

Standard Professional Services Agreement (“PSA”)

Revision G – October 2021

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement ("Agreement"), dated as of December 13, 2023 (“Effective Date”) is by and between the County of Sonoma, a political subdivision of the State of California (hereinafter "County"), and M-Group (hereinafter "Consultant").

R E C I T A L S

WHEREAS, Consultant represents that it is a duly qualified and licensed consulting firm, experienced in policy planning, urban design, environmental review, historic preservation, community engagement, and related services; and

WHEREAS, in the judgment of the Board of Supervisors, it is necessary and desirable to employ the services of Consultant for the preparation of the Airport Area Specific Plan and programmatic Environmental Impact Report.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

A G R E E M E N T

1. Scope of Services.

1.1 Consultant's Specified Services.

Consultant shall perform the services described in Exhibit “A,” attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in Exhibit “A” and pursuant to Article 7, Prosecution of Work. In the event of a conflict between the body of this Agreement and Exhibit “A”, the provisions in the body of this Agreement shall control. Consultant expressly agrees to comply with all Disadvantaged Business Enterprise (“DBE”) requirements imposed on this Agreement as more specifically described in Section 13.4, below, and Exhibit “D” hereto.

1.2 Cooperation With County. Consultant shall cooperate with County and County staff in the performance of all work hereunder.

1.3 Performance Standard. Consultant shall perform all work hereunder in a manner consistent with the Standard of Care as defined below. County has relied upon the professional ability and training of Consultant as a material inducement to

enter into this Agreement. Consultant hereby agrees to provide all services under this Agreement in accordance with that degree of care, skill, and diligence ordinarily exercised by professionals performing similar services in the same or similar locale and under similar circumstances to that of Consultant under this Agreement (the "Standard of Care"), Consultant shall, subject to the Standard of Care, provide its services under this Agreement in accordance with the requirements of applicable federal, state and local laws then in effect at the time of Consultant's performance of its services hereunder, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release. If County determines that any of Consultant's work is not in accordance with the Standard of Care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with County to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is in accordance with this Standard of Care; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

1.4 Assigned Personnel.

- a. Consultant shall assign only qualified personnel to perform work hereunder. In the event that at any time County, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from County.
- b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by County to be key personnel whose services were a material inducement to County to enter into this Agreement, and without whose services County would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of County.
- c. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

2. Payment.

2.1 For all services and incidental costs required hereunder, Consultant shall be paid on a time and material/expense basis in accordance with the budget set forth in Exhibit B, provided, however, that total payments to Consultant shall not exceed \$671,153.00, without the prior written approval of County. Consultant shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of the County Department receiving the services. The bills shall show or include: (i) the

task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed.

Unless otherwise noted in this Agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County.

Pursuant to California Revenue and Taxation code (R&TC) Section 18662, the County shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

If Consultant does not qualify, County requires that a completed and signed Form 587 be provided by the Consultant in order for payments to be made. If Consultant is qualified, then the County requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, the Consultant agrees to promptly notify the County of any changes in the facts. Forms should be sent to the County pursuant to Article 12. To reduce the amount withheld, Consultant has the option to provide County with either a full or partial waiver from the State of California.

2.2 All or part of this Agreement will be paid with State and Federal financial assistance. Contractor acknowledges and agrees to comply with the additional terms and conditions in Exhibit B-2, including the certifications in Attachment A, which are incorporated herein by reference. Any agreement between Contractor and a subcontractor must incorporate these additional terms and conditions and certifications, as applicable. In the event of a conflict between Exhibit B-2 and the body of this Agreement and other exhibits, the stricter provision shall control.

3. Term of Agreement. The term of this Agreement shall be from December 13, 2023 to December 13, 2025 unless terminated earlier in accordance with the provisions of Article 4 below.

4. Termination.

4.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, County shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

4.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, County may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

4.3 Delivery of Work Product and Final Payment Upon Termination.

In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to County all_ reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.4 Payment Upon Termination. Upon termination of this Agreement by County, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Consultant.

4.5 Authority to Terminate. The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Purchasing Agent or Permit Sonoma Department Head, in consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

5. Indemnification. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity against County to the extent caused by Consultant's or its agents', employees', contractors', subcontractors', or invitees' intentionally wrongful or negligent acts, errors, or omissions in their performance of their services or obligations under this Agreement. Consultant's obligation to indemnify County does not include a duty to defend or a defense obligation. With respect to Consultant's indemnity obligation arising out of its professional services, the indemnity obligation in this Section 5 shall override and supersede any other indemnity obligations in this Agreement, including those in any

Exhibits hereto. Consultant's obligations under this Section apply whether or not there is concurrent or contributory negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

6. Insurance. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit C, which is attached hereto and incorporated herein by this reference.

7. Prosecution of Work. The execution of this Agreement shall constitute Consultant's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

8. Extra or Changed Work. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not exceed the delegated signature authority of the Department Head and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Department Head in a form approved by County Counsel. The Board of Supervisors must authorize all other extra or changed work. The parties expressly recognize that, pursuant to Sonoma County Code Section 1-11, County personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of the County.

9. Representations of Consultant.

9.1 Standard of Care. County has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the Standard of Care as defined in Section 1.3 herein, it being understood that acceptance of Consultant's work by County shall not operate as a waiver or release.

9.2 Status of Consultant. The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to Article 4, above, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

9.3 No Suspension or Debarment. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If the Consultant becomes debarred, consultant has the obligation to inform the County

9.4 Taxes. Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold County harmless from any liability which it may incur to the United States or to the State of California as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case County is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish County with proof of payment of taxes on these earnings.

9.5 Records Maintenance. Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to County for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

9.6 Conflict of Interest. Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by County, Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with County disclosing Consultant's or such other person's financial interests.

9.7 Statutory Compliance/Living Wage Ordinance. Consultant agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, including

but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

9.8 Nondiscrimination. Without limiting any other provision hereunder, Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

9.9 AIDS Discrimination. Consultant agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

9.10 Assignment of Rights. Consultant assigns to County all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to County in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as County may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of County. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of County.

9.11 Ownership of Work Product. All reports, drawings, graphics, plans, and studies, in their final form and format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement ("Work Product"), shall be the property of County. Consultant shall deliver such materials to County upon request in their final form and format. Such Work Product shall be and will remain the property of County without restriction or limitation. Document drafts, notes, and emails of the Consultant and Consultant's subcontractors, consultants, and other agents shall remain the property of those persons or entities. However, notwithstanding the foregoing, or anything to the contrary in this Agreement, any use of Consultant's and its subconsultants' Work

Product for any other project or purpose not authorized in writing by Consultant or its subconsultants, any changes to the Work Product made by anyone other than Consultant or its subconsultants, and any use of incomplete Work Product shall be at County's or any other user's sole risk, and Consultant and its subconsultants shall bear no liability for any such unauthorized use of, reuse of, or modifications to the Work Product.

9.12 Authority. The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of Consultant.

10. Demand for Assurance. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article limits County's right to terminate this Agreement pursuant to Article 4.

11. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

12. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

TO: COUNTY:

Permit Sonoma
Attn: Claudette Diaz
2550 Ventura Ave
Santa Rosa, CA 95403

TO: CONSULTANT:

M-Group
51 E. Campbell Avenue #1247
Campbell, CA 95009

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile or email, the notice, bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

13. Federal Requirements.

13.1. Contract Assurance. The Consultant, sub recipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted agreements. Failure by the consultant to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanction; (3) Liquidated damages; and/or (4) Disqualifying the Consultant from future bidding as non-responsible.

13.2. Prompt Progress Payments to Subcontractors. Attention is directed to Section 7108.5 of the California Business and Professions Code, which requires a prime contractor or subcontractor to pay any subcontractor not later than ten (10) days of receipt of each progress payment, unless otherwise agreed to in writing. In addition, federal regulations (Title 49 Code of Federal Regulations Part 26.29) require a prime contractor or subcontractor to pay a subcontractor no later than thirty (30) days of receipt of each payment, unless any delay or postponement of payment among the parties takes place only for good cause and with the prior written approval of County. Section 7108.5 of the California Business and Professions Code also contains enforcement actions and penalties. The requirements apply to both Disadvantaged Business Entities ("DBE") and non-DBE subcontractors. Consultant shall include the foregoing progress payment requirements in every subcontract entered into by Consultant in the performance of its obligations under this Agreement

13.3. Prompt Payment of Withheld Funds to Subconsultant. No retainage will be withheld by the County from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from

progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

13.4. Disadvantaged Business Enterprise (DBE) Participation. 13.4.1

This Agreement is subject to 49 CFR, Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”. Consultants who obtain DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

13.4.1. The goal for DBE participation for this Agreement is 3%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Agreement. If a DBE subconsultant is unable to perform, Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

13.4.2. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as County deems appropriate.

13.4.3. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

13.4.4. A DBE firm may be terminated only with prior written approval from County and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting County consent for the

termination, Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

13.4.5. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

13.4.6. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

13.4.7. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

13.4.8. Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

13.4.9. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by Consultant or Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the

summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to Consultant when a satisfactory “Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants” is submitted to the Contract Administrator.

13.4.10. If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify Consultant in writing with the date of certification. Any changes should be reported to County’s Contract Administrator within 30 days.

13.5. Prevailing Wage.

13.5.1. Consultant 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.

13.5.2. Any subcontract entered into as a result of this Agreement, 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 Article.

13.5.3. 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>.

Note: The Federal “Payment of Predetermined Minimum Wage” applies only to federal-aid construction contracts.

13.6. Text Messaging While Driving. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, and Department of Transportation Order 3902.10, Text Messaging While Driving, text messaging while driving is prohibited in the performance of any duties included in this agreement for both consultant and any sub-consultants hired for performance of duties under this Agreement. Consultant shall include a provision prohibiting texting while driving in all sub-consultant agreements entered into related to the performance of its obligations under this Agreement.

Definitions. The following definitions are to be used in conjunction with this section: “Driving”:

- 1) Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.
- 2) It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

“Text Messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

13.7. Buy America. Furnish Steel and iron materials to be incorporated into the work with certificates of compliance. Steel and iron materials must be produced in the U.S. except:

- 1) Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478(3/24/1995)];
- 2) If the total combine cost of the materials does not exceed the great of 0.1 percent of the total bid or \$2,500, materials produced outside the U. S. may be used.

Production includes:

- 1) Processing steel and iron materials, including smelting or other processes that alter the physical form or shape (such as rolling, extruding, machining, bending, grinding, and drilling) or chemical composition;
- 2) Coating application, including epoxy coating, galvanizing, and painting, that protects or enhances the value of steel and iron materials.

13.8 . Prohibition of Expending County, State or Federal funds for Lobbying.

13.8.1. Consultant certifies to the best of his or her knowledge and belief that:

A. No state, federal or County appropriated funds have been paid, or will be paid by-or-on behalf of Consultant to any person

for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

B. 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; Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

13.8.3. Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

13.9. Cost Principles and Administrative Requirements.

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

13.9.2. Consultant 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.

13.9.3. Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to County.

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

13.10. Retention of Records/Audit. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the Agreement pursuant to Government Code 8546.7; Consultant, subconsultants, and County shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The state, State Auditor, County, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant 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. Subcontracts in excess of \$25,000 shall contain this provision.

13.11. Audit Review Procedures

13.11.1. 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 County's Chief Financial Officer.

13.11.2. Not later than 30 days after issuance of the final audit report, Consultant may request a review by County's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

13.11.3. Neither the pendency of a dispute nor its consideration by County will excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

13.11.4. Consultant and subconsultant 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 work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, 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 Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Consultant and approved by County contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by County at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

13.12. Subcontracting.

13.12.1. Nothing contained in this Agreement or otherwise, shall create any contractual relation between County and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to County for the acts and omissions of its subconsultant(s) 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 Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from County's obligation to make payments to the Consultant.

13.12.2. Consultant 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 County's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

13.12.3. Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by County.

13.12.4. Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

13.12.5. Any substitution of subconsultant(s) must be approved in writing by County's Contract Administrator prior to the start of work by the subconsultant(s).

13.13. Equipment Purchase.

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

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

13.13.3. Any equipment purchased as a result of this Agreement is subject to the following: "Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, County shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, Consultant may either keep the equipment and credit County 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 County procedures; and credit County in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by County and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by County." 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.

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

14. Miscellaneous Provisions.

14.1 No Waiver of Breach. The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

14.2 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and County acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

14.3 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

14.4 No Third-Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

14.5 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

14.6 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

14.7 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

14.8. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

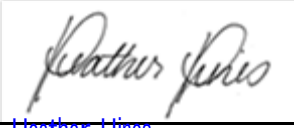
14.9 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

14.10. Counterpart; Electronic Signatures. The parties agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and together which when executed by the requisite parties shall be deemed to be a complete original agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered, be valid and effective for all purposes, and shall have the same legal force and effect as an original document. This Agreement, and any counterpart, may be electronically signed by each or any of the parties through the use of any commercially available digital and/or electronic signature software or other electronic signature method in compliance with the U.S. federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.), or other applicable law. By its use of any electronic signature below, the signing party agrees to have conducted this transaction and to execution of this Agreement by electronic means.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONSULTANT: M-Group

COUNTY: COUNTY OF SONOMA

By: 
Name: Heather Hines
Title: Principal
Date: April 29, 2024

CERTIFICATES OF
INSURANCE REVIEWED, ON
FILE, AND APPROVED AS TO
SUBSTANCE FOR COUNTY:

By: _____
Department Director or Designee

Date: _____

APPROVED AS TO FORM FOR
COUNTY:

By: _____
County Counsel

Date: _____

EXECUTED BY:

By: _____
Department Director

Date: _____

M-Group PSA Exhibits

Exhibit A- Scope of Work

Exhibit B- Budget and Master Funding Agreement

Exhibit C- Insurance Requirements

Exhibit D- Disadvantaged Business Enterprise Requirements

Exhibit A

Scope of Work

PROJECT UNDERSTANDING

The Sonoma County Airport Area Specific Plan (Specific Plan or AASP) updates and supersedes the Airport Area Industrial Plan, which was first adopted in 1984 to guide industrial development adjacent to the Sonoma County Airport. The Specific Plan Area (Plan Area) comprises over 800 acres that have since transitioned from primarily grazing lands and orchards into a predominantly industrial and commercial area that provides vital jobs, goods, and services for the region.

The scope of work assumes the use of many materials and draft documents that were developed in 2019 as part of the previous planning effort for the Airport Area Specific Plan.

ASSUMPTIONS

The scope and budget detailed below includes some key assumptions:

- **Water Supply Assessment.** Permit Sonoma will coordinate with the Town of Windsor to update, as necessary, the existing Water Supply Assessment previously prepared for the AASP Plan Area.
- **Sewage Treatment Plant Capacity.** Presently, the issue of adequate sanitary sewage treatment plant capacity is unresolved. Permit Sonoma anticipates that it will be able to transmit a Capacity Analysis study presently in process by consultants to Sonoma Water. The results of that study may show that Sonoma Water is able to adequately respond to increased demand for plant capacity. However, absent that analysis, the plant capacity issue could be a Significant and Unavoidable Impact.
- **Laughlin Road Bridge Replacement.** Replacement of Laughlin Bridge will be incorporated into the AASP, including planning, circulation, a conceptual cost estimate, and assignment of benefits both within and outside of the AASP Area.
- **Brickway Extension and Pruitt Avenue Extension.** We understand neither of these circulation improvements will continue to be studied in any way by the Specific Plan.

SCOPE OF WORK

TASK 1: PROJECT INITIATION

M-Group will work with County staff to update the Plan Area baseline conditions. Based on our recent discussions with County staff, we assume these will be minor adjustments and in accordance with directives for residential density and other issues identified in the MTC/ABAG Priority Development Area (PDA) program.

Task 1.1: Kick-Off Meeting and EIR Initiation

M-Group and DJP&A will attend one kick-off meeting with County staff to discuss the project, refine the EIR scope as needed, discuss potential EIR alternatives, and coordinate the scheduling and preparation of the Specific Plan and EIR.

Task 1.2: Refine Engagement Strategy

M-Group will collaborate with County Staff to prepare a tailored outreach strategy for the Specific Plan. The outreach strategy will aim to reach a wide range of residents, property owners, and business owners by facilitating a joint Technical Advisory Committee (TAC)/ Community Advisory Committee (CAC), as well as a community meeting to engage with residents.

M-Group will work with the County to provide updates to the project website within the County's existing website for all relevant project information including updates about upcoming meetings and deliverables. This interactive dialogue will be conducted throughout the planning process.

M-Group will prepare all materials and presentations for the community and committee meetings for approval by County staff. County Staff will provide meeting notifications and logistics for outreach events.

Task 1.2 Deliverables: *Community Engagement Strategy***Task 1.3: Establish Baseline Conditions**

Building on the previous planning effort, M-Group will update the baseline existing conditions for the Specific Plan Area. As noted above, we do not anticipate this to identify conditions inconsistent with development assumptions contained in the NOP but will allow for an update of minor development conditions that have transpired in the Plan Area during the pause in the planning process. Updated development information would include but not be limited to:

- remove housing overlay west of the railroad ROW
- minimum residential density of 20 DU/acre within ½ mile of the SMART Station
- Laughlin Road Bridge replacement
- road extensions
- intersection improvements
- hotel development
- pipeline projects not previously documented as existing, and
- any other significant changes to the Specific Plan Area

BKF will review and reevaluate the previously data collected to verify base infrastructure maps (sanitary sewer, water, recycled water, storm drainage and dry utility) and capacity

studies provided by the County of Sonoma (County), Town of Windsor (Town), Sonoma Water, Pacific Gas and Electric (PG&E), Comcast, AT&T, Federal Emergency Management Association (FEMA) maps and other utility providers. Capacity calculations of the existing systems within and serving the Station Area are not included.

BKF will modify the utility infrastructure overlays that were completed earlier to include the revised AASP scope and limits. This will be done by using existing aerial mapping available from the County of Sonoma. Base maps of the study area showing overlays of zoning and general plan designations, and major planned improvements (e.g. SMART station and other key infrastructure) will be prepared by others. The primary sources of information and background data is to be collected from the utility providers and anecdotal information from those same sources.

The base mapping will be compiled using the existing color aerial imagery available from the County of Sonoma. It will be developed in AutoCAD so that it can be transferred to and used by others. The mapping will be available to plot and display at various scales so that it can be included in a report format and/or large-scale format for public presentations. It will also serve as the base for preliminary and final infrastructure analysis.

Task 1.4: Property Owner Meeting

M-Group will attend with County staff a meeting with property owners in the Plan Area to provide an update on the Specific Plan process and changes necessary to be in accordance with the County's direction for Specific Plan requirements.

Task 1.4 Deliverables: *Materials for the Property Owner Meeting, including agenda and presentation.*

Task 1.5: Establish Specific Plan Land Use Plan

Following the meeting with property owners in Task 1.4, M-Group will refine the previously developed preferred alternative and establish a land use plan for the Plan Area, including build-out assumptions and potential circulation improvements. In coordination with County staff, M-Group will make refinements to the land use plan. This will serve as the foundation for the Specific Plan document and preparation of the Notice of Preparation for the CEQA process.

Task 1.5 Deliverables: *Land Use Plan and Build-out Assumptions for the Specific Plan.*

TASK 2: PLAN AREA ASSESSMENT

M-Group, Land Econ Group (LEG), and Fehr & Peers will produce an assessment of the Plan Area, including the current conditions for affordable housing, jobs, mobility, community assets and infrastructure, and resilience and climate adaptation. The assessment will be

conducted utilizing data collected from a variety of sources, including an employer survey and a community workshop, to develop policies for inclusion in the Specific Plan.

Task 2.1: Community Assessment

M-Group, in coordination with the County, will utilize available data and community outreach to produce a technical study of the Plan Area and the surrounding community that addresses equity, affordable housing and jobs, mobility, community assets and infrastructure, and resilience & climate adaptation.

The assessment will identify trends that influence the current Plan Area conditions. This process will identify potential policies for inclusion in the Specific Plan. The Community Assessment will be formulated by the research collected and organized into the following components:

2.1.1: Equity

M-Group will assess demographic conditions, considering the economic opportunities, housing stability, and health status of residents and employees in the Plan Area and surrounding communities. This process will identify potential policies to address identified inequities identified through the research. LEG will conduct the following:

- **Establish an Updated Business Profile for the Specific Plan Area.** LEG will compile a list of businesses in the Plan Area, including the names of each company, their industry sector (NAICS code), their website and contact information, the number of employees and their estimated sales. From this research, we will be able to determine total Plan Area employment, employment by industry sector and sales by industry sector as well as total sales generated within this Specific Plan Area.
- **Conduct an Updated Employer Survey.** LEG will use websites and contact information from businesses in the Plan Area to design and implement an employer survey to identify their primary business, their number of full and part time employees, the business outlook, and their projected change in employment over the next two to five years. It also will cover the percentage of their employees who are homeowners versus renters and the infrastructure facilities and/or services needed by their employees.

