



PLACER COUNTY
TRANSPORTATION
PLANNING AGENCY

REQUEST FOR QUALIFICATIONS FOR CONSULTING SERVICES

PLACER COUNTY TRANSPORTATION PLANNING AGENCY FEDERAL ADVOCACY SERVICES

The Placer County Transportation Planning Agency is seeking proposals from qualified consultants to provide the Agency with advice and representation in advocating for agency projects and issues.

Proposals should be emailed to: mclick@pctpa.net at the Placer County Transportation Planning Agency, 299 Nevada Street, Auburn, CA 95603 no later than January 13, 2023, at 4:00 pm PST (7:00 pm EST). It is expected that a contract will be awarded in March 2023.

PCTPA reserves the right to award all or portions of this contract as described in the Request for Qualifications. PCTPA is an equal opportunity employer, and women and minority owned businesses (DBEs) are encouraged to apply.

Questions about this RFQ should be addressed to Matt Click at mclick@pctpa.net .

REQUEST FOR QUALIFICATIONS
FOR
FEDERAL ADVOCACY SERVICES
PLACER COUNTY TRANSPORTATION PLANNING AGENCY

I. PURPOSE OF RFQ

The Placer County Transportation Planning Agency (PCTPA) is the state-designated Regional Transportation Planning Agency (RTPA) for the western slope of Placer County, located in the Sierra Nevada foothills between Sacramento and the Lake Tahoe area. The Agency is also the designated Congestion Management Agency (CMA) for all of Placer County, and the Airport Land Use Commission (ALUC). The Sacramento Area Council of Governments (SACOG) is the Metropolitan Planning Organization (MPO) for the area.

PCTPA faces the challenge of effectively implementing our transportation priorities within budgetary and regulatory limits. Congress and Federal regulatory agencies, including the Federal Highway Administration, Army Corps of Engineers, Environmental Protection Agency, and other agencies have significant influence over our ability to implement these projects. PCTPA is looking for advocacy services to identify and capitalize on opportunities that may occur at the Federal level and assist staff in furthering the Agency's priorities.

Agency Websites: www.pctpa.net
www.keepplacermoving.com

Agency Video: <https://www.youtube.com/watch?v=bNF8o5y5l80&t=9s>

II. SERVICES REQUESTED

PCTPA seeks an individual or firm to provide advocacy services for PCTPA to assist in securing both program and discretionary funding and represent PCTPA interests with Federal officials. This service also entails providing advice to the Agency relating to transportation planning and funding issues and opportunities. Typical duties might include advocating PCTPA priority projects, including advising the Agency on funding strategies, assisting with securing regulatory agency approvals, and helping the Agency access discretionary funding opportunities. Attendance at Board meetings may be required on an "as needed" basis.

In addition to experience in transportation advocacy with government agencies, individuals or firms should have expertise relating to the following areas: transportation project development and funding procedures, the Infrastructure Investment and Jobs Act (IIJA), Build Back Better and successor Federal transportation legislation, National Environmental Protection Act (NEPA), and air quality issues related to transportation.

A copy of the 2022 Federal Priorities of PCTPA is attached for reference. This document will be updated in early 2023.

III. PROPOSAL FORMAT

A qualifying proposal no more than 10 pages in length/11 point font and shall be emailed in Adobe PDF format and must address all the following points, in the order shown below:

- A. A brief description of the consultant's firm, including the year the firm was established, type of organization of firm (partnership, corporation, etc.), and any variation in size over the last five years, along with a statement of the firm's qualification for performing the subject consulting services.
- B. A brief summary of the firm's experience with transportation organizations similar to PCTPA.
- C. An organizational chart depicting the individual or team proposed by the firm. A resume showing the qualifications and experience of each member proposed to provide advocacy services shall be included but will not count against the ten (10) page proposal limit.
- D. The proposed method of compensation, monthly retainer, hourly rate for principal and employees to be assigned to this Agency and a summary of any other related costs that are to be billed directly.
- E. A list of references for similar clients, including contact person, email address and phone number.

IV. PROPOSAL SUBMITTAL

The emailed proposal shall be received no later than January 13, 2023, at 4:00 pm Pacific Standard Time/7:00PM Eastern Standard Time to mclick@pctp.net of the Placer County Transportation Planning Agency, 299 Nevada Street, Auburn, California 95603.

The subject line of the email shall state "Proposal for PCTPA Federal Advocacy Services". Late proposals shall not be accepted.

All proposals, whether selected or rejected, shall become the property of Placer County Transportation Planning Agency.

