



---

## REQUEST FOR QUALIFICATIONS 2024-01

---

The Council of San Benito County Governments (SBCOG) Invites Consultants to submit statements of qualifications for:

### **GRANT PREPARATION ASSISTANCE**

You are invited to submit your qualifications for the services to complete the above work. Submittals are due via email to the project manager, ([projects@sanbenitocog.org](mailto:projects@sanbenitocog.org)), by May 24<sup>th</sup>, 2024, at 12:00pm, PDT.

Copies of the RFQ and the detailed information regarding the submittal requirements are attached and available at the SBCOG website (<http://sanbenitocog.org/>) in digital format. You may email the project manager, noted above, for further information. Email inquiries, including the submittal of the Statement of Qualifications, should include the above subject, **Grant Preparation Assistance**, in the subject header.

## Background:

The Council of San Benito County Governments (SBCOG) is a state-designated public agency with regional transportation planning responsibilities. In addition to its role as the Regional Transportation Planning Agency, SBCOG also operates the local transit system as the Local Transportation Authority (LTA), fulfills Airport Land Use Commission responsibilities, administers Measure G—a local sales tax dedicated to roadway improvements—and manages the county's roadside callboxes as the Service Authority for Freeways and Expressways (SAFE). The mission of SBCOG is to improve the mobility of San Benito County travelers by planning for and investing in a multi-modal transportation system that is safe, economically viable, and environmentally friendly.

SBCOG's Board of Directors is comprised of five members, including two representing the city of Hollister, one representing the town of San Juan Bautista, and two representing the County of San Benito.

SBCOG is actively seeking grant writing assistance to enhance its ability to capitalize on available funding opportunities. As a smaller rural agency SBCOG is constantly looking for additional funding opportunities, however the pursuit of such opportunities is not always feasible given the limited capacity of the organization. To address this, SBCOG is seeking general grant writing assistance to aid in the preparation of grant applications related to transit operations, transportation planning initiatives, and the implementation of capital projects. SBCOG is monitoring both federal and state administered funding opportunities. State administered programs that have been identified as a priority for our organization include the 2024 Transit and Intercity Rail Capital Program (TIRCP) and Solutions for Congested Corridors Program (SCCP). Currently identified federal funding opportunities include the US Department of Transportation's Safe Streets and Roads for All Grant Program.

## Project Description:

This request for qualifications will be used by SBCOG to select a consultant or consulting team to prepare or assist in the preparation of grant applications the agency has identified to advance regional transportation planning priorities.

A copy of the template agreement anticipated to be used by SBCOG can be located in Attachment B. A single document will be prepared between the Consultant and SBCOG consistent with the provisions of these attachments.

It is important that the consultant has the capability to work closely with SBCOG staff. The consultant must be prepared to undertake whatever liaison and meetings are required to satisfy this requirement.

## Project Budget and Contract Term

The allocated budget for this work is \$120,000. The term of the contract will be (3) years, until June 4<sup>th</sup>, 2027. Work will be issued on a task order basis, with a separate scope of work and budget for each task assigned.

## Selection Process

SBCOG will establish a review committee to review the statements of qualifications. This review may be followed by an oral interview between a review committee and the firm(s) that respond(s) best to the RFQ. Based on the recommendations of the review committee, SBCOG will issue a “Notice of Intent to Award” notice to all responders, indicating SBCOG’s intent to negotiate with the specific firm considered to be the most qualified consultant or consultant team. Further, SBCOG may, or may not, also negotiate contract terms with selected consultants prior to award, and expressly reserves the right to negotiate with several consultants simultaneously and, thereafter, to award a contract to the consultant offering the most favorable terms to the agency. Submittals, therefore, should contain the consultant’s most favorable terms and conditions, because the selection and award may be made without further discussion with any consultant. The most responsive and competitive submittals will be considered by the established review committee for consideration and selection. SBCOG reserves the right to accept or reject any and all submittals, to waive minor irregularities, and to request additional information or revisions to offers, and to negotiate with any or all consultants at any stage of the evaluation.

