



MEMORANDUM

TO: QUALIFIED CONSULTANTS

FROM: MATT CLICK, AICP, EXECUTIVE DIRECTOR

SUBJECT: REQUEST FOR PROPOSAL (RFP) FOR TDA PERFORMANCE AUDITS OF THE PLACER COUNTY TRANSPORTATION PLANNING AGENCY, THE WESTERN PLACER CONSOLIDATED TRANSPORTATION SERVICES AGENCY, AND THREE TRANSIT OPERATORS

DATE: JULY 23, 2024

The Placer County Transportation Planning Agency (PCTPA) is soliciting proposals to conduct performance audits of PCTPA, the Western Placer Consolidated Transportation Services Agency (WPCTSA), and three transit operators under PCTPA's jurisdiction for Fiscal Years (FYs) 2021/22 through 2023/24. The performance audits must be completed during FY 2024/25 and in compliance with relevant sections of the Transportation Development Act (TDA). The consultant budget for all TDA performance audits is not to exceed \$50,000.

Proposals must be provided to PCTPA electronically, via a USB thumb drive, delivered to PCTPA's office, located at 2260 Douglas Blvd., Suite 130, Roseville, CA 95661, by no later than **4:00 p.m. on Friday, August 23, 2024**. Late proposals will not be accepted beyond the requested date and time

Should you have any questions regarding this RFP, please contact Mike Costa, Principal Transportation Planner, at (530) 823-4029 or via e-mail at mcosta@pctpa.net.

REQUEST FOR PROPOSAL (RFP)
FOR TDA PERFORMANCE AUDITS OF THE PLACER COUNTY TRANSPORTATION
PLANNING AGENCY, THE WESTERN PLACER CONSOLIDATED
TRANSPORTATION SERVICES AGENCY, AND THREE TRANSIT OPERATORS

INTRODUCTION

The Placer County Transportation Planning Agency (PCTPA) is soliciting proposals to conduct performance audits of PCTPA, the Western Consolidated Transportation Services Agency (WPCTSA), and three transit operators under PCTPA's jurisdiction. PCTPA is statutorily required by Section 99246 of the California Public Utilities Code to designate entities other than itself, a county transportation commission, a transit development board, or an operator to make a performance audit of its planning activities and the activities of each operator to whom it allocates Transportation Development Act funds. The intent of this RFP is to procure performance audits for Auburn Transit, Placer County Transit, Roseville Transit, the WPCTSA, and PCTPA for Fiscal Years (FYs) 2021/22 through 2023/24.

The audits must be conducted during FY 2024/25 and in compliance with relevant sections of the Transportation Development Act (TDA). PCTPA further expects that the performance audits will be conducted consistent with the "*Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities*", 3rd edition, issued by the California Department of Transportation in September 2008.

See Attachment A for a brief description of the WPCTSA and three transit operators serving the western portion of Placer County.

CONTACT PERSON

Prospective proposers shall only contact PCTPA and transit operators through the following staff person, who will serve as PCTPA's Project Manager for this effort:

Mike Costa, Principal Transportation Planner
(530) 823-4029
mcosta@pctpa.net
Placer County Transportation Planning Agency (PCTPA)
2260 Douglas Blvd., Suite 130
Roseville, CA 95661

PROPOSAL SUBMISSION REQUIREMENTS

Proposers must submit one electronic copy of their technical proposal, via a USB thumb drive, and one hard-copy of their cost proposal to PCTPA's office, located at 2260 Douglas Blvd., Suite 130, Roseville, CA 95661. The cost proposal shall be sealed in an envelope, marked "Cost Proposal for the Performance Audit of PCTPA, WPCTSA, and Transit Operators." The envelope must be marked clearly with the proposer's name (including contact person), address, and telephone number.

Proposals should be addressed to Mike Costa, if delivered by mail or courier, and must be received by PCTPA no later than **4:00 p.m. on Friday, August 23, 2024**. PCTPA will not accept proposals after this time or date and will return unopened any proposals that are received late.

PROPOSAL EVALUATION AND SELECTION

A proposal review panel, potentially consisting of representatives from the transit operators being audited, the WPCTSA, and PCTPA staff, will evaluate the proposals and determine the necessity for oral interviews. At the review panel's discretion, proposers will be requested to make a formal presentation. The panel reserves the right to select a consultant based solely on written proposals and not convene oral interviews. The panel will recommend one consultant for the audit.

The evaluation criteria that will be used in the selection process are as follows:

- Understanding of the purpose and requirements of the TDA performance audit, and scope of work tasks to be performed to meet the RFP's requirements, including a detailed project schedule by scope task;
- Relative allocation of resources to key tasks, including the time and skills of personnel assigned to the task and the consultant's approach to managing resources and project output;
- Experience in public transit, performance auditing, and the issues and functional area(s) to be analyzed;
- Relative understanding of Placer County's transit operators (i.e., Auburn Transit, Placer County Transit, and Roseville Transit), any coordinated service planning efforts, and/or transit auditing experience that has occurred in the Placer region in the past six years; and
- Education and specific experiences of the project team to be assigned.

PROPOSAL FORMAT AND CONTENT

Proposals should be limited to specific discussions of the elements outlined in this RFP. The intent of this RFP is to encourage responses that are concise and meet the stated requirements while proposing the best methods to accomplish the work identified within the stated budget. To this end, **the proposal is limited to 10 pages (electronic, typically 8 ½" x 11", with larger page size accepted for any accompanying tables submitted in the proposal) with no smaller than 12-point font.** Resumes (limited to one page each) may be included for each of the consultant's project team personnel assigned to work on the project, including any subconsultants, and are not part of the page count. The sealed Cost Proposal is also not part of the page count.

At a minimum, the following information should be addressed in the technical proposal (i.e., Items 1 – 7, below), in addition to the sealed Cost Proposal (Item 8, below).

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 proposer, and who may be contacted during the period of proposal evaluation.

2. Table of Contents

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

3. **Introduction**

In this section, the Proposer should demonstrate an adequate understanding of the roles and relationship of PCTPA, the WPCTSA, and the transit operators, and local conditions within the PCTPA area.

