



CALAVERAS COUNCIL
of GOVERNMENTS

Calaveras Council of Governments
P.O. Box 280
444 E. Saint Charles Street, Suite A
San Andreas, CA 95249

REQUEST FOR PROPOSALS

Branding Plan and Marketing Services for Calaveras Transit Agency

Released: June 15, 2018

Inquiries: Questions regarding this
Solicitation should be directed to:

Erin Kelly
Administrative Assistant
ekelly@calacog.org
209-754-2094

Submittals: Proposals must be received
No Later than 4:00 p.m.
Friday, July 13, 2018

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REQUEST FOR PROPOSALS

BRANDING PLAN AND MARKETING SERVICES FOR CALAVERAS TRANSIT AGENCY

I. OVERVIEW

The Calaveras Council of Governments (CCOG) is seeking proposals from qualified firms to prepare and develop a Branding Plan and associated marketing services to define the identity and promote Calaveras Transit Agency as the regional public transit service in Calaveras County.

II. BACKGROUND AND PROJECT SUMMARY

Calaveras County

Calaveras County is located on the western slope of the Sierra Nevada Mountains in the central portion of California, approximately 130 miles east of San Francisco. The topography ranges significantly in elevation from rolling foothills on the western portion of each county to steep mountainous terrain toward the eastern portions. According to the 2010 Census Calaveras County has a land area of 1,020 square miles. As with most rural areas, the population is spread throughout the service area.

The 2010 Census recorded a population of 45,578 for Calaveras County. Calaveras County residents, on average, are older and earn less than the state average. As of December 2016, the unemployment rate was 5.4 percent. Through the 2015 American Community Survey it was estimated approximately 19 percent of Calaveras County residents have a disability. Over 90 percent of residents speak English; wherein the majority of those who speak English less than "very well" speak Spanish. Angels Camp is the only incorporated city in Calaveras, making up slightly less than nine percent of the total population. The remaining 91 percent of the population resides in unincorporated communities, creating a challenge for providing transportation to those dispersed populations.

Calaveras Council of Governments

The Calaveras Council of Governments is the Regional Transportation Planning Agency (RTPA) for Calaveras County and is responsible for transportation planning within the region. CCOG exists as Calaveras County's RTPA under a Joint Powers Agreement (JPA) between the County of Calaveras and the City of Angels Camp that was agreed upon in December of 1997 and first amended in September 1999 and re-amended in October 2010. The CCOG funds and coordinates transit planning activities and efforts for Calaveras Transit.

Seven voting members comprise CCOG's Governing Board: two members are appointed from the County of Calaveras Board of Supervisors and two appointed from the City of Angels Camp City Council, while the remaining three members are "at-large" public members selected by a majority of the city/county representatives.

Calaveras Transit

Calaveras Transit is the only public transit service in Calaveras County and is administered by the newly formed Calaveras Transit Agency. Calaveras Transit is operated, and buses are maintained through a contract with Paratransit Services. Until recently, the County of Calaveras was responsible for the management of the County-wide transit system. On March 6, 2018, the County of Calaveras and City of Angels executed a Joint Powers Agreement (JPA), forming the Calaveras Transit Agency (CTA). A transition of management of the Calaveras Transit program is currently in progress and will be completed by July 1, 2018, at which point the Calaveras Transit Agency will assume full responsibility of the management of Calaveras Transit. This is a prime opportunity to refresh the branding and image of

Calaveras Transit to reflect the new direction of the Agency and improve public perception of the transit program.

Calaveras Transit operates six deviated fixed routes serving Calaveras County as well as connections to adjacent counties. Route deviations are available to seniors aged 65 and older and eligible persons with disabilities within 3/4-mile of the regularly scheduled route. Flag stops are permitted mid-route between designated bus stops. In addition, interline connections to Amador Transit and Tuolumne County Transit are available on routes to Jackson and Columbia College in Sonora, respectively. The transit system operates Monday through Friday from 4:50 a.m. to 8:35 p.m. The service does not operate on Sundays and holidays. Calaveras Transit also provides service for some special events, as well as a Saturday service called the Saturday Hopper. Calaveras Transit implemented the Saturday Hopper service in July 2016, which focuses on tourism travel connecting key visitor accommodation locations with major destinations and venues. The Saturday Hopper has a unique brand and logo. Calaveras Transit's fare structure is composed of three base fare categories and several fare media. The Calaveras Transit fare media consist of cash, ticket books, and passes.

Calaveras Transit has a total fleet of 10 vehicles comprised of cutaway buses and vans. In Fiscal Year 2016/17, Calaveras Transit operated 13,216 vehicle service hours, 353,495 vehicle service miles, and recorded 40,837 passenger trips. During the last three years, ridership has fallen by slightly over 40% while service miles and hours have increased. By most measures, the County transit system has been in steady decline. Marketing and outreach of the service over the last several years has been limited. Recent planning processes and discussions with various stakeholders has revealed a significant gap in public awareness of Calaveras Transit. Insufficient marketing and outreach may be a factor in the declining interest or use of the services.