2.1.2: Affordable Housing and Jobs

M-Group will build off the equity research findings and utilize findings in the County's 6th Cycle Housing Element to identify the characteristics of the existing and planned housing stock in the Plan Area and surrounding community, coupled with projected short-and long-term housing needs. This process will also highlight challenges to delivering affordable housing and potential policies to address the identified issues. LEG will accomplish the following steps:

- **Updated Plan Area Analysis.** LEG will update the business profile, forecast housing demand, and conduct a fiscal and implementation analysis for the Sonoma County Airport Specific Plan. LEG will develop an analysis of the Plan Area using the MTC PDA Planning Grant for guidance.
- **Forecast Locally Generated Housing Demand and Compare to Housing Supply Provided in the Local Market.** LEG will estimate employment growth by industry sector over the next eight years. From those employment growth estimates, we will estimate a salary distribution and calculate a housing affordability distribution by owner versus rent. This distribution, after adjusting to household income for multiple wage earners in each household, will then be compared to the housing being produced within a reasonable commuting radius. The most glaring shortfalls will be identified with recommended product types/densities/rents or prices ranges for the available residential parcels within the Specific Plan Area.

2.1.3: Mobility

Fehr & Peers will conduct an assessment of the Plan Area to identify policies and infrastructure improvements for inclusion in the Specific Plan. The analysis will be structured along the following components:

- **Trip Patterns.** Fehr & Peers will review available traveler survey information for trips by mode, purpose, and length. Metrics such as commute distance, mode, and travel time for residents and employees of local businesses will be computed. Fehr & Peers will purchase and analyze up to 10 zones of Streetlight Data origin-destination data. This data will provide a better understanding of travel patterns to/from current Airport Specific Plan Area and will be used to supplement the results of the traveler survey review.
- **Vehicle-Miles Traveled.** Fehr & Peers will compute and summarize VMT from the SCTA travel demand model.
- **Safety.** Fehr & Peers will review collision data from the SWITRS and TIMS databases for the last three non-pandemic affected years for the Specific Plan area. The data will be summarized in tabular format with trends identified in a narrative summary.
- **Pedestrian/Bicycle Access and Circulation.** Fehr & Peers will update the recommendations for the bicycle and pedestrian systems in the Specific Plan considering activity centers, public transit options, and vehicle speed/volume characteristics of proposed Specific Plan area roadways.
- **Carshare.** Fehr & Peers will review carshare access and develop a policy related to carshare for the Specific Plan.
- **Transit.** Fehr & Peers will update the summary of transit services in the Specific Plan area. Where available, historical trends in Specific Plan area transit ridership will be summarized.

- **Parking and Curb Use.** Fehr & Peers will develop conceptual parking and curb space management policies for inclusion into the Specific Plan.
- **Local Policies and Constraints.** Fehr & Peers will propose new Transportation Demand Management strategies on an as-needed basis relative to the VMT analysis in the environmental document.

2.1.4: Community Assets and Infrastructure

M-Group will identify the availability of essential services and infrastructure related to current and potential needs in the Plan Area and surrounding community. In addition, the stability of community assets will be assessed. Policies to address these issues will be developed with the intention of completing further research for inclusion in the final assessment.

2.1.5: Resilience and Climate Adaption

M-Group will assess the vulnerability of the Plan Area and surrounding communities to natural hazards, with consideration towards anticipated climate change and seismic impacts. This research will be used to identify potential policies to adapt the community to these vulnerabilities and community response to future climatic conditions.

Task 2.2: Public Workshop

Utilizing data and Plan Area information identified in the Task 2.1 assessment analysis, M-Group will facilitate an interactive meeting. In addition to an update on the Specific Plan process, M-Group will provide workshop participants with an overview of issues identified in the assessment and potential Specific Plan policies or actions that could mitigate identified conditions. M-Group envisions the meeting as an “open house” format with stations organized by specific topics, such as the topics analyzed in Task 2.1.

Task 2.2 Deliverables: *Materials for the Public Workshop, including agenda and presentation.*

Task 2.3: Policy Discussion and Development

M-Group will develop a series of policies in response to research collected on the Plan Area and surrounding community and incorporating potential workshop input from community members. Identified policies will align with the research and analysis conducted in the Task 2.1 and organized as follows:

2.3.1: Equity

The findings identified from this process will inform the following components of the policy development. Additional analysis will build off the identified inequities and policies to address the identified inequities.

2.3.2: Affordable Housing and Jobs

Potential policies will be based on issues identified in the Community Assessment and considered for inclusion in Specific Plan Chapter 3: Land Use. Potential policies will focus on a range of topics, such as affordable housing and employment, including eviction protections, housing preservation, affordable housing production, and funding mechanisms for the development of affordable housing.

2.3.3: Mobility

Potential policies will be based on issues identified in the Community Assessment and considered for inclusion in Chapter 6: Circulation and Connectivity. Potential policies will encompass topics including reducing vehicle-miles travelled, encouraging safe pedestrian and bicycle transportation use, improving mass transit access and ridership, addressing parking demand management strategies, and reducing greenhouse gas emissions related to transportation usage.

2.3.4: Community Assets and Infrastructure

Potential policies will be based on issues identified in the Community Assessment for inclusion in Chapter 7: Infrastructure and Community Services. Potential policies will respond to community needs including funding strategies for essential community services, community asset preservation and enhancement, and placemaking strategies to enhance the built environment within the Plan Area.

2.3.5: Resilience and Climate Adaption

Potential policies will be based on issues identified in the Community Assessment for inclusion in Chapter 7: Infrastructure and Community Services. Potential policies will encompass topics ranging from climate change adaptation strategies, mitigation responses to improve the built environment, and increased disaster preparedness amongst community members.

Task 2.4: Plan Area Assessment Report

M-Group will prepare a Plan Area Assessment Report detailing the analysis conducted in the Task 2.1 Community Assessment and the potential Specific Plan policies and actions derived from that research and analysis, including input from community members at the Public Workshop.

Task 2.4 Deliverables: *Plan Area Assessment Report.*

TASK 3: SPECIFIC PLAN PREPARATION

M-Group will develop an Administrative Draft of the Specific Plan that incorporates previous planning efforts and new Plan Area analysis conducted in Tasks 1 and 2. Specific Plan chapters will be prepared by making use to the extent feasible of previous draft chapters and comments by County staff. Following review by Permit Sonoma staff, M-Group will respond to County comments and prepare a Public Review Draft Specific Plan.

Task 3.1: Administrative Draft Specific Plan

M-Group, Fehr & Peers, BKF, and LEG will develop and prepare the Administrative Draft of the AASP and submit it to County staff for review. Chapters that were drafted for the previous planning effort will be used as foundational material contributing to the Administrative Draft. Preliminarily, M-Group anticipates the Specific Plan chapters to include:

- **Chapter 1: Introduction.** M-Group anticipates significant updates to this chapter with emphasis on the supplemental outreach and community engagement strategies to enable and benefit from the Task 2 Community Assessment.
- **Chapter 2: Project Background.** M-Group anticipates minor updates to the previously developed material for this chapter.
- **Chapter 3: Land Use.** M-Group anticipates minor updates to this chapter. M-Group will update figures to reflect potential land use and workforce housing overlay changes. M-Group will update development distribution, land use allocations, and calculate development buildout accordingly.
- **Chapter 4: Community Resiliency.** This chapter will reflect the Plan Area Community Assessment Report prepared in Task 2. The community resiliency chapter will include a summary of baseline conditions provided in the report and connect those conditions to policies and actions provided in the chapter, or other Specific Plan chapters, that respond to those conditions.
- **Chapter 5: Urban Design and Development Standards.** M-Group anticipates substantial revisions to the previously developed chapter, particularly to respond to the requirements of SB 330 and other recent housing legislation that mandate development review limited to object standards. The new standards will be calibrated to the higher residential densities required for the Specific Plan Area. M-Group will develop graphic material, as appropriate, to illustrate design and development standards.
- **Chapter 6: Circulation and Connectivity.** M-Group anticipates targeted updates to the previous version of this chapter. M-Group, in consultation with Fehr & Peers, will incorporate previous comments by County staff and develop the chapter to reflect any potential changes to the existing condition and circulation improvements recommended by the Specific Plan.

- **Chapter 7: Infrastructure and Community Services.** M-Group anticipates minor updates to this chapter, to incorporate updated cost estimates to potable/fire water, recycled water, storm drain infrastructure, and a conceptual cost estimate for the Laughlin Bridge replacement. As necessary, the chapter will include pending studies by Sonoma Water relating to sewage treatment plant capacity for parcels in the Plan Area.

Based on the preferred alternative developed in Task 1.5 and information obtained for Task 1.3, BKF will revise the large format display exhibits and background data that were prepared earlier to illustrate the locations of the infrastructure within and serving the AASP area. BKF will perform an onsite review of the existing conditions and identify visually observable opportunities and challenges posed by the conditions for the expanded residential area and the Laughlin Bridge replacement. This update will be based on GIS mapping and data provided by the M-Group in order to identify potential buildout of the Specific Plan area.

BKF will verify the known capacity of existing infrastructure serving the revised AASP area and develop an assessment of existing conditions that identifies the major utility infrastructure that serves the AASP, their suitability for reuse, and their physical constraints for new development. In particular BKF will evaluate water, recycled water, storm drainage and dry utilities.

M-Group's and BKF's understanding is that Sonoma Water will provide any required analysis of the Plan Area's sewer capacity and is therefore not included as a part of this scope. M-Group and BKF further understand that capacity and planned improvements for dry utilities will be prepared by the respective providers.

BKF will prepare utility demand forecasts for the AASP area (based on land uses prepared by M-Group). BKF will indicate potential upgrades to the various individual infrastructure systems, or studies required to support future improvements or development. Based on the demand, BKF will suggest recommendations to improve utility systems or identify future studies that may be needed to model, analyze, evaluate, and determine impacts to the systems. BKF will develop preliminary opinions of probable construction costs associated with the suggested infrastructure improvements and modifications. These costs can then be incorporated and considered with the overall financing strategy being prepared by LEG for Chapter 8.

Additionally, policies related to resilience and climatic adaptation will be incorporated into this chapter to respond to issues identified in the Task 2 Community Assessment.

- **Chapter 8: Implementation Plan.** This chapter will reflect improvements identified in Chapter 6 and 7. Additionally, LEG will provide a fiscal and implementation analysis and recommendations for the Specific Plan.
 - **Prepare a Sonoma County General Fund Fiscal Impact Analysis of the Preferred Plan.** LEG will examine the impact on revenue generation and on-going service cost from new development facilitated by the Specific Plan. This fiscal analysis would cover two points in time, ten years into the future and build out.
 - **Prepare an Update to the Implementation Plan and Financing Strategy.** M-Group and BKF provide the infrastructure improvements required and their conceptual level costs, as details in Chapter 7. LEG will review the infrastructure program and its cost estimates. Using that information, LEG will examine the benefits distribution and provide a financing strategy. New State and Federal funding programs initiated during the past two or three years will be taken into consideration.

Task 3.1 Deliverable: *Administrative Draft Specific Plan.*

Task 3.2: Incorporate Staff Review

M-Group will prepare the revised draft of the Administrative Draft Specific Plan based on consolidated comments from County staff in preparing for review by the TAC/CAC and relevant stakeholders.

Task 3.2 Deliverable: *Revised Administrative Draft of the Specific Plan.*

Task 3.3: Property Owner Meeting

The purpose of this meeting will be to discuss and review the revised Administrative Draft Specific Plan, which will incorporate comments by County staff. The meeting will solicit input and direction on potential revisions and/or refinements in preparation of the Public Review Draft Specific Plan.

Task 3.3 Deliverable: *Materials for the Property Owner Meeting, including agenda and presentation.*

Task 3.4: TAC Meeting – Specific Plan Review

The purpose of this joint meeting will be to discuss and review the Public Review Draft Specific Plan.

Task 3.3 Deliverables: *Materials for the TAC Joint Meeting, including agenda, presentation.*

Task 3.5: Prepare Public Review Draft

In consultation with County staff, M-Group will prepare the Public Review Draft of the Specific Plan, incorporating input, as necessary received from property owners and TAC members on the revised Administrative Draft.

Task 3.5 Deliverable: *Public Review Draft Specific Plan*

Task 3.6: Community Workshop – Specific Plan Review

After releasing the Public Review Draft, the M-Group team will facilitate a second workshop with the community to present the Public Review Draft and answer questions. M-Group envisions the meeting format as an “open house,” where the team will display key aspects of the Specific Plan policies and recommendations. Members of the M-Group team and County staff will be available to provide an overview of the Specific Plan and answer questions.

Task 3.6 Deliverable: *Materials for the Community Workshop, including presentation and exhibits.*

TASK 4: ENVIRONMENTAL REVIEW

David J. Powers & Associates, Inc. (DJP&A) will prepare an Environmental Impact Report (EIR) for the Sonoma County Airport Area Specific Plan project. Our tasks include: 1) preparation of the Administrative Draft EIR and Notice of Preparation (NOP); 2) preparation of the Draft EIR and Notice of Completion (NOC); 3) preparation of the Final EIR, Mitigation Monitoring and Reporting Program (MMRP), and other related items; and 4) meeting and hearing attendance and project management. These tasks are described below.

Task 4.0 Initial Project Phase Services (2020-2022)

DJP&A has spent over the last several years a substantial amount of effort working with the project team and County on previous EIR drafts and out of scope of services. DJP&A's scope of services includes previously completed coordination and meetings related to major issues affecting the AASP, primarily inadequate wastewater treatment. DJP&A reviewed multiple rounds of assumptions related to the wastewater treatment analysis, provided input, and met with the project team. Delays in providing the complete Specific Plan and extended duration of the ADEIR review by County staff also contributed to the increased cost of the EIR preparation for the AASP. These services are identified separately in our cost estimate.

Task 4.1: Administrative Draft EIR and Notice of Preparation

Task 4.1.1: Kick-Off Meeting and EIR Initiation

DJP&A will attend one EIR kick-off meeting with the County and the project team to discuss the project, further refine the EIR scope as needed, identify alternatives, and coordinate the scheduling and preparation of the EIR.

Task 4.1.2: Project Description and Notice of Preparation

DJP&A will draft a project description and provide it to the County/M-Group to review for accuracy. The project description will be based on project information to be provided by the County and M-Group. Once the project description is finalized, DJP&A will prepare the EIR NOP.

DJP&A will prepare the NOP for circulation by the County. The NOP will include a brief project description, project location map, and discussion of potential environmental effects of the project. This scope includes DJP&A attendance at one public EIR scoping meeting for the project. The text of the EIR will incorporate relevant issues raised in the responses to the NOP received during the 30-day NOP circulation period. This scope does not include any hard copies of the NOP. DJP&A will submit the NOP to the State Clearinghouse electronically via the Governor's Office of Planning and Research CEQAnet Web Portal on behalf of the County.

Task 4.1.3: Preparation of Administrative Draft EIR

DJP&A will prepare an EIR consistent with the requirements of the CEQA and the County of Sonoma. The EIR will include an introduction, summary, project description, environmental setting, discussion of environmental impacts, and mitigation measures to reduce significant impacts. Upon completion of the Administrative Draft EIR (ADEIR), DJP&A will submit up to five (5) hard copies of the document to the County for review and comment.

The main sections of the EIR are described below.

Introduction

The introduction to the EIR will describe the purpose of the EIR, provide a general overview of the CEQA process, and describe the public participation process and opportunities for input.

EIR Summary

A summary of the EIR will include a brief description of the proposed project and identify the impacts of the project and proposed mitigation measures in tabular format. The summary will also briefly describe the project alternatives and address any known areas of public controversy.

Project Description

The project description prepared as part of the NOP will be included in the EIR. The project description will also include a list of project objectives, necessary discretionary actions, and decision-making agencies. Maps and graphics will be provided to illustrate the text.

Existing Environmental Setting, Impacts, and Mitigation Measures

The EIR will provide: 1) a detailed description of the existing environmental setting, based on the conditions that exist at the time the NOP is released; 2) impacts that may result from the proposed project; and 3) feasible mitigation measures to avoid or reduce impacts to a less than significant level. A discussion of the project's consistency with applicable plans and policies will be included with particular attention given to inconsistencies, if any are identified.

Based upon our current understanding of the project, we anticipate the key environmental issues for the project will include the following resources:

- **Air Quality.** The EIR will evaluate construction and operational air quality impacts of the project in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Air Quality Guidelines. Illingworth & Rodkin, under contract to DJP&A, will update the existing air quality report (date September 30, 2020). Illingworth & Rodkin will evaluate impacts to regional air quality by evaluating the consistency of the Specific Plan's latest population and traffic assumptions with BAAQMD's 2017 Clean Air Plan. As part of the analysis, a qualitative assessment of changes to local air quality in terms of carbon monoxide will be made using screening criteria recommended by BAAQMD. These criteria are based on updated project traffic volumes. The CalEEMod model, along with the latest version of the EMFAC model, would be used to compute air pollutant emissions from changes in land use and traffic associated with the Specific Plan.¹ The analysis would evaluate existing, future no-project, and future plan scenarios. The toxic air contaminant (TAC) screening analysis would be updated using the latest set of assumptions at the time the NOP is published. TAC sources include US 101, roadways, stationary sources permitted by BAAQMD, and SMART/freight trains. Mitigation measures for potential impacts will be identified, as appropriate.
- **Biological Resources.** The EIR will evaluate the project's potential to impact biological resources based on a Biological Resources Technical Report (BTRR) prepared by WRA, Inc., under contract to DJP&A. WRA prepared a biological resources report for the project in 2020, which was referenced and incorporated into the ADEIR (2020). Since the ADEIR was released, the County provided comments on the ADEIR. The updated BTRR will address County comments to the ADEIR and will account for any change within the Plan Area from what WRA surveyed during the 2020 site visits based on an

¹ Specific inputs to the model would include daily trip generation, with adjustments for mixed uses, transit use and other factors identified in the traffic study (e.g., passby or diverted trips). If available, trip characteristics, such as trip lengths, would be input to the model. Plan features to reduce emissions, such as energy efficient building construction, would be incorporated into the modeling.

updated site visit to be completed by WRA biologists. WRA will review existing species databases (e.g., California Natural Diversity Database) to determine if any new special-status species are or may be present since the previous database searches were conducted. Mitigation measures for potential impacts will be identified, as appropriate.

- **Cultural and Tribal Resources.** Archaeological/Historical Consultants (A/HC), under contract to DJP&A, will complete a record search for the project at the California Historical Resources Information System, Northwest Information Center at Sonoma State University. A/HC will use historic ecological data, historic-era topographic and other maps, and other reference material on the history of Sonoma County to analyze the sensitivity of the project area for prehistoric or historic-era archaeological resources.

A/HC will assist the County with SB 18 and AB 52 consultation with Native American tribes. A/HC will contact the Native American Heritage Commission (NAHC) in Sacramento and persons and/or tribes on its consultants list for Sonoma County will be contacted and invited to consult on the project within the statutory 30-day period. A/HC will summarize the findings from their records search, sensitivity analysis, and Native American consultation in a memorandum.

The Plan includes replacement of the Laughlin Road Bridge over Mark West Creek. The bridge was constructed in 1916 and was previously found ineligible by Caltrans for the National Register of Historic Place. A/HC will record and evaluate the bridge under the criteria of the California Register of Historical Resources using DPR 523 forms.

- **Greenhouse Gas Emissions** – The EIR will assess the project's potential GHG impacts based on an updated GHG Assessment prepared by Illingworth & Rodkin, under contract to DJP&A. GHG emissions would be computed using the CalEEMod model, including traffic and indirect sources such as natural gas, electricity use, water usage, and generation of solid waste that is stored in landfills. GHG impacts from land use plans are evaluated based on emissions per capita. Therefore, project emission rates would be updated along with the estimated number of residents and workers to develop an annual GHG emissions rate per capita. Mitigation measures will be identified, as appropriate.
- **Noise.** The EIR will assess potential noise impacts based on an updated report prepared by Illingworth & Rodkin, Inc., under contract to DJP&A. A noise monitoring survey will be completed to quantify ambient noise levels in the Plan area. This scope assumes four long-term and six to eight short-term noise measurements will be collected at representative sites to establish the baseline noise environment. Future noise levels affecting the planning area will be calculated based on future traffic

volumes to be provided by Fehr & Peers. Future noise levels affecting the Plan area including SMART/railroad projections contained in the SMART EIR or other current data, aircraft noise projections contained in the Charles M. Schulz Sonoma County Airport Master Plan Implementation Project EIR, and any other local noise sources identified during the survey will also be evaluated in order to calculate overall future noise levels. Noise generated by the construction activities and project-generated traffic would be calculated at nearby sensitive land uses.