4. **Audit Plan and Technical Approach**

The audit plan should include:

- a. A description of the overall audit program being submitted, including an explanation of the basic purpose and general focus of this performance audit, including its relevancy to the Transportation Development Act and compliance with applicable Public Utility Code requirements.
- b. An explanation of the consultant's intended role as auditor, as related to the role of PCTPA, the WPCTSA, and the transit operators, including the division of work between the PCTPA and the consultant.
- c. A thorough explanation of the consultant's proposed course of action. References should be made to RFP requirements and the consultant's plans for meeting those requirements. If the consultant proposes major changes in the RFP approach, those changes should be clearly specified. The consultant should specify techniques, especially data elements to be sampled, staff to be interviewed, documents to be reviewed, etc.
- d. An itemized description of the proposed schedule, and the end products to be produced.

5. **Project Management**

The proposal must provide an explanation of the project management system and practices to be used to ensure the project is completed within the scheduled time frame and budget, as well as have a final product of high quality that will meet PCTPA's requirements.

6. **Consultant and Subcontractor 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 Project Manager and all project staff must be included. A matrix must be presented indicating the effort, either in percentage of the total project or direct labor hours, which will be contributed by each consultant team member assigned to work during each project phase or task. If a subcontractor will be used, the proposer must include a letter from the subcontractor committing to perform at least the work shown for subcontractor professionals in the above-described matrix.

7. **Consultant Qualifications and References**

The proposal must describe the nature and outcome of projects previously conducted by the consultant, which are related to the work described within this RFP. Descriptions should include a client contact name, address, phone number, a description of the type of work performed, approximate date on which the work was completed, and professional staff who performed the work. If a subcontractor is proposed, up to three similar qualifications and references should be provided for the subcontractor. Up to two recent samples of the consultant's work on closely related projects should be included.

8. Cost Proposal

In addition to a technical proposal, the Proposer shall prepare a detailed Cost Proposal for the work to be performed. The Cost Proposal shall itemize all items that will be charged to PCTPA, including travel charges and/or material production costs that will be involved in the project and included in the bid amount. Costs shall be segregated to show labor hours for each staff person, rates, and classifications, and administrative overhead. Costs for each milestone work task or deliverable shall also be provided. The Cost Proposal shall be submitted in a separate sealed envelope.

If subcontractors are to be used, the prospective contractor must indicate any markup that the prospective contractor plans to take on subcontracts. The same breakdown of subcontract costs shall be provided as required for the prime contractor’s Cost Proposal.

Failure to provide detailed cost breakdowns will be cause for rejection of the proposal.

SCHEDULE FOR PROPOSAL REVIEW AND SELECTION

| | |
|--------------------|--|
| July 23, 2024 | Issue RFP |
| August 23, 2024 | Proposals due |
| September 4, 2024 | Interviews, conducted either virtually or in-person (only if needed) |
| September 25, 2024 | PCTPA Board Consultant Selection and Award |
| September 26, 2024 | Contract Approval and Notice to Proceed; e-mail provided to Consultants not selected with offer to de-brief |

DESCRIPTION OF PERFORMANCE AUDIT PROJECT REQUIREMENTS

Performance Audits of Auburn Transit, Placer County Transit, Roseville Transit, and the Western Placer Consolidated Transportation Services Agency

Determine Compliance with Statutory and Regulatory Requirements

The consultant will be required to review and determine each operator’s and the WPCTSA’s compliance with the Transportation Development Act and related sections of the California Code of Regulations. At a minimum, the Code Sections for which compliance is to be verified are those specified within the “*Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities*” published by the California Department of Transportation (September 2008, 3rd Edition). Should the consultant identify instances of non-compliance, a finding regarding the non-compliance should be made in the audit report along with a recommended corrective action to address the finding.

Follow-Up on Prior Performance Audit Recommendations

The consultant will review the findings and recommendations from the last TDA triennial performance audit period, covering FYs 2018/19 through 2020/21, for each transit operator and the WPCTSA and assess implementation of the audit’s recommendations. These audits can be found online at: <https://pctpa.specialdistrict.org/triennial-performance-audits>. The auditor will need to make determinations as to whether recommendations that have not been implemented are

(a) no longer applicable, (b) infeasible, or (c) should still be implemented. If a prior audit recommendation has not been implemented but still has merit, the consultant should include the prior audit recommendation in the current audit report. The consultant will evaluate recommendations that have been implemented or are being implemented. For these recommendations, the consultant should assess the benefits provided (or likely to be provided) by the recommendation. Significant accomplishments in implementing prior recommendations should also be recognized.

Verify Performance Indicators

As part of the performance audit, Section 99246 of the California Public Utilities Code requires verification of five performance indicators: operating cost per passenger, operating cost per vehicle service hour, passengers per vehicle service hour, passengers per vehicle service mile, and vehicle service hours per employee (as defined in Section 99247 – Performance Measure Definitions). The consultant will review and validate the operator’s collection of basic data needed to calculate these indicators for each fiscal year and transit mode (e.g., fixed route, demand response, commuter). The consultant will be expected to analyze performance indicators with the intent of identifying potential issues or concerns that may need further examination during the functional review.

As part of the functional review described below, the consultant will be expected to select, calculate, analyze, and recommend performance indicators that are appropriate to identify, quantify, and/or resolve performance problems and potential areas for improvement.

Review Operator Functions

The consultant will review each operator function as part of an on-site visit, consistent with the “*Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities*” (September 2008, 3rd Edition). The functional review is expected to include interviews with the transit operator’s management, staff, and governing board, as well as with selected PCTPA staff. Concerns over inefficient or ineffective operator performance may be raised by:

- Operator and PCTPA interviews concerning operator functions;
- Documents, such as user surveys, recent short-range transit plan findings, and/or comprehensive operational analysis (COA) planning efforts and supporting materials;
- Review and analysis of TDA-required performance indicators;
- Follow up of prior performance audits; and,
- Review of operator compliance with statutory and regulatory requirements.

Such concerns of inefficient performance should lead to further investigation, which may include the verification and calculation of additional performance indicators. A detailed investigation of functional concerns, problems, and potential improvements should make up the basis of most findings in the audit report.

