and SANDAG in writing of the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify the Consultant and SANDAG in writing, within five (5) working days of the date of certification.
E. Performance Requirements

[Delete the following subparagraph if the Prime Contractor is not a DBE.]

1. DBE prime contractors must perform at least 30 percent of the total cost of this Agreement with their own work force.

2. DBE subconsultants shall perform the work and supply the materials for which they have been listed in the Consultant’s response to the Request for Proposals unless the Consultant has received prior written authorization to perform the work with other forces or to obtain the materials from other sources as set forth in the subparagraph of this Article, entitled “DBE Substitution or Additions.”

F. Prompt Payment

The Consultant shall not be entitled to any payment for the work or material, unless it is performed or supplied by the listed subconsultants (DBE or nonDBE), or by the Consultant’s own forces, pursuant to prior written authorization of SANDAG. This is the case even if other work under the Agreement is not completed and has not been accepted in conformance with the terms of the Agreement. The Consultant shall pay all DBE subconsultants and nonDBE subconsultants for satisfactory performance of their contracts within thirty (30) days from receipt of each subconsultant invoice. Consultant must pay all DBE and nonDBE subconsultants prior to requesting payment from SANDAG for those expenses. Consultant agrees further to release retainage payments to each subconsultant within 10 (ten) days after Consultant receives payment of the retainage from SANDAG. Consultant shall comply with California Business and Professions Code section 7108.5 and California Public Contract Code sections 10262 and 10262.5.

G. Progress Pay Retention to DBE and NonDBE Subconsultants

The Consultant shall return all moneys withheld in retention from a subconsultant to SANDAG within 30 days after receiving payment for work satisfactorily completed, even if other contract work is not completed and has not been accepted in conformance with the terms of this Agreement or another contract. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the Consultant or subconsultant in the event of a dispute involving late payment or nonpayment to the Consultant or deficient subcontract performance or noncompliance by a subconsultant.

H. DBE and NonDBE Subconsultant Payment Records

1. The Consultant, in addition to maintaining records showing the name and business address of each first tier subconsultant, shall also show the name and business address of every DBE subconsultant and DBE vendor of materials, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all DBE firms. If the Consultant is a DBE prime contractor, it shall also show the date of work performed by its own forces, along with the corresponding dollar value of work.
2. Within 30 days of completion performance under the Agreement, a summary of these records shall be prepared on attached Exhibit G (“Final Report – Utilization of DBE”) and certified correct by the Consultant or the Consultant’s authorized representative, and shall be furnished to SANDAG. Exhibit G shall be furnished to SANDAG with the final invoice. Failure to provide the summary of DBE payments in compliance with the DBE requirements in this Agreement with the final invoice will result in the invoice being in dispute until the report is received. Ten thousand dollars ($10,000) will be withheld from payment if Exhibit G is not submitted with Consultant’s final invoice. The amount will be paid to the Consultant when Exhibit G is submitted.

I. DBE Substitutions or Additions

1. The Consultant may not substitute, or terminate for convenience, a subconsultant or supplier listed in the original bid/proposal without the prior written approval of SANDAG. The Consultant may, however, add a firm to perform work originally planned to be done by the Consultant’s own forces with SANDAG’s written approval. The Consultant must make an adequate good faith effort to find another certified DBE subconsultant to substitute for the original DBE. The Consultant will be required to make good faith efforts to replace the original DBE subconsultant with another DBE subconsultant to the extent needed to meet the Agreement goal. (See 29 CFR Part 26, Appendix A for examples of good faith efforts.) The requirement that DBEs must be certified by the bid opening date does not apply to DBE substitutions or additions after award of the Agreement. DBEs must be certified at the time of the substitution or addition.