V. SELECTION PROCEDURE

An evaluation committee will review each proposal for completeness and the responding individuals or firms may be invited for virtual personal interviews prior to final selection, to further elaborate on their proposals.

The Agency reserves the right to award a contract to the firm or individual that presents the proposal which, in the sole judgement of the Agency, best accomplishes the desired results.

The Agency reserves the right to reject any or all proposals, or to waive minor irregularities in said proposal.

The Agency reserves the right to negotiate minor deviations to the proposal(s) with the successful individual or firm. The Agency intends to enter into a multiple-year (three-year) contract, with two additional option years of extended service if agreeable to both parties.

VI. AWARD CRITERIA

After the evaluation committee has reviewed the proposals and/or interviewed proposing firms, each firm will be rated using the following criteria and rating schedule:

<u>Evaluation Criteria</u>	<u>Rating Points</u>
Specialized qualifications/experience in advocating on transportation and environmental issues	45
Familiarity with type of issues, problems, and opportunities associated with transportation project funding and delivery	45
Fee schedule/cost proposal	<u>10</u>
TOTAL RATING POINTS	<u>100</u>

The top qualified firm will then be recommended to the Board of Directors of the Placer County Transportation Planning Agency. The Agency reserves the right to award the contract to the best qualified firm.

VII. CONFLICT OF INTEREST

Bidder warrants and covenants that no official or employee of the Agency, nor any business entity in which an official of the Agency has interest, has been employed or retained to solicit or aid in the procuring of the resulting contract, nor that any such person will be employed in the performance of such contract without immediate divulgence of such fact to the Agency.

Bidder also warrants and covenants to disclose to the Agency any actual or potential conflict of interest of the bidder in representing the Agency versus the interests of the bidder's other clients.

VIII. TERMINATION OF AGREEMENT

The Agreement may be terminated for cause with 30 days' written notice or without cause with sixty (60) days' written notice, without further liability other than costs incurred during that period.

IX. INDEMNIFICATION

Contractor agrees to hold harmless and to indemnify the Agency from every claim or demand which may be made for any injury or death or damage to property caused by Contractor in the performance of this contract.

Such duty shall be irrespective of the date upon which the claim or demand is asserted.

If any judgement is rendered against the Agency for any injury, death or damage caused by the contractor in the performance of this contract, the Contractor shall, at his own expense, satisfy and discharge any judgement.

None of the foregoing paragraphs shall be applicable if the injury, death or damage is caused solely by the Agency's negligence.

Contractor agrees that it shall immediately notify Agency and Contractor's insurance carriers of any incident occurring during performance of this contract which may result in a claim of liability.

As used above, the term "Agency" means the Placer County Transportation Planning Agency and its officers, agents or employees.

As used above, the term "Contractor" includes Contractor and Contractor's officers, agents, or employees.

X. INSURANCE

The successful firm shall provide evidence of the following insurance requirements:

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 / \$2,000,000 aggregate
(4) Errors and Omissions/Professional Liability	\$1,000,000 per claim or as negotiated

XI. INQUIRIES

1. Direct all inquiries to:

Matt Click, Executive Director
Placer County Transportation Planning Agency
299 Nevada Street
Auburn, California 95603
Email: mclick@pctpa.net



MEMORANDUM

TO: PCTPA Board of Directors

DATE: January 26, 2022

FROM: Mike Luken, Executive Director

SUBJECT: FEDERAL LEGISLATIVE PROGRAM FOR 2022

ACTION REQUESTED

Adopt the Federal Legislative Program for calendar year 2022 as shown in this report and direct staff and Federal advocates to represent these positions.

BACKGROUND

Federal transportation bills fund a number of transportation programs here in California and in Placer County, including Congestion Mitigation and Air Quality (CMAQ), Regional Surface Transportation Block Grant Program (RSTBGP), and funding for maintaining and addressing safety on the State and Federal highway system.

Fixing America's Surface Transportation Act, or the FAST Act, was the former Federal transportation law from 2015 to 2020. On November 15, 2021, the President signed the "Infrastructure Investment and Jobs Act" (IIJA) into law (P.L. 117-58) which will fund Federal transportation programs and make changes in laws for Federal transportation funding and projects for the next five years. The "Build Back Better" bill, which would also provide additional transportation funding for local surface transportation projects, transit, climate change and other infrastructure, has passed the House and is pending in the Senate. It may move forward this year.

DISCUSSION

The five-year IIJA provides the largest increase in Federal highway, bridge, and transit funding in more than six decades. It offers a generational opportunity to repair and modernize every state's transportation system, while simultaneously delivering tangible economic benefits for years to come. Up to 50% matching funds will still be needed to compete for competitive federal funding which can only be generated adequately from a potential future transportation sales tax measure.