### Evaluations will be based on the following criteria:

1	<b>Project Team Skills:</b> excellent writing ability, ability to create a vision, utilize firm reasoning, emphasize project benefits, technical cost/benefit skills, statistical skills, ability to create graphically appealing work, ability to coordinate with staff, project team members, and stakeholders.	45 points
2	<b>Demonstrated Knowledge and Experience with Grant Writing:</b> demonstrated familiarity with state and federal grant requirements – such as (what types of grants are we most likely to pursue). Past grant preparation experience, success in securing grant funding. Knowledge of agency priorities and understanding of project benefits in light of the grant requirements. Favorable relationships with state and federal grantee agencies and decision-makers.	45 points
3	<b>References:</b> favorable references from past clients.	5 points
4	<b>Cost:</b> Competitive rates as compared to other bidders.	5 points

## QUESTION & ANSWERS, REQUESTS FOR CLARIFICATION OR EXCEPTIONS, ADDENDA

This Request for Qualifications and any addenda will be posted on the SBCOG website (<http://sanbenitocog.org/>). Questions and answers regarding the request for qualifications will also be posted on the website. All potential bidders are responsible for checking the website for any addenda to the bid documents, and the proposal must cite any addenda to be responsive.

Any requests for clarification or exceptions to requirements in this Request for Qualifications must be received by the Agency no later than 12:00pm, PDT on May 10<sup>th</sup>, 2024, to guarantee response or consideration. Responses to questions concerning this Request for Qualifications posed before this deadline will be posted on the agency’s website (<http://sanbenitocog.org/>).

## Submittal Requirements and Format

Submittals are due via email to the project manager, ([projects@sanbenitocog.org](mailto:projects@sanbenitocog.org)), by May 24<sup>th</sup>, 2024, at 12:00pm, PDT.

All interested firms are required to submit one (1) digital copy of their statement to perform the requested consulting services. The statement shall include:

- A. **Project Team:** The statement shall clearly identify a Project Manager and include the names and qualifications of all personnel of the proposed team to be assigned to the contract and a chart representing the proposed organizational structure of the team. The submittal shall identify the skills of each of the team members and how those skills will be utilized in the work.
- B. **Demonstrated Knowledge and Experience:** The statement shall include the Project Manager and assigned team members' demonstrated knowledge of expertise and experience in the work as specified.
- C. **References:** The statement shall include at least two (2) recent references from past clients for similar types of work.
- D. **Cost of Services:** The statement of qualifications shall include a listing of the hourly rates for the assigned personnel for the term of the contract.

## Proposed Award Schedule

SBCOG Board approval of release of RFQ and authorization to Executive Director to Award contract	April 18, 2024
Release of Request for Qualifications	April 23, 2024
Requests for clarification due to SBCOG	May 10, 2024
Electronic proposals due to SBCOG	May 24, 2024
Review and ranking of submittals	June 3, 2024
Contract Award	June 8, 2024

## Miscellaneous

- A. **Modification or Withdrawal of Submittals:** Any submittals received prior to May 24<sup>th</sup>, 2024, at 12:00pm, PDT, the deadline for proposal submission, may be withdrawn or modified by written request of the proposer. To be considered, however, the modified submittal must be received by May 24<sup>th</sup>, 2024, at 12:00pm, PDT.
- B. **Property Rights:** Any submittal received within the prescribed deadline becomes property of SBCOG and all rights to the contents therein become those of SBCOG.