2. Consultants shall submit requests for substitution in writing to SANDAG. Authorization to use other subconsultants or suppliers may be requested for the following reasons:

   a. The listed DBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract, when such written contract, based upon the general terms, conditions for this Agreement, or on the terms of such subconsultant’s or supplier’s written bid, is presented by the Consultant.

   b. The listed DBE becomes bankrupt or insolvent.

   c. The listed DBE fails or refuses to perform the subcontract or furnish the listed materials.

   d. The Consultant stipulated that a bond was a condition of executing a subcontract and the listed DBE subconsultant failed or refuses to meet the bond requirements of the contract.

   e. The listed DBE was the result of an inadvertent clerical error. The Consultant must have asserted a claim of inadvertent clerical error in listing the subconsultant within two working days after the bid opening and must have sent copies of that notice to both the subconsultant he or she claims to have listed in error and intended subconsultant who had bid to the Consultant prior to bid/proposal opening.
f. The listed DBE was not licensed as required by the State of California Contractor’s Licensing Board or failed to have the required permits or licenses as required by federal, state or local governmental jurisdictions.

g. The work performed by the listed subconsultant is substantially unsatisfactory and is not in substantial conformance with the scope of work to be performed, or the subconsultant is substantially delaying or disrupting the progress of the work.

h. When the listed DBE is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

i. When it is in the best interest of SANDAG.

3. Prior to approval of the Consultant’s request for substitution to SANDAG, the Consultant shall give notice in writing to the listed DBE subconsultant of the Consultant’s request to substitute and the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subconsultant and shall contain SANDAG’s address. The notice shall inform the subconsultant that it must submit a written objection to SANDAG within five (5) working days and that failure to do so will be considered waiver and consent to substitution. The listed subconsultant who has been so notified shall have five working days within which to submit written objections to the substitution to SANDAG. Failure to respond with a written objection shall constitute the listed subconsultant’s consent to the substitution. A copy of the notice shall be provided to SANDAG by the Consultant on the same day it is served on the subconsultant.

J. Termination of a DBE

1. In conformance with Federal DBE regulation Sections 26.53(f)(1) and 26.53(f)(2), Part 26, 49 CFR, the Consultant shall not terminate a listed DBE subconsultant for convenience and then perform that work with its own forces (personnel), or those of an affiliate, unless the Consultant has received prior written authorization from SANDAG to perform the work with other forces or to obtain materials from other sources.

2. If a DBE subconsultant is terminated or fails to complete its work for any reason, the Consultant will be required to make good faith efforts to replace the original DBE subconsultant with another DBE subconsultant to the extent needed to meet the contract goal (see 29 CFR Part 26, Appendix A, for examples of good faith efforts). Consultant is required to notify SANDAG immediately of a DBEs inability or unwillingness to perform and provide reasonable documentation. If Consultant fails to provide SANDAG with copies of new or amended subcontracts or documentation of good faith efforts, SANDAG may issue an order stopping all or part of payment or work under the Agreement until satisfactory action has been taken or may terminate the Agreement.
K. DBE Certification Status

If a DBE subconsultant is decertified during the life of the Agreement, within five (5) working days, the decertified subconsultant shall notify the Consultant and SANDAG in writing of the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify the Consultant and SANDAG in writing, within five (5) working days of the date of certification. Upon completion of performance under the Agreement, Consultant shall prepare, sign, certify as correct, and submit Form CEM-2403(F) (Disadvantaged Business Enterprise Certification Status Change) indicating the DBE’s existing certification status.

L. DBE Eligibility Toward Goal

1. The dollar value of work performed by a DBE is credited/counted toward the goal only after the DBE has been paid.

2. Credit for DBE Prime Contractors

   If the Consultant is the prime contractor and is a certified DBE, it is eligible to claim its own work toward the DBE goal.

3. Credit for Material or Supplies

   Credit for materials or supplies purchased from DBEs will be as follows: If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies will count toward the DBE goal. If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost of the materials or supplies will count toward the DBE goal. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this paragraph. Credit for materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

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 and state laws and regulations subsequently enacted.