Congressionally Directed Funding

Congressionally directed funding or earmarks were in earlier House versions of the IIJA but ultimately the Congress could not agree on implementation, and they were not included in the final adopted reauthorization bill.

Funding Policies

Funding policies that maximize funding available to states for highway programs that include local selection of project priorities, as exemplified by the CMAQ and RSTBGP programs, would provide another critical opportunity for leveraging funds. Overall staff recommends the following policy framework:

- Support efforts to ensure the continued solvency and integrity of the Highway Trust Fund

PCTPA Board of Directors
FEDERAL LEGISLATIVE PROGRAM FOR 2022
January 2022
Page 2

- Support various congressional funding opportunities, including, but not limited to, the IIA and the annual appropriations process, for critical infrastructure projects to enhance economic opportunity and quality of life
- Seek relief from Federal regulations on projects to improve the highway system that do not have Federal funding support
- Balance road maintenance and accessibility needs by supporting greater flexibility in the definition of structural and non-structural improvements in triggering American with Disabilities (ADA) improvements
- Work closely with CALCOG, FHWA, Caltrans, SACOG and EDCTC to preserve the ability for Placer to prioritize projects and maintain historic funding levels for the RSTBG and CMAQ funding programs.

Priority Projects

The program continues the Board's longstanding focus on the highest priority projects for transportation, including:

Regional Roadway Projects

- I-80/SR 65 Interchange Phases 2 and 3
- Highway 65 Widening
- I-80 Auxiliary Lanes (if needed to fill unanticipated funding gaps)
- Placer Parkway Phases 2-4 (Foothills Blvd to Highway 99/70)
- Baseline/Riego Road from Foothills Blvd to Highway 99/70

Regional Rail/Transit/Other Projects

- Roseville – Sacramento Third Track Project
- Explore Federal grant opportunities for transit and alternative transportation.

Federal Discretionary Program

In the past, PCTPA has aggressively pursued discretionary funding from programs authorized in the FAST Act and relevant appropriations bill, including Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) program, which was replaced by the Infrastructure for Rebuilding America (INFRA) program. PCTPA has also considered the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program, which replaced the Better Utilizing Investments to Leverage Development (BUILD) and the Transportation Investment Generating Economic Recovery (TIGER) Grant Program. In summary the following funding programs may be available for transportation projects:

Formula Programs

- \$29.5B for highways and bridges,
- \$179M for highway safety traffic programs,
- \$555M to reduce transportation-related emissions,
- \$631M to increase the resilience of its transportation system,
- \$10.3B to improve public transportation
- \$12B for intercity rail service,

PCTPA Board of Directors
FEDERAL LEGISLATIVE PROGRAM FOR 2022
January 2022
Page 3

- \$5B for rail improvement and safety,
- \$3B for grade crossing safety improvements

Competitive Programs

- \$15B for Rebuilding American Infrastructure with Sustainability and Equity - RAISE - for transportation projects of local and/or regional significance,
- \$14B for Infrastructure for Rebuilding America – INFRA -for freight projects of regional or national significance.
- \$15B for MEGA projects
- \$1.4B for Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation Program - PROTECT - a new program to increase the resilience of the transportation system.
- \$12.5B for a new program to rehabilitate or replace bridges,
- \$1.75B for FTA All Station Accessibility Program - a new program to upgrade rail stations to meet disability standards.
- \$1B for Strengthening Mobility and Revolutionizing Transportation - SMART - a new program for projects that improve transportation safety and efficiency.
- Funding opportunities via the “Build Back Better” bill (if enacted)

Demand will continue to be great for competitive federal programs. In the past, only about 1-3% of the applications nationally are funded. Previous competitive federal applications submitted by Placer County for Placer Parkway and by the City of Roseville for Washington/Andorra were unsuccessful. However, staff recommends that we continue to monitor opportunities for funding in discretionary programs for priority projects and submit applications as appropriate. Caltrans is also attempting to coordinate with local agencies applying for federal competitive funding using the CAPTI program as a requirement to get state blessing on any competitive funding applications.

Local Projects

Member jurisdictions often have more localized transportation priorities that would benefit from PCTPA’s assistance in Federal advocacy, such as obtaining Federal approvals or supporting funding requests. Staff recommends the Board support transportation projects from member jurisdictions.