Analysis of TDA-Required Performance Indicators between Dial-a-Ride Operations and WPCTSA's Placer Rides Program

The consultant will complete a brief comparative analysis between local public transit dial-a-ride and ADA complementary paratransit operations in Placer County and the WPCTSA's driver reimbursement and last resort rides program, known as "Placer Rides". The consultant will also recommend relevant performance indicators and key metrics that can be used to help further evaluate the efficiency and operational effectiveness of the Placer Rides reimbursement and last resort rides program components.

Placer County Transportation Planning Agency (as the county's Regional Transportation Planning Agency (RTPA))

Determine Compliance with Legal and Regulatory Requirements

The consultant will be required to review and determine PCTPA's compliance with the Transportation Development Act and related sections of the California Code of Regulations. The specific Code Sections for which compliance is to be verified are those specified within the "*Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities*" (September 2008, 3rd Edition). Should the consultant identify instances of non-compliance, a finding regarding the non-compliance should be made in the audit report.

Follow-Up on Prior Performance Audit Recommendations

The consultant will review the findings and recommendations from the last TDA triennial performance audit period, covering FYs 2018/19 through 2020/21, and assess implementation of audit recommendations. This audit can be found online at: <https://pctpa.specialdistrict.org/triennial-performance-audits>. The auditor will need to make determinations as to whether recommendations that have not been implemented are (a) no longer applicable, (b) infeasible, or (c) should still be implemented. If a prior audit recommendation has not been implemented but still has merit, the consultant should include the prior audit recommendation in the current audit report. The consultant will evaluate recommendations that have been implemented or are being implemented. For these recommendations, the consultant should assess the benefits provided (or likely to be provided) by the recommendation. Significant accomplishments in implementing prior recommendations should also be recognized.

Review PCTPA Functions

The consultant will review each PCTPA TDA-related function, consistent with "*Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities*" (September 2008, 3rd Edition). The functional review is expected to include interviews with the PCTPA's jurisdictions. Supplemental interviews with other regional, state, and/or federal agencies may be appropriate to gather more detailed information about areas of concern. Concerns over inefficient or ineffective PCTPA performance may be raised by:

- PCTPA and operator interviews concerning PCTPA functions;
- Documents, such as the regional transportation plan, and adopted policies and procedures for evaluating TDA claims;

- Follow up of prior performance audits; and
- Review of PCTPA compliance with statutory and regulatory requirements.

Such concerns of inefficient or ineffective performance should lead to further investigation. The detailed investigation of functional concerns, problems, and potential improvements should make up the basis of most findings in the audit report.

REQUIRED DELIVERABLES

The consultant will provide one (1) electronic (WORD and pdf) copy of the draft reports to the PCTPA Project Manager, Mike Costa, for review and comment prior to finalization. After PCTPA, the WPCTSA, and the transit operators review and comment on the draft reports, the consultant will deliver ten (10) copies of the final written reports and one electronic (pdf) copy of each report to the PCTPA's Executive Director. The report must address each of the performance audit project requirements outlined above. The consultant should also be prepared to make an oral presentation of the final performance audit reports' summary and findings to the PCTPA Board of Directors, if requested.

PERFORMANCE AUDIT TIMELINE

| | |
|--------------------|--|
| September 25, 2024 | PCTPA Board Consultant Selection and Award |
| September 26, 2024 | Contract Approval and Notice to Proceed |
| April 16, 2025 | Submit draft performance audit reports to PCTPA |
| May 9, 2025 | Comments due from transit operators and PCTPA |
| May 23, 2025 | Submit final reports to PCTPA |
| June 25, 2025 | Presentation to PCTPA Board of Directors (if requested by PCTPA staff) ; PCTPA Board's Acceptance of Performance Audits; and Board Approval of Updated Fare Recovery Ratios |

PERFORMANCE AUDIT BUDGET

The consultant budget for all performance audits is not to exceed \$50,000.

PAYMENT SCHEDULE

The consultant will be paid based on work performed during the preceding month. The consultant should forward a copy of all invoices for payment for work performed and associated expenses by the 15th day of the following month. PCTPA may withhold ten percent (10%) of the payments (retainage) due until the successful completion of the project and the delivery and acceptance of all final products. If implemented, the consultant will be responsible for tracking this retainage amount on each monthly invoice to PCTPA and then remitting the final amount as part of the last invoice submitted to PCTPA for reimbursement.

Attachment A: Transit Services in Western Placer County
Attachment B: PCTPA Master Agreement Template

ATTACHMENT A

TRANSIT SERVICES PROVIDED IN WESTERN PLACER COUNTY

Three separate transit operators fall under the jurisdiction of PCTPA: Auburn Transit, Placer County Transit (PCT), and Roseville Transit. PCTPA also serves as the administrating agency for the Western Placer Consolidated Transportation Services Agency (WPCTSA). More information about the public transit services and transportation programs provided in western Placer County can be found online at: www.southplacertransitinfo.com. Brief descriptions of these transit operators' services and the WPCTSA are also provided, below.

1. The City of Auburn operates and administers Auburn Transit. Auburn Transit provides on-demand/mobile app-based (microtransit) service that incorporates the former Auburn Loop (fixed-route) service into the on-demand mobile platform and service. Transit service is operated Monday through Saturday.
2. The County of Placer operates and administers Placer County Transit (PCT). PCT is the regional transit operator for western Placer County, providing local and interregional services, as well as on-demand/mobile app based (microtransit) service within some incorporated areas. PCT operates five fixed route buses connecting south Placer's cities, four general public on-demand/Dial-A-Ride areas, and a Placer Commuter Express weekday peak bus service to downtown Sacramento. Under a unique service agreement with each jurisdiction, PCT operates a combination of fixed-route and on-demand services within the City of Colfax, the City of Lincoln, the Town of Loomis, and the City of Rocklin. Connections with Auburn Transit, Nevada County Connects (Nevada County), Roseville Transit, and Sacramento Regional Transit can further be made at certain transfer locations that PCT serves.
3. The City of Roseville's Alternative Transportation Division operates and administers Roseville Transit. Roseville Transit consists of fixed-route local services within the city limits, a general public on-demand/mobile app based (microtransit) service within the city limits (known as Roseville Arrow), and weekday peak commuter buses operating to/from downtown Sacramento. Connections with PCT and Sacramento Regional Transit can be made at certain transfer locations that Roseville Transit serves. Roseville Transit also uses a third-party contractor, currently MV Transportation, to provide the fixed-route and on-demand services.
4. The WPCTSA, in partnership with Seniors First to administer the program, operates the Placer Rides program. The Placer Rides program consists of two components: a mileage reimbursement program and a last resort ride component. The Placer Rides mileage reimbursement program is available for seniors, people with disabilities, and others that cannot utilize and/or do not have access to public transit service. The Placer Rides last resort component involves the provision of a third-party, non-emergency medical transportation service for seniors and people with disabilities to non-emergency medical appointments. Aside from eligibility, both program components contain restrictions on maximum allowable reimbursement and/or rides provided in a given month to those who are determined to be eligible for the Placer Rides program by Seniors First.