The noise and land use compatibility of sensitive uses proposed as part the Specific Plan will be assessed using adjustments to existing noise data based on future projections. The impact assessment will also evaluate the potential noise impacts resulting from the Specific Plan project on a temporary and permanent basis. Additionally, the potential for any offsite noise impacts associated with the project (for example, construction noise impacts on existing residences or the potential for increased traffic noise levels along the common streets serving the plan area) will be evaluated. Noise levels will be compared to applicable State and local noise thresholds to identify any potential noise impacts resulting from the proposed project. Mitigation measures will be identified for significant noise impacts, as appropriate.

- **Transportation.** Fehr & Peers, under contract to DJP&A, will prepare a Transportation Analysis pursuant to CEQA and the County's *Guidelines for Traffic Impact Studies*. As part of the Transportation Analysis, the following tasks would be completed by Fehr & Peers:
 - Review of Background Data, including the previous Traffic Impact Study prepared for the project.
 - Assist M-Group with recommendations for the Circulation Element to consider the Recommended Assessment items from the MTC PDA Planning Grant mobility section.
 - Calibration of the latest SCTA model to validate land use, transportation network, and origin-destination pattern for the Plan area. As part of this task, Fehr & Peers will analyze up to 10 zones of StreetLight Data origin-destination data. In addition to verifying the origin-destination pattern for the proposed project, Fehr & Peers will collect up to 10 midweek, 72-hour roadway counts along key roadways in the study area. The model run will include the base year (2019) and future year (2040) to prepare VMT estimates and future year forecasts.
 - CEQA VMT Analysis.
 - Review of the Specific Plan with respect to planned pedestrian and bicycle facilities, transit ridership, and circulation.

In addition to the above tasks, Fehr & Peers will complete a Non-CEQA Circulation System Analysis per the County's *Guidelines for Traffic Studies*. This scope includes an assessment of up to 10 intersections, to be selected in coordination with County Transportation and Public Works staff. Traffic volume data will be requested from the County of Sonoma, but for the purposes of this scope it is assumed that Fehr & Peers would need to collect 10 traffic counts for the circulation system analysis based on the effects of the COVID-19 pandemic. Intersection operations Levels of Service (LOS) will be calculated for the study intersections for the weekday AM peak hour and weekday PM peak hour using methodologies from the *Highway Capacity Manual, 6th Edition* as applied in the Synchro software analysis package. In addition to LOS, 95th percentile queues and Peak Hour Signal Warrants at unsignalized intersections not meeting the County's LOS standards will be documented. The circulation analysis will include an analysis of Existing, Existing Plus Project, Cumulative (Year 2040), and Cumulative Plus Project. The results of the transportation analyses will be completed in one technical report to document the data, analysis, calculations, and results of the informational (non-CEQA) circulation system analysis, VMT analysis, and evacuation analysis.

This scope includes Fehr & Peers' attendance at three team conference calls and up to two four-hour hearings or community meetings. This scope also assumes up to 16 hours of Fehr & Peers' staff time to assist the project team in responses to public comments on the Draft EIR.

- **Utilities.** Sonoma Water (formerly known as Sonoma County Water Agency) owns and operates the sanitary sewer system in the Plan Area as part of the Airport/Larkfield/Wikiup Sanitation Zone. During preparation of the 2020 ADEIR, it was determined that wastewater flows from the Plan Area would exceed the remaining 150,000 gallons per day capacity of the Airport/Larkfield/Wikiup Sanitation Zone. The EIR will evaluate whether there is adequate capacity to serve the Plan Area based upon an analysis to be provided by Sonoma Water. Based on discussions with County staff, this scope assumes that adequate capacity exists to serve the Plan. The EIR will identify whether any improvements may be needed to the wastewater treatment facility. The EIR will also identify at a program level any potential impacts related to improvements required for wastewater treatment.

The EIR will also be based on an updated SB 610-compliant Water Supply Assessment (WSA) that accounts for any modifications to the available water supply as documented in the Town of Windsor's 2020 Urban Water Management Plan (UWMP). The WSA will be prepared by the Town of Windsor as the water supplier for the Airport area. Mitigation measures will be identified, as appropriate.

- **Wildfire.** The California Department of Forestry and Fire Protection (CAL FIRE) has classified lands based on fire hazard, the highest being those classified as high or very high fire hazard severity zones (FHSZ). The Plan Area is in a Local Responsibility Area (LRA) and is not located in a designated FHSZ. However, there are moderate FHSZ areas located approximately three miles to the east and west of the Plan Area.

Consistent with the guidance issued by the California Attorney General's Office, the EIR will include an evaluation of the project's impacts on wildfire ignition risk, emergency access, and evacuation. The Specific Plan area will contribute additional traffic to the Airport Boulevard, Fulton Road, Old Redwood Highway and US 101 corridors that have historically served as evacuation routes for residential areas east of US 101 that burned in the 2017 Tubbs Fire. As part of this task, Fehr & Peers will work with the County to develop CEQA thresholds of significance related to a project's effect on emergency evacuation time. Fehr & Peers will review the County's General Plan Circulation, Safety Elements, and other relevant evacuation planning documents to confirm emergency events that have the most realistic chance of requiring an evacuation of the study area.

Once appropriate thresholds have been established, Fehr & Peers will complete a quantitative analysis (using the Fehr & Peers EVAC+ tool) of evacuation times for three evacuation sub-scenarios. The purpose of the analysis is to assess for one given set of assumptions (which may not reflect an actual fire event in the future) how evacuation times could potentially change after completion of the proposed project. The findings will be documented in a technical memorandum.

Pursuant to CEQA, the EIR will also include a discussion of cumulative impacts; alternatives; growth inducing impacts; significant, unavoidable impacts; significant irreversible environmental changes; references; and lead agency and consultants.

Task 4.2: Draft EIR and Notice of Completion

Task 4.2.1: Revision of Administrative Draft EIR/Preparation of Draft EIR

Once the County provides DJP&A with comments on the ADEIR, DJP&A will revise the document and submit an electronic copy to the County for final review and comment. This scope of work assumes two rounds of review by the County. DJP&A will provide the County with up to 30 hard copies of the Draft EIR for public distribution and an ADA-compliant PDF of the document for posting on the County's website. The Draft PEIR would be submitted to the State Clearinghouse electronically via the Governor's Office of Planning and Research CEQAnet Web Portal.

Task 4.2.2: Notice of Completion

DJP&A will prepare the Notice of Completion (NOC), in accordance with the CEQA and Sonoma County requirements. The NOC will include a brief description of the project, the project location, and will state where copies of the Draft EIR are available for review. DJP&A will submit an electronic draft of the NOC to the County for review and comment. DJP&A will revise and finalize the NOC based on County comments. DJP&A will transmit the NOC and copies of the EIR to the State Clearinghouse on behalf of the County.

Task 4.3: Final EIR, Mitigation Monitoring and Reporting Program, and Other Related Items

Task 4.3.1: Preparation of Final EIR

Upon completion of the 45-day Draft EIR circulation period, DJP&A will prepare an Administrative Draft Final EIR. The Final EIR will contain the following:

- List of persons and agencies who commented on the Draft EIR;
- Responses to comments on the Draft EIR;
- Revisions to the EIR text, as necessary; and
- Copies of letters received on the Draft EIR.

This scope of work assumes approximately 16 hours of Principal Project Manager time and 24 hours of Senior Project Manager time to respond to comments. If additional effort is required to respond to the comments, it can be completed on a time and materials basis.

Up to 10 copies of the Administrative Draft Final EIR will be submitted to County Staff for review. The document will be revised per the comments received, and DJP&A will provide up to 10 copies of the Final EIR to the County for public distribution. DJP&A will also provide the County with an ADA-compliant PDF of the document for posting on the County's website.

Task 4.3.2: Preparation of Mitigation Monitoring and Reporting Program

DJP&A will prepare a draft MMRP for the project. The MMRP will summarize the mitigation measures identified, when mitigation measures will be implemented, who will be responsible for implementation, and who will provide oversight. DJP&A will submit a draft of the MMRP along with the Screencheck EIR.

Task 4.3.3: Findings

Although we are not attorneys and do not prepare legal findings, DJP&A will assist County Staff and County Counsel in compiling information from the EIR for findings required under CEQA Guidelines Section 15091, if requested to do so.

Task 4.4.4: Notice of Determination

Following certification of the EIR, DJP&A will prepare a Notice of Determination (NOD), in accordance with CEQA and Sonoma County requirements. The NOD will include a brief project description, date of project approval, determination of the project's environmental effects, mitigation measures and conditions of approval, statement whether overriding considerations were adopted, and the location where the Final EIR and record of project approval may be examined.

DJP&A will submit an electronic copy of the draft NOD for the County's review. Based on comments received from the County, DJP&A will revise and finalize the NOD. An electronic copy of the finalized NOD will be submitted to the County. DJP&A will transmit the NOD to the State Clearinghouse on behalf of the County.

Task 4.4: Meetings and Hearings

This scope of work includes DJP&A attendance at one public scoping meeting during circulation of the NOP, and three public hearings (e.g., one Planning Commission Hearing during circulation of the Draft EIR, and one Planning Commission Hearing and one Board of Supervisors hearing to consider approval of the project). DJP&A and/or our technical subconsultants can attend additional public hearings or meetings requested on a time and materials basis.

Task 4.5: Project Management and Contract Administration

DJP&A will provide general EIR project management, contract administration, and coordination with the County and project team throughout the EIR process. The DJP&A Project Manager will coordinate with the County on a regular basis using email and telephone communications.

TASK 5: PRESENTATION AND ADOPTION OF SPECIFIC PLAN AND EIR

M-Group will prepare the Specific Plan for adoption hearings and attend the associated public meetings. This task includes Planning Commission Meeting(s), Board of Supervisor adoption hearing(s), and preparation of the Final Specific Plan and EIR. DJP&A will attend the public hearings as detailed in Task 4.2.4.

Task 5.1: Planning Commission Meeting(s) on Specific Plan and EIR

The M-Group team will work with County staff to present the Draft Specific Plan and Draft EIR at up to two Planning Commission meetings for recommendation to the Board of Supervisors for approval.

Task 5.2: Board of Supervisors Hearing(s) on Specific Plan and EIR

M-Group will work with County staff to present the Draft Specific Plan and Draft EIR and the Planning Commission's recommendations at up to two Board of Supervisors hearings for adoption.

Task 5.3: Final Adopted Specific Plan

M-Group will review with County staff the comments and recommendations received at the Planning Commission and Board of Supervisors hearings. M-Group will revise and prepare the Final Adopted Airport Area Specific Plan document.

TASK 6: ON-GOING PROJECT MANAGEMENT

M-Group's Project Manager, Tom Ford, will be the point of contact for the M-Group team and will provide project management for the project. Project management for the AASP includes a weekly check-in call; one agenda item shall be a check-in by meeting attendees on the project schedule and anticipated completion of Specific Plan tasks and associated public and plan-related meetings.

Exhibit B Budget

Table 1: Cost Summary

TASK	COST
Task 1: Project Initiation	\$19,306
Task 2: Plan Area Assessment	\$64,442
Task 3: Specific Plan Preparation	\$98,299
Task 4: Environmental Review	\$372,209
Task 5: Presentation and Adoption of Specific Plan and EIR	\$17,460
Task 6: On-Going Project Management	\$26,900
Subtotal	\$598,616
Direct Costs (reimbursable)	\$16,345
Contingency (10%)	\$56,192
TOTAL	\$671,153

Table 2: Project Timeline

TASK ACTIVITY	DURATION (weeks)	TIME ELAPSED (weeks)
M-Group Task 1.1: Kick-Off Meeting and EIR Initiation	0	0
M-Group Task 1.5: Establish Specific Plan and Land Use Plan	4	4
DJP&A Receives Updated Specific Plan	---	4
DJP&A Prepares Admin Draft NOP	2	6
County Completes Review of Administrative Draft NOP	1	7
DJP&A Prepares Final NOP; County Circulates NOP	1	8
Public Scoping Meeting	2	10
M-Group Task 3.1: Administrative Draft Specific Plan	---	12
30-Day NOP Circulation Complete	4	12
County Completes Review of Admin Draft Specific Plan	3	15
M-Group Task 3.2: Incorporate Staff Review of Admin Draft	3	18
M-Group Tasks 3.3/3.4: Property Owner/TAC Review Meeting	2	20
M-Group Task 3.5: Public Review Draft Specific Plan	4	24
M-Group Task 3.6: Public Workshop	2	26
DJP&A Submits ADEIR	---	28
County Review of ADIER	3	30
DJP&A Prepares Screencheck DEIR	1	31
County Review of Screencheck DEIR	1	32
DJP&A Finalizes DEIR for Public Circulation	1	33
DEIR Circulates for 45-Day Public Review	6.5	39.5
DJP&A Prepares ADFEIR	4.5	44
County Review of ADFEIR	2	46
DJP&A Revises ADEIR and Submits Screencheck	2	48
County Review of Screencheck FEIR	1	49
DJP&A Finalizes FEIR for Public Circulation	1	50
Final EIR 10-Day Circulation Period	1.5	51.5
INITIATE ADOPTION HEARINGS		

November 17, 2023

[illegible]

Task Number / Description		Tom Ford Principal-in- Charge/ Project Manager	Heather Hines Consulting Principal	Olivia Ervin Principal / Environmental Review	Justin Shiu Principal Planner	James Jimenez Assistant Planner	Lorrin French Assistant Planner	M-Group hours	M-Group Subtotal	Infrastructure Analysis	Economic Analysis	Environmental Analysis (EIR)	Subtotal
Hourly Billing Rate		\$200	\$280	\$280	\$195	\$115	\$115						
TASK 1: PROJECT INITIATION													
1.1	Kick-Off Meeting and EIR Initiation	8	2			8		18	\$2,802				
1.2	Refine Engagement Strategy	2				4		6	\$1,140				
1.3	Establish Baseline Conditions	4				40		44	\$5,680				
1.4	Property Owner Meeting	4	2			8		14	\$2,002	\$3,500			
1.5	Establish Specific Plan and Land Use Plan	8	2			20		30	\$4,182				
Task 1 Subtotal:		10	2	0	0	12	0	24	\$15,806	\$3,500	\$0	\$0	\$19,306
TASK 2 : PLAN AREA ASSESSMENT													
2.1	Community Assessment	10				60		70	\$8,900		\$22,588	\$10,497	
2.2	Public Workshop	16	4			20		40	\$6,620				
2.3	Policy Discussion and Development	4				16		20	\$2,640			\$10,497	
2.4	Plan Area Assessment Report	2				20		22	\$2,700				
Task 2 Subtotal:		30	4	0	0	96	0	152	\$20,860	\$0	\$22,588	\$20,994	\$64,442
TASK 3: SPECIFIC PLAN PREPARATION													
3.1	Administrative Draft Specific Plan	40	2			80	80	202	\$26,960	\$9,000	\$17,460	\$10,499	
3.2	Incorporate Staff Review	16	0			40	24	80	\$10,560				
3.3	Property Owner Meeting	4	2			8		14	\$2,280				
3.4	TAC Meeting - Specific Plan Review	4	0			8		12	\$1,720				
3.5	Prepare Public Review Draft	20	0			60	20	100	\$13,200				
3.6	Community Workshop - Specific Plan Review	16	4			20		40	\$6,620				
Task 3 Subtotal:		60	8	0	0	216	124	246	\$61,340	\$9,000	\$17,460	\$10,499	\$98,299
TASK 4: ENVIRONMENTAL REVIEW													
4.0	Initial Project Phase Services							0	\$0			\$35,000	
4.1	Administrative Draft EIR and NOP			8	20	40		68	\$10,740			\$248,995	
4.2	Draft EIR and NOC							0	\$0			\$23,812	
4.3	Final EIR, MMRP, and Other Related Items							0	\$0			\$22,052	
4.4	Meetings and Hearings							0	\$0			\$13,354	
4.5	Project Management							0	\$0			\$18,256	
Task 4 Subtotal:		0	0	8	20	40	0	68	\$10,740	\$0	\$0	\$361,469	\$372,209
TASK 5: PRESENTATION AND ADOPTION OF SPECIFIC PLAN AND EIR													
5.1	Planning Commission Meeting(s) on Specific Plan and EIR	16	8			2	8	34	\$6,590				
5.2	Board of Supervisors Hearing(s) on Specific Plan and EIR	16	8			10		34	\$6,590				
5.3	Final Adopted Specific Plan and Associated General Plan and/or Zoning Amendments	8	3			16		27	\$4,280				
Task 5 Subtotal:		40	19	0	0	28	8	95	\$17,460	\$0	\$0	\$0	\$17,460
TASK 6: ON-GOING PROJECT MANAGEMENT													
6.1	Project Management	100				60		160	\$26,900				
Task 6 Subtotal:		100	0	0	0	60	0	160	\$26,900	\$0	\$0	\$0	\$26,900
Project Subtotal (hours + budget)		240	33	8	20	452	132	745	\$153,106	\$12,500	\$40,048	\$392,962	\$598,616
Direct Costs (reimbursable)									\$3,500	\$500		\$12,345	\$16,345
Contingency Budget (10%)									\$15,661			\$40,531	\$56,192
Total Budget (by firm)									\$172,267	\$13,000	\$40,048	\$445,838	\$671,153

COUNTY OF SONOMA											November 17, 2023				
AIRPORT AREA SPECIFIC PLAN AND PROGRAM ENVIRONMENTAL IMPACT REPORT				M-Group Planning Team			David J. Powers & Associates CEQA Team						Subtotal		
				M-Group	BKF	LEG	DJP&A	Fehr & Peers	AHC	I&R	I&R	WRA			
Task Number / Description				Prime Consultant	Infrastructure Analysis	Economic Analysis	Environmental Analysis	Traffic and Mobility	Cultural	Air Quality	Noise	Biology			
TASK 1: PROJECT INITIATION															
1.1	Kick-Off Meeting and EIR Initiation			\$2,802											
1.2	Refine Engagement Strategy			\$1,140											
1.3	Establish Baseline Conditions			\$5,680											
1.4	Property Owner Meeting			\$2,002	\$3,500										
1.5	Establish Specific Plan and Land Use Plan			\$4,182											
Task 1 Subtotal:				\$15,806	\$3,500	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,306		
TASK 2 : PLAN AREA ASSESSMENT															
2.1	Community Assessment			\$8,900		\$22,588		\$10,497							
2.2	Public Workshop			\$6,620											
2.3	Policy Discussion and Development			\$2,640				\$10,497							
2.4	Plan Area Assessment Report			\$2,700											
Task 2 Subtotal:				\$20,860	\$0	\$22,588	\$0	\$20,994	\$0	\$0	\$0	\$0	\$64,442		
TASK 3: SPECIFIC PLAN PREPARATION															
3.1	Administrative Draft Specific Plan			\$26,960	\$9,000	\$17,460		\$10,499							
3.2	Incorporate Staff Review			\$10,560											
3.3	Property Owner Meeting			\$2,280											
3.4	TAC Meeting - Specific Plan Review			\$1,720											
3.5	Prepare Public Review Draft			\$13,200											
3.6	Community Workshop - Specific Plan Review			\$6,620											
Task 3 Subtotal:				\$61,340	\$9,000	\$17,460	\$0	\$10,499	\$0	\$0	\$0	\$0	\$98,299		
TASK 4: ENVIRONMENTAL REVIEW															
4.0	Initial Project Phase Services						\$35,000								
4.1	Administrative Draft EIR and NOP			\$10,740			\$33,321	\$142,824	\$13,005	\$23,145	\$23,500	\$13,200			
4.2	Draft EIR and NOC						\$23,812								
4.3	Final EIR, MMRP, and Other Related Items						\$22,052								
4.4	Meetings and Hearings						\$13,354								
4.5	Project Management						\$18,256								
				\$10,740	\$0	\$0	\$145,795	\$142,824	\$13,005	\$23,145	\$23,500	\$13,200	\$372,209		
TASK 5: PRESENTATION AND ADOPTION OF SPECIFIC PLAN AND EIR															
5.1	Planning Commission Meeting(s) on Specific Plan and EIR			\$6,590											
5.2	Board of Supervisors Hearing(s) on Specific Plan and EIR			\$6,590											
5.3	Final AdopteSpecific Plan and Associated General Plan and/or Zoning Amendments			\$4,280											
Task 5 Subtotal:				\$17,460	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$17,460		
TASK 6: ON-GOING PROJECT MANAGEMENT															
6.1	Project Management			\$26,900											
Task 6 Subtotal:				\$26,900	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$26,900		
Project Subtotal (hours + budget)				\$153,106	\$12,500	\$40,048	\$145,795	\$174,317	\$13,005	\$23,145	\$23,500	\$13,200	\$598,616		
Direct Costs (reimbursable)				\$3,500	\$500		\$12,345							\$16,345	
Contingency Budget (10%)				\$15,661				\$40,531							\$56,192
Total Budget (by firm)				\$172,267	\$13,000	\$40,048	\$198,671	\$174,317	\$13,005	\$23,145	\$23,500	\$13,200	\$671,153		

Exhibit B-2

MASTER FUNDING AGREEMENT

Between

METROPOLITAN TRANSPORTATION COMMISSION

And

COUNTY OF SONOMA

For

**PLANNING, PROGRAMMING,
TRANSPORTATION, TRANSIT, LAND USE OR OTHER PROJECTS**

FISCAL YEAR 2023-24 through FISCAL YEAR 2033-34

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MASTER FUNDING AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION
And COUNTY OF SONOMA
For PLANNING, PROGRAMMING,
TRANSPORTATION, TRANSIT, LAND USE OR OTHER PROJECTS

This Master Funding Agreement, effective as of September 20, 2023 (this “Master Funding Agreement” or “Agreement”), is entered into by and between the Metropolitan Transportation Commission (hereafter “MTC”), a regional transportation planning agency established pursuant to California Government Code § 66500 *et seq.*, and County of Sonoma (hereafter “AGENCY”). MTC and AGENCY are collectively referred to herein as “the Parties.”