D. The Consultant shall have a written Equal Employment Opportunity Program in conformance with regulations of the Department of Transportation. The Program shall contain, at a minimum, the required provisions as outlined and described in FTA Circular 4704.1 “Equal Employment Opportunity Program Guidelines for Grant Recipients,” dated July 26, 1988. A copy of the Equal Employment Opportunity Program that is in place for the period of time covered by this Agreement shall remain on file with the Consultant for a period of five (5) years after completion of work covered by this Agreement.

E. 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.

F. 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. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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. INCORPORATION OF FEDERAL/STATE GUIDELINES

A. All relevant federal and state grant provisions and guidelines, as presently written or as changed during the life of this Agreement, bearing on this Agreement, are hereby wholly incorporated by reference herein and made a part of this Agreement and take precedence over any inconsistent terms of this Agreement. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.

B. Specific guidelines shall be those prescribed by “Federal Transit Administration Master Agreement” (Form FTA-MA) 49 CFR Part 18, and Federal Transit Administration (FTA) Circular 4220.1D, “Third Party Contracting Requirements,” and OMB Circular A-102 “Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments.”

XXVI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

A. Debarment and Suspension certification is required for all procurements exceeding $25,000. The Federal Transit Administration (FTA) shall be informed of any certification exceptions. Exhibit F to this Agreement, entitled “Certifications Regarding Debarment, Suspension, and Other Matters,” which was submitted by Consultant at the time its proposal was submitted, is hereby incorporated by reference.

B. Consultant certifies, to the best of its knowledge and belief, that Consultant and its principals:
   1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
   2. Have not within a three-year period preceding this proposal or Agreement 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;
   3. 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 enumerated in paragraph B above; and
   4. Have not within a three-year period preceding this proposal or Agreement had one or more public transactions terminated for cause or default.

C. Should Consultant be unable to certify to any of the statements above, Consultant shall attach an explanation to this Agreement.
XXVII. COST PRINCIPLES

Consultant agrees that Contract Cost Principles and Procedures, Federal Acquisition Regulations in Title 48, Part 31 et seq., of the Code of Federal Regulations, govern allowable elements of cost under this Agreement. Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Requirements for Grants and Cooperative Agreements with State and Local Governments. Any costs for which payment has been made to Consultant that are later determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by Consultant to SANDAG. Any subcontract, entered into as a result of this contract, shall contain all the provisions of this Article.

XXVIII. PRE-AWARD AUDITS

Consultant was not required to undergo a pre-award audit, however, circumstances may change that will result in the need for an audit at some later stage. Accordingly, Consultant acknowledges that he/she/it may be required to undergo an audit by the Federal Highway Administration, or Caltrans acting on its behalf, or by a Certified Public Accountant selected by SANDAG, and Consultant hereby agrees to fully cooperate if such an audit is requested.

XXIX. COMPLIANCE WITH CLEAN AIR AND WATER LAWS

Consultant agrees to comply with the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and other applicable provisions of the Clean Air Act, 42 U.S.C. § 7401 et seq. Consultant further agrees to comply with all requirements of Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1318, and other applicable provisions of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. Consultant shall include these requirements in any subcontract exceeding $100,000.

XXX. ORDER OF PRECEDENCE

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.

XXXI. 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.
XXXII. HEADINGS

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

XXXIII. 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: Mario R. Oropeza

Consultant:
[Consultant Name]
[Consultant Street Address]
[City, State, Zip]
Attn: [Consultant Project Manager]

and shall be effective upon receipt thereof.