Transit Planning

Improvements to transit service in Placer County are governed by three transportation planning documents: the Regional Transportation Plan (RTP), the Long-Range Transit Master Plan (LRTMP), and the Short-Range Transit Plans (SRTPs). Because these three planning documents

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outline transit service goals and improvement project priorities for Placer County, they are referenced frequently in the responses to unmet transit needs comments. The SRTPs were last updated in 2018, and have been adopted by Placer County's jurisdictions. These documents are the best source for evaluating the region's transit services and are available for download at <https://pctpa.specialdistrict.org/short-range-transit-plan-documents-and-studies>.

Additionally, PCTPA is currently leading, in partnership with the transit operators and other stakeholders, a comprehensive operational analysis (COA) of the Auburn Transit and Placer County Transit service network, in coordination with a concurrent effort being led by the City of Roseville for the Roseville Transit/Roseville Arrow service network. It is the goal and objective of this planning effort to result in a more integrated and coordinated transportation service network plan for the south/western portion of Placer County. A new SRTP will also be prepared to implement the service plans resulting from the respective COA planning efforts. For more information about this project and planning effort visit <https://www.pctpa.net/coa-srtp>.

ATTACHMENT B
PCTPA MASTER AGREEMENT TEMPLATE

THIS AGREEMENT (“Agreement” or “Contract”), is made and entered into as of this ____ day of _____, 2023, at _____, California, by and between the Placer County Transportation Planning Agency (hereinafter referred to as “PCTPA” or “Agency”), and _____ (hereinafter referred to as “Contractor” or “Consultant”).

RECITALS:

1. Contractor represents that it is specially trained and/or has the experience and expertise necessary to competently perform the services set forth in this Agreement; and
2. Contractor is willing to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement; and
3. PCTPA desires to contract with Contractor to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement, and
4. The federal government is not a party to this Agreement.

NOW, THEREFORE, the parties mutually agree as follows:

1. Employment of Contractor.

Contractor hereby agrees to perform services identified in letters of task agreement, submitted hereafter by PCTPA (hereinafter “Letters of Task Agreement”). Each Letter of Task Agreement shall specifically define and obligate the budget for services, the scope of services, and the expected term of the specified activity or project. All provisions of this Master Agreement shall be incorporated by reference into subsequent Letters of Task Agreement.

2. Scope of Services.

Contractor agrees to fully perform the work described in, and to abide by any additional terms and conditions set forth in, each fully executed Letter of Task Agreement. PCTPA reserves the right to review and approve all work to be performed by Contractor in relation to this Agreement and Letter of Task Agreement. Any proposed amendment to the scope of services must be submitted by Contractor in writing for prior review and written approval by PCTPA’s Executive Director. Approval shall not be presumed unless such approval is made by PCTPA in writing.

3. Compliance with Laws and Incorporation of Federal and State Guidelines.

Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders and decrees. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code, Section 1775. Contractor warrants and represents to PCTPA that Contractor shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals that are legally required for Contractor to practice its profession or are necessary and incident to the performance of the services and work Contractor performs under this Agreement. Contractor shall provide written proof of such licenses, permits, insurance and approvals upon request by PCTPA. PCTPA is not responsible or liable for Contractor's failure to comply with any or all of the requirements contained in this paragraph.

The terms of all relevant Federal and State grant provisions and guidelines, as presently written, 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.

4. Term.

a. This Master Agreement shall go into effect on (**START DATE**), contingent upon approval by PCTPA, and Contractor shall commence work after notification to proceed by PCTPA’s Project Manager, pursuant to a Letter of Task Agreement. This Agreement shall end on June 30, 2025, unless extended by written amendment pursuant to Section 16 below.