WITNESSETH

WHEREAS, MTC has been designated as the Metropolitan Planning Organization (MPO - federal) and the Regional Transportation Planning Agency (“RTPA” - state) for the San Francisco Bay Region; and

WHEREAS, MTC from time to time expects to provide funds available to it as MPO, RTPA or otherwise to AGENCY; and

WHEREAS, it is expected that these funds will be used for planning, programming, transportation, transit, land use or other projects relevant to MTC or its statutory purposes (the “Project” or “Projects”); and

WHEREAS, the Parties wish to set forth the terms and conditions under which MTC may from time to time provide funding to AGENCY; and

WHEREAS, before MTC will make funds available hereunder, MTC and AGENCY will enter into at least one Supplement to this Master Funding Agreement, which must be in substantially the form attached hereto as Exhibit A (each, a “Supplement”) to establish the terms and conditions applicable to AGENCY when receiving funds for the Project;

NOW, THEREFORE, the Parties hereto agree as follows:

1.0 GENERAL

This Master Funding Agreement shall have no force and effect with respect to a Project or any portion thereof unless and until a Supplement has been fully executed by both MTC and AGENCY governing the relevant Project. Exhibit A, Form of Supplement, is attached hereto and incorporated herein. Each Supplement shall include the following information:

- a. A description of the applicable Project scope of work;
 - b. A maximum payment amount for the applicable Project scope of work;
 - c. An indication of whether the various clauses attached hereto as Exhibits B-1 through B-7 shall apply to AGENCY's implementation of the applicable Project scope of work;
 - d. Any additional covenants, conditions, restrictions or reporting requirements that apply to the applicable Project scope of work or funding source MTC is providing to AGENCY;
 - e. Identification of the MTC and AGENCY project managers for the applicable Project scope of work;
 - f. The estimated budget and payment milestones for the applicable Project scope of work;
- and
- g. Any MTC or AGENCY resolutions, authorizations or approvals, or any other key documents, relevant to the applicable Project scope of work or funding source MTC is providing to AGENCY.

Upon execution by MTC and AGENCY of such a Supplement, AGENCY shall assume the responsibility for implementing the applicable Project scope of work, and MTC will administer funding to AGENCY in accordance with this Agreement, the applicable Supplement, and any other documents incorporated by reference into such Supplement.

2.0 INTERAGENCY AGREEMENT ADMINISTRATION

The administration of this Agreement will be conducted by MTC staff. Day-to-day management of individual projects required under this Agreement is assigned to the appropriate Project Manager at AGENCY and Project Manager at MTC, as set forth in the applicable Supplement.

3.0 FUNDING

- A. The total compensation to be paid to AGENCY under this Agreement shall be the sum of the amounts of compensation payable to AGENCY as set forth in each Supplement.
- B. AGENCY and MTC jointly agree to exert their best efforts to manage each component of the Project in such a way that prevents costs from exceeding the estimated budget set forth in the applicable Supplement.

C. Reimbursement of AGENCY travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration for similar employees (i.e. non-representative employees)

4.0 TERM

This Agreement is in effect for the ten years following the Effective Date. This Agreement term may be extended by mutual written agreement.

5.0 PAYMENT

Contingent upon AGENCY's satisfactory completion of work products or milestones, as applicable, required under the applicable Supplement, AGENCY shall submit invoices to MTC for that portion of the funds available to AGENCY that have been expended. This invoice will be in the format and provided no more frequently than prescribed by MTC in the applicable Supplement. In addition, all supporting documentation must accompany expenditures included on AGENCY invoices. Payment shall be made by MTC within thirty (30) days of receipt of an acceptable invoice, which shall be subject to the review and approval of MTC's Project Manager or a designated representative. Approval of an invoice shall not be unreasonably withheld. AGENCY should submit invoices electronically via email to MTC at acctpay@bayareametro.gov or deliver or mail invoices to MTC, as follows:

Attention: Accounting Section
Metropolitan Transportation Commission
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA, 94105

6.0 DELAYS AND FAILURE TO PERFORM

Whenever AGENCY encounters any difficulty that will delay timely performance of work, AGENCY shall notify MTC in writing. The parties agree to cooperate to work out a mutually satisfactory course of action.

If MTC determines that (a) AGENCY's failure to complete a product on a timely basis is due to causes solely within AGENCY's control; and/or (b) AGENCY has failed to consider MTC recommendations aimed at facilitating progress toward that product, MTC may impose such sanctions as it may determine appropriate. Sanctions may include withholding of commensurate payment due under this Agreement until compliance is achieved.

7.0 AMENDMENTS

This Agreement or any Supplement hereto may be amended by mutual agreement of MTC and AGENCY at any time during the term of the Agreement. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the authorized Executive or a designated representative of MTC and AGENCY and specifically identified as amendments to the Agreement. The MTC Project Manager is not a designated representative, for purposes of executing an amendment.

8.0 TERMINATION

Either party may terminate this Agreement, in whole or in part, at any time upon ninety (90) days' written notice. In this event, AGENCY shall submit a requisition to MTC for an amount representing the actual cost of services performed up to the effective date of termination for which AGENCY has not been previously reimbursed. In no event shall the maximum expenditure allowed under this Agreement, as it may be adjusted by a written amendment signed by both parties, be exceeded. Upon payment of the amount found due, MTC shall be under no further obligation to AGENCY, monetarily or otherwise.

9.0 USE OF THIRD PARTY CONTRACTS

AGENCY may subcontract or subvene funds to local agencies, consultants or contractors for performance of portions of the work required under this Agreement, without the prior written consent of MTC, provided AGENCY complies with any other applicable requirements of this Agreement and the applicable Supplement hereto, and applicable federal and state requirements.

10.0 INDEMNIFICATION

AGENCY shall indemnify, defend, and hold harmless MTC, its Commissioners, representatives, agents and employees from and against all claims, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AGENCY, its officers, employees or agents, or subconsultants or any of them in connection with this Agreement.

11.0 LAWS AND REGULATIONS

AGENCY shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of the federal, state and/or a local government, and of any agency thereof, including but not limited to the California Department of Transportation (Caltrans) Local Assistance Procedures

Manual, as they exist at the time of execution of the Agreement and as they may be amended in the future, which relate to or in any manner affect the performance of this Agreement and any Supplements.

12.0 RECORDS

AGENCY agrees to establish and maintain an accounting system conforming to generally accepted accounting principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. AGENCY further agrees to keep all records pertaining to the Project(s) being funded for audit purposes for a minimum of: (a) three (3) years following final payment to AGENCY, (b) four (4) years following the fiscal year of last expenditure under the Agreement; or (c) until completion of any litigation, claim or audit, whichever is longest.

13.0 AUDITS

AGENCY shall permit MTC and MTC's authorized representatives to have access to AGENCY's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 12. AGENCY shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. Such permission shall extend to books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement of the AGENCY's contractors and subcontractors, if any. If applicable, should MTC request access to the construction site and related field operations, MTC shall provide reasonable notice to AGENCY, and AGENCY shall provide access as it deems reasonable and safe, subject to the rights of the property owner if such owner is not AGENCY.

AGENCY further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subconsultant agrees that MTC or any of MTC's duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subconsultant for the term specified above. "Subconsultant" is defined in Article 14.0 Subcontracts, below.

14.0 SUBCONTRACTS

A. For purposes of this Agreement, "subconsultant" shall mean any consultant or contractor under contract with the AGENCY to perform Project work. Any subconsultants must be engaged under written contract with AGENCY with provisions allowing AGENCY to comply with all requirements of this Agreement. Failure of a subconsultant to provide any insurance required under this Agreement shall

be at the risk of AGENCY. MTC's Project Manager shall be notified in writing of any substitution or addition of subconsultants.

For any Project funded by the Federal Transit Authority (FTA), Federal Highway Administration (FHWA) or Caltrans, AGENCY shall complete Form 10-C, as may be revised by Caltrans from time to time, within thirty (30) days of executing an agreement with a subconsultant and submit it to MTC's Project Manager. MTC shall not process payment of any invoice under the applicable Supplement relating to work by a subconsultant unless AGENCY shall have submitted to MTC a Form 10-C with respect to its contract with such subconsultant.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between MTC and any subconsultants, and no subcontract shall relieve AGENCY of his/her responsibilities and obligations hereunder. AGENCY agrees to be as fully responsible to MTC for the acts and omissions of its subconsultants 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 AGENCY. AGENCY's obligation to pay its subconsultants is an independent obligation from MTC's obligation to make payments to AGENCY.

C. Applicable provisions of this Agreement shall be included in any subcontract or subconsultant agreement in excess of \$25,000 entered into under this Agreement.

15.0 PROHIBITED INTERESTS

No member, officer, employee or agent of MTC, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, et seq., direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, AGENCY further covenants that it has made a complete disclosure to MTC of all facts of which AGENCY is aware upon due inquiry bearing upon any possible interest, direct or indirect, that it believes any member, officer, agent or employee of MTC (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by MTC.

16.0 ORGANIZATIONAL CONFLICTS OF INTEREST

AGENCY shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed by subconsultants or subcontractors under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial

assistance or advice to MTC or AGENCY; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

AGENCY shall not engage the services of any subconsultant or subcontractor on any work related to this Agreement if the subconsultant or subcontractor, or any employee of the subconsultant or subcontractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement AGENCY becomes aware of an organizational conflict of interest in connection with the work performed by a subconsultant or subcontractor hereunder, AGENCY shall immediately provide MTC with written notice of the facts and circumstances giving rise to this organizational conflict of interest. AGENCY's written notice will also describe alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, MTC becomes aware of an organizational conflict of interest in connection with performance of any work hereunder by a subconsultant or subcontractor, MTC shall similarly notify AGENCY. In the event a conflict is presented, whether disclosed by AGENCY or its subconsultant or subcontractor, or discovered by MTC, MTC will consider the conflict presented and any alternatives proposed and meet with AGENCY to determine an appropriate course of action. MTC's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject AGENCY or its subconsultant or subcontractor to damages incurred by MTC in addressing organizational conflicts that arise out of work performed by such subconsultant or subcontractor, or to termination of this Agreement for breach.

17.0 CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State.

18.0 PARTIAL INVALIDITY

If any term or condition of this Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

19.0 NO THIRD PARTY BENEFICIARIES

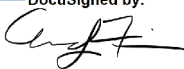
This Agreement is not for the benefit of any person or entity other than the parties.

20.0 ORDER OF PRECEDENCE

In the event of a conflict in the provisions of this Agreement, any Supplement hereto, or the Exhibits hereto incorporated by reference into such Supplement, the following order of priority shall be used in resolving such conflict: the applicable Supplement shall have first priority, then the Exhibits incorporated into such Supplement, then this Agreement.

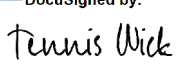
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

METROPOLITAN TRANSPORTATION COMMISSION

DocuSigned by:

8584B49D6DE64E9...

Andrew B. Fremier, Executive Director

COUNTY OF SONOMA

DocuSigned by:

AE16B00E5BC047C...

Tennis Wick, Director of Permit Sonoma

EXHIBIT A
FORM OF SUPPLEMENT**SUPPLEMENT [insert number] TO MASTER FUNDING AGREEMENT**

This Supplement No. ____ to Master Funding Agreement (“Supplement or “Agreement”) is entered into this _____ day of _____, 20__, by and between the Metropolitan Transportation Commission (hereafter “MTC”) and [AGENCY] (hereafter “AGENCY”) and supplements the Master Funding Agreement, dated _____, 2017, by and between MTC and AGENCY.

Pursuant to this Supplement, MTC agrees to provide an amount not to exceed _____ dollars (\$_____) in [describe funding source] to AGENCY to fund the [brief description of Project] (as more fully described in Annex I hereto, the “Supplement Project”). The estimated budget and payment milestones for the Supplement Project scope of work is attached as Annex II hereto.

MTC will reimburse AGENCY for its actual eligible costs incurred for completed Supplement Project milestones or deliverables described in Annex II hereto.

The Supplement Project work will commence [date], and be completed no later than _____, 20__.

The clauses selected below and attached as exhibits to the Master Funding Agreement shall apply to AGENCY’s performance of the applicable Supplement Project scope of work hereunder:

- ☐ Exhibit B-1, Additional Terms and Conditions (General), Paragraph A
- ☐ Exhibit B-1, Additional Terms and Conditions (General), Paragraph B
- ☐ Exhibit B-2, Additional Terms and Conditions (Federally Required Clauses)
- ☐ Exhibit B-3, Additional Terms and Conditions (State Required Clauses)
- ☐ Exhibit B-4, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Non-Federally-Funded Agreements)
- ☐ Exhibit B-5, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Federally-Funded Agreements)
- ☐ Exhibit B-6, Additional Terms and Conditions (Regional Toll Funds including RM1, RM2, RM3 and AB1171)
- ☐ Exhibit B-7, Additional Terms and Conditions (Regional Discretionary Federal Funds including STP and CMAQ)

[Insert any additional covenants, conditions, restrictions or reporting requirements that apply to the Supplement Project scope of work or funding source MTC is providing to AGENCY.]

[Describe/attach any MTC or AGENCY resolutions, authorizations or approvals, or any other key documents, relevant to the applicable Project scope of work or funding source MTC is providing to AGENCY.]

The MTC Project Manager for the Supplement Project is [name, telephone, email]. The AGENCY Project Manager for the Supplement Project is [name, telephone, email].

This Supplement is supplemental to the Master Funding Agreement; all terms and conditions of the Master Funding Agreement, as may be amended, remain unchanged hereby.

Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Master Funding Agreement.

**METROPOLITAN TRANSPORTATION
COMMISSION**

COUNTY OF SONOMA

Andrew B. Fremier, Executive Director

Tennis Wick, Director of Permit Sonoma

EXHIBIT B-1

ADDITIONAL TERMS AND CONDITIONS (GENERAL)

A. INSURANCE REQUIREMENTS

AGENCY shall, at its own expense, obtain and maintain (and/or cause its subconsultant(s) to obtain and maintain, as applicable) the types of insurance and financial security listed (if any) in the applicable attachment or exhibit to the relevant Supplement against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under such Supplement, and in effect at all times for the duration of such Supplement. All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A- or better with a Financial Size Category of VIII or better, or as otherwise specified in the applicable Supplement. Notwithstanding anything to the contrary, AGENCY may satisfy the insurance requirements herein utilizing self-insurance providing equivalent coverage.

B. CLAIMS OR DISPUTES

Unless otherwise directed in writing by MTC, AGENCY shall continue performance under this Agreement while any matters in dispute are being resolved. Further, MTC shall pay AGENCY for any undisputed work performed by AGENCY prior to or during the resolution of the matters in dispute. In the event there is a dispute concerning the interpretation of this Agreement or any aspect of the Project that the project managers identified by MTC and AGENCY are unable to resolve, the project manager for either MTC or AGENCY may request that an ad hoc Dispute Resolution Committee ("DRC") be convened to resolve the dispute. The DRC shall consist of two members, one appointed by the MTC Executive Director and the other appointed by the Chief Executive Officer of AGENCY. The responsibility of chairing each ad hoc DRC shall alternate between the agencies, beginning with MTC. Further, disputes between MTC and AGENCY that cannot be resolved by the DRC may be submitted to alternative dispute resolution, as agreed to by the parties. Fees and expenses of the mediator will be borne equally.

EXHIBIT B-2
ADDITIONAL TERMS AND CONDITIONS
(FEDERALLY REQUIRED CLAUSES)

1. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and, for FTA-funded projects, 49 U.S.C. § 5332 and any implementing requirements that FTA may issue. AGENCY agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability or sex, discriminate or permit discrimination against any employee or applicant for employment.

2. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

It is the policy of MTC and the U.S. Department of Transportation to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which disadvantaged business enterprises, as defined in 49 Code of Federal Regulations Part 26, can compete fairly for contracts and subcontracts relating to MTC's procurement and professional services activities.

AGENCY shall not discriminate on the basis of race, color, national origin or sex in the performance of the applicable Supplement. AGENCY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by AGENCY to carry out these requirements is a material breach of contract, which may result in the termination of the applicable Supplement or this Agreement, or such other remedy as MTC deems appropriate.

3. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

AGENCY agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21). For FTA-funded projects, AGENCY further agrees to comply with the current FTA Circular 4702.11B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," the U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations, and the U.S. DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons.

4. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

AGENCY agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

5. STATE ENERGY CONSERVATION PLAN

AGENCY shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

6. ALLOWABILITY OF COSTS

AGENCY shall comply with the cost principles (as applicable) in Office of Management and Budget (OMB) Circulars A-87, or A-122, or 48 Code of Federal Regulations Chapter 1 Part 31, or 49 Code of Federal Regulations Part 18, or in 2 Code of Federal Regulations Parts 200 and 1201, as applicable. In addition, all subcontracts must be in accordance with 2 Code of Federal Regulations Part 200, as applicable, MTC's funding agreement with DOT and any regulations, guidelines and circulars of DOT, applicable as a result of such funding agreement. Further, all subconsultants shall agree to comply with 48 Code of Federal Regulations, Chapter 1, Part 31.

7. LICENSE FOR FEDERAL GOVERNMENT PURPOSES

FTA/FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under the applicable Supplement; and (b) any rights of copyright to which MTC or AGENCY purchases ownership under the applicable Supplement.

8. IDENTIFICATION OF DOCUMENTS

All reports and other documents completed as part of the applicable Supplement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed in part by grants from the: **[select appropriate agency]** Federal Transit Administration/Federal Highway Administration, U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation."

9. AUDITS

AGENCY agrees to grant MTC, the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives access to AGENCY's books, records, accounts, and any and all work products, materials, and other data relevant to the applicable Supplement, for the purpose of making an audit, examination, excerpt and transcription during the term of the applicable Supplement and for the period specified in Article 14. AGENCY shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. If, as a result of any audit, it is determined by the auditor that reimbursement of any costs including profit or fee under the applicable Supplement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, AGENCY agrees to reimburse MTC for those costs within sixty (60) days of written notification by MTC.

AGENCY further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subrecipient agrees that MTC the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subrecipient for the term specified above.

10. FLY AMERICA REQUIREMENTS.

AGENCY agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301 - 10, which provide that recipients and subrecipients of Federal funds and their consultants are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property to the extent such service is available, unless travel by foreign air carrier is a matter of necessity as defined

by the Fly America Act. AGENCY shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements, if used. AGENCY agrees to include the requirements of this Section in all subcontracts that may involve international air transportation.

11. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS.

A. AGENCY acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, AGENCY certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Supplement or the FTA assisted project for which work is being performed under the applicable Supplement. In addition to other penalties that may be applicable, AGENCY further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on AGENCY to the extent the Federal Government deems appropriate.

B. AGENCY also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on AGENCY, to the extent the Federal Government deems appropriate.

C. AGENCY agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

12. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

MTC and AGENCY acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the applicable Supplement or this Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to MTC, AGENCY or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from this Agreement.

13. DEBARMENT

This Article is only applicable if the applicable Supplement exceeds \$25,000. AGENCY certifies that neither it, nor any of its participants, principals or subrecipients is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 2 CFR Parts 180 and 1200, by any Federal agency or department.

14. CLEAN AIR AND WATER POLLUTION ACTS

This Article is only applicable if the applicable Supplement exceeds \$150,000. AGENCY agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.),.

15. LOBBYING

This Article is only applicable if the applicable Supplement exceeds \$100,000. AGENCY agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

Attachments:

Attachment A – Federally Required Certifications (AGENCY shall either provide these certifications to MTC or shall provide copies of such certifications AGENCY has independently made to the Federal Government.)