- C. Confidentiality: Before the award of the contracts, all proposals will be designated confidential to the extent permitted by the California Public Records Act. After award of the contract (or if not awarded, after rejection of all Proposal), all responses will be regarded as public records and will be subjected to review by the public. Any language purporting to render all or portions of any submittals as confidential will be regarded as non-effective and will be disregarded.
- D. Amendments to Request for Qualifications: SBCOG reserves the right to amend the Request for Qualifications by addendum before the final submittal date, May 24<sup>th</sup>, 2024.
- E. Non-Commitment of SBCOG: This Request for Qualifications does not commit SBCOG to award a contract, to pay any costs incurred in the preparation of a submittal for this request, or to procure or contract for services. All products used or developed in the execution of any contract resulting from this Request for Qualifications will remain in the public domain at the completion of the contract.
- F. Conflict of Interest: The prospective consultant shall disclose any financial, business, or other relationship with SBCOG that may have an impact upon the outcome of this contract or any SBCOG project. The prospective consultant shall also list current clients who may have a financial interest in the outcome of this contract or SBCOG projects that will follow. In particular, the prospective consultant shall disclose any financial interest or relationship with any firm that might submit a bid on SBCOG projects.
- G. Nondiscrimination: The prospective consultant must certify compliance with nondiscrimination requirements of SBCOG pertaining to the development, implementation, and maintenance of a nondiscrimination program. The prospective consultant's signature affixed to and dated on the cover letters shall constitute a certification under penalty of perjury under the laws of the State of California that the proposer has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.
- H. Final Selection and Protests: The selection process is considered concluded when a "Notice of Intent to Award" email is sent to all participating consultants indicating which consultant will be recommended for approval. The firm recommended is not a final selection and no contract is certain until approved by the SBCOG Executive Director, or Board of Directors, as applicable.

Protestants shall email a detailed statement of protest to the project manager (projects@sanbenitocog.org) no later than five (5) business days after receipt of the Tentative Award email described above.

## Questions

If you need assistance or have any questions, please email the Project Manager, at [projects@sanbenitocog.org](mailto:projects@sanbenitocog.org)

## Attachments

- Exhibit A: Scope of Work
- Exhibit B: Sample SBCOG Standard Agreement for Professional Services

# Exhibit A

## Grant Preparation Assistance: Scope of Services

### Overview:

SBCOG is actively seeking funding for regional planning projects from a variety of state and federal programs, including but not limited to:

- a. Transit and Intercity Rail Capital Program (TIRCP)
- b. Solutions for Congested Corridors Program (SCCP)
- c. Safe Streets and Roads for All Grant Program (SS4A)
- d. Other Grant Programs which may become available and for which SBCOG may be eligible.

### Task Orders:

Work will be conducted via task orders issued by the SBCOG project manager. The project manager will provide tasks orders as needed, the Consultant will establish a scope of work for the task order and develop an estimated budget. Scope of work and estimated budget may be negotiated between the Consultant and SBCOG. After negotiations are successfully concluded, the Consultant and SBCOG authorized representatives will sign off on the scope of work and budget for the task order and SBCOG will issue the notice to proceed.

### Typical Services:

Typical services performed under this contract, conducted in close coordination with the SBCOG project manager, will include the following:

- a. **Information Gathering:** Develop grant approach and assemble existing project data and visual information.
- b. **Technical Analyses:** Perform the required grant application technical work utilizing existing information, including analysis of congestion data and calculation of the project's benefit/cost and air quality improvements. Recommend and perform complementary technical analyses that more fully demonstrate the benefits of the project, for example, health data analysis, greenhouse gas emissions analysis, cost benefit analysis.
- c. **Visual Information:** Work with SBCOG staff to assemble and create visual information such as project maps, refinements to project drawings and layouts, photos and/or charts that enhance the quality of the application.
- d. **Draft Grant Application:** Prepare draft grant applications utilizing a visually appealing layout for the project team's review, according to the task order schedule to allow sufficient review time prior to the required project submittal.
- e. **Final Grant Application:** Finalize the application to respond to the project team review comments and transmit them in an editable format to the project manager at least one week prior to the required grant due date.

## Role of SBCOG:

SBCOG will:

- Provide to the Consultant written and visual project information currently in its possession to facilitate the preparation of the grant applications.
- Set up the various meetings and conference calls to coordinate information-sharing.
- Prepare any required project programming request forms.
- Review and comment on the draft grant applications.
- Finalize the grant applications and submit them as required by the grant application deadlines.