Currently Calaveras Transit markets and provides information through a website (www.calaverastransit.com), Facebook page, and printed materials. Printed materials are distributed to various agencies, on the buses, and at special events such as the Calaveras County Fair where Transit hosts a booth. Calaveras Transit has not had a renewed marketing effort or development of collateral or giveaways for over five years. In 2016, the County adopted an update to the Short Range Transit Plan (SRTP), which included a marketing plan. One recommendation from the marketing plan was implemented including a change to the format of the timetables to improve readability. However, after that change, along with some service adjustments in 2017, new brochures have not been printed. Therefore, printed materials are currently limited to 8.5x11 sheets of paper stapled together. In addition, the Calaveras Transit website has undergone some construction and is now a part of the County's website which has not recovered its format.

As part of the transition for the new Agency, a new website is being developed to improve visibility and functionality, to be live starting July 1, 2018. As part of the website upgrade an app is also being developed to make the website more user friendly on phones and other mobile devices. The new website will utilize the same domain name and maintain the existing logo and color scheme until a new brand and graphics are established.

Project Summary and Description

The new Calaveras Transit Agency seeks to execute an aggressive marketing and outreach campaign. Ridership and fare revenues are critical measures of performance and have been in steady decline. It is the intent of this effort to not only upgrade Calaveras Transit's branding to reflect the new Agency's goals and change in leadership, but also to increase public awareness and image of Calaveras Transit.

Overall project goals are to:

- Create new identity and Brand for Calaveras Transit.
- Enhance resident and tourist awareness of services.
- Communicate the safety, comfort, and convenience of local transit.

- Create awareness, relationships, and coordination with events, attractions, and key destinations throughout Calaveras County.
- Develop collateral specific for different target markets and services.

III. SCOPE OF WORK/SERVICES

The Consultant will work with CCOG and Calaveras Transit Agency (CTA) Management staff to provide professional and marketing services necessary to prepare both a final design and working templates that will include but not be limited to the following: logo, slogan, graphics, letterhead and various other marketing and promotional items. The proposed new brand should convey an inviting image for public transit services. Decisions regarding colors, logos and new signage will be made in consultation with CTA Management staff and Board and shall convey the new brand and be consistent throughout all marketing material.

PHASE I - RESEARCH AND DEVELOPMENT

The consultant selected will be tasked with the creation of a corporate identity and branding package (both print and digital) to include, but not limited to, an agency logo design, branding, bus fleet design, website, letterhead, business cards and other collateral/print materials. The logo will be used as a foundation for all ongoing campaigns to internal and external audiences.

Requirements

- Create a focused message(s) based on research that also connects identity and brands to various objectives, projects, plans, and programs.
- Develop coordinated names, logos, service/product brands. Integrate logo design for placement on buses, vans, uniforms, buildings, waste receptacles, signage, posters, letterhead, flyers and brochures, website pages, advertising, media kits, promotional items and the like.
- Develop a Brand Identity Manual to reinforce using the new identity consistently across programs.

PHASE II - BRANDING PLAN DEVELOPMENT AND IMPLEMENTATION

The successful candidate(s) will partner with Calaveras Transit Agency on the development and execution of a comprehensive Brand/Logo strategy that will build awareness of other activities/programs undertaken/provided by the Agency. Consultant services include, but may not be limited, to the following:

- Assisting with establishing the identity of Calaveras Transit, its services, plans, programs and roles and responsibilities to the public.
- Positioning and enhancing Calaveras Transit awareness, identity and brand as a convenient transportation alternative that serves a broad cross section of county residents.
- Branding each of the various services provided by Calaveras Transit under a common umbrella including a consistent visual identity that will allow all elements of Calaveras Transit' system to be immediately identified in marketing materials, fleet design project signage, etc.
- Advising on the branding of the long range transit vision and plans.
- Evaluating media (digital and print) and making recommendations on website design.
- Developing performance evaluation measurements for all marketing activities or strategic planning activities conducted under this contract.

- Presentations to policy Board throughout process to seek input, direction, and final decisions.

PHASE III - SPECIFIC MEASUREMENT GOALS

Once implemented, the success of each campaign will be measured annually using a variety of to be developed metrics, reflecting:

- Consistent identity and brand structure for Calaveras Transit.
- Increase of consumer awareness.
- Understanding of Calaveras Transit vision and key messages.
- Acknowledgement of Calaveras Transit as a regional mobility provider.
- Improved image in the County.
- Clarity of key messages about Calaveras Transit and its services building on past and present strengths.
- User-friendly platform for communicating future plans for Calaveras Transit.