EXHIBIT B-2**ATTACHMENT A****FEDERALLY REQUIRED CERTIFICATIONS****CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS****Instructions for Certification:**

1. **By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.**
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, MTC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to MTC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact MTC for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by MTC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction”, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

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

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, MTC may pursue available remedies including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its “principals” is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date

(signature of authorized official)

(type/print name and title)

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____ hereby certify on behalf of _____ that:
(name and title of grantee official) (name of grantee)

1. No 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 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 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 Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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

Executed this _____ day of _____, 20__

By:

(signature of authorized official)

(title of authorized official)

EXHIBIT B-3
ADDITIONAL TERMS AND CONDITIONS
(STATE-REQUIRED CLAUSES)

- 1) Attachment A – Fair Employment Practices Addendum
- 2) Attachment B – Nondiscrimination Assurances
 - a.** Appendix A – Clauses to be inserted in every agreement subject to the ACT, as defined in Attachment B of this Exhibit and REGULATIONS, also as defined in Attachment B.
 - b.** Appendix B – To be included as covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein
 - c.** Appendix C – To be included for subsequent transfer of real property acquired or improved under federal-aid Program
 - d.** Appendix D – To be included for the construction or use of or access to space on, over, or under real property acquired or improved under the federal-aid Program
- 3) Attachment C – State Department of Transportation Requirements

EXHIBIT B-3**ATTACHMENT A****FAIR EMPLOYMENT PRACTICES ADDENDUM**

1. In the performance of the applicable Supplement, AGENCY shall not discriminate against any employee for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g. cancer), age (over 40), marital status, and denial of family care leave. AGENCY shall take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into the applicable Supplement by reference and made a part hereof as if set forth in full. Each of the AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements as appropriate.

3. AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the applicable Supplement.

4. AGENCY shall permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of the applicable Supplement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate the applicable Supplement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure AGENCY's breach of the applicable Supplement.

EXHIBIT B-3**ATTACHMENT B****NONDISCRIMINATION ASSURANCES**

AGENCY HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the STATE, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the REGULATIONS), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which AGENCY receives federal financial assistance from the Federal Department of Transportation. AGENCY HEREBY GIVES ASSURANCE THAT AGENCY shall promptly take any measures necessary to effectuate the applicable Supplement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, AGENCY hereby gives the following specific assurances with respect to its federal-aid Program:

1. That AGENCY agrees that each "program" and each "facility" as defined in subsections 21.23 (e) and 21.23 (b) of the REGULATIONS, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.
2. That AGENCY shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS made in connection with the federal-aid Program and, in adapted form, in all proposals for negotiated agreements: AGENCY hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.
3. That AGENCY shall insert the clauses of Appendix A of this assurance in every agreement subject to the ACT and the REGULATIONS.
4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where AGENCY receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where AGENCY receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That AGENCY shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the AGENCY with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid Program.

8. That this assurance obligates AGENCY for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates AGENCY or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which AGENCY retains ownership or possession of the property.

9. That AGENCY shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that AGENCY, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the ACT, the REGULATIONS, this Assurance and the Agreement.

10. That AGENCY agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this Assurance.

11. AGENCY shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any STATE assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. AGENCY shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of STATE assisted contracts. The California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies is incorporated by reference in the applicable Supplement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the applicable Supplement. Upon notification to the recipient of its failure to

carry out the Implementation Agreement, STATE may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 et seq.)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to AGENCY by STATE, acting for the U.S. Department of Transportation, and is binding on AGENCY, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO ATTACHMENT B

(Clauses to be inserted in every agreement subject to ACT and REGULATIONS)

During the performance of the applicable Supplement, AGENCY, for itself, its assignees and successors in interest (hereinafter collectively referred to as AGENCY) agrees as follows:

(1) Compliance with Regulations: AGENCY shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of the applicable Supplement.

(2) Nondiscrimination: AGENCY, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. AGENCY shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by AGENCY for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by AGENCY of the AGENCY's obligations under the applicable Supplement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: AGENCY shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to AGENCY's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, AGENCY shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts AGENCY has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of AGENCY's noncompliance with the nondiscrimination provisions of the applicable Supplement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to AGENCY under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: AGENCY shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

AGENCY shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event AGENCY becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, AGENCY may request STATE enter into such litigation to protect the interests of STATE, and, in addition, AGENCY may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO ATTACHMENT B

(To be included as covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein)

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that AGENCY shall accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto AGENCY all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto AGENCY and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on AGENCY, its successors and assigns.

AGENCY, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) *

(2) that AGENCY shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO ATTACHMENT B

(To be included for subsequent transfer of real property acquired or improved under federal-aid Program)

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by AGENCY, pursuant to the provisions of Assurance 7(a) of Attachment I-2.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add 'as covenant running with the land') that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of AGENCY and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO ATTACHMENT B

Appendix D – (To be included for the construction or use of or access to space on, over, or under real property acquired or improved under the federal-aid Program)

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by AGENCY, pursuant to the provisions of Assurance 7 (b) of Attachment I-2.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of AGENCY, and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

EXHIBIT B-3**ATTACHMENT C****STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS****Caltrans Non – Discrimination**

A. In the performance of work undertaken pursuant to the applicable Supplement, AGENCY shall not, and shall affirmatively require that its contractors shall not, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave.

B. AGENCY shall ensure, and shall require that its contractors and all subcontractors and/or subrecipients shall ensure, that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. AGENCY shall comply, and ensure that its contractors and subcontractors and/or subrecipients shall comply, with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (af), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into the applicable Supplement by reference and made a part hereof as if set forth in full.

C. Each of AGENCY's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. AGENCY shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under the applicable Supplement.

D. AGENCY shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR Part 21, and 23 CFR Part 200 are made applicable to the applicable Supplement by this reference. Wherever the term "Contractor" appears therein, it shall mean AGENCY.

E. AGENCY shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by STATE to investigate compliance with these non-discrimination provisions.

EXHIBIT B-4
ADDITIONAL TERMS AND CONDITIONS
(PREVAILING WAGE RATES, APPRENTICESHIPS, AND PAYROLL RECORDS
NON FEDERALLY FUNDED AGREEMENTS)

AGENCY's contractor(s) and all subcontractors shall comply with applicable sections of the California Labor Code and regulations promulgated thereunder (including without limitation, Sections 1720 *et seq.* and Title 8 of the California Code of Regulations Sections 16000 *et seq.*) governing the payment of prevailing wages, as determined by the Director of the California Department of Industrial Relations, in regards to work performed and/or funded under this Agreement. In particular, AGENCY's attention is drawn to Labor Code Sections 1771 (payment of prevailing wage rate), 1775 (penalty for non-payment), 1776 (payroll records), and 1777.5 (use of apprentices). AGENCY's contractor(s) and all subcontractors, to the extent the work of such contractor(s) and subcontractors under this Agreement are subject to California Labor Code Section 1720 *et seq.*, shall be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and shall furnish electronic certified payroll records directly to the Labor Commissioner through the internet portal of the Division of Labor Standards Enforcement. Per Master Funding Agreement Article 12.0, Records and 13.0 Audits, MTC reserves the right to request copies of the certified payroll records.

EXHIBIT B-5
ADDITIONAL TERMS AND CONDITIONS
(PREVAILING WAGE RATES, APPRENTICESHIPS, AND PAYROLL RECORDS
FEDERALLY FUNDED AGREEMENTS)

The Additional Federal Clauses Applicable to Public Works included in Attachment A, attached hereto and incorporated herein by this reference, and the Davis-Bacon prevailing wages apply to work performed and/or funded under the applicable Supplement. AGENCY agrees that AGENCY will require its contractor(s) and all subcontractors will pay the higher of (i) the applicable wage set forth in Federal Wage Determinations, and (ii) the applicable California prevailing rate. Certified payroll records in the form set forth in the Public Works Payroll Reporting Form, as found at <https://www.dol.gov/whd/forms/wh347.pdf>, shall be prepared or collected from its contractor(s) and all subconsultant(s) on a weekly basis by the AGENCY. Per Master Funding Agreement Article 12.0, Records and 13.0 Audits, MTC reserves the right to request copies of the certified payroll records. MTC may withhold payment if the certified payrolls to be submitted by AGENCY pursuant to this Exhibit B-5, Prevailing Wage Rates, Apprenticeships, and Payroll Records, are not current.

EXHIBIT B-5

ATTACHMENT A

ADDITIONAL FEDERAL CLAUSES APPLICABLE TO PUBLIC WORKS

1. Buy America
2. Davis-Bacon Act
3. Contract Work Hours and Safety Standards Act
4. Copeland Anti-Kickback Act
5. Prompt Payment of Funds Withheld to Subcontractors

1. Buy America Requirements

The Buy America regulation at 49 C.F.R. § 661.13 requires notification of the Buy America requirements in a recipients' bid or request for proposal for FTA funded contracts. Recipients can draw on the following language for inclusion in their federally funded procurements. Note that recipients are responsible for including the correct Buy America certification based on what they are acquiring. Recipients should not include both the rolling stock and steel, iron, or manufactured products certificates in the documents unless acquiring both in the same procurement.

Buy America

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

The [bidder or offeror] must submit to [Recipient] the appropriate Buy America certification below with its [bid or offer]. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

In accordance with 49 C.F.R. § 661.6, for the procurement of steel, iron or manufactured products, use the certifications below:

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

In accordance with 49 C.F.R. § 661.12, for the procurement of rolling stock (including train control, communication, and traction power equipment) use the following certifications:

Certificate of Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 C.F.R. § 661.11.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

2. DAVIS-BACON ACT

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

3. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701; 3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

4. COPELAND ANTI-KICKBACK ACT

Compliance with Copeland Act requirements - The AGENCY's contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

5. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS

The AGENCY shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The AGENCY's prime contractor or subcontractor shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating AGENCY's prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

EXHIBIT B-6
ADDITIONAL TERMS AND CONDITIONS
(REGIONAL TOLL FUNDS INCLUDING RM1, RM2, RM3, AND AB 1171)

Recitals

WHEREAS, Streets and Highways Code (SHC) Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

WHEREAS, pursuant to SHC Section 31010(b), funds generated in excess of those needed to meet the toll commitments as specified by paragraph (4) of subdivision (b) of Section 188.5 of the SHC shall be available to BATA for funding projects consistent with SHC Sections 30913 and 30914; and

WHEREAS, MTC adopted Resolution No. 3434, Revised, which establishes commitments of bridge toll funds, including such AB 1171 funds, to specific projects and corridors; and

WHEREAS, on November 8, 1988, voters approved Regional Measure 1 (“RM1”), which authorized a standard auto toll of \$1 on the seven state-owned toll bridges in the San Francisco Bay Area to fund various transportation projects within the region; and

WHEREAS, on March 2, 2004, voters approved Regional Measure 2 (“RM2”), increasing the toll for all vehicles on the seven state-owned toll bridges in the San Francisco Bay Area by \$1.00 to fund various transportation projects within the region that have been determined to reduce congestion or to improve travel in the toll bridge corridors; and

WHEREAS, RM2 established the Regional Traffic Relief Plan and listed specific capital projects and programs and transit operating assistance as eligible to receive RM2 funding as identified in SHC Section 30914(c) and (d). The funding amounts assigned to certain of the programs and projects were subsequently revised by MTC Resolution No. 3801; and

WHEREAS, to the extent the Project is receiving RM2 funding hereunder, SHC Section 30914(c) lists the Project to which this Exhibit B-6 and the applicable Supplement apply as one such eligible transportation project and designates AGENCY as project sponsor; and

WHEREAS, pursuant to MTC Resolution No. 3636, MTC established procedures whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 Bridge Toll funding. A copy of MTC Resolution No. 3636 is attached hereto and incorporated herein as Attachment D, MTC Resolution No. 3636; and

WHEREAS, on June 5, 2018, voters approved Regional Measure 3 (“RM3”), increasing the toll for all vehicles on the seven state-owned toll bridges in the San Francisco Bay Area by three successive \$1.00 tolls (applied on January 1, 2019, January 1, 2022, and January 1, 2025) to fund various transportation projects within the region that have been determined to reduce congestion or to improve travel in the toll bridge corridors; and

WHEREAS, RM3 established the Regional Measure 3 Expenditure Plan and listed specific capital projects and operating assistance programs as eligible to receive RM3 funding as identified in SHC Section 30914.7(a) and (c); and

WHEREAS, to the extent the Project is receiving RM3 funding hereunder, SHC Section 30914.7(a) lists the Project or SHC Section 30914.7(c) lists the operating assistance program to which this Exhibit B-6 and the applicable Supplement apply as one such eligible transportation project and designates AGENCY as project sponsor; and

WHEREAS, pursuant to MTC Resolution No. 4404, MTC established procedures whereby eligible transportation project sponsors may submit allocation requests for RM3 Bridge Toll funding. A copy of MTC Resolution No. 4404 is attached hereto and incorporated herein as Attachment E, MTC Resolution No. 4404; and

WHEREAS, AGENCY submitted one or more allocation requests for RM2, RM3, AB 1171, and/or RM1 funding for the Project to which this Exhibit B-6 applies. A copy of the applicable allocation request(s) as well as AGENCY's resolution(s) approving the allocation request(s) are attached to the applicable Supplement and incorporated herein as Attachment A, Updated Initial Project Report, and Attachment B, AGENCY Resolution(s), respectively; and

WHEREAS, by the resolution(s) attached to the applicable Supplement and incorporated herein as Attachment C, MTC Resolution(s) Approving Project Request, MTC approved AGENCY's request(s) for the applicable funds for the applicable Project.

I. AGENCY AGREES

A. AGENCY agrees to perform or caused to be performed the activities described in Attachment A, Updated Initial Project Report. AGENCY will provide all necessary staffing and support resources to complete the Project as described in Attachment A, AGENCY agrees to meet all conditions listed in Attachment C, MTC Resolution(s) Approving Project Request.

B. AGENCY shall provide MTC with annual progress reports throughout the term of this Agreement in accordance with the monitoring and reporting requirements specified in MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds).

C. AGENCY shall submit invoices to MTC no less than annually, but may submit invoices as frequently as monthly. In either case, AGENCY shall submit an invoice to MTC within thirty (30) days after the end of each period for which payment is sought covering costs for the Project activities accomplished through the end of such period, not covered by previously submitted invoices. Each invoice shall be supported by the following information: (i.) A brief narrative progress report of the activities accomplished during the invoice period, including the percentage of the contract complete and the percentage of funding expended; (ii.) the costs requested for reimbursement with RM1, RM2, RM3 and/or AB 1171 funds, as applicable; (iii.) the total costs expended for the invoice period broken down by type and source of funding; (iv.) the total RM1, RM2, RM3 and/or AB 1171 funds, as applicable

received as reimbursement to date; (v.) the total costs expended for project name to date broken down by type and source of funding; and (vi.) any additional supporting data in a form and detail required by MTC.

D. AGENCY agrees to spend RM1, RM2, RM3 and/or AB 1171 funds, as applicable, at a rate not exceeding the schedule attached to the applicable Supplement and incorporated herein as Attachment F, Reimbursement Schedule.

E. AGENCY shall comply with and shall assure that any AGENCY contractor performing Project work with RM1, RM2, RM3 and/or AB 1171 funds, as applicable, received under this Agreement complies with MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds), as well as the provisions of MTC's RM2 Policies and Procedures contained in MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds), relative to constructing, operating, and maintaining the Project. MTC may update Resolution No. 3636 or Resolution No. 4404 from time to time. The AGENCY agrees to comply with the most current Resolution that is approved at any given time.

F. AGENCY is responsible for completing the Project within cost, scope and schedule as described in Attachment A, Updated Initial Project Report, as it may be updated from time to time. Any updates must be approved by AGENCY and MTC in writing before being incorporated into this Agreement.

G. AGENCY certifies that:

- The Project is consistent with the Regional Transportation Plan ("RTP").
- The Project is exempt from environmental review or all environmental permits or clearances necessary for the Project have been or will be obtained, and the year of Project funding for the construction phase of the Project has taken into consideration the time necessary to obtain permitting approval for the Project as an operable and useable segment.
- The Project or portion thereof to be funded under this Agreement will be fully funded upon the execution of the applicable Supplement.
- AGENCY has reviewed the Project needs and has adequate internal staffing and support resources to deliver and complete the Project within the cost, scope, and schedule set forth in the Initial Project Report, as updated, attached to the applicable Supplement as Attachment A.
- If applicable to the Project, AGENCY is an eligible sponsor of projects in MTC Resolution No. 3434, Revised.
- If applicable to the Project, AGENCY is an eligible sponsor of projects in MTC Resolution No. 4404.
- If applicable, AGENCY is authorized to submit an application for RM2 funds for the Project in accordance with SHC Section 30914(c).
- If applicable, AGENCY is authorized to submit an application for RM3 funds for the Project in accordance with SHC Section 30914.7(a) or 30914.7(c).
- If applicable, AGENCY is authorized to submit an application for AB 1171 funds for the Project in accordance with SHC Section 31010(b).
- The Project is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Sections 15000 *et seq.*), and if relevant, the

National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*) and the applicable regulations thereunder.

- There is no legal impediment to AGENCY making allocation requests for RM1, RM2, RM3 and/or AB 1171 funds, as applicable.
- There is no pending or threatened litigation which might in any way adversely affect the Project or the ability of AGENCY to deliver such Project.
- For bus operators, AGENCY has submitted a copy of the California Highway Patrol (CHP) certification, which was issued within the last 13 months indicating compliance with California Vehicle Code §1808.1 and Public Utility Code §99251 (CHP "pull notice system and periodic reports").
- For ferry operators, AGENCY certifies that it is current on all inspections and certifications required by federal and state agencies.
- If RM3 funding was received in the prior year, AGENCY has included the RM3 costs and revenues in its general fiscal audit for that year. AGENCY also assures that it will include the RM3 costs and revenues in its general fiscal audit for the year in which funds are requested.

H. In addition to AGENCY's commitment under Article 10, INDEMNIFICATION, of the Master Funding Agreement, AGENCY agrees at its own cost, expense, and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, its Commissioners, representatives, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM1, RM2, RM3 and/or AB 1171 funds, as applicable, as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages.

I. If any revenues or profits from any non-governmental use of the Project are collected by AGENCY, those revenues or profits shall be used exclusively for the public transportation services for which the Project was initially approved, either for capital improvements or maintenance and operational costs, otherwise MTC is entitled to a proportionate share equal to MTC's percentage participation in the Project. MTC's percentage participation shall equal the amount of funds allocated to Project, divided by the total Project budget as shown in Attachment E, Reimbursement Schedule, as updated from time to time, as such amount may be adjusted to reflect total project costs.

J. Project assets purchased by AGENCY with RM1, RM2, RM3 and/or AB 1171 funds, as applicable, including facilities and equipment, shall be used for the intended public transportation uses and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for their useful life, MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the fair market value of the facilities and equipment at the time the public transportation uses ceased, which sum shall be paid back to MTC in the same proportion that RM1, RM2, RM3 and/or AB 1171 funds, as applicable, were originally used.

K. AGENCY shall post on both ends of the Project construction site(s), unless prohibited by the site owner if such owner is not the AGENCY, at least two signs visible to the public stating that the Project is funded with RM1, RM2, RM3 and/or AB 1171 funds, as applicable.

L. AGENCY's City Manager, General Manager, Executive Director, Chief Executive Officer, or equivalent officer, or designee, is delegated the authority to make non-substantive changes or minor amendments to the initial project report as he/she deems appropriate; otherwise, Article 7, AMENDMENTS, of this Agreement applies.

M. AGENCY agrees to comply with the provisions of MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds), and the MTC Resolutions set forth in Attachment C, MTC Resolution(s) Approving Project Request.

II. MTC AGREES

A. MTC agrees to provide AGENCY with RM1, RM2, RM3 and/or AB 1171 funds, as applicable, within the allocation amounts in Attachment C, MTC Resolution(s) Approving Project Request and as restated in the relevant Supplement for the purpose of funding the Project as described in Attachment A.

The entire funding amount is available for reimbursement based on the schedule included in Attachment E, Reimbursement Schedule, to the applicable Supplement. In addition, if applicable, MTC agrees to support AGENCY's allocation request from the State according to the Allocation Request Schedule provided in Attachment G to the applicable Supplement.

In the event AGENCY does not use all RM1, RM2, RM3 and/or AB 1171 funds, as applicable, made available in a given fiscal year, those unused amounts will be available for reimbursement in subsequent year(s) for the duration of this Agreement. However, RM3 Operating Program funds will be made available for reimbursement in the subsequent year(s) where allowed by law or otherwise authorized by the Commission.

III. IT IS MUTUALLY AGREED

A. MTC may terminate the applicable Supplement, in its sole discretion, for any force majeure event, including but not limited to any earthquake, flood or other natural disaster, any epidemic, blockade, rebellion, war, act of sabotage or civil commotion, fire, explosion or strike, or prolonged economic conditions affecting the ability of the Bay Area Toll Authority to make payments to bond holders who shall in all circumstances have priority to payment of funds, if such event (i) irrecoverably disrupts or renders impossible AGENCY's performance hereunder; or (ii) disrupts MTC's ability to make payments hereunder. If MTC so terminates the applicable Supplement, AGENCY will be entitled to payment for non-recoverable Project costs incurred prior to the date of such termination, including but not limited to any amounts AGENCY owes to the owner of the Project construction sites, if such owner is not AGENCY, up to the maximum amount payable under this Agreement.