## Background Information:

Safe Streets and Roads for All (SS4A) Grant Program: <https://www.transportation.gov/grants/SS4A>

NOFO: <https://www.transportation.gov/sites/dot.gov/files/2024-02/SS4A-FY24-Notice-of-Funding-Opportunity.pdf>

Solutions for Congested Corridors Program (SCCP): <https://catc.ca.gov/programs/sb1/solutions-for-congested-corridors-program>

Transit and Intercity Rail Capital Program (TIRCP): <https://calsta.ca.gov/subject-areas/transit-intercity-rail-capital-prog>

Draft Guidelines:

[file:///C:/Users/sborick/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/BY303CS2/TIRCP%20Cycle%207%20Guidelines\\_DRAFT\\_20240313\\_.pdf](file:///C:/Users/sborick/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/BY303CS2/TIRCP%20Cycle%207%20Guidelines_DRAFT_20240313_.pdf)



# Exhibit B

## Sample SBCOG Standard Agreement for Professional Services

### Exhibit B —STANDARD CONTRACT

The following is a copy of the Standard Contract used by SBCOG for contracting with consultants or individuals for professional services. This document shall serve as the basis for a contract with the successful consultants (s) or individual(s). *Respondents should not respond to this RFP if they cannot agree to the standard contract terms and conditions.*

---

The COUNCIL OF SAN BENITO COUNTY GOVERNMENTS ("COG") and \_\_\_\_\_ ("CONTRACTOR") enter into this contract which shall be effective on the date stated in Paragraph 1.

**1. Duration of Contract.**

This contract shall commence on \_\_\_\_\_, and end on \_\_\_\_\_ unless sooner terminated as specified herein.

**2. Scope of Services.**

CONTRACTOR, for COG's benefit shall perform the services specified on Attachment A to this contract. Attachment A is made a part of this contract.

**3. Compensation for Services.**

In consideration for CONTRACTOR'S performance, COG shall pay compensation to CONTRACTOR according to the terms specified in Attachment B. Attachment B is made a part of this contract.

**4. General Terms and Conditions.**

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C. Attachment C is made a part of this contract.

**5. Insurance Limits.**

CONTRACTOR shall maintain the following insurance policy limits of coverage consistent with the further insurance requirements specified in Attachment C.

- (a) Comprehensive general liability insurance: \$1,000,000
- (b) Professional liability insurance: \$1,000,000
- (c) Comprehensive motor vehicle liability insurance: \$1,000,000

**6. Termination.**

The number of days of advance written notice required for termination of this contract is thirty (30) days.

**7. Specific Terms and Conditions. (check one)**

- There are no additional provisions to this contract.
- The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D. Attachment D is made a part of this contract.

**8. Information about Contract Administrators.**

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

Contract Administrator for SBCOG:

*Name: Binu Abraham*

Title: Executive Director

*Address: 330 Tres Pinos Road, Ste. C7*

*Hollister, California 95023*

Phone No.: (831) 637-7665

Contract Administrator for CONTRACTOR:

Name:

Title:

Address:

**SIGNATURES**

APPROVED BY CONTRACTOR:

Name:

Chair

Date:

Name:

Title:

Date:

**APPROVED AS TO LEGAL FORM:**

Sloan Sakai Yeung & Wong LLP

By:

Osman I. Mufti, COG Legal Counsel

Date:

**ATTACHMENT A**  
**Scope of Services**

**This section has been intentionally left blank as the scope of services is provided in Exhibit A of this RFQ.**

**~ END ATTACHMENT A ~**

**ATTACHMENT B  
Payment Schedule**

**B-1. BILLING**

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- One month in arrears.
- Upon the complete performance of the services specified in Attachment A.
- The basis specified in paragraph B-4.

**B-2. PAYMENT**

Payment shall be made by COG to CONTRACTOR at the address specified in paragraph 7 of this contract, net thirty (30) days from the invoice date.

**B-3. COMPENSATION**

COG shall pay to CONTRACTOR: (check one)

- a total lump sum payment of \$ \_\_\_\_\_, or
- a total sum not to exceed \$ \_\_\_\_\_.