Deliverables Requirement

All products become the property of Calaveras Transit for their unlimited use. All graphic files will be submitted electronically as well as hard copy. Calaveras Transit will retain all ownership/copyright on any new logo, slogan, messaging or artwork and any other materials developed. Any materials may be edited by Calaveras Transit Agency as they see fit. In addition to the deliverables mentioned in previous sections, the consultant will be responsible for delivering the following:

- Brand Identity Manual (Standards).
- Comprehensive research paper, including data regarding perceptions of both internal and external audiences, the source of those perceptions. Suggestions for changing said perceptions through a new identity and branding effort.
- Communications/Branding strategy with associated costs.
- Board presentations, staff reports, and associated materials.

IV. BUDGET

Funds of \$15,000 to \$20,000 are available to complete the tasks described above. Firms responding to this RFP shall include a cost proposal to complete the project as outlined above.

The consultant will be paid up to the amount provided for each Phase in the final project budget. Billing rates should be guaranteed for the life of the contract. CCOG shall approve all interim work products before payment.

V. CONTACT

All questions should be submitted in writing and must be received by Close of Business on June 27, 2018 and will be answered and posted to the CCOG website by June 29, 2018 (www.calacog.org).

Question should be directed to: **Erin Kelly, Administrative Assistant**
Calaveras Council of Governments
ekelly@calacog.org
(209) 754-2094

VI. PROJECT TIMETABLE

June 15, 2018	Issue Request for Proposals
June 27, 2018	Questions Due
July 13, 2018	Closing date for receipt of proposals
July 18, 2018.....	Finalists contacted to schedule interviews, if required
July 23-24, 2018.....	Conduct interviews, if required
August 1, 2018	CCOG Meeting, Contract award
August 2018	Kick-off meeting
October 2018	Phase I completed
January 2019	Phase II completed
June 30, 2019	Phase III final project completion

Proposals must be received no later than **4:00 p.m. on July 13, 2018** at the CCOG offices at:

**CALAVERAS COUNCIL OF GOVERNMENTS
444 E. SAINT CHARLES STREET, SUITE A
P.O. BOX 280
SAN ANDREAS, CA 95249**

Proposals must be submitted in a sealed envelope that is clearly marked “**BRANDING PLAN AND MARKETING SERVICES FOR CALAVERAS TRANSIT AGENCY.**” If mail delivery is used, the proposer should mail the proposal early enough to provide for arrival by this deadline. Proposer uses mail or courier service at his/her own risk. CCOG will not be liable or responsible for any late delivery of proposals. **Postmarks will not be accepted.** Until award of the contract, the proposals shall be held in confidence and shall not be available for public review. Upon award of a contract to the successful proposer, all proposals shall be public records. No proposal shall be returned after the date and time set for opening thereof.

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

VII. GENERAL CONDITIONS

A. Limitations

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

B. Award

The CCOG may ask RFP finalists to provide oral presentations regarding their firm and any special expertise in the necessary areas. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. CCOG also reserves the right to award the contract without discussion, based upon the initial proposals.

CCOG reserves the right to waive any irregularity or informality in any proposal or in the RFP process, as long as, in the judgment of CCOG, such action will not negate fair competition and will permit proper comparative evaluation of the proposal submitted.

CCOG reserves the right to award the contract to the firm who presents the proposal which, in the judgment of CCOG, best accomplishes the desired results.

C. RFP Addendum

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

D. Verbal Agreement or Conversation

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

E. Pre-contractual Expense

Pre-contractual expenses are defined as expenses incurred by proposers and selected contractor in:

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

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

F. Signature

The proposal will also provide the following information: name, title, address, and telephone number of individual with authority to bind the company and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the consultant and shall contain a statement to the effect that the proposal is a firm offer for at least a sixty (60) day period. Execution of the contract is expected by August 1, 2018.

G. Term

This contract shall go into effect when signed by both parties, and the CONTRACTOR shall commence work after notification to proceed by CCOG's Contract Manager. All work shall be completed by June 30, 2019 ("the completion date"). The contract shall end on June 30, 2019 ("the termination date"), unless extended by contract amendment.

H. Fiscal Out Clause

The Agreement may be terminated at any time, without further liability other than payment incurred during such fiscal year, should funds not be appropriated by its governing body to continue services for which the agreement was intended.

I. Insurance

The successful firm shall provide evidence of the following insurance requirements: General liability insurance in an amount not less than \$1,000,000 naming the Calaveras Council of Governments as an additional insured.

J. Contract Arrangements

The proposer's firm is expected to execute a contract similar to CCOG's Professional Services Agreement, a sample of which is attached as Attachment A. This sample contract is for reference to the anticipated terms and conditions governing CCOG and the successful proposer. CCOG reserves the right, in its sole discretion, to add, delete, or modify or negotiate additional terms and conditions to the attached contract.