Advocacy

Staff recommends these positions be forwarded to Sante Esposito of Key Advocates, Inc. to represent the Agency’s interests in Washington DC. Our master agreement was briefly extended by the Executive Director per the master agreement to get past the adoption of IIJA. Staff will begin a request for proposals for a new master agreement and bring a contract for consideration to the Board in April or May.

There was only a virtual Cap-to-Cap trip in late October 2021 as the Sacramento Metro Chamber is in a rebuilding mode due to the COVID 19 crisis. An in-person trip has been scheduled for April 2022. The Placer Business Alliance conducted an inaugural trip in October 2021 which was very successful for several County priorities including the Placer County Conservation Program (PCCP) which is extremely important to the regional transportation projects in South Placer County. It is likely that a similar Placer Business Alliance trip will be scheduled for Fall 2022.

Draft Federal Legislative Program for 2022

Policy

- Advocate for the appropriation of funding for intercity passenger rail
- Seek relief from Federal regulations on projects to improve the highway system that do not have Federal funding support
- Balance road maintenance and accessibility needs by supporting greater flexibility in the definition of structural and non-structural improvements in triggering Americans with Disabilities Act (ADA) improvements.

Projects / Appropriations

- Actively and strategically pursue Federal funding opportunities provided by the IIJA including formula funds that the State will receive over the next five years for the following priority projects:
 - I-80/SR 65 Interchange Improvements
 - Highway 65 Widening
 - Placer Parkway
 - Roseville – Sacramento Third Track Rail Project
 - Baseline/Riego Road Widening
- Continue to assess the potential use of the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program to jump-start construction of priority projects, including the Placer Parkway and Baseline/Riego Road;
- Explore opportunities for Federal grants to fund various transportation priorities, including transit and bikeways;
- Support member jurisdiction efforts to obtain Federal funding and/or approvals for local transportation priorities.
- Continue the strategic relationship with Washoe County and Northern Nevada for projects along Interstate 80, Highway 65, Tahoe Area Roads and rail service.
- Support Northern California Megaregional efforts and partnerships through SACOG and CCJPA; and,
- Work closely with Placer SACOG Representatives and the Placer Federal Delegation to initiate field visits by US Department of Transportation representatives to Placer County
- The Chair or a designated Board member and the Executive Director or Deputy Executive Director should attend Cap-to-Cap and the Placer Business Alliance Annual Trips to Washington, DC. Additional travel to maximize federal funding or to address a regulatory issue may be warranted. Travel for both regular and unplanned trips shall be included in the OWP.

**MASTER AGREEMENT BETWEEN
PLACER COUNTY TRANSPORTATION PLANNING AGENCY
AND
NAME OF FIRM**

THIS AGREEMENT (“Agreement” or “Contract”), is made and entered into as of this 22nd day of January, 2020, at Auburn, 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.

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 November 1, 2022, 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 15, 2024, unless extended by written amendment pursuant to Section 16 below.

- 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. The amount to be paid shall not exceed the amount specified in the applicable Letter of Task Agreement, which amount 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.

b. Cost Principles and Administrative Requirements:

- (1) The Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000, et seq., and "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR, Part 200, or its successor, shall be used to determine the allowability of individual items of cost.
- (2) The Contractor also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and 2 CFR Part 225.
- (3) Any costs for which payment has been made to the Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq.; 23 CFR, 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 225, or any other applicable State or Federal Regulations, are subject to repayment by the Contractor to PCTPA. Disallowed costs must be reimbursed to PCTPA within thirty (30) days unless PCTPA approves in writing an alternative repayment plan. Should Contractor fail to return disallowed costs to PCTPA within thirty (30) days, PCTPA is authorized to withhold payments due to Contractor from other PCTPA contracts.
- (4) The Contractor and subcontractors shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) which segregates and accumulates reasonable, allowable, and allocable costs and matching funds for work elements by line item and produces quarterly reports which clearly identify reimbursable costs and other expenditures and shall provide support for all invoices sent to PCTPA.
- (5) Contractor is hereby expressly put on notice that no employee of PCTPA has authority to authorize in writing or otherwise any additional work which would increase the cost of a Letter of Task Agreement without approval by the Executive Director of PCTPA.
- (6) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions of Sections 6.b (1) through 5 above.

7. 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.
9. Data to be Furnished by Contractor.
Whenever information that Contractor previously provided to PCTPA in its response to the request for proposals (RFP) is no longer complete, accurate, or up-to-date, Contractor shall notify PCTPA, attention Executive Director, and amend its response so that PCTPA has 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 described in PCTPA's RFP.
 - 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 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, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000, *et seq.*, 49 CFR, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR, Part 200, and "Contract Cost Principles and Procedures." 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.