**for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.**

**B-4. SPECIAL COMPENSATION TERMS: (check one)**

- There are no additional terms of compensation.
- The following specific terms of compensation shall apply: (Specify)

***CONTRACTOR shall invoice monthly at an hourly rate for services rendered pursuant to B-4 and of this Contract. CONTRACTOR shall provide a monthly progress report as a part of the monthly invoice which tracks tasks specified in Attachment A, Scope of Services, with services completed by CONTRACTOR. The monthly progress report shall include the following:***

- Description of the tasks in progress or achieved
- Description of the tasks still to be achieved
- Percentage of work still anticipated for each task

~ END ATTACHMENT B ~

**ATTACHMENT C**  
**General Terms and Conditions**

**C-1. INDEMNIFICATION.**

CONTRACTOR and COG each agree to indemnify, defend and save harmless the other party and the other party's officers and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims or losses. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers and employees.

**C-2. GENERAL INSURANCE REQUIREMENTS.**

Without limiting CONTRACTOR'S duty to indemnify COG, CONTRACTOR shall comply with the insurance coverage requirements set forth in the contract and in this attachment. Those insurance policies mandated by Paragraph C-3 shall satisfy the following requirements:

- (a) Each policy shall be issued by a company authorized by law to transact business in the State of California.
- (b) Each policy shall provide that COG shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or nonrenewal thereof.
- (c) The comprehensive motor vehicle and comprehensive general liability policies shall each provide an endorsement naming the County of San Benito and its officers, agents and employees as additional insureds.
- (d) The required coverage shall be maintained in effect throughout the term of this contract.

CONTRACTOR shall require all Subcontractors performing work under this contract to obtain substantially the identical insurance coverage required of CONTRACTOR pursuant to this agreement.

**C-3. INSURANCE COVERAGE REQUIREMENTS.**

If required by paragraph 5 of the contract, CONTRACTOR shall maintain the following insurance policies in full force and effect during the term of this contract:

- (a) Comprehensive general liability insurance. CONTRACTOR shall maintain comprehensive general liability insurance, covering all of CONTRACTOR'S operations with a combined single limit of not less than the amount set out in paragraph 5 of this contract.
- (b) Professional liability insurance. CONTRACTOR shall maintain professional liability insurance with liability limits of not less than the amount set out in paragraph 5 of this contract.
- (c) Comprehensive motor vehicle liability insurance. CONTRACTOR shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned and hired) used in providing services under this contract, with a combined single limit of not less than the amount set out in Paragraph 5 of this contract.
- (d) Workers' compensation insurance. CONTRACTOR shall maintain a workers' compensation plan covering all of its employees as required by California Labor

Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If CONTRACTOR elects to be self-insured, the certificate of insurance otherwise required by this contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

**C-4. CERTIFICATE OF INSURANCE.**

Prior to the commencement of performance of services by CONTRACTOR and prior to any obligations of COG, CONTRACTOR shall file certificates of insurance with COG, showing that CONTRACTOR has in effect the insurance required by this contract. CONTRACTOR shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file. In lieu of providing proof of insurance, CONTRACTOR may provide proof of self-insurance meeting requirements equivalent to those imposed herein. CONTRACTOR warrants that CONTRACTOR'S self-insurance provides substantially the same protection to COG as the insurance required herein. CONTRACTOR further agrees to notify COG in the event any change in self-insurance occurs that would alter the obligations undertaken in this contract within thirty (30) days of such change.

**C-5. RECORDS TO BE MAINTAINED.**

CONTRACTOR shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract. CONTRACTOR shall contractually require that all of CONTRACTOR'S Subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by CONTRACTOR or any SUBCONTRACTOR, shall be made available to COG or its authorized representative, Federal Highway Administration (FHWA), or any duly authorized representative of the Federal Government or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by COG, its authorized representative, or officials of the State of California.

**C-6. RETENTION OF RECORDS.**

CONTRACTOR shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. CONTRACTOR shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three year period shall arise only if the COG notifies CONTRACTOR of the commencement of an audit prior to the expiration of the three year period.