- 1) Disadvantaged Business Enterprise (DBE) Policy: It is the policy of the U.S. Department of Transportation that minority- and women-owned business enterprises (hereby referred to as DBE's) as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. DBE certified consultants are encouraged to submit proposals. CCOG will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR, Part 26 on the basis of race, color, sex, or national origin.
- 2) DBE Obligation: The recipient or its contractor agrees to ensure that DBE's have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBE's have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.
- 3) Title VI of the Civil Rights Act of 1964: The contractor agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 USC 2000d) and the regulations of the U.S. Department of Transportation issued thereunder in 49 CFR Part 21.
- 4) Equal Employment Opportunity: In connection with the performance of the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

K. Conflict of Interest

Firms submitting proposals in response to this RFP must disclose to CCOG any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for consulting services to be awarded pursuant to this RFP. If this firm has no conflict of interest, a statement to that effect shall be included in the proposal.

L. Proposal Format

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

The organization of the proposal should follow the general outline below. Each proposal should consist of a technical proposal (items 1-7 below) and a cost proposal (item 8).

1) Transmittal Letter

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

2) Table of Contents

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

3) Introduction

A brief description of the proposer's firm and subconsultants, including the year the firm was established, type of organization of firm (partnership, corporation, etc.), and annual gross receipts of the firm. Please include a statement of the firm's qualifications for performing the subject consulting services. Include a brief description of the firm's recent experience in performing similar services for other agencies or companies.

4) Technical Approach

Technical approach should include:

- a) Demonstration of understanding of the project.
- b) Scope of work: Present the approach with deliverables (See Section III). Include method of communication with CCOG.
- c) Samples of similar work provided to other clients.
- d) Schedule: Project schedule with milestones and proposed products/deliverables. Include a chart with start and end months.

5) Project Management

The proposer must prepare an explanation of the project management system and practices to be used to assure that the required proposed services are completed timely and that the quality of the products will meet CCOG's requirements.

6) Consultant Staff

The proposal must describe the qualifications and experience of each professional who will participate in the project, including a resume for each member of the project team. A project manager must be designated, and an organizational chart showing the manager and all project staff proposed who will provide services must be included.

7) Consultant Qualifications and References

The proposal must include at least three references. References should include client contact names, addresses, phone numbers, descriptions of the type of work performed, approximate dates on which the work was completed, and professional staff who performed the work. Provide samples of previous work for other clients. If a subcontractor is proposed, two to three similar qualifications and references should be provided for the subcontractor. The proposal must also

include discussion of the consultant's affirmative action policy, use of DBE's in the performance of this work, and disclosure of any actual, apparent, or potential conflicts of interest.

8) Cost Proposal

The cost proposal should be submitted in a format consistent with the Sample Cost Proposal provided in Attachment B. The cost proposal shall describe both the hourly rate for principal(s) and employees to be assigned to this contract and a summary of any other related costs that are to be billed directly. Cost proposal should show amount budgeted per Phase. Payment for services under this agreement shall be made as Phases are completed.

9) Number of Copies

The proposer must provide five (5) bound copies of the proposal, one (1) unbound original reproducible, and an electronic copy on a USB flash drive or CD of all submittals in response to this Request for Proposals.

All proposals shall be received no later than **4:00 p.m., July 13, 2018** at the Calaveras Council of Governments, 444 E. Saint Charles Street, Suite A, and P.O. Box 280, San Andreas, California, 95249. All proposals shall be submitted in a sealed envelope that is clearly marked "**BRANDING PLAN AND MARKETING SERVICES FOR CALAVERAS TRANSIT AGENCY.**" Late proposals will not be accepted.

All proposals, whether selected or rejected, shall become the property of the Calaveras Council of Governments. All proposals received prior to the date and time specified above for receipt may be withdrawn or modified by written request of the proposer. To be considered, the modification must be received in writing, and in the same number of copies as the original proposal, prior to the date and time specified for receipt of proposals.

VIII. PROPOSAL EVALUATION AND SELECTION

A proposal review panel made up of members of CCOG/CTA and other agency staff as deemed appropriate will evaluate the proposals. Proposers may be telephoned and asked for further information, if necessary, and may be expected to appear for oral interviews. References and/or previous clients will also be called. The panel will make recommendations to the Council on the basis of the proposal, oral interview (if needed), and reference checks. CCOG reserves the right to select a consultant based solely on written proposals and not convene oral interviews.

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

- Project understanding and approach to scope of work/ services (25)
- Experience with projects of similar type and size (15)
- Qualifications of personnel to be assigned to this contract (20)
- Specialized experience and technical competence (25)
- Cost estimate including hourly fee schedule of staff and total bid amount (15)
- Total (100)

IX. PAYMENT SCHEDULE AND INVOICING

Invoices shall be submitted by the CONTRACTOR as Phases are completed, and payment to the CONTRACTOR shall be made within thirty (30) days after the CCOG receives and approves said invoices, unless otherwise notified from CCOG. Each invoice should be associated with a progress memo, detailing work completed by task showing percent complete and deliverables submitted.

RFP ATTACHMENT A**SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES****CALAVERAS COUNTY, CALIFORNIA**

THIS AGREEMENT, made and entered into effective **DATE**, by and between CALAVERAS COUNCIL OF GOVERNMENTS, a California joint powers agency, hereinafter referred to as the CCOG, and **CONTRACTOR**, hereinafter referred to as the CONTRACTOR.