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- b. Contractor is advised that any recommendation for contract award is not binding on PCTPA until the contract is fully executed and approved by PCTPA.
- c. Time is of the essence in the performance of this contract, and production and delivery schedules set forth in each Letter of Task Agreement must be met.
5. Standard of Quality.
All work performed by Contractor under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.
6. Compensation.
a. Payment to the Contractor shall be made as set forth in each Letter of Task Agreement and shall not exceed Fifty Thousand Dollars (\$50,000.00), which shall constitute full and complete compensation for the Contractor's services. In no instance shall PCTPA be liable for any payments or costs for work in excess of this amount, nor for any unauthorized or ineligible costs. Contractor shall be paid at the times and in the manner set forth in this Agreement and the applicable Letter of Task Agreement. The consideration to be paid Contractor, as provided in the applicable Letter of Task Agreement, shall be in compensation for all of Contractor's expenses incurred in the performance of work under the applicable Letter of Task Agreement, including travel and per diem, unless otherwise expressly so provided.
6. Reporting and Payment.
a. During the term of an operative Letter of Task Agreement, the Contractor shall submit to PCTPA, attention Executive Director, a requisition for payment and narrative progress report not more frequently than once monthly. Each requisition for payment shall refer to the Work Element referenced in the Letter of Task Agreement, and shall conform to the following: (1) be prepared on Contractor's letterhead; (2) be signed by Contractor's Project Manager; (3) contain a unique invoice number; (4) attach appropriate documentation; (5) invoice each work element/milestone separately; and (6) if subcontractors are used, include a separate invoice for each subcontractor in the required format and include a summary of all subcontractors' invoices.
b. Contractor shall submit written requisitions for payment to PCTPA, and shall specify the time, date, personnel, and hours billed since the date of the preceding requisition for payment, if any, and shall indicate that it has satisfactorily performed the work and completed the percent of product for which payment is being requisitioned in conformance with the Letter of Task Agreement, and that it is therefore entitled to receive the amount so requisitioned under the terms of the agreement.
c. PCTPA shall pay the Contractor 90 percent (90%) of the amount invoiced until the Contract is completed to PCTPA's satisfaction, as required by the terms of the Letter of Task Agreement. Following final product acceptance by PCTPA, the final 10 percent (10%) of the contract amount will be released upon Contractor requisition for final contract payment.
d. Contractor shall establish and maintain separate account records for the fiscal activities of each Letter of Task Agreement. The requisitions for payment shall include documentation of reimbursable expenses and other invoiced items sufficient for PCTPA, in its opinion, to substantiate billings. PCTPA reserves the right to withhold payment of disputed amounts.
e. Contractor's accounting system shall conform to generally accepted accounting principles. Contractor's accounting records, together with supporting documents, shall be kept separate from other documents and records and shall be kept available for inspection by PCTPA and other authorized agencies during the period of performance of the contract, and for three (3) years after PCTPA makes final payments, and all other pending matters are closed.
f. In the event that any of the expenses for which PCTPA reimburses the Contractor are later disallowed pursuant to Section 28, Contractor expressly agrees to reimburse PCTPA an amount equal to that disallowed. PCTPA agrees to assert any appeal for a disallowed expense on behalf of Contractor.
8. Rebudgeting of Funds.
Prompt notification and approval by PCTPA of all rebudgeting in excess of \$1,000 is required. Such notification may be accomplished by submission of a revised copy of the budget forms. Approval of minor adjustments to an approved budget is not required. A minor adjustment will constitute reallocation of the dollar sum of \$1,000 or less.

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9. Data to be Furnished by Contractor.

Whenever information that Contractor previously provided to PCTPA in its response to the request for proposals (RFP) or set-forth in this Agreement is no longer complete, accurate, or up-to-date, Contractor shall notify PCTPA, attention Executive Director, and provide PCTPA the most current information regarding:

- a. The Contractor's name, local address, telephone number, and contact person.
- b. A general description of the Contractor's services.
- c. The names and titles of the individuals who can provide the planning and support services provided to PCTPA.
- d. A description of the work performed and the skills and training of the individuals so named, including a current resume for each individual.
- e. The hourly billing rates and charges for the individuals named.
- f. Contractor's Affidavit of Disadvantaged Business Enterprise (if applicable).

10. Submission of Reports.

- a. All reports specified in a Letter of Task Agreement must be submitted to PCTPA in draft form for review, to the attention of the Executive Director. In the absence of an express, written statement of dissatisfaction within thirty (30) working days, any draft report submitted will be deemed satisfactory.
- b. No final report shall be prepared in form for publication prior to approval by PCTPA.

11. Personnel.

- a. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under a Letter of Task Agreement.
- b. During periods in which Contractor's personnel may be physically housed at PCTPA while performing services under a Letter of Task Agreement, PCTPA may be responsible for administrative support and overhead expenses associated with such personnel, if agreed to in the applicable Letter of Task Agreement. During periods in which Contractor's personnel are not physically housed at PCTPA, Contractor shall be responsible for their administrative support and overhead expenses.
- c. All of the services required under a Letter of Task Agreement shall be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.

12. Independent Contractor.

The Contractor, and the agents and employees of the Contractor, in the performance of this Agreement, shall act as and be independent contractors and not officers or employees or agents of PCTPA. Contractor, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit PCTPA 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.

13. Contractors and Subcontractors.

Contractor shall not subcontract any portion of the work without the prior express written authorization of PCTPA. If PCTPA consents to a subcontract, Contractor shall be fully responsible for all work performed by the subcontractor.

- a. PCTPA reserves the right to review and approve any contract or agreement to be funded in whole or in part using funds provided under this Agreement.
- b. Nothing contained in this Agreement or otherwise, shall create any contractual relation between PCTPA and any subcontractor, and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to PCTPA for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its subcontractors is an independent obligation from PCTPA's obligation to make payments to the Contractor.
- c. Contractor shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Agreement shall be subcontracted without written

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authorization by PCTPA's Project Manager, except that which is expressly identified in the approved Cost Proposal.

d. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to Contractor by PCTPA.

e. Any contract or sub-contract shall contain the same applicable provisions of this Agreement, and shall require the contractor and its subcontractors, if any, to:

- (1) Comply with applicable State and Federal requirements that pertain to, among other things, labor standards, non-discrimination, the Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace, Maintain at least the minimum State-required Workers' Compensation Insurance for those employees who will perform the work or any part of it.
- (2) Maintain unemployment insurance and disability insurance as required by law, along with liability insurance in an amount that is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the Contractor or any subcontractor in performing work associated with this Agreement or any part of it.
- (3) Retain all books, records, computer records, accounts, documentation, and all other materials pertaining to the performance of this Agreement for a period of three(3) years from the date of termination of this Agreement, or three (3) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement and any amendments, whichever is later.
- (4) Permit PCTPA and/or its designees, upon reasonable notice, unrestricted access to any or all books, records, computer records, accounts, documentation, and all other materials pertaining to the performance of this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

f. Any substitution of subcontractors must be approved in writing by PCTPA's Project Manager prior to the start of work by the subcontractors.

14. Prohibition Against Contingent Fees.

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Contractor, 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, PCTPA 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.