XXXIV. 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.

XXXV. 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

[CONSULTANT]

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

Consultant Federal Tax Number:  [Consultant Federal Tax Number]
APPROVED AS TO SUFFICIENCY
OF FORM AND LEGALITY:

__________________________
DEBRA A. GREENFIELD
General Counsel
or
JULIE D. WILEY
Deputy General Counsel
Exhibit A

SCOPE OF WORK

[To be inserted.]
Exhibit B

PAYMENT SCHEDULE

[To be inserted.]
Exhibit C

ACTIVITY SCHEDULE

[To be inserted.]
Exhibit D

CERTIFICATES OF INSURANCE
and
ADDITIONAL INSURED ENDORSEMENTS

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

CERTIFICATIONS ON LOBBYING

Name of Applicant: ________________________________________________________________

Name of Authorized Representative: ________________________________________________

Relationship of Authorized Representative: ____________________________________________

An Applicant that submits, or intends to submit this fiscal year, an application for U.S. DOT assistance exceeding $100,000 must provide the following certification. U.S. DOT may not provide federal assistance for an application exceeding $100,000 until the Applicant provides certification of the following by signing the signature page at the end of this document.

In accordance with U.S. DOT regulations, “New Restrictions on Lobbying,” at 49 CFR 20.110, 49 CFR Part 19, Appendix A, and the Lobbying Disclosure Act of 1995, for each application for federal assistance exceeding $100,000, the Applicant’s authorized representative certifies to the best of his or her knowledge and belief that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal grant or cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any 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 Applicant shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions (as amended by “Government Wide Guidance for New Restrictions on Lobbying” 61 Fed. Reg. 1413 (1/19/96)).

C. The Applicant shall require that the language of this certification be included in the award documents for each subaward at any tiers (including subcontracts, subgrants, sub-agreements, and contracts under grants and cooperative agreements financed with U.S. DOT assistance) and that each sub-recipient shall certify and disclose accordingly.
The Applicant understands that: (1) This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into; (2) Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352 (as amended by the Lobbying Disclosure Act of 1995); and (3) Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

In signing this document, I declare under the penalty of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant, are true and correct. In addition, Applicant understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: ______________________________ __________________________________________________

Authorized Representative of Applicant
Exhibit F

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

Name of Applicant: ___________________________________________________________________________

Name of Authorized Representative: ___________________________________________________________

Relationship of Authorized Representative: _____________________________________________________

In accordance with the provisions of U.S. Department of Transportation (U.S. DOT) regulations on Government-wide Debarment and Suspension (Non procurement) at 49 CFR 29.510, the Applicant (Participant) agrees as follows:

A. By signing and submitting this certification, the Participant is providing the certification set out below.

B. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

C. The Participant shall provide immediate written notice to the person to which this certification is submitted if at any time the Participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

D. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact SANDAG for assistance in obtaining a copy of those regulations.

E. The Participant agrees by submitting its proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by SANDAG.

F. Participant further agrees by submitting this proposal that it will include this Article in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

I. Except for transactions authorized under paragraph E of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

J. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion -- Lower Tier Covered Transactions

1. The prospective lower tier participant certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

2. Where Participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its proposal.

In signing this document, I declare under the penalty of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Participant, are true and correct.

Date: ______________________________ __________________________________________________
Authorized Representative of Applicant
### Final Report - Utilization of Disadvantaged Business Enterprises (DBEs), First-Tier Subcontractors

#### (Federally Funded Projects)

**Contract Number:**

| CONTRACT NUMBER | COUNTY | ROUTE | POST MILES/POST KILOMETERS | FEDERAL AID PROJECT No. | ADMINISTERING AGENCY | CONTRACT COMPLETION DATE | ESTIMATED CONTRACT AMOUNT | $ |
|-----------------|--------|-------|----------------------------|------------------------|-----------------------|---------------------------|---------------------------|
| PRIME CONTRACTOR | BUSINESS ADDRESS | | | | | | | |

**Contract Payments:***

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION OF WORK PERFORMED AND MATERIALS PROVIDED</th>
<th>SUBCONTRACTOR NAME AND BUSINESS ADDRESS</th>
<th>DBE CERT. NO.</th>
<th>CONTRACT PAYMENTS</th>
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*The decision of which column to be used for entering the DBE dollar value is based on what Program(s) the firm is Certified. This Program status is determined by the Civil Rights Certification Unit based on ethnicity, gender, ownership and control issues at time of certification. The certified firm is issued a certificate by the Civil Rights unit that states their program status as well as the firms Expiration Date. DBE Program status may be obtained by accessing the Civil Rights website (http://www.dot.ca.gov/hq/bep/) and downloading the Calcert Extract or by calling 916 227 2207.