I. WORK TO BE DONE:

BRIEF PROJECT DESCRIPTION. The scope of work shall include the specific tasks to be performed, work products, milestones and a schedule of completion for the project, as described in the Scope of Work, Attachment "A", appended hereto and incorporated herein by this reference. All such work shall be in strict accordance with applicable local, State, and Federal laws, regulations, and guidelines.

II. TIME OF PERFORMANCE:

The CONTRACTOR shall commence work immediately and shall complete the performance of its obligations under the Scope of Work (Attachment "A") within the time allowed, unless an extension of time is granted in writing by the CCOG. The CONTRACTOR shall complete work as expeditiously as is consistent with generally accepted standards of professional skill and care and the orderly progress of work. All work shall be completed and documents, plans and other deliverables provided to CCOG no later than **DATE**.

III. PAYMENT FOR SERVICES:

A. For the services described herein, the CONTRACTOR shall be compensated on a flat fee basis and upon completion of each phase/deliverable, as described in the Attachment "B", Fee Schedule, for a total fee not-to-exceed **AMOUNT** Dollars (**\$00.00**). Said amount shall be in compensation for all of CONTRACTOR'S expenses incurred in the performance of work under this Agreement, including all costs of labor, travel, and per diem. In no event shall CCOG be liable for any payments or costs for work in excess of this amount, less any retention for administrative costs. In no instance shall CCOG be liable for any unauthorized or ineligible costs. In the event any costs or payments are determined to be unauthorized or ineligible, CONTRACTOR shall immediately reimbursement CCOG such amounts.

B. Invoices shall be submitted by the CONTRACTOR as Phases are completed and payment to the CONTRACTOR shall be made within thirty (30) days after the CCOG receives and approves said invoices. The CONTRACTOR shall maintain accounting records and any other evidences pertaining to the work performed and costs incurred on the project and shall make the records available to the CCOG or their duly authorized representatives during the AGREEMENT period and for a period of four (4) years from the date of final payment. The CONTRACTOR will maintain all communication records with claimants and submit as evidence to the CCOG upon invoice of additional estimated fees due to inadequate claimant response times and/or efficiency.

IV. COVENANT AGAINST CONTINGENT FEES:

The consultant warrants that s/he has not employed or retained any company or person, other than a bona fide employee working for the consultant, to solicit or secure this agreement, and that s/he 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, the MPO/RTPA 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.

V. STANDARD OF CARE; LICENSES:

All work, documents, and products shall be in conformity with applicable State and Federal regulations and shall be consistent with the standard of quality ordinarily to be expected of competent professionals in CONTRACTOR'S field of expertise. CONTRACTOR represents and maintains that it is skilled in the professional calling necessary to perform the Services. CONTRACTOR represents that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, CONTRACTOR represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services and that such licenses and approvals shall be maintained throughout the term of this Agreement.

VI. ENTIRE AGREEMENT; CHANGES IN SERVICES:

This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. No substantial change in the character or extent of the services to be performed by the CONTRACTOR shall be made except by an amendment to this Agreement, in writing and in advance of changes in services, between the CCOG and the CONTRACTOR. Said written amendment to the Agreement shall set forth the proposed changes of services, adjustment of time, and adjustment of the cost to be paid by the CCOG to the CONTRACTOR, if any.

VII. TERMINATION OR ABANDONMENT:

A. The CCOG reserves the right, by giving advance written notice to the CONTRACTOR, to terminate this AGREEMENT or to suspend or abandon all or a portion of the project and all work connected therewith.

B. If all or a portion of the work covered by this AGREEMENT is suspended or abandoned by the CCOG, the CCOG shall pay the CONTRACTOR only for services rendered or expenses incurred under this AGREEMENT through the date of termination, suspension or abandonment. The payment shall be based insofar as possible on the amounts established in this AGREEMENT, or, where the AGREEMENT cannot be applied, the payment shall be based upon a reasonable estimate as mutually agreed of the percentage or portion of work actually completed.

VIII. PROJECT MANAGERS; NOTICES:

CCOG's Project Manager for this Agreement is the Executive Director of the CCOG or her designee, unless CCOG otherwise informs CONTRACTOR. CONTRACTOR'S Project Manager for this Agreement is FILL IN. No substitution or change of CONTRACTOR'S Project Manager is permitted without the prior written approval of CCOG.