15. Termination.

a. PCTPA reserves the right to terminate this Agreement or any Letter of Task Agreement upon thirty (30) calendar days written notice to Contractor with any reason or no reason for termination stated in the notice. The notice shall be deemed served and effective for all purposes on the date it is deposited in the U.S. mail, certified, return receipt requested, addressed to Contractor at the address indicated in Section 35.

b. PCTPA may terminate this Agreement with Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, PCTPA may proceed with the work in any manner deemed proper by PCTPA. If PCTPA terminates this Agreement with Contractor, PCTPA shall pay Contractor the sum due to Contractor under this Agreement prior to Contractor's failure to perform, unless the cost of completion to PCTPA exceeds the funds remaining in the Agreement. In which case, the overage shall be deducted from any sum due Contractor under this Agreement and the balance, if any, shall be paid to Contractor upon demand.

c. The maximum amount for which the PCTPA shall be liable if this contract is terminated is Fifty Thousand Dollars (\$50,000.00).

d. If PCTPA issues a notice of termination:

- (1) Contractor shall immediately cease rendering services pursuant to this Agreement.
- (2) Contractor shall deliver to PCTPA copies of all Writings prepared by the Contractor under the Letter of Task Agreement, whether or not completed, which were prepared by Contractor, its employees or its subcontractors, if any, pursuant to this Agreement. The term "Writings" shall include, but not be limited to, handwriting, typesetting, computer

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files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including, letters, works, pictures, sounds, symbols computer data, or combinations thereof.

- (3) PCTPA shall pay Contractor for work actually performed up to the effective date of the notice of termination, subject to the limitations in Sections 6 and 7, less any compensation to PCTPA for damages suffered as a result of Contractor's failure to comply with the terms of this Agreement. Such payment shall be in accordance with Section 7. However, if this Agreement is terminated because the work of Contractor does not meet the terms or standards specified in this Agreement, then PCTPA shall be obligated to compensate Contractor only for that portion of Contractor's services which is of benefit to PCTPA.

16. Contract Amendments.

PCTPA may, from time to time, require changes in the Agreement, including changes to the scope of the services of the Contractor to be performed pursuant to a Letter of Task Agreement. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between PCTPA and the Contractor, shall be incorporated in written amendments to the Letter of Task Agreement. No oral understanding or agreement not placed in writing shall be binding on any of the parties hereto. Amendments inconsistent with the provisions and intent of this Agreement are invalid.

17. Conflict of Interest.

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

b. Contractor hereby certifies that no employee of Contractor or any subcontractor, has, nor shall it acquire, any past, ongoing, or potential financial or business interest that would conflict with the performance of services under this Agreement. Contractor and any subcontractors shall exercise reasonable care and diligence to prevent any actions or conditions that could be deemed a conflict of interest under the Fair Political Practices Act or California Government Code section 1090, and following, or other law. During the term of this Agreement, the Contractor shall not accept any employment or engage in any consulting work that would create a conflict of interest with PCTPA or in any way compromise the services to be performed under this Agreement.

c. Contractor shall immediately notify PCTPA of any and all potential violations of this paragraph upon becoming aware of the potential violation.

d. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Section.

18. Political Reform Act Compliance.

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

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

By signing this Agreement, Contractor assures PCTPA 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 including, but not limited to, those found within the Code of Federal Regulations, Title 49, parts 27, 37, and 38. Contractor also agrees that it will award no construction contract unless its plans and specifications for such facilities conform to the provisions of California Government Code section 4450 and 4454, if applicable.

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20. Drug-Free Certification.
By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code § 8350, et seq.) and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or the organization's policy of maintaining a drug-free workplace;
 - (3) Any available counseling, rehabilitation, and employee assistance programs; and
 - (4) Penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee of Contractor who works under this Agreement shall:
 - (1) Receive a copy of Contractor's Drug-Free Workplace Policy Statement; and
 - (2) Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.
21. Union Organizing.
By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code § 16645 through § 16649 to this Agreement, excluding § 16645.2 and § 16645.7.
- a. Contractor will not assist, promote, or deter union organizing by employees performing work on this Agreement if such assistance, promotion, or deterrence contains a threat of reprisal or force, or a promise of benefit.
 - b. Contractor will not, 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.
22. Campaign Contribution Disclosure.
Contractor has complied with the campaign contribution disclosure provisions of the California Levine Act (Government Code § 84308) and has completed the Levine Act Disclosure Statement attached hereto as Exhibit A.
23. Successors and Assigns.
This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors, assigns, or other representatives. The Contractor shall not assign or delegate any interest in this Agreement or a Letter of Task Agreement, and shall not transfer any interest in the same, without the prior written consent of PCTPA.
24. Disclosure of Information.
Contractor acknowledges that PCTPA is a public agency subject to public disclosure laws and may reveal information concerning this Agreement and the project described in a Letter of Task Agreement in accordance with the California Public Records Act, the Freedom of Information Act, 5 USC 552, and other applicable law. The provisions of this Section shall survive the expiration, termination, or assignment of this Agreement.
25. Minimum Insurance Requirements.
Contractor hereby warrants that it carries and shall maintain, at its sole cost and expense, in full force and effect during the full term of this Agreement and any extensions to this Agreement, the following described insurance coverage as outlined below:

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| POLICY | MINIMUM LIMITS OF LIABILITY |
|--|---|
| (1) Workers' Compensation; Employer's Liability. | Statutory requirements for Workers' Compensation; \$ 1,000,000 Employers' Liability. |
| (2) Comprehensive Automobile: Insurance Services Office, form #CA 0001 covering Automobile Liability, code 1 (any auto). | Bodily Injury/Property Damage \$1,000,000 each accident. |
| (3) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001). | \$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit, such limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. |
| (4) Errors and Omissions/Professional Liability | \$1,000,000 per claim and \$2,000,000 in aggregate |

a. Deductibles and Self-insured Retentions: Any deductibles or self-insured retentions over \$5,000 must be declared to and approved by PCTPA.

b. Required Provisions: The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) For any claims related to this Agreement, Consultant's insurance coverage shall be primary insurance as respects PCTPA, its directors, officers, employees and agents. Any insurance or self-insurance maintained by PCTPA, its directors, officers, employees or agents shall be in excess of Consultant's insurance and shall not contribute to it.
- (2) Any failure by Consultant to comply with reporting or other provisions of the policies including breaches of warrants shall not affect coverage provided to PCTPA, its directors, officers, employees or agents.
- (3) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested has been given to PCTPA.

c. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by PCTPA.

d. Certificate of Insurance and Additional Insured Requirement: Consultant shall furnish to PCTPA an original Certificate of Insurance on a standard ACORD form, or other form acceptable to PCTPA, substantiating the required coverages and limits set forth above and also containing the following:

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

e. Certified Copies of Policies: Upon request by PCTPA, Consultant shall immediately furnish a complete copy of any policy required hereunder, including all endorsements, with said copy certified by the insurance company to be a true and correct copy of the original policy.

f. Consultant's Responsibility: Nothing herein shall be construed as limiting in any way the extent to which Consultant may be held responsible for damages resulting from Consultant's operations, acts, omissions, or negligence. Insurance coverage obtained in the minimum amounts specified above shall not relieve Consultant of liability in excess of such minimum coverage, nor shall it preclude PCTPA from taking other actions available to it under this Agreement or by law, including but not limited to, actions pursuant to Consultant's indemnity obligations.