List all First Tier Subcontractors, Disadvantaged Business Enterprises (DBEs) regardless of tier, whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at time of award, provide comments on a separate page. List actual amount paid to each DBE, even if different than originally listed for goal credit. Definitions: SMBE (Small Minority Business Enterprises) and SWBE (Small Woman-Owned Business Enterprises)

**I Certify that the Above Information is Complete and Correct**

**Contractor Representative Signature**

**Business Phone Number**

**Date**

**Resident Engineer Signature**

**Business Phone Number**

**Date**

**Distribution:**

1. Original plus one copy to DLAE included in the Report of Expenditures (original forwarded to Division of Structures, Office of External Liaison and Agreements)
2. Copy - local agency project files
3. Copy - OLP Area Engineer
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>
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<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
8. Other
   8a
   8b
   8c
   8d
   8e
   8f
   8g
   8h
RFP ATTACHMENT C

DBE BIDDER’S INFORMATION
AND GOOD FAITH EFFORT
This information should be submitted with your bid proposal. If it is incomplete, it must be submitted and received before you can be awarded a contract. Failure to submit the required DBE information may be grounds for finding the proposal nonresponsive.

**FEDERAL-AID PROJECT NO.**

**BID AMOUNT:** $

**BID OPENING DATE:**

**BIDDER’S NAME:**

**DBE GOAL FROM CONTRACT (if applicable):**

<table>
<thead>
<tr>
<th>CONTRACT ITEM NO.</th>
<th>ITEM OF WORK AND DESCRIPTION OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED</th>
<th>DBE CERT. NO.</th>
<th>NAME OF DBEs (Must be certified on the date bids are opened - include DBE address and phone number)</th>
<th>DOLLAR AMOUNT DBE</th>
</tr>
</thead>
</table>

**IMPORTANT:** Identify all DBE firms being claimed for credit, regardless of tier. Copies of the DBE quotes are required. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above shall be consistent with the names and items of work in the “List of Subcontractors” submitted with your bid pursuant to the Subcontractors Listing Law and the Special Provisions.

1. DBE prime contractors shall enter their DBE certification number. DBE prime contractors shall indicate all work to be performed by DBEs including work performed by its own forces.

2. If 100% of item is not to be performed or furnished by DBE, describe exact portion of item to be performed or furnished by DBE.

<table>
<thead>
<tr>
<th></th>
<th>Total Claimed Participation</th>
<th>$________</th>
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<td>________%</td>
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Signature of Bidder

Date (Area Code) Tel. No.

Person to Contact (Please Type or Print)
Project Description ___________________________ Bid Opening Date ___________________

SANDAG has established a Disadvantaged Business Enterprise (DBE) goal of ____% for this project. The information provided herein shows that a good faith effort was made.

A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

<table>
<thead>
<tr>
<th>Publications</th>
<th>Dates of Advertisement</th>
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B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

<table>
<thead>
<tr>
<th>Names of DBEs Solicited</th>
<th>Date of Initial Solicitation</th>
<th>Follow Up Methods and Dates</th>
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C. The items of work which the bidder made available to DBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder’s responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

<table>
<thead>
<tr>
<th>Items of Work</th>
<th>Breakdown of Items</th>
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</table>

D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder’s rejection of the DBEs, and the firms selected for that work (please attach copies of quotes from the firms involved):
Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder’s rejection of the DBEs:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Names, addresses and phone numbers of firms selected for the work above:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

F. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

<table>
<thead>
<tr>
<th>Name of Agency/Organization</th>
<th>Method/Date of Contact</th>
<th>Results</th>
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H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________


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