Any and all notices or other communications required or permitted by this AGREEMENT or by law to be served on or given to either party hereto, by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid addressed to:

Amber Collins, Executive Director
 Calaveras Council of Governments
 P.O. Box 280
 444 E. Saint Charles Street, Suite A
 San Andreas, CA 95249

PROJECT MANAGER
CONTRACTOR
ADDRESS1
ADDRESS2

Phone: (209) 754-2094
 Fax: (209) 754-2096

Phone:
Fax:

IX. INDEPENDENT CONTRACTOR:

The CONTRACTOR, and the agents and employees of the CONTRACTOR, in the performance of this Agreement, shall act as and be independent contractors as to CCOG. Except as specified in Attachment "A" (Scope of Work) or otherwise expressly delegated by the Chair of CCOG, CONTRACTOR, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit CCOG to any decision or course of action, and shall not represent to any person or business that they have such power. CONTRACTOR has and shall retain the right to exercise full control of the supervision of the services and work and over the employment, direction, compensation and discharge of all persons assisting CONTRACTOR in the performance of services under this Agreement. CONTRACTOR shall be solely responsible for all matters relating to the payment of its employees, including but not limited to compliance with social security and income tax withholding, workers' compensation insurance and all regulations governing such matters.

X. INDEMNITY AND INSURANCE:

The CONTRACTOR agrees to defend, indemnify, and hold harmless the CCOG, its directors, officers, agents, employees, and representatives, from and against any and all claims, actions, demands, costs, damages, liabilities, or losses (collectively "Losses") to property or persons, including wrongful death, in any manner arising from, or in connection with, the performance by the CONTRACTOR or its agents, officers, employees, representatives, or contractors, under this Agreement, insofar as such Losses result from or are in any manner connected with the CONTRACTOR'S negligent, reckless, or willful act or omission. CONTRACTOR shall pay all costs that may be incurred by CCOG in enforcing this indemnity, including reasonable attorney's fees. CONTRACTOR'S obligation to indemnify shall not be restricted to insurance proceeds, if any, received by CCOG or its directors, officers, agents, employees, and representatives. The provisions of this Section XI shall survive the expiration, termination, or assignment of this Agreement.

The CONTRACTOR, at his/her/its own cost and expense, shall procure and maintain during the performance of this AGREEMENT, a policy of commercial liability insurance, in a form at least as broad as Insurance Services Office (ISO) Commercial General Liability Occurrence Form #CG 0001, issued by an admitted insurance company acceptable to CCOG, and naming the CCOG, its Directors, Officers, Agents, Employees, and Representatives as additional insureds in amounts not less than:

1. \$1,000,000 per occurrence for bodily injury, personal injury, and property damage.
2. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be at least \$2,000,000.

The above referenced policy of commercial liability insurance shall contain a provision that the insurance provided by the policy shall be primary as to any other insurance available to the additional insured and a provision requiring that written notice be given CCOG at least thirty (30) days prior to cancellation or reduction of coverage. Should any such notice be given before completion of the work hereunder, or should any such policy be cancelled before completion of said work, CCOG may renew

said policy or procure a new policy conforming herewith and deduct the cost thereof from any amounts of money due CONTRACTOR.

The CONTRACTOR, at his/her/its own cost and expense, shall procure and maintain during the performance of this AGREEMENT a policy of automobile liability insurance, in a form at least as broad as ISO Commercial Automobile Liability Form #CA 0001, Code 1 (any auto), issued by an insurance company acceptable to CCOG in the minimum amount of \$1,000,000 bodily injury/property damage per accident.

The CONTRACTOR, at his/her/its own cost and expense, shall procure and maintain during his performance of this AGREEMENT a policy of Worker's Compensation, including \$1,000,000 of employer's liability insurance, issued by an insurance company acceptable to CCOG for the protection of CONTRACTOR'S employees, including executive, managerial, and supervisory employees, engaged in any work required by this AGREEMENT.

The CONTRACTOR, at his/her/its own cost and expense, shall procure and maintain during the performance of this AGREEMENT a policy of professional liability insurance, issued by an insurance company acceptable to CCOG in the minimum amount of \$1,000,000 per claim.

Before the CONTRACTOR shall commence work under this AGREEMENT and before any subcontractor shall commence work under any subcontract executed pursuant to this AGREEMENT, CONTRACTOR shall deposit an original Certificate of Insurance, on a standard ACCORD form, evidencing each policy of insurance required by this AGREEMENT with CCOG and also containing the following:

1. Thirty (30) days prior written notice to CCOG of the cancellation, non-renewal, or reduction in coverage of any policy listed on the Certificate of Insurance; and
2. The following statement with respect to the Commercial General Liability policy: "CCOG and its directors, officers, employees, agents, and representatives, are made additional insureds, but only insofar as performance under this Agreement is concerned.

XI. GENERAL COMPLIANCE WITH LAWS:

The CONTRACTOR shall be required to comply with all Federal, State and local laws and ordinances applicable to the performance of the work covered by this AGREEMENT.

XII. SUBLETTING AND PERSONNEL ASSIGNMENTS:

The CONTRACTOR acknowledges and agrees that the subletting or transfer of any portion of the services covered by this AGREEMENT, except as otherwise provided herein, shall be prohibited.

XIII. NONDISCRIMINATION

During the performance of the work covered by this AGREEMENT, the CONTRACTOR shall comply with applicable provisions of the Civil Rights Act of 1964.