**C-7. TITLE TO DOCUMENTS; COPYRIGHT.**

All reports and other materials collected or produced by the CONTRACTOR or any Subcontractor of CONTRACTOR shall, after completion and acceptance of the contract, become the property of COG, and shall not be subject to any copyright claimed by the CONTRACTOR, SUBCONTRACTOR, or their agents or employees. CONTRACTOR may retain copies of all such materials exclusively for administrative purposes. Any use of completed or uncompleted documents for other projects by CONTRACTOR, any Subcontractor, or any of their agents or employees, without the prior written consent of COG is prohibited.

**C-8. INDEPENDENT CONTRACTOR.**

CONTRACTOR and its officers and employees, in the performance of this contract, are independent CONTRACTORs in relation to COG and not officers or employees of COG. Nothing in this contract

shall create any of the rights, powers, privileges or immunities of any officer or employee of COG. CONTRACTOR shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. CONTRACTOR further represents to COG that CONTRACTOR has no expectation of receiving any benefits incidental to employment.

#### **C-9. CONFLICT OF INTEREST.**

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

CONTRACTOR duties and services under this agreement shall not include preparing or assisting the COG with any portion of the COG's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the COG. The COG shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of a project for which grant writing services are provided by CONTRACTOR. CONTRACTOR's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. CONTRACTOR shall cooperate with the COG to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by contractor pursuant to this agreement.

#### **C-10. COMPLIANCE WITH APPLICABLE LAWS.**

CONTRACTOR shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

#### **C-11. NONDISCRIMINATION.**

CONTRACTOR shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

#### **C-12. BANKRUPTCY.**

CONTRACTOR shall immediately notify COG in the event that CONTRACTOR ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors.

#### **C-13. PROHIBITION AGAINST ASSIGNMENT AND DELEGATION OF DUTIES.**

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated by CONTRACTOR without the prior written consent of COG, and any attempted assignment or delegation without such consent shall be void.

#### **C-14. NEGOTIATED CONTRACT.**

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code Section 1654.

**C-15. SEVERABILITY.**

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect. To this end, the provisions of this contract are declared to be severable.

**C-16. ENTIRE CONTRACT.**

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference.

**C-17. TIME IS OF THE ESSENCE.**

Time is of the essence in the performance of this contract.

**C-18. TERMINATION.**

Either party may terminate this contract, with or without cause, at any time. In order to terminate this contract, the terminating party shall give advance written notice to the other party. The termination shall be effective no earlier than the expiration of the number of days specified in paragraph 6 of this contract. The termination notice shall be made as specified in paragraph C-19, below. In the event of termination, COG shall pay CONTRACTOR for all work satisfactorily performed prior to the effective date of the termination.

**C-19. NOTICES.**

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 8 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

**C-20. RESPONSIBILITY OF CONTRACT ADMINISTRATORS.**

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the party's employee specified, in writing, by the contract administrator. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change.

**C-21. MATERIALITY.**



The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

**C-22. WAIVER.**

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. COG's receipt of consideration with knowledge of CONTRACTOR'S violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

**C-23. AUTHORITY AND CAPACITY.**

CONTRACTOR and CONTRACTOR'S signatory each warrant and represent that each has full authority and capacity to enter into this contract.

**C-24. BINDING ON SUCCESSORS.**

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of CONTRACTOR. CONTRACTOR and all of CONTRACTOR'S heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

**C-25. CUMULATION OF REMEDIES.**

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

**C-26. INDEPENDENT ADVICE.**

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

**C-27. NO RELIANCE ON REPRESENTATIONS.**

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

**C-28. REDUCTION OF CONSIDERATION.**

CONTRACTOR agrees that COG shall have the right to deduct from any payments specified in Attachment B any amount owed to COG by CONTRACTOR as a result of any obligation arising prior to, or after, the execution of this contract. For purposes of this paragraph, obligations arising prior to, or after, the execution of this contract may include, without limitation, any property tax, secured or unsecured, which tax is in arrears. If COG exercises the right to reduce the consideration

specified in Attachment B, COG, at the time of making a reduced payment, shall give CONTRACTOR notice of the amount of any off-set and the reason for the reduction.

**C-29. COUNTERPARTS.**

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

~ **END ATTACHMENT C** ~

~ **END EXHIBIT B** ~