B. If AGENCY fails to perform as specified in this Agreement and the applicable Supplement, MTC may terminate the applicable Supplement or this Agreement for cause. Termination shall be effected by serving a sixty (60) day advance written notice of termination on AGENCY, setting forth the manner in which AGENCY is in default. If AGENCY does not cure the breach or describe to MTC's satisfaction a plan for curing the breach within the sixty (60) day period, MTC may terminate this Agreement or the applicable Supplement for cause. In the event of such termination for cause, AGENCY will be entitled only to those costs incurred for already completed Project work, not to exceed

the maximum amount payable under this Agreement for such Project work, however, in no event shall MTC be required to reimburse AGENCY for any costs incurred for work causing or contributing to the default.

C. If the Project is cancelled, suspended indefinitely, or otherwise not completed for any reason, AGENCY shall repay MTC any RM1, RM2, RM3 and/or AB 1171 funds, as applicable, expended that exceed MTC's proportionate share of eligible costs for the Project.

D. Upon completion of the Project, AGENCY will properly account for all Project costs incurred.

E. The applicable Supplement shall terminate upon closeout of the PROJECT in accordance with Policies and Procedures in MTC Resolution No. 3636, Revised (if receiving RM2 funds) or MTC Resolution No. 4404 (if receiving RM3 funds), or on the termination date, if any, set forth in the Supplement, whichever is sooner.

F. The terms and conditions of this Agreement include the following and each is incorporated by reference herein as if fully set forth herein.

Attachment A – Updated Initial Project Report (Allocation Request)

Attachment B – AGENCY Resolution(s) (and opinion of counsel, if applicable)

Attachment C – MTC Resolution(s) Approving Project Request(s)

Attachment D – MTC Resolution No. 3636, Revised

Attachment E – MTC Resolution No. 4404

Attachment F – Reimbursement Schedule

Attachment G – Allocation Request Schedule

EXHIBIT B-7
ADDITIONAL TERMS AND CONDITIONS
(REGIONAL DISCRETIONARY FEDERAL FUNDS INCLUDING STP AND CMAQ)

1. TERMINATION

Notwithstanding Article 8.0, TERMINATION in the Master Funding Agreement, MTC may terminate this Agreement without cause upon ten (10) days prior written notice. If MTC terminates this Agreement without cause, AGENCY shall be entitled to payment for costs incurred for incomplete deliverables, up to the maximum amount payable for each deliverable. If AGENCY fails to perform as specified in this Agreement, MTC may terminate this Agreement for cause by written notice and AGENCY shall be entitled only to costs incurred for work product acceptable to MTC, not to exceed the maximum amount payable under this Agreement for such work product.

2. RETENTION OF RECORDS

AGENCY agrees to establish and maintain an accounting system confirming to GAAP that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs.

AGENCY further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of three (3) years following final payment to AGENCY or four (4) years following the fiscal year of the last expenditure under this Agreement, whichever is longer, in accordance with generally accepted accounting principles. Copies of AGENCY audits, if any, performed during the course of Project development and at Project completion shall be forwarded to MTC no later than one hundred eighty (180) days after fiscal year end close.

3. AUDITS

Notwithstanding Article 13.0, AUDITS in the Master Funding Agreement, AGENCY agrees to grant MTC, or any agency that provides MTC with funds for the Project, including but not limited to, the U.S. Department of Transportation, FHWA, the Comptroller General of the United States, the State, and their authorized representatives access to AGENCY's books and records for the purpose of verifying that funds are properly accounted for and proceeds are expended in accordance with the terms of this Agreement. All documents shall be available for inspection during normal business hours at any time while the Project is underway and for the retention period specified in Article 4.

AGENCY further agrees to include in all its third-party contracts hereunder a provision to the effect that the contractor agrees that MTC, the U.S. Department of Transportation, FHWA, the Comptroller General of the United States, the State, or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, during normal business hours, for the term specified above. The term "contract" as used in this clause excludes agreements not exceeding \$25,000.

4. LICENSE TO WORK PRODUCTS

AGENCY hereby grants to MTC an irrevocable, non-exclusive, royalty-free license to use without restriction and share with any person or entity all drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture, and any other documents, materials, data, and products ("Work Products") developed, prepared, or assembled by AGENCY or AGENCY's consultant(s) or its subconsultants pursuant to this Agreement. MTC may exercise their licenses to Work Products through sublicenses to a

third party, without the approval of AGENCY or AGENCY's consultant(s) or subconsultants. FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which AGENCY or AGENCY's consultant(s) or subconsultants purchase ownership under this Agreement.

5. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and 49 U.S.C. § 5332 for FTA-funded projects, AGENCY agrees that it shall not, on the grounds of race, religious creed, color, national origin, age, physical disability or sex, discriminate or permit discrimination against any employee or applicant for employment.

6. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

It is the policy of MTC and the U.S. Department of Transportation to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which disadvantaged business enterprises, as defined in 49 Code of Federal Regulations Part 26, can compete fairly for contracts and subcontracts relating to MTC's procurement and professional services activities.

AGENCY shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. AGENCY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by AGENCY to carry out these requirements is a material breach of contract, which may result in the termination of this agreement or such other remedy as MTC deems appropriate.

7. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

AGENCY agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21).

8. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

AGENCY agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

9. STATE ENERGY CONSERVATION PLAN

AGENCY shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

10. DEBARMENT

AGENCY certifies that neither it, nor any of its participants, principals or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department.

11. CLEAN AIR AND WATER POLLUTION ACTS

AGENCY agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

12. LOBBYING

AGENCY agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

13. INDEMNIFICATION

Notwithstanding Article 10.0, INDEMNIFICATION, in the Master Funding Agreement AGENCY shall indemnify and hold harmless MTC, Caltrans, their Commissioners, Directors, officers, agents and employees from any and all claims, demands, suits, loss, damages, injury and/or liability (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AGENCY, its officers, directors, employees, agents and contractors, or any of them, under or in connection with this Agreement; and AGENCY agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, Caltrans, their Commissioners, Directors, officers, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments.

14. COMPLIANCE WITH LAWS

AGENCY shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of the federal, state, or local government, and any agency thereof, including, but not limited to MTC, the U.S. DOT, FHWA, the State, and Caltrans, which relate to or in any manner affect the performance of this Agreement. Those laws, statutes, ordinances, rules, regulations, and procedural requirements that are imposed on MTC as an AGENCY of federal or state funds are hereby in turn imposed on AGENCY (including, but not limited to, 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"), and are herein incorporated by this reference and made a part hereof.

AGENCY contractors shall agree to comply with all 48 CFR, Chapter 1, Part 31, Contract Cost Principles and Procedures. In addition, AGENCY certifies that the AGENCY and its contractors shall comply with the requirements of the California Environmental Quality Act (CEQA), California Public Resources Code Section 21,000 *et seq.* and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 *et seq.*) and the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321 *et seq.* and the applicable regulations thereunder.

15. IDENTIFICATION OF DOCUMENTS

AGENCY shall ensure that all reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed in part by grants from the U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation."

Exhibit C

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance

- a. Required if Consultant has employees as defined by the Labor Code of the State of California.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. Required Evidence of Insurance: Certificate of Insurance.

If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Consultant.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$100,000 it must be approved in advance by County. Consultant is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the County.
- d. **County of Sonoma, its officers, agents, and employees** shall be endorsed as additional insureds for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.
- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between the additional insureds and Consultant and

include a “separation of insureds” or “severability” clause which treats each insured separately.

h. Required Evidence of Insurance:

- i.** Certificate of Insurance.

3. Automobile Liability Insurance

- a.** Minimum Limit: \$1,000,000 combined single limit per accident. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- b.** Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- c.** Insurance shall cover hired and non-owned autos.
- d. Required Evidence of Insurance:** Certificate of Insurance.

4. Professional Liability/Errors and Omissions Insurance

- a.** Minimum Limit: \$1,000,000 per claim or per occurrence.
- b.** Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$100,000 it must be approved in advance by County.
- c.** If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- d.** Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- e. Required Evidence of Insurance:** Certificate of Insurance specifying the limits and the claims-made retroactive date.

5. Standards for Insurance Companies

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

6. Documentation

- a.** The Certificate of Insurance must include the following reference: **23-24-010 M-Group.**
- b.** All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.
- c.** The name and address for Additional Insured endorsements and Certificates of Insurance is:
County of Sonoma, its officers, agents, and employees
Attn: Permit Sonoma
2550 Ventura Avenue
Santa Rosa, CA 95403.
- d.** Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e.** Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f.** Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

7. Policy Obligations

Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

8. Material Breach

If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Consultant, County may deduct from sums due to Consultant any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

EXHIBIT D
DISADVANTAGED BUSINESS ENTERPRISES (DBE)

THIS PROJECT IS SUBJECT TO TITLE 49 CFR 26.13(B).

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

Consultant must take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the agreement (49 CFR 26).

To ensure equal participation of DBEs provided in 49 CFR 26.5, the Department shows a goal for DBEs. Consultant must make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Consultant must meet the DBE goal shown in Section 13.4(a) of Agreement or demonstrate that adequate good faith efforts have been made to meet this goal. It is the consultant's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening. For a list of DBEs certified by the California Unified Certification Program, go to:

http://www.dot.ca.gov/hq/bep/find_certified.htm

All DBE participation will count toward the Department's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

1. 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
2. 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
3. Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer or regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d)(1) through (4) and (6).

DBE GOAL.

The Disadvantaged Business Enterprise (DBE) goal for this project is 3%.

DBE COMMITMENT SUBMITTAL.

Submit DBE information on the Caltrans Bidder – DBE Commitment form included as within this Agreement. The form must be completed and returned with the agreement.

Submit written confirmation from each DBE stating that it is participating in the contract. Include confirmation with the DBE Commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract.

It is the consultant's responsibility to verify that the firm is certified as of the date of submittal. Listings of DBEs certified by the CUCP are available at <http://www.dot.ca.gov/hq/beq>. Click the "Find a Certified Firm" link.

GOOD FAITH EFFORTS SUBMITTAL.

If you have not met the DBE goal, complete and submit the Good Faith Efforts Documentation form with the proposal showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed towards obtaining participation by DBEs will be considered. If your DBE Commitment form shows that you have met the DBE goal or if you are required to submit the DBE Commitment form, you must also submit good faith efforts documentation. Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work the consultant has made available to DBE firms. Identify those items of work you might otherwise perform with its own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime consultant or

its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.

8. Any additional data to support demonstration of good faith efforts.

SUBCONTRACTOR AND DBE RECORDS.

The Consultant shall maintain records showing the name and business address of each first-tier subcontractor. The records shall also show the name and business address of every DBE subcontractor, DBE vendor of materials and DBE trucking company, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all of these firms. DBE prime Consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

Upon completion of the Agreement, a summary of these records shall be prepared on "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First Tier Subcontractor's" Form CEM-2402(F) and certified correct by the Consultant or the Consultant's authorized representative, and shall be furnished to the County Engineer. The form shall be furnished to the Engineer within 90 days from the date of contract acceptance.

Prior to the fifteenth of each month, the Consultant shall submit documentation to the Engineer showing the amount paid to DBE trucking companies. The Consultant shall also obtain and submit documentation to the Engineer showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE who leases trucks from a non-DBE, the Consultant may count only for the fee or commission the DBE receives as a result of the lease arrangement.

The Consultant shall also obtain and submit documentation to the Engineer showing the truck number, owner's name, California Highway Patrol CA number, and if applicable, the DBE certification number of the owner of the truck for all trucks used during that month. This documentation shall be submitted on "Monthly DBE Trucking Verification" Form CEM- 2404 (F).

DBE CERTIFICATION STATUS.

If a DBE subcontractor is decertified during the life of the project, the decertified subcontractor shall notify the Consultant in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the project, the subcontractor shall notify the Consultant in writing with the date of certification. The Consultant shall furnish the written documentation to the Engineer.

Upon completion of the contract, "Disadvantaged Business Enterprise (DBE) Certification Status Change" Form CEM-2403 (F) indicating the DBE's existing certification status shall be signed and certified correct by the Consultant. The certified form shall be furnished to the Engineer within 90 days from the date of contract acceptance.

PERFORMANCE OF DBE SUBCONTRACTORS AND SUPPLIERS.

The DBEs listed by the Consultant in response to the provisions in Section 2-1.02B, "Submission of DBE Information," and Section 3, "Award and Execution of Contract," of these special provisions, which are determined by the Department to be certified DBEs, shall perform the work and supply the materials for which they are listed, unless the Consultant has received prior written authorization to perform the work with other forces or to obtain the materials from other sources.

Authorization to use other forces or sources of materials may be requested for the following reasons:

- A. The listed DBE, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract, when such written contract, based upon the general terms, conditions, plans and specifications for the project, or on the terms of such subcontractor's or supplier's written bid, is presented by the Consultant.
- B. The listed DBE becomes bankrupt or insolvent.
- C. The Listed DBE fails or refuses to perform the subcontract or furnish the listed materials.
- D. The Consultant stipulated that a bond was a condition of executing a subcontract and the listed DBE subcontractor fails or refuses to meet the bond requirements of the Consultant.
- E. The work performed by the listed subcontractor is substantially unsatisfactory and is not in substantial conformance with the plans and specifications, or the subcontractor is substantially delaying or disrupting the progress of the work.
- F. It would be in the best interest of the County.

The Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of the Consultant) pursuant to prior written authorization of the Engineer.

MASTER FUNDING AGREEMENT

Between

METROPOLITAN TRANSPORTATION COMMISSION

And

COUNTY OF SONOMA

For

**PLANNING, PROGRAMMING,
TRANSPORTATION, TRANSIT, LAND USE OR OTHER PROJECTS**

FISCAL YEAR 2023-24 through FISCAL YEAR 2033-34

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MASTER FUNDING AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION
And COUNTY OF SONOMA
For PLANNING, PROGRAMMING,
TRANSPORTATION, TRANSIT, LAND USE OR OTHER PROJECTS

This Master Funding Agreement, effective as of September 20, 2023 (this “Master Funding Agreement” or “Agreement”), is entered into by and between the Metropolitan Transportation Commission (hereafter “MTC”), a regional transportation planning agency established pursuant to California Government Code § 66500 *et seq.*, and County of Sonoma (hereafter “AGENCY”). MTC and AGENCY are collectively referred to herein as “the Parties.”

WITNESSETH

WHEREAS, MTC has been designated as the Metropolitan Planning Organization (MPO - federal) and the Regional Transportation Planning Agency (“RTPA” - state) for the San Francisco Bay Region; and

WHEREAS, MTC from time to time expects to provide funds available to it as MPO, RTPA or otherwise to AGENCY; and

WHEREAS, it is expected that these funds will be used for planning, programming, transportation, transit, land use or other projects relevant to MTC or its statutory purposes (the “Project” or “Projects”); and

WHEREAS, the Parties wish to set forth the terms and conditions under which MTC may from time to time provide funding to AGENCY; and

WHEREAS, before MTC will make funds available hereunder, MTC and AGENCY will enter into at least one Supplement to this Master Funding Agreement, which must be in substantially the form attached hereto as Exhibit A (each, a “Supplement”) to establish the terms and conditions applicable to AGENCY when receiving funds for the Project;

NOW, THEREFORE, the Parties hereto agree as follows:

1.0 GENERAL

This Master Funding Agreement shall have no force and effect with respect to a Project or any portion thereof unless and until a Supplement has been fully executed by both MTC and AGENCY governing the relevant Project. Exhibit A, Form of Supplement, is attached hereto and incorporated herein. Each Supplement shall include the following information:

- a. A description of the applicable Project scope of work;
 - b. A maximum payment amount for the applicable Project scope of work;
 - c. An indication of whether the various clauses attached hereto as Exhibits B-1 through B-7 shall apply to AGENCY's implementation of the applicable Project scope of work;
 - d. Any additional covenants, conditions, restrictions or reporting requirements that apply to the applicable Project scope of work or funding source MTC is providing to AGENCY;
 - e. Identification of the MTC and AGENCY project managers for the applicable Project scope of work;
 - f. The estimated budget and payment milestones for the applicable Project scope of work;
- and
- g. Any MTC or AGENCY resolutions, authorizations or approvals, or any other key documents, relevant to the applicable Project scope of work or funding source MTC is providing to AGENCY.

Upon execution by MTC and AGENCY of such a Supplement, AGENCY shall assume the responsibility for implementing the applicable Project scope of work, and MTC will administer funding to AGENCY in accordance with this Agreement, the applicable Supplement, and any other documents incorporated by reference into such Supplement.

2.0 INTERAGENCY AGREEMENT ADMINISTRATION

The administration of this Agreement will be conducted by MTC staff. Day-to-day management of individual projects required under this Agreement is assigned to the appropriate Project Manager at AGENCY and Project Manager at MTC, as set forth in the applicable Supplement.

3.0 FUNDING

- A. The total compensation to be paid to AGENCY under this Agreement shall be the sum of the amounts of compensation payable to AGENCY as set forth in each Supplement.
- B. AGENCY and MTC jointly agree to exert their best efforts to manage each component of the Project in such a way that prevents costs from exceeding the estimated budget set forth in the applicable Supplement.

C. Reimbursement of AGENCY travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration for similar employees (i.e. non-representative employees)

4.0 TERM

This Agreement is in effect for the ten years following the Effective Date. This Agreement term may be extended by mutual written agreement.

5.0 PAYMENT

Contingent upon AGENCY's satisfactory completion of work products or milestones, as applicable, required under the applicable Supplement, AGENCY shall submit invoices to MTC for that portion of the funds available to AGENCY that have been expended. This invoice will be in the format and provided no more frequently than prescribed by MTC in the applicable Supplement. In addition, all supporting documentation must accompany expenditures included on AGENCY invoices. Payment shall be made by MTC within thirty (30) days of receipt of an acceptable invoice, which shall be subject to the review and approval of MTC's Project Manager or a designated representative. Approval of an invoice shall not be unreasonably withheld. AGENCY should submit invoices electronically via email to MTC at acctpay@bayareametro.gov or deliver or mail invoices to MTC, as follows:

Attention: Accounting Section
Metropolitan Transportation Commission
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA, 94105

6.0 DELAYS AND FAILURE TO PERFORM

Whenever AGENCY encounters any difficulty that will delay timely performance of work, AGENCY shall notify MTC in writing. The parties agree to cooperate to work out a mutually satisfactory course of action.

If MTC determines that (a) AGENCY's failure to complete a product on a timely basis is due to causes solely within AGENCY's control; and/or (b) AGENCY has failed to consider MTC recommendations aimed at facilitating progress toward that product, MTC may impose such sanctions as it may determine appropriate. Sanctions may include withholding of commensurate payment due under this Agreement until compliance is achieved.

7.0 AMENDMENTS

This Agreement or any Supplement hereto may be amended by mutual agreement of MTC and AGENCY at any time during the term of the Agreement. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the authorized Executive or a designated representative of MTC and AGENCY and specifically identified as amendments to the Agreement. The MTC Project Manager is not a designated representative, for purposes of executing an amendment.

8.0 TERMINATION

Either party may terminate this Agreement, in whole or in part, at any time upon ninety (90) days' written notice. In this event, AGENCY shall submit a requisition to MTC for an amount representing the actual cost of services performed up to the effective date of termination for which AGENCY has not been previously reimbursed. In no event shall the maximum expenditure allowed under this Agreement, as it may be adjusted by a written amendment signed by both parties, be exceeded. Upon payment of the amount found due, MTC shall be under no further obligation to AGENCY, monetarily or otherwise.

9.0 USE OF THIRD PARTY CONTRACTS

AGENCY may subcontract or subvene funds to local agencies, consultants or contractors for performance of portions of the work required under this Agreement, without the prior written consent of MTC, provided AGENCY complies with any other applicable requirements of this Agreement and the applicable Supplement hereto, and applicable federal and state requirements.

10.0 INDEMNIFICATION

AGENCY shall indemnify, defend, and hold harmless MTC, its Commissioners, representatives, agents and employees from and against all claims, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AGENCY, its officers, employees or agents, or subconsultants or any of them in connection with this Agreement.

11.0 LAWS AND REGULATIONS

AGENCY shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of the federal, state and/or a local government, and of any agency thereof, including but not limited to the California Department of Transportation (Caltrans) Local Assistance Procedures

Manual, as they exist at the time of execution of the Agreement and as they may be amended in the future, which relate to or in any manner affect the performance of this Agreement and any Supplements.

12.0 RECORDS

AGENCY agrees to establish and maintain an accounting system conforming to generally accepted accounting principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. AGENCY further agrees to keep all records pertaining to the Project(s) being funded for audit purposes for a minimum of: (a) three (3) years following final payment to AGENCY, (b) four (4) years following the fiscal year of last expenditure under the Agreement; or (c) until completion of any litigation, claim or audit, whichever is longest.