The prospective contractor's signature affixed hereon and dated shall constitute a certification, under the penalty of perjury under the laws of the State of California, that the bidder/proposer has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12990(a-f) and Title 2, California Code of Regulations, Section 8113.

XIV. GOVERNMENT CODE SECTION 7550:

The CONTRACTOR acknowledges his/her/its obligation with respect to the required notice under Government Code Section 7550 on any documents or written reports prepared.

XV. SUCCESSORS AND ASSIGNS:

This AGREEMENT shall be binding upon the heirs, successors, executors, administrators and assigns of the respective parties hereto.

XVI. SEVERABILITY:

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

XVII. HEADINGS:

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

XVIII. AUTHORITY:

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

XIX. COUNTERPARTS:

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

XX. GOVERNING LAW; FORUM:

This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Calaveras County.

XXI. WAIVER:

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

XXII. ATTORNEYS' FEES AND COSTS:

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

XXIII. GENERAL TERMS AND CONDITIONS:

CONTRACTOR agrees to comply with the General Terms and Conditions attached hereto as Attachment "C" and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have hereunto executed this AGREEMENT the day and year first above written.

**CALAVERAS COUNCIL OF GOVERNMENTS
("CCOG")**

**CONTRACTOR
("Contractor")**

By _____
Amber Collins
Executive Director

By _____
PROJECT MANAGER
Project Manager

ATTEST:

Melissa Raggio
Clerk to the Calaveras Council of Governments
County of Calaveras, State of California

Attachment "A"

SCOPE OF WORK

Attachment "B"

FEE SCHEDULE

Attachment "C"**General Terms and Conditions****1. Non-Discrimination**

a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

b. Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

c. The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate, which may include but is not limited to:

1. Withholding monthly progress payments.
2. Assessing sanctions.
3. Liquidated damages
4. Disqualifying the contractor from future bidding as non-responsible

The contractor must make available to the Caltrans contract manager a copy of all DBE subcontracts upon request.

The contractor must utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains authorization from Caltrans. Unless the Department provides prior authorization approving a request for termination or substitution of a listed DBE, the Contractor shall not be entitled to any payment for work or materials unless it is performed or supplied by the listed DBEs.

2. Prompt Payment

a. Prompt Progress Payment to Subcontractors. Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from the CCOG, in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. Any delay or postponement of payment from the above referenced time frame may

occur only for good cause following written approval of the CCOG. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

b. Prompt Payment of Withheld Funds to Subcontractors. No retainage will be held by the CCOG from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the CCOG's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. Release Of Retainage

The Contractor agrees further to release retainage payments, if any, to each Sub-Contractor within 30 days after the Sub-Contractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of CCOG. This clause applies to both DBE and non-DBE Sub-Contractors.

4. National Labor Relations Board Certification.

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

5. Americans with Disabilities Act (ADA) of 1990.

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

6. Drug-Free Certification.

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

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or the organization's policy of maintaining a drug-free workplace;

- (3) Any available counseling, rehabilitation, & employee assistance programs; and
 - (4) Penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee of Contractor who works under this Agreement shall:
- (1) Receive a copy of Contractor's Drug-Free Workplace Policy Statement; and
 - (2) Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.

7. Union Organizing.

By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code § 16645 through § 16649 to this Agreement.

a. Contractor will not assist, promote, or deter union organizing by employees performing work on this Agreement.

b. No funds received from the CCOG under this Agreement shall be used to assist, promote, or deter union organizing.

c. Contractor will not, for any business conducted under this Agreement, use any public property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote, or deter union organizing, unless the public property is equally available to the general public for holding meetings.

d. If Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from the CCOG funds has been sought for these costs, and Contractor shall provide those records to the CCOG upon request.

8. Political Reform Act Compliance.

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

9. Campaign Contribution Disclosure.

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

10. Accounting Records.

Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred and fees charged under this Agreement. All such records shall be clearly identifiable. Contractor shall allow inspection and copying of all work, data, documents, proceedings, and activities related to the Agreement during the term hereof and for a period of three (3) years from the date of final payment under this Agreement.

11. Ownership of Materials; Confidentiality.

a. Documents & Data. This Agreement creates an exclusive and perpetual license for CCOG to copy, use, modify, or reuse any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Contractor under this Agreement (“Documents & Data”).

Contractor shall require all subcontractors to agree in writing that CCOG are granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Contractor represents that Contractor has the legal right to grant the exclusive and perpetual license for all such Documents & Data.

Contractor shall provide copies on electronic media of all work products produced under this Agreement. To the extent that reports or lengthy passages of text are included in a given work product, the document shall be prepared in Microsoft Word or a format compatible with Word or as directed by the CCOG.

CCOG may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA/FTA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

b. Intellectual Property. In addition, CCOG shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“Intellectual Property”) prepared or developed by or on behalf of Contractor under this Agreement.

The CCOG shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether or not developed in conjunction with Contractor, and whether or not developed by Contractor. Contractor will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of CCOG.

Contractor shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Contractor of any and all right to the above referenced Intellectual Property. Should Contractor, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of the CCOG.