26. Notice of Assistance Regarding Patent and Copyrights Infringement.

The Contractor agrees to report to PCTPA and other appropriate state and federal agencies promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of a

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Letter of Task Agreement of which the Contractor has knowledge. In the event of any claim or suit against PCTPA and other appropriate state and federal agencies on account of any alleged patent or copyright infringement arising out of the performance of a Letter of Task Agreement or out of the use of any supplies furnished or work or services performed thereunder, the Contractor agrees to furnish to PCTPA and other appropriate state and federal agencies, when requested by PCTPA and all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of PCTPA and other appropriate state and federal agencies except where the Contractor has agreed to indemnify PCTPA and other appropriate state and federal agencies.

27. Retention of Records and Audit Procedures.

a. PCTPA or its designee, including but not limited to any State or Federal agency, shall have the right to review, obtain, and copy all books, records, computer records, accounts, documentation and any other materials (collectively "Records") pertaining to performance of this Agreement, including any Records in the possession of any subcontractors, for the purpose of monitoring, auditing, or otherwise examining the Records. Such Records shall include all records of employment, employment advertisements, employment application forms, and other pertinent employment data, as well as any records pertaining to 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.

b. If so directed by PCTPA upon expiration of this Agreement, the Contractor shall cause all Records to be delivered to PCTPA as depository.

c. Contractor and its subcontractors agree to cooperate with the State and PCTPA by making all appropriate and relevant project Records available for audit, inspection, and/or copying by the State, the California State Auditor, or any duly authorized representative of the State or Federal government. Such Records shall be available at all reasonable times during the term of this Agreement and for three (3) years from the date of submission of the final expenditure report to any applicable State or federal agency.

d. 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), Contractor, subcontractors, and PCTPA shall maintain and make available for inspection all Records, and other evidence pertaining to the performance of the contract including, but not limited to, the costs of administering the Agreement.

- (1) All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of final payment under the Agreement. The State, State Auditor, PCTPA, FHWA, or any duly authorized representative of the State or Federal Government shall have access to any books, records, and documents of Contractor and its certified public accountants (CPA) work papers that are pertinent to the Agreement, and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- (2) Subcontracts in excess of \$10,000 shall contain this entire Section 27.

e. Audit Review Procedures:

- (1) Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by PCTPA's Chief Executive Officer.
- (2) Not later than 30 days after issuance of the final audit report, Contractor may request a review by PCTPA's Chief Executive Officer of unresolved audit issues. The Contractor's request for review will be submitted in writing.
- (3) Neither the pendency of a dispute nor its consideration by PCTPA will excuse Contractor from full and timely performance in accordance with the terms of this Agreement.
- (4) Contractor and subcontractor contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit workpaper review. If selected for audit or review, the Agreement, cost proposal, ICR and related workpapers, if applicable, will be reviewed to verify compliance with applicable laws and regulations. In the instances of a CPA ICR audit work paper review it is Contractor's responsibility to ensure Federal, State, or local government officials are allowed full access to the CPA's workpapers including making copies as necessary. The Agreement,

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Cost Proposal, and ICR shall be adjusted by Contractor and approved by PCTPA to conform to the audit or review recommendations. Contractor agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by PCTPA at its sole discretion. Refusal by Contractor to incorporate audit or review recommendations, or to ensure that the Federal, State or local governments have access to CPA workpapers, will be considered a breach of contract terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

28. Compliance with Non-Discrimination and Equal Employment Opportunity Laws

It is Agency's policy to comply with state and applicable federal laws and regulations including Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990 (ADA) and other federal discrimination laws and regulations (including 49 CFR Part 21 through Appendix C, 23 CFR part 200, 23 CFR part 230, 49 U.S.C. 5332, 42 U.S.C. 12101 et seq., and the Title VI Assurance executed by California under 23 U.S.C. 324 and 29 U.S.C. 794), as well as the Unruh Civil Rights Act of 1959, the California Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and other California State discrimination laws and regulations. The Agency does not discriminate against any employee or applicant for employment because of race, religion (including religious dress and grooming practices) color, national origin, (includes use and possession of a driver's license issued to persons unable to prove their presence in the United States is authorized under federal law), ancestry, disability, (including physical and mental, including HIV and AIDS) medical condition, (including genetic characteristics, cancer or a record or history of cancer), military or veteran status, marital status, sex/gender (includes pregnancy, childbirth, breastfeeding, and/or related medical conditions), age (40 and above), gender identity, gender expression, or sexual orientation pursuant to Sections 12940 et seq. of the Government Code. The Agency prohibits discrimination by its employees, contractors and consultants.

a. Contractor and its subcontractors will comply with all applicable federal and state employment laws and regulations including, without limitation, the provisions of the California Fair Employment and Housing Act (Government Code § 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, § 7285.0, et seq.), as well as Title 2, California Administrative Code, Section 8103. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code §§ 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

b. Contractor will include the non-discrimination and equal employment opportunity provisions of this section in all contracts to perform work funded under this Agreement.

29. Governing Law and Forum.

Any dispute not resolved by informal negotiation between the parties to this contract shall be adjudicated in the Superior Court of Placer County. This Agreement shall be administered and interpreted under the laws of the State of California.