13.0 AUDITS

AGENCY shall permit MTC and MTC's authorized representatives to have access to AGENCY's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 12. AGENCY shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. Such permission shall extend to books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement of the AGENCY's contractors and subcontractors, if any. If applicable, should MTC request access to the construction site and related field operations, MTC shall provide reasonable notice to AGENCY, and AGENCY shall provide access as it deems reasonable and safe, subject to the rights of the property owner if such owner is not AGENCY.

AGENCY further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subconsultant agrees that MTC or any of MTC's duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subconsultant for the term specified above. "Subconsultant" is defined in Article 14.0 Subcontracts, below.

14.0 SUBCONTRACTS

A. For purposes of this Agreement, "subconsultant" shall mean any consultant or contractor under contract with the AGENCY to perform Project work. Any subconsultants must be engaged under written contract with AGENCY with provisions allowing AGENCY to comply with all requirements of this Agreement. Failure of a subconsultant to provide any insurance required under this Agreement shall

be at the risk of AGENCY. MTC's Project Manager shall be notified in writing of any substitution or addition of subconsultants.

For any Project funded by the Federal Transit Authority (FTA), Federal Highway Administration (FHWA) or Caltrans, AGENCY shall complete Form 10-C, as may be revised by Caltrans from time to time, within thirty (30) days of executing an agreement with a subconsultant and submit it to MTC's Project Manager. MTC shall not process payment of any invoice under the applicable Supplement relating to work by a subconsultant unless AGENCY shall have submitted to MTC a Form 10-C with respect to its contract with such subconsultant.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between MTC and any subconsultants, and no subcontract shall relieve AGENCY of his/her responsibilities and obligations hereunder. AGENCY agrees to be as fully responsible to MTC for the acts and omissions of its subconsultants 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 AGENCY. AGENCY's obligation to pay its subconsultants is an independent obligation from MTC's obligation to make payments to AGENCY.

C. Applicable provisions of this Agreement shall be included in any subcontract or subconsultant agreement in excess of \$25,000 entered into under this Agreement.

15.0 PROHIBITED INTERESTS

No member, officer, employee or agent of MTC, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, et seq., direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, AGENCY further covenants that it has made a complete disclosure to MTC of all facts of which AGENCY is aware upon due inquiry bearing upon any possible interest, direct or indirect, that it believes any member, officer, agent or employee of MTC (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by MTC.

16.0 ORGANIZATIONAL CONFLICTS OF INTEREST

AGENCY shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed by subconsultants or subcontractors under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial

assistance or advice to MTC or AGENCY; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

AGENCY shall not engage the services of any subconsultant or subcontractor on any work related to this Agreement if the subconsultant or subcontractor, or any employee of the subconsultant or subcontractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement AGENCY becomes aware of an organizational conflict of interest in connection with the work performed by a subconsultant or subcontractor hereunder, AGENCY shall immediately provide MTC with written notice of the facts and circumstances giving rise to this organizational conflict of interest. AGENCY's written notice will also describe alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, MTC becomes aware of an organizational conflict of interest in connection with performance of any work hereunder by a subconsultant or subcontractor, MTC shall similarly notify AGENCY. In the event a conflict is presented, whether disclosed by AGENCY or its subconsultant or subcontractor, or discovered by MTC, MTC will consider the conflict presented and any alternatives proposed and meet with AGENCY to determine an appropriate course of action. MTC's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject AGENCY or its subconsultant or subcontractor to damages incurred by MTC in addressing organizational conflicts that arise out of work performed by such subconsultant or subcontractor, or to termination of this Agreement for breach.

17.0 CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State.

18.0 PARTIAL INVALIDITY

If any term or condition of this Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

19.0 NO THIRD PARTY BENEFICIARIES

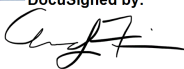
This Agreement is not for the benefit of any person or entity other than the parties.

20.0 ORDER OF PRECEDENCE

In the event of a conflict in the provisions of this Agreement, any Supplement hereto, or the Exhibits hereto incorporated by reference into such Supplement, the following order of priority shall be used in resolving such conflict: the applicable Supplement shall have first priority, then the Exhibits incorporated into such Supplement, then this Agreement.

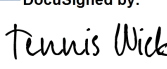
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

METROPOLITAN TRANSPORTATION COMMISSION

DocuSigned by:

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Andrew B. Fremier, Executive Director

COUNTY OF SONOMA

DocuSigned by:

AE16B00E5BC047C...

Tennis Wick, Director of Permit Sonoma

EXHIBIT A
FORM OF SUPPLEMENT

SUPPLEMENT [insert number] TO MASTER FUNDING AGREEMENT

This Supplement No. ____ to Master Funding Agreement (“Supplement or “Agreement”) is entered into this _____ day of _____, 20____, by and between the Metropolitan Transportation Commission (hereafter “MTC”) and [AGENCY] (hereafter “AGENCY”) and supplements the Master Funding Agreement, dated _____, 2017, by and between MTC and AGENCY.

Pursuant to this Supplement, MTC agrees to provide an amount not to exceed _____ dollars (\$_____) in [describe funding source] to AGENCY to fund the [brief description of Project] (as more fully described in Annex I hereto, the “Supplement Project”). The estimated budget and payment milestones for the Supplement Project scope of work is attached as Annex II hereto.

MTC will reimburse AGENCY for its actual eligible costs incurred for completed Supplement Project milestones or deliverables described in Annex II hereto.

The Supplement Project work will commence [date], and be completed no later than _____, 20____.

The clauses selected below and attached as exhibits to the Master Funding Agreement shall apply to AGENCY’s performance of the applicable Supplement Project scope of work hereunder:

- ☐ Exhibit B-1, Additional Terms and Conditions (General), Paragraph A
- ☐ Exhibit B-1, Additional Terms and Conditions (General), Paragraph B
- ☐ Exhibit B-2, Additional Terms and Conditions (Federally Required Clauses)
- ☐ Exhibit B-3, Additional Terms and Conditions (State Required Clauses)
- ☐ Exhibit B-4, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Non-Federally-Funded Agreements)
- ☐ Exhibit B-5, Additional Terms and Conditions (Prevailing Wage Rates, Apprenticeships, and Payroll Records, Federally-Funded Agreements)
- ☐ Exhibit B-6, Additional Terms and Conditions (Regional Toll Funds including RM1, RM2, RM3 and AB1171)
- ☐ Exhibit B-7, Additional Terms and Conditions (Regional Discretionary Federal Funds including STP and CMAQ)

[Insert any additional covenants, conditions, restrictions or reporting requirements that apply to the Supplement Project scope of work or funding source MTC is providing to AGENCY.]

[Describe/attach any MTC or AGENCY resolutions, authorizations or approvals, or any other key documents, relevant to the applicable Project scope of work or funding source MTC is providing to AGENCY.]

The MTC Project Manager for the Supplement Project is [name, telephone, email]. The AGENCY Project Manager for the Supplement Project is [name, telephone, email].

This Supplement is supplemental to the Master Funding Agreement; all terms and conditions of the Master Funding Agreement, as may be amended, remain unchanged hereby.

Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Master Funding Agreement.

**METROPOLITAN TRANSPORTATION
COMMISSION**

COUNTY OF SONOMA

Andrew B. Fremier, Executive Director

Tennis Wick, Director of Permit Sonoma

EXHIBIT B-1
ADDITIONAL TERMS AND CONDITIONS (GENERAL)

A. INSURANCE REQUIREMENTS

AGENCY shall, at its own expense, obtain and maintain (and/or cause its subconsultant(s) to obtain and maintain, as applicable) the types of insurance and financial security listed (if any) in the applicable attachment or exhibit to the relevant Supplement against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under such Supplement, and in effect at all times for the duration of such Supplement. All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A- or better with a Financial Size Category of VIII or better, or as otherwise specified in the applicable Supplement. Notwithstanding anything to the contrary, AGENCY may satisfy the insurance requirements herein utilizing self-insurance providing equivalent coverage.

B. CLAIMS OR DISPUTES

Unless otherwise directed in writing by MTC, AGENCY shall continue performance under this Agreement while any matters in dispute are being resolved. Further, MTC shall pay AGENCY for any undisputed work performed by AGENCY prior to or during the resolution of the matters in dispute. In the event there is a dispute concerning the interpretation of this Agreement or any aspect of the Project that the project managers identified by MTC and AGENCY are unable to resolve, the project manager for either MTC or AGENCY may request that an ad hoc Dispute Resolution Committee ("DRC") be convened to resolve the dispute. The DRC shall consist of two members, one appointed by the MTC Executive Director and the other appointed by the Chief Executive Officer of AGENCY. The responsibility of chairing each ad hoc DRC shall alternate between the agencies, beginning with MTC. Further, disputes between MTC and AGENCY that cannot be resolved by the DRC may be submitted to alternative dispute resolution, as agreed to by the parties. Fees and expenses of the mediator will be borne equally.

EXHIBIT B-2
ADDITIONAL TERMS AND CONDITIONS
(FEDERALLY REQUIRED CLAUSES)

1. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and, for FTA-funded projects, 49 U.S.C. § 5332 and any implementing requirements that FTA may issue. AGENCY agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability or sex, discriminate or permit discrimination against any employee or applicant for employment.

2. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

It is the policy of MTC and the U.S. Department of Transportation to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which disadvantaged business enterprises, as defined in 49 Code of Federal Regulations Part 26, can compete fairly for contracts and subcontracts relating to MTC's procurement and professional services activities.

AGENCY shall not discriminate on the basis of race, color, national origin or sex in the performance of the applicable Supplement. AGENCY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by AGENCY to carry out these requirements is a material breach of contract, which may result in the termination of the applicable Supplement or this Agreement, or such other remedy as MTC deems appropriate.

3. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

AGENCY agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21). For FTA-funded projects, AGENCY further agrees to comply with the current FTA Circular 4702.11B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," the U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations, and the U.S. DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons.

4. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

AGENCY agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

5. STATE ENERGY CONSERVATION PLAN

AGENCY shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

6. ALLOWABILITY OF COSTS

AGENCY shall comply with the cost principles (as applicable) in Office of Management and Budget (OMB) Circulars A-87, or A-122, or 48 Code of Federal Regulations Chapter 1 Part 31, or 49 Code of Federal Regulations Part 18, or in 2 Code of Federal Regulations Parts 200 and 1201, as applicable. In addition, all subcontracts must be in accordance with 2 Code of Federal Regulations Part 200, as applicable, MTC's funding agreement with DOT and any regulations, guidelines and circulars of DOT, applicable as a result of such funding agreement. Further, all subconsultants shall agree to comply with 48 Code of Federal Regulations, Chapter 1, Part 31.

7. LICENSE FOR FEDERAL GOVERNMENT PURPOSES

FTA/FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under the applicable Supplement; and (b) any rights of copyright to which MTC or AGENCY purchases ownership under the applicable Supplement.

8. IDENTIFICATION OF DOCUMENTS

All reports and other documents completed as part of the applicable Supplement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed in part by grants from the: **[select appropriate agency]** Federal Transit Administration/Federal Highway Administration, U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation."

9. AUDITS

AGENCY agrees to grant MTC, the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives access to AGENCY's books, records, accounts, and any and all work products, materials, and other data relevant to the applicable Supplement, for the purpose of making an audit, examination, excerpt and transcription during the term of the applicable Supplement and for the period specified in Article 14. AGENCY shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. If, as a result of any audit, it is determined by the auditor that reimbursement of any costs including profit or fee under the applicable Supplement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, AGENCY agrees to reimburse MTC for those costs within sixty (60) days of written notification by MTC.

AGENCY further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subrecipient agrees that MTC the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subrecipient for the term specified above.

10. FLY AMERICA REQUIREMENTS.

AGENCY agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301 - 10, which provide that recipients and subrecipients of Federal funds and their consultants are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property to the extent such service is available, unless travel by foreign air carrier is a matter of necessity as defined

by the Fly America Act. AGENCY shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements, if used. AGENCY agrees to include the requirements of this Section in all subcontracts that may involve international air transportation.

11. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS.

A. AGENCY acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, AGENCY certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Supplement or the FTA assisted project for which work is being performed under the applicable Supplement. In addition to other penalties that may be applicable, AGENCY further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on AGENCY to the extent the Federal Government deems appropriate.

B. AGENCY also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on AGENCY, to the extent the Federal Government deems appropriate.

C. AGENCY agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subconsultant who will be subject to the provisions.

12. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

MTC and AGENCY acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the applicable Supplement or this Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to MTC, AGENCY or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from this Agreement.

13. DEBARMENT

This Article is only applicable if the applicable Supplement exceeds \$25,000. AGENCY certifies that neither it, nor any of its participants, principals or subrecipients is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 2 CFR Parts 180 and 1200, by any Federal agency or department.

14. CLEAN AIR AND WATER POLLUTION ACTS

This Article is only applicable if the applicable Supplement exceeds \$150,000. AGENCY agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.),.

15. LOBBYING

This Article is only applicable if the applicable Supplement exceeds \$100,000. AGENCY agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

Attachments:

Attachment A – Federally Required Certifications (AGENCY shall either provide these certifications to MTC or shall provide copies of such certifications AGENCY has independently made to the Federal Government.)

EXHIBIT B-2

ATTACHMENT A

FEDERALLY REQUIRED CERTIFICATIONS

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS**

Instructions for Certification:

1. **By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.**
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, MTC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to MTC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact MTC for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by MTC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction”, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

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

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, MTC may pursue available remedies including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its “principals” is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date

(signature of authorized official)

(type/print name and title)

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____ hereby certify on behalf of _____ that:
(name and title of grantee official) (name of grantee)

1. No 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 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 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 Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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

Executed this _____ day of _____, 20__

By:

(signature of authorized official)

(title of authorized official)

EXHIBIT B-3
ADDITIONAL TERMS AND CONDITIONS
(STATE-REQUIRED CLAUSES)

- 1) Attachment A – Fair Employment Practices Addendum
- 2) Attachment B – Nondiscrimination Assurances
 - a.** Appendix A – Clauses to be inserted in every agreement subject to the ACT, as defined in Attachment B of this Exhibit and REGULATIONS, also as defined in Attachment B.
 - b.** Appendix B – To be included as covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein
 - c.** Appendix C – To be included for subsequent transfer of real property acquired or improved under federal-aid Program
 - d.** Appendix D – To be included for the construction or use of or access to space on, over, or under real property acquired or improved under the federal-aid Program
- 3) Attachment C – State Department of Transportation Requirements

EXHIBIT B-3

ATTACHMENT A

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of the applicable Supplement, AGENCY shall not discriminate against any employee for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g. cancer), age (over 40), marital status, and denial of family care leave. AGENCY shall take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.
2. AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into the applicable Supplement by reference and made a part hereof as if set forth in full. Each of the AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements as appropriate.
3. AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under the applicable Supplement.
4. AGENCY shall permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of the applicable Supplement.
5. Remedies for Willful Violation:
 - (a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate the applicable Supplement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure AGENCY's breach of the applicable Supplement.

EXHIBIT B-3

ATTACHMENT B

NONDISCRIMINATION ASSURANCES

AGENCY HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the STATE, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the REGULATIONS), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which AGENCY receives federal financial assistance from the Federal Department of Transportation. AGENCY HEREBY GIVES ASSURANCE THAT AGENCY shall promptly take any measures necessary to effectuate the applicable Supplement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, AGENCY hereby gives the following specific assurances with respect to its federal-aid Program:

1. That AGENCY agrees that each "program" and each "facility" as defined in subsections 21.23 (e) and 21.23 (b) of the REGULATIONS, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.
2. That AGENCY shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS made in connection with the federal-aid Program and, in adapted form, in all proposals for negotiated agreements: AGENCY hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.
3. That AGENCY shall insert the clauses of Appendix A of this assurance in every agreement subject to the ACT and the REGULATIONS.
4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where AGENCY receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where AGENCY receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That AGENCY shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the AGENCY with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-aid Program; and

Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid Program.

8. That this assurance obligates AGENCY for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates AGENCY or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which AGENCY retains ownership or possession of the property.

9. That AGENCY shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that AGENCY, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the ACT, the REGULATIONS, this Assurance and the Agreement.

10. That AGENCY agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this Assurance.

11. AGENCY shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any STATE assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. AGENCY shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of STATE assisted contracts. The California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies is incorporated by reference in the applicable Supplement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the applicable Supplement. Upon notification to the recipient of its failure to

carry out the Implementation Agreement, STATE may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 et seq.)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to AGENCY by STATE, acting for the U.S. Department of Transportation, and is binding on AGENCY, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO ATTACHMENT B

(Clauses to be inserted in every agreement subject to ACT and REGULATIONS)

During the performance of the applicable Supplement, AGENCY, for itself, its assignees and successors in interest (hereinafter collectively referred to as AGENCY) agrees as follows:

(1) **Compliance with Regulations:** AGENCY shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of the applicable Supplement.

(2) **Nondiscrimination:** AGENCY, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. AGENCY shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) **Solicitations for Sub-agreements, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by AGENCY for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by AGENCY of the AGENCY's obligations under the applicable Supplement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** AGENCY shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to AGENCY's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, AGENCY shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts AGENCY has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of AGENCY's noncompliance with the nondiscrimination provisions of the applicable Supplement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to AGENCY under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) **Incorporation of Provisions:** AGENCY shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

AGENCY shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event AGENCY becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, AGENCY may request STATE enter into such litigation to protect the interests of STATE, and, in addition, AGENCY may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO ATTACHMENT B

(To be included as covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein)

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that AGENCY shall accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto AGENCY all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto AGENCY and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on AGENCY, its successors and assigns.

AGENCY, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) *

(2) that AGENCY shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.*

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO ATTACHMENT B

(To be included for subsequent transfer of real property acquired or improved under federal-aid Program)

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by AGENCY, pursuant to the provisions of Assurance 7(a) of Attachment I-2.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add 'as covenant running with the land') that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of AGENCY and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO ATTACHMENT B

Appendix D – (To be included for the construction or use of or access to space on, over, or under real property acquired or improved under the federal-aid Program)

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by AGENCY, pursuant to the provisions of Assurance 7 (b) of Attachment I-2.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.,) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of AGENCY, and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

EXHIBIT B-3

ATTACHMENT C

STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS

Caltrans Non – Discrimination

A. In the performance of work undertaken pursuant to the applicable Supplement, AGENCY shall not, and shall affirmatively require that its contractors shall not, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave.

B. AGENCY shall ensure, and shall require that its contractors and all subcontractors and/or subrecipients shall ensure, that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. AGENCY shall comply, and ensure that its contractors and subcontractors and/or subrecipients shall comply, with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (af), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into the applicable Supplement by reference and made a part hereof as if set forth in full.

C. Each of AGENCY's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. AGENCY shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under the applicable Supplement.

D. AGENCY shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR Part 21, and 23 CFR Part 200 are made applicable to the applicable Supplement by this reference. Wherever the term "Contractor" appears therein, it shall mean AGENCY.

E. AGENCY shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by STATE to investigate compliance with these non-discrimination provisions.

EXHIBIT B-4
ADDITIONAL TERMS AND CONDITIONS
(PREVAILING WAGE RATES, APPRENTICESHIPS, AND PAYROLL RECORDS
NON FEDERALLY FUNDED AGREEMENTS)

AGENCY's contractor(s) and all subcontractors shall comply with applicable sections of the California Labor Code and regulations promulgated thereunder (including without limitation, Sections 1720 *et seq.* and Title 8 of the California Code of Regulations Sections 16000 *et seq.*) governing the payment of prevailing wages, as determined by the Director of the California Department of Industrial Relations, in regards to work performed and/or funded under this Agreement. In particular, AGENCY's attention is drawn to Labor Code Sections 1771 (payment of prevailing wage rate), 1775 (penalty for non-payment), 1776 (payroll records), and 1777.5 (use of apprentices). AGENCY's contractor(s) and all subcontractors, to the extent the work of such contractor(s) and subcontractors under this Agreement are subject to California Labor Code Section 1720 *et seq.*, shall be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and shall furnish electronic certified payroll records directly to the Labor Commissioner through the internet portal of the Division of Labor Standards Enforcement. Per Master Funding Agreement Article 12.0, Records and 13.0 Audits, MTC reserves the right to request copies of the certified payroll records.

EXHIBIT B-5
ADDITIONAL TERMS AND CONDITIONS
(PREVAILING WAGE RATES, APPRENTICESHIPS, AND PAYROLL RECORDS
FEDERALLY FUNDED AGREEMENTS)

The Additional Federal Clauses Applicable to Public Works included in Attachment A, attached hereto and incorporated herein by this reference, and the Davis-Bacon prevailing wages apply to work performed and/or funded under the applicable Supplement. AGENCY agrees that AGENCY will require its contractor(s) and all subcontractors will pay the higher of (i) the applicable wage set forth in Federal Wage Determinations, and (ii) the applicable California prevailing rate. Certified payroll records in the form set forth in the Public Works Payroll Reporting Form, as found at <https://www.dol.gov/whd/forms/wh347.pdf>, shall be prepared or collected from its contractor(s) and all subconsultant(s) on a weekly basis by the AGENCY. Per Master Funding Agreement Article 12.0, Records and 13.0 Audits, MTC reserves the right to request copies of the certified payroll records. MTC may withhold payment if the certified payrolls to be submitted by AGENCY pursuant to this Exhibit B-5, Prevailing Wage Rates, Apprenticeships, and Payroll Records, are not current.