All materials and documents which were developed or prepared by the Contractor for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of the Contractor.

However, unless otherwise identified and stated prior to execution of this Agreement, Contractor represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

CCOG further is granted by Contractor a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Contractor which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

c. **Confidentiality.** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor. Such materials shall not, without the prior written consent of CCOG, be used by Contractor for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Contractor which is otherwise known to Contractor or is generally known, or has become known, to the related industry shall be deemed confidential. Contractor shall not use CCOG's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CCOG.

12. Prohibited Interests.

a. **Solicitation.** Contractor maintains that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor maintains that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, CCOG, percentage, fee, or other consideration contingent upon or resulting from the award or making of this Agreement.

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

13. Equal Opportunity Employment.

Contractor represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

The contractor or subcontractor shall not discriminate on the basis of race, color national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of United States Department of Transportation-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

14. Subcontracting.

A. The CONTRACTOR shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this contract shall be subcontracted without written authorization by the CCOG's Contract Manager, except that, which is expressly identified in the approved Cost Proposal.

B. Any subcontract entered into as a result of this contract, shall contain all the provisions stipulated in this contract to be applicable to subcontractors.

C. Any substitution of subconsultants must be approved in writing by the CCOG's Contract Manager.

15. Prevailing Wages.

By its execution of this Agreement, Contractor certified that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws.

16. Debarment, Suspension, and Other Responsibilities.

a. The CONTRACTOR's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONTRACTOR has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to CCOG.

b. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONTRACTOR responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

17. Supplemental Provisions for Federal-Aid Projects

Notwithstanding anything to the contrary contained in the Agreement, including any other Exhibits attached thereto, the following provisions shall apply if funding for the Project is provided, in whole or in part, from the United States Department of Transportation.

A. Cost Principles

a. The CONTRACTOR agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.

b. The CONTRACTOR also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

c. Any costs for which payment has been made to CONTRACTOR that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONTRACTOR to CCOG.

B. Retention of Records/Audit

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; the CONTRACTOR, subcontractors, and the CCOG shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, the State Auditor, CCOG, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the CONTRACTOR that are pertinent to the contract for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

C. Disputes

1. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of the CCOG's Contract Manager and Executive Director, who may consider written or verbal information submitted by the CONTRACTOR.

2. Not later than 30 days after completion of all work under the contract, the CONTRACTOR may request review by the CCOG GOVERNING BOARD of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

3. Neither the pendency of a dispute, nor its consideration by the committee will excuse the CONTRACTOR from full and timely performance in accordance with the terms of this contract.

D. Equipment Purchase

1. Prior authorization in writing, by CCOG's Contract Manager shall be required before the CONTRACTOR enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONTRACTOR services. The CONTRACTOR shall provide an evaluation of the necessity or desirability of incurring such costs.

2. For purchase of any item, service or consulting work not covered in the CONTRACTOR'S Cost Proposal and exceeding \$5,000 prior authorization by CCOG's Contract Manager; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

3. Any equipment purchased as a result of this contract is subject to the following: "The CONTRACTOR shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the CCOG shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, the CONTRACTOR may either keep the equipment and credit the CCOG in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CCOG procedures; and credit the CCOG in an amount equal to the sales price. If the CONTRACTOR elects to keep the equipment, fair market value shall be determined at the CONTRACTOR's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the CCOG and the

CONTRACTOR, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the CCOG." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5000.00 is credited to the project.

4. All subcontracts in excess \$25,000 shall contain the above provisions.

E. Conflict of Interest

1. The CONTRACTOR shall disclose any financial, business, or other relationship with CCOG that may have an impact upon the outcome of this contract, or any ensuing CCOG construction project. The CONTRACTOR shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing CCOG construction project, which will follow.

2. The CONTRACTOR hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.

3. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

F. Rebates, Kickbacks or other Unlawful Consideration

The CONTRACTOR warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any CCOG employee. For breach or violation of this warranty, CCOG shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

G. Legal Remedies

In addition to those contract remedies set forth under relevant provisions of California law, either party to this Agreement may, where applicable, seek legal redress for violations of this Agreement pursuant to the relevant provisions of 49 C.F.R. Parts 23 and 26, to the relevant federal or state statutory provisions governing civil rights violations, and to the relevant federal and state provisions governing false claims or "whistleblower" actions, as well as any and all other applicable federal and state provisions of law.

Attachment "D"

LEVINE ACT DISCLOSURE STATEMENT

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

Current members of the CCOG Board of Directors are:

MEMBERS:

John Gomes
Justin Catalano
Gary Tofanelli
Tim Muetterties
Dennis Mills
Amanda Folendorf
Linda Hermann

ALTERNATES:

Scott Behiel
Michael Oliveira

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

YES NO

If yes, please identify the Director(s):

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

YES NO

If yes, please identify the Director(s):

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

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

California Government Code Section 84308

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

know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7. If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

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

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