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

31. Indemnification.

Contractor specifically agrees to indemnify, defend, and hold harmless Agency, its directors, officers, members, agents, and employees, from and against any and all actions, claims, demands, losses, costs, expenses, including reasonable attorneys' fees and costs, damages, and liabilities arising out of or in any way connected with the performance of this Agreement and arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Contractor. Contractor shall pay all costs and expenses that may be incurred by Agency in enforcing this indemnity, including reasonable attorneys' fees. The provisions of this Section shall survive the expiration, termination, or assignment of this Agreement.

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32. Ownership of Documents; Permission.

a. Contractor agrees that all work products, including, but not limited to, original documents, methodological explanations, computer programs, drawings, designs, reports and other written materials generated in the performance of this Agreement shall belong to and become the sole property of PCTPA; provided that Contractor may retain file copies of said work products. Contractor shall provide said work products to PCTPA upon request.

b. Contractor represents and warrants that: (i) all materials used or work products produced in the performance of this Agreement, including, without limitation, all computer software materials and all written materials, are either owned by or produced by Contractor or that all required permissions and license agreements have been obtained and paid for by Contractor; and (ii) PCTPA is free to use, reuse, publish or otherwise deal with all such materials or work products. Consultant shall defend, indemnify and hold harmless PCTPA and its directors, officers, employees, and agents from any claim, loss, damage, cost, liability, or expense to the extent of any violation or falsity of the foregoing representation and warranty.

33. 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.

34. Integration.

This Agreement represents the entire understanding of PCTPA and Contractor as to those matters contained herein. 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 accordance with Section 16.

35. Notices and Project Managers.

Any notice or notices required or permitted to be given pursuant to this Contract or a Letter of Task Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, return receipt requested, to the following addresses:

Matt Click, Executive Director
Placer County Transportation Planning Agency
299 Nevada Street
Auburn, California 95603

[CONSULTANT NAME]
[Firm Name]
[ADDRESS]

36. 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.

37. Force Majeure.

Neither PCTPA nor Contractor shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God or of the public enemy, acts of government, in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather, or any similar cause beyond the reasonable control of PCTPA or Contractor.

38. 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. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures

39. Waivers: No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of PCTPA to enforce at any time the provisions of this Agreement or to require at any

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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 PCTPA to enforce these provisions.

40. Litigation: Contractor shall notify PCTPA immediately of any claim or action undertaken by it or against it that affects or may affect this Agreement or PCTPA, and shall take such action with respect to the claim or
41. Rebates, Kickbacks, or Other Unlawful Consideration: Contractor warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any PCTPA employee. For breach or violation of this warranty, PCTPA shall have the right, in its discretion: to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price, or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.
42. State Prevailing Wage Rates: If the Scope of Work is for a public works project pursuant to California Labor Code Section 1720, *et seq.*, including surveying work, then the following provisions apply:
- a. Contractor shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
 - b. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.
 - c. When prevailing wages apply to the services described in the Scope of Work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
43. Disputes: Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be submitted in writing to a committee consisting of PCTPA's Project Manager and Technical Advisory Committee (TAC). This Committee may consider the written information or additional verbal information submitted by Contractor at the request of the Committee. A determination shall be made by the Committee within 10 business days. In the event that Contractor disputes the Committee's determination, Contractor may request review by PCTPA's Executive Director of unresolved claims or disputes, other than audit, not later than 30 days after completion of all work under the Agreement. The Contractor's request for review must be submitted in writing. Neither the pendency of a dispute, nor its consideration by the Committee, will excuse Contractor from full and timely performance in accordance with this Agreement.
44. Confidentiality of Data:
- a. All financial, statistical, personal, technical, or other data and information relative to PCTPA's operations, which are designated confidential by PCTPA and made available to Contractor in order to carry out this Agreement, shall be protected by Contractor from unauthorized use and disclosure.
 - b. Permission to disclose information on one occasion, or public hearing held by PCTPA relating to the contract, shall not authorize Contractor to further disclose such information, or disseminate the same on any other occasion.
 - c. Contractor shall not comment publicly to the press or any other media regarding this Agreement or PCTPA's actions on the same, except to PCTPA's staff, Contractor's own personnel involved in the performance of this contract, or in response to questions from a Legislative committee.
 - d. Contractor shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by PCTPA, and receipt of PCTPA'S written permission.
 - e. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Section.
 - f. All information related to cost estimates is confidential, and shall not be disclosed by Contractor to any entity other than PCTPA.
45. Evaluation of Contractor Performance: Contractor's performance may be evaluated by PCTPA. A copy of the evaluation will be sent to Contractor for comments. The evaluation together with the comments shall be retained as part of the contract file.

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46. Funding Requirements:

- a. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- b. This Agreement is valid and enforceable only, if sufficient funds are made available to PCTPA for the purpose of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or PCTPA's governing Board that may affect the provisions, terms, or funding of this Agreement in any manner.
- c. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be amended to reflect any reduction in funds.
- d. PCTPA has the option to void the contract under the 30-day termination clause pursuant to Section 15 of this Agreement, or by mutual agreement to amend the contract to reflect any reduction of funds.

IN WITNESS WHEREOF the Placer County Transportation Planning Agency and the Contractor have executed this agreement as of the date first above written.

Placer County Transportation Planning Agency

(CONSULTANT NAME)

Matt Click, (NAME)
Executive Director (TITLE)

Date: _____

Date: _____

Enclosures

- 1) Exhibit A: Levine Act Disclosure Statement
- 2) Letter of Task Agreement #xxx, dated xxx

EXHIBIT A
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.

Current members of the Placer County Transportation Planning Agency (PCTPA) Board are:

| | |
|-----------------|-----------------------|
| Dan Wilkins | Alice Dowdin Calvillo |
| Suzanne Jones | Paul Joiner |
| Ken Broadway | Bruce Houdesheldt |
| Trinity Burruss | Amanda Cortez |
| Jim Holmes | |

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 PCTPA Boardmember(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 Boardmember(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 PCTPA Boardmember(s) in the three months following the award of the contract?

YES NO

If yes, please identify the Boardmember(s) _____

Answering yes to either of the two questions above does not preclude PCTPA from awarding a contract to your firm. It does, however, preclude the identified Boardmember(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)