EXHIBIT B-5

ATTACHMENT A

ADDITIONAL FEDERAL CLAUSES APPLICABLE TO PUBLIC WORKS

1. Buy America
2. Davis-Bacon Act
3. Contract Work Hours and Safety Standards Act
4. Copeland Anti-Kickback Act
5. Prompt Payment of Funds Withheld to Subcontractors

1. Buy America Requirements

The Buy America regulation at 49 C.F.R. § 661.13 requires notification of the Buy America requirements in a recipients' bid or request for proposal for FTA funded contracts. Recipients can draw on the following language for inclusion in their federally funded procurements. Note that recipients are responsible for including the correct Buy America certification based on what they are acquiring. Recipients should not include both the rolling stock and steel, iron, or manufactured products certificates in the documents unless acquiring both in the same procurement.

Buy America

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

The [bidder or offeror] must submit to [Recipient] the appropriate Buy America certification below with its [bid or offer]. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

In accordance with 49 C.F.R. § 661.6, for the procurement of steel, iron or manufactured products, use the certifications below:

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

In accordance with 49 C.F.R. § 661.12, for the procurement of rolling stock (including train control, communication, and traction power equipment) use the following certifications:

Certificate of Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 C.F.R. § 661.11.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

2. DAVIS-BACON ACT

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

3. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701; 3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

4. COPELAND ANTI-KICKBACK ACT

Compliance with Copeland Act requirements - The AGENCY's contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

5. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS

The AGENCY shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The AGENCY's prime contractor or subcontractor shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating AGENCY's prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

EXHIBIT B-6
ADDITIONAL TERMS AND CONDITIONS
(REGIONAL TOLL FUNDS INCLUDING RM1, RM2, RM3, AND AB 1171)

Recitals

WHEREAS, Streets and Highways Code (SHC) Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

WHEREAS, pursuant to SHC Section 31010(b), funds generated in excess of those needed to meet the toll commitments as specified by paragraph (4) of subdivision (b) of Section 188.5 of the SHC shall be available to BATA for funding projects consistent with SHC Sections 30913 and 30914; and

WHEREAS, MTC adopted Resolution No. 3434, Revised, which establishes commitments of bridge toll funds, including such AB 1171 funds, to specific projects and corridors; and

WHEREAS, on November 8, 1988, voters approved Regional Measure 1 (“RM1”), which authorized a standard auto toll of \$1 on the seven state-owned toll bridges in the San Francisco Bay Area to fund various transportation projects within the region; and

WHEREAS, on March 2, 2004, voters approved Regional Measure 2 (“RM2”), increasing the toll for all vehicles on the seven state-owned toll bridges in the San Francisco Bay Area by \$1.00 to fund various transportation projects within the region that have been determined to reduce congestion or to improve travel in the toll bridge corridors; and

WHEREAS, RM2 established the Regional Traffic Relief Plan and listed specific capital projects and programs and transit operating assistance as eligible to receive RM2 funding as identified in SHC Section 30914(c) and (d). The funding amounts assigned to certain of the programs and projects were subsequently revised by MTC Resolution No. 3801; and

WHEREAS, to the extent the Project is receiving RM2 funding hereunder, SHC Section 30914(c) lists the Project to which this Exhibit B-6 and the applicable Supplement apply as one such eligible transportation project and designates AGENCY as project sponsor; and

WHEREAS, pursuant to MTC Resolution No. 3636, MTC established procedures whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 Bridge Toll funding. A copy of MTC Resolution No. 3636 is attached hereto and incorporated herein as Attachment D, MTC Resolution No. 3636; and

WHEREAS, on June 5, 2018, voters approved Regional Measure 3 (“RM3”), increasing the toll for all vehicles on the seven state-owned toll bridges in the San Francisco Bay Area by three successive \$1.00 tolls (applied on January 1, 2019, January 1, 2022, and January 1, 2025) to fund various transportation projects within the region that have been determined to reduce congestion or to improve travel in the toll bridge corridors; and

WHEREAS, RM3 established the Regional Measure 3 Expenditure Plan and listed specific capital projects and operating assistance programs as eligible to receive RM3 funding as identified in SHC Section 30914.7(a) and (c); and

WHEREAS, to the extent the Project is receiving RM3 funding hereunder, SHC Section 30914.7(a) lists the Project or SHC Section 30914.7(c) lists the operating assistance program to which this Exhibit B-6 and the applicable Supplement apply as one such eligible transportation project and designates AGENCY as project sponsor; and

WHEREAS, pursuant to MTC Resolution No. 4404, MTC established procedures whereby eligible transportation project sponsors may submit allocation requests for RM3 Bridge Toll funding. A copy of MTC Resolution No. 4404 is attached hereto and incorporated herein as Attachment E, MTC Resolution No. 4404; and

WHEREAS, AGENCY submitted one or more allocation requests for RM2, RM3, AB 1171, and/or RM1 funding for the Project to which this Exhibit B-6 applies. A copy of the applicable allocation request(s) as well as AGENCY's resolution(s) approving the allocation request(s) are attached to the applicable Supplement and incorporated herein as Attachment A, Updated Initial Project Report, and Attachment B, AGENCY Resolution(s), respectively; and

WHEREAS, by the resolution(s) attached to the applicable Supplement and incorporated herein as Attachment C, MTC Resolution(s) Approving Project Request, MTC approved AGENCY's request(s) for the applicable funds for the applicable Project.

I. AGENCY AGREES

A. AGENCY agrees to perform or caused to be performed the activities described in Attachment A, Updated Initial Project Report. AGENCY will provide all necessary staffing and support resources to complete the Project as described in Attachment A, AGENCY agrees to meet all conditions listed in Attachment C, MTC Resolution(s) Approving Project Request.

B. AGENCY shall provide MTC with annual progress reports throughout the term of this Agreement in accordance with the monitoring and reporting requirements specified in MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds).

C. AGENCY shall submit invoices to MTC no less than annually, but may submit invoices as frequently as monthly. In either case, AGENCY shall submit an invoice to MTC within thirty (30) days after the end of each period for which payment is sought covering costs for the Project activities accomplished through the end of such period, not covered by previously submitted invoices. Each invoice shall be supported by the following information: (i.) A brief narrative progress report of the activities accomplished during the invoice period, including the percentage of the contract complete and the percentage of funding expended; (ii.) the costs requested for reimbursement with RM1, RM2, RM3 and/or AB 1171 funds, as applicable; (iii.) the total costs expended for the invoice period broken down by type and source of funding; (iv.) the total RM1, RM2, RM3 and/or AB 1171 funds, as applicable

received as reimbursement to date; (v.) the total costs expended for project name to date broken down by type and source of funding; and (vi.) any additional supporting data in a form and detail required by MTC.

D. AGENCY agrees to spend RM1, RM2, RM3 and/or AB 1171 funds, as applicable, at a rate not exceeding the schedule attached to the applicable Supplement and incorporated herein as Attachment F, Reimbursement Schedule.

E. AGENCY shall comply with and shall assure that any AGENCY contractor performing Project work with RM1, RM2, RM3 and/or AB 1171 funds, as applicable, received under this Agreement complies with MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds), as well as the provisions of MTC's RM2 Policies and Procedures contained in MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds), relative to constructing, operating, and maintaining the Project. MTC may update Resolution No. 3636 or Resolution No. 4404 from time to time. The AGENCY agrees to comply with the most current Resolution that is approved at any given time.

F. AGENCY is responsible for completing the Project within cost, scope and schedule as described in Attachment A, Updated Initial Project Report, as it may be updated from time to time. Any updates must be approved by AGENCY and MTC in writing before being incorporated into this Agreement.

G. AGENCY certifies that:

- The Project is consistent with the Regional Transportation Plan ("RTP").
- The Project is exempt from environmental review or all environmental permits or clearances necessary for the Project have been or will be obtained, and the year of Project funding for the construction phase of the Project has taken into consideration the time necessary to obtain permitting approval for the Project as an operable and useable segment.
- The Project or portion thereof to be funded under this Agreement will be fully funded upon the execution of the applicable Supplement.
- AGENCY has reviewed the Project needs and has adequate internal staffing and support resources to deliver and complete the Project within the cost, scope, and schedule set forth in the Initial Project Report, as updated, attached to the applicable Supplement as Attachment A.
- If applicable to the Project, AGENCY is an eligible sponsor of projects in MTC Resolution No. 3434, Revised.
- If applicable to the Project, AGENCY is an eligible sponsor of projects in MTC Resolution No. 4404.
- If applicable, AGENCY is authorized to submit an application for RM2 funds for the Project in accordance with SHC Section 30914(c).
- If applicable, AGENCY is authorized to submit an application for RM3 funds for the Project in accordance with SHC Section 30914.7(a) or 30914.7(c).
- If applicable, AGENCY is authorized to submit an application for AB 1171 funds for the Project in accordance with SHC Section 31010(b).
- The Project is in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Sections 15000 *et seq.*), and if relevant, the

National Environmental Policy Act (NEPA) (42 USC 4321 *et seq.*) and the applicable regulations thereunder.

- There is no legal impediment to AGENCY making allocation requests for RM1, RM2, RM3 and/or AB 1171 funds, as applicable.
- There is no pending or threatened litigation which might in any way adversely affect the Project or the ability of AGENCY to deliver such Project.
- For bus operators, AGENCY has submitted a copy of the California Highway Patrol (CHP) certification, which was issued within the last 13 months indicating compliance with California Vehicle Code §1808.1 and Public Utility Code §99251 (CHP "pull notice system and periodic reports").
- For ferry operators, AGENCY certifies that it is current on all inspections and certifications required by federal and state agencies.
- If RM3 funding was received in the prior year, AGENCY has included the RM3 costs and revenues in its general fiscal audit for that year. AGENCY also assures that it will include the RM3 costs and revenues in its general fiscal audit for the year in which funds are requested.

H. In addition to AGENCY's commitment under Article 10, INDEMNIFICATION, of the Master Funding Agreement, AGENCY agrees at its own cost, expense, and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, its Commissioners, representatives, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM1, RM2, RM3 and/or AB 1171 funds, as applicable, as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages.

I. If any revenues or profits from any non-governmental use of the Project are collected by AGENCY, those revenues or profits shall be used exclusively for the public transportation services for which the Project was initially approved, either for capital improvements or maintenance and operational costs, otherwise MTC is entitled to a proportionate share equal to MTC's percentage participation in the Project. MTC's percentage participation shall equal the amount of funds allocated to Project, divided by the total Project budget as shown in Attachment E, Reimbursement Schedule, as updated from time to time, as such amount may be adjusted to reflect total project costs.

J. Project assets purchased by AGENCY with RM1, RM2, RM3 and/or AB 1171 funds, as applicable, including facilities and equipment, shall be used for the intended public transportation uses and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for their useful life, MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the fair market value of the facilities and equipment at the time the public transportation uses ceased, which sum shall be paid back to MTC in the same proportion that RM1, RM2, RM3 and/or AB 1171 funds, as applicable, were originally used.

K. AGENCY shall post on both ends of the Project construction site(s), unless prohibited by the site owner if such owner is not the AGENCY, at least two signs visible to the public stating that the Project is funded with RM1, RM2, RM3 and/or AB 1171 funds, as applicable.

L. AGENCY's City Manager, General Manager, Executive Director, Chief Executive Officer, or equivalent officer, or designee, is delegated the authority to make non-substantive changes or minor amendments to the initial project report as he/she deems appropriate; otherwise, Article 7, AMENDMENTS, of this Agreement applies.

M. AGENCY agrees to comply with the provisions of MTC Resolution No. 3636, Revised (if receiving RM2 funds) and/or MTC Resolution No. 4404 (if receiving RM3 funds), and the MTC Resolutions set forth in Attachment C, MTC Resolution(s) Approving Project Request.

II. MTC AGREES

A. MTC agrees to provide AGENCY with RM1, RM2, RM3 and/or AB 1171 funds, as applicable, within the allocation amounts in Attachment C, MTC Resolution(s) Approving Project Request and as restated in the relevant Supplement for the purpose of funding the Project as described in Attachment A.

The entire funding amount is available for reimbursement based on the schedule included in Attachment E, Reimbursement Schedule, to the applicable Supplement. In addition, if applicable, MTC agrees to support AGENCY's allocation request from the State according to the Allocation Request Schedule provided in Attachment G to the applicable Supplement.

In the event AGENCY does not use all RM1, RM2, RM3 and/or AB 1171 funds, as applicable, made available in a given fiscal year, those unused amounts will be available for reimbursement in subsequent year(s) for the duration of this Agreement. However, RM3 Operating Program funds will be made available for reimbursement in the subsequent year(s) where allowed by law or otherwise authorized by the Commission.

III. IT IS MUTUALLY AGREED

A. MTC may terminate the applicable Supplement, in its sole discretion, for any force majeure event, including but not limited to any earthquake, flood or other natural disaster, any epidemic, blockade, rebellion, war, act of sabotage or civil commotion, fire, explosion or strike, or prolonged economic conditions affecting the ability of the Bay Area Toll Authority to make payments to bond holders who shall in all circumstances have priority to payment of funds, if such event (i) irrecoverably disrupts or renders impossible AGENCY's performance hereunder; or (ii) disrupts MTC's ability to make payments hereunder. If MTC so terminates the applicable Supplement, AGENCY will be entitled to payment for non-recoverable Project costs incurred prior to the date of such termination, including but not limited to any amounts AGENCY owes to the owner of the Project construction sites, if such owner is not AGENCY, up to the maximum amount payable under this Agreement.

B. If AGENCY fails to perform as specified in this Agreement and the applicable Supplement, MTC may terminate the applicable Supplement or this Agreement for cause. Termination shall be effected by serving a sixty (60) day advance written notice of termination on AGENCY, setting forth the manner in which AGENCY is in default. If AGENCY does not cure the breach or describe to MTC's satisfaction a plan for curing the breach within the sixty (60) day period, MTC may terminate this Agreement or the applicable Supplement for cause. In the event of such termination for cause, AGENCY will be entitled only to those costs incurred for already completed Project work, not to exceed

the maximum amount payable under this Agreement for such Project work, however, in no event shall MTC be required to reimburse AGENCY for any costs incurred for work causing or contributing to the default.

C. If the Project is cancelled, suspended indefinitely, or otherwise not completed for any reason, AGENCY shall repay MTC any RM1, RM2, RM3 and/or AB 1171 funds, as applicable, expended that exceed MTC's proportionate share of eligible costs for the Project.

D. Upon completion of the Project, AGENCY will properly account for all Project costs incurred.

E. The applicable Supplement shall terminate upon closeout of the PROJECT in accordance with Policies and Procedures in MTC Resolution No. 3636, Revised (if receiving RM2 funds) or MTC Resolution No. 4404 (if receiving RM3 funds), or on the termination date, if any, set forth in the Supplement, whichever is sooner.

F. The terms and conditions of this Agreement include the following and each is incorporated by reference herein as if fully set forth herein.

Attachment A – Updated Initial Project Report (Allocation Request)

Attachment B – AGENCY Resolution(s) (and opinion of counsel, if applicable)

Attachment C – MTC Resolution(s) Approving Project Request(s)

Attachment D – MTC Resolution No. 3636, Revised

Attachment E – MTC Resolution No. 4404

Attachment F – Reimbursement Schedule

Attachment G – Allocation Request Schedule

EXHIBIT B-7
ADDITIONAL TERMS AND CONDITIONS
(REGIONAL DISCRETIONARY FEDERAL FUNDS INCLUDING STP AND CMAQ)

1. TERMINATION

Notwithstanding Article 8.0, TERMINATION in the Master Funding Agreement, MTC may terminate this Agreement without cause upon ten (10) days prior written notice. If MTC terminates this Agreement without cause, AGENCY shall be entitled to payment for costs incurred for incomplete deliverables, up to the maximum amount payable for each deliverable. If AGENCY fails to perform as specified in this Agreement, MTC may terminate this Agreement for cause by written notice and AGENCY shall be entitled only to costs incurred for work product acceptable to MTC, not to exceed the maximum amount payable under this Agreement for such work product.

2. RETENTION OF RECORDS

AGENCY agrees to establish and maintain an accounting system confirming to GAAP that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs.

AGENCY further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of three (3) years following final payment to AGENCY or four (4) years following the fiscal year of the last expenditure under this Agreement, whichever is longer, in accordance with generally accepted accounting principles. Copies of AGENCY audits, if any, performed during the course of Project development and at Project completion shall be forwarded to MTC no later than one hundred eighty (180) days after fiscal year end close.

3. AUDITS

Notwithstanding Article 13.0, AUDITS in the Master Funding Agreement, AGENCY agrees to grant MTC, or any agency that provides MTC with funds for the Project, including but not limited to, the U.S. Department of Transportation, FHWA, the Comptroller General of the United States, the State, and their authorized representatives access to AGENCY's books and records for the purpose of verifying that funds are properly accounted for and proceeds are expended in accordance with the terms of this Agreement. All documents shall be available for inspection during normal business hours at any time while the Project is underway and for the retention period specified in Article 4.

AGENCY further agrees to include in all its third-party contracts hereunder a provision to the effect that the contractor agrees that MTC, the U.S. Department of Transportation, FHWA, the Comptroller General of the United States, the State, or any of their duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, during normal business hours, for the term specified above. The term "contract" as used in this clause excludes agreements not exceeding \$25,000.

4. LICENSE TO WORK PRODUCTS

AGENCY hereby grants to MTC an irrevocable, non-exclusive, royalty-free license to use without restriction and share with any person or entity all drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture, and any other documents, materials, data, and products ("Work Products") developed, prepared, or assembled by AGENCY or AGENCY's consultant(s) or its subconsultants pursuant to this Agreement. MTC may exercise their licenses to Work Products through sublicenses to a

third party, without the approval of AGENCY or AGENCY's consultant(s) or subconsultants. FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which AGENCY or AGENCY's consultant(s) or subconsultants purchase ownership under this Agreement.

5. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and 49 U.S.C. § 5332 for FTA-funded projects, AGENCY agrees that it shall not, on the grounds of race, religious creed, color, national origin, age, physical disability or sex, discriminate or permit discrimination against any employee or applicant for employment.

6. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

It is the policy of MTC and the U.S. Department of Transportation to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which disadvantaged business enterprises, as defined in 49 Code of Federal Regulations Part 26, can compete fairly for contracts and subcontracts relating to MTC's procurement and professional services activities.

AGENCY shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. AGENCY shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by AGENCY to carry out these requirements is a material breach of contract, which may result in the termination of this agreement or such other remedy as MTC deems appropriate.

7. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

AGENCY agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21).

8. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

AGENCY agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

9. STATE ENERGY CONSERVATION PLAN

AGENCY shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

10. DEBARMENT

AGENCY certifies that neither it, nor any of its participants, principals or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department.

11. CLEAN AIR AND WATER POLLUTION ACTS

AGENCY agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

12. LOBBYING

AGENCY agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

13. INDEMNIFICATION

Notwithstanding Article 10.0, INDEMNIFICATION, in the Master Funding Agreement AGENCY shall indemnify and hold harmless MTC, Caltrans, their Commissioners, Directors, officers, agents and employees from any and all claims, demands, suits, loss, damages, injury and/or liability (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AGENCY, its officers, directors, employees, agents and contractors, or any of them, under or in connection with this Agreement; and AGENCY agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, Caltrans, their Commissioners, Directors, officers, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments.

14. COMPLIANCE WITH LAWS

AGENCY shall comply with any and all laws, statutes, ordinances, rules, regulations or requirements of the federal, state, or local government, and any agency thereof, including, but not limited to MTC, the U.S. DOT, FHWA, the State, and Caltrans, which relate to or in any manner affect the performance of this Agreement. Those laws, statutes, ordinances, rules, regulations, and procedural requirements that are imposed on MTC as an AGENCY of federal or state funds are hereby in turn imposed on AGENCY (including, but not limited to, 49 CFR Part 18, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”), and are herein incorporated by this reference and made a part hereof.

AGENCY contractors shall agree to comply with all 48 CFR, Chapter 1, Part 31, Contract Cost Principles and Procedures. In addition, AGENCY certifies that the AGENCY and its contractors shall comply with the requirements of the California Environmental Quality Act (CEQA), California Public Resources Code Section 21,000 *et seq.* and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 *et seq.*) and the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4321 *et seq.* and the applicable regulations thereunder.

15. IDENTIFICATION OF DOCUMENTS

AGENCY shall ensure that all reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

“The preparation of this report has been financed in part by grants from the U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation.”