(5) Comply with all applicable requirements of Title 49, Part 26 of the Code of Federal Regulations, as set forth in Section 42, Disadvantaged Business Enterprise Participation.

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 36.
- 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 One Hundred Thousand Dollars (\$100,000).
- 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 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 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. National Labor Relations Board Certification.

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

20. 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.

21. 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.

22. 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.

23. 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.
24. 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.
25. 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.
26. 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:

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.

27. 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 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.

28. 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 by the State to FHWA.

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 \$25,000 shall contain this entire Section 28.

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 48 CFR, Part 31 and other related 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, 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.

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

It is Agency's policy to comply with state and 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.

Contractor hereby certifies, under penalty of perjury under the laws of California, that it complies with, and that Contractor will require that its subcontractors comply with, the following non-discrimination and equal opportunity laws. Any failure by Contractor to comply with these provisions shall constitute a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Agency may deem appropriate.

a. Contractor and its subcontractors shall comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., with U.S. D.O.T. regulations, "Non-discrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act", 49 C.F.R. Part 21, and with any applicable implementing federal directives that may be issued. Title VI provides that the recipients of federal assistance will implement and maintain a policy of non-discrimination in which no person in the State of California shall, on the basis of race, color, national origin, religion, sex, age, or disability, be excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

b. Contractor and its subcontractors shall comply with all applicable equal employment opportunity (EEO) provisions of 42 U.S.C. §§ 2000e, implementing federal regulations, and any applicable implementing federal directives that may be issued. Contractor and its subcontractors shall ensure that applicants and employees are treated fairly without regard to their race, color, creed, sex, disability, age, or national origin.

c. Contractor and its subcontractors will act in accordance with Title VI and will not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religion, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age or marital status

d. Contractor shall also comply with the Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age, Section 324 of Title 23 U.S.C., prohibiting discrimination based on gender, and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

e. Contractor, with regard to the work performed by it during the Agreement, shall act in accordance with Title VI. Specifically, the Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

f. Contractor will include the non-discrimination and equal employment opportunity provisions of this section (provisions a. through e. above) in all contracts to perform work funded under this Agreement.

30. 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.

31. 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.

32. 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.

33. Ownership of Documents; Permission.

a. Contractor agrees that any works or computer programs owned, created, or maintained by Contractor prior to generating the work in performance of the agreement remains owned by Contractor even if it is incorporated into any work generated in performance of this agreement, and Contractor agrees to provides an irrevocable license to PCTPA to use these works and computer programs.

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.

34. 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.

35. 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.

36. 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:

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

37. 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.

38. 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.

39. 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.

40. 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 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.

41. 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 action as is consistent with the terms of this Agreement and the interests of PCTPA.

42. Prohibition of Expending State or Federal Funds for Lobbying

a. The Contractor certifies, to the best of his or her knowledge and belief, that:

- (1) No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure of Lobbying Activities," in accordance with its instructions.

b. This certification is a material representation of fact upon which reliance was placed when this Agreement was entered into. Submission of this certification is a prerequisite for making or entering into this

Agreement, imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000 for each such failure.

c. The Contractor also agrees by signing this Agreement that it shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

45. 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.

46. Equipment Purchase:

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

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

c. Any equipment purchased as a result of this contract is subject to the following: "Contractor shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least one year and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, PCTPA shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, Contractor may either keep the equipment and credit PCTPA in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established PCTPA procedures, and credit PCTPA in an amount equal to the sales price. If Contractor elects to keep the equipment, fair market value shall be determined at Contractor's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to PCTPA and Contractor, and if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by PCTPA." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

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

47. 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>.

48. Clean Air Act: Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, including sections 174 and 176, subdivisions (c) and (d) (42 U.S.C. §§ 7504, 7506 (c) and (d)) and 40 CFR part 93 ("Clean Air requirements"). Contractor agrees to report each Clean Air requirement violation to PCTPA and understands and agrees that PCTPA will, in turn, report each Clean Air requirement violation as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

49. 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.

50. 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.

51. 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.

52. 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

Firm Name

Michael Luken,
Executive Director

Authorized Representative
Name of Firm

Date: _____

Date: _____

Enclosures

- 1) Exhibit A: Levine Act Disclosure Statement
- 2) Letter of Task Agreement

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:

Bruce Houdesheldt	Alice Dowdin Calvillo
Brian Baker	Paul Joiner
Ken Broadway	Suzanne Jones
Trinity Burruss	Dan Wilkins
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

Authorized Representative