

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is made as of (DATE) by and between the South Bay Cities Council of Governments, a California joint powers authority ("SBCCOG" or "Consultant") and (NAME) ("NAME or Abbreviation").

### RECITALS

A. (NAME) desires to utilize the services of SBCCOG as an independent contractor to provide specified professional services to (NAME) as set forth in Exhibit A, to assist (NAME) in the Completion of (DESCRIBE PROJECT/TITLE).

B. The goal of this program is to achieve (COMPLETE).

C. SBCCOG represents that it is fully qualified to perform consulting services by virtue of its experience and the training, education, and expertise of its principals and employees.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

#### 1. Services.

1.1 The nature and scope of the specific services to be performed by Consultant are as described in Exhibit A, attached hereto and incorporated herein by reference.

1.2 SBCCOG agrees to conduct its best effort to assist with the success of the program and understands that the (NAME) assumes full responsibility to manage and produce the program.

1.3 (NAME) and participating agencies shall provide all relevant documentation in their possession to the SBCCOG upon request in order to minimize duplication of efforts. The (NAME) staff shall work with the SBCCOG as necessary to facilitate performance of the services.

2. **Term of Agreement.** This Contract shall take effect (DATE) and shall continue until (DATE) unless earlier terminated pursuant to the provisions of paragraph 14 herein. The term of this Agreement may be extended by mutual agreement of the parties as may be necessary or desirable to carry out its purposes.

3. **Compensation.** (NAME) shall pay for services based on the not to exceed budget of (\$ AMOUNT) as described in Exhibit A.

4. **Terms of Payment.** SBCCOG shall submit monthly invoices for services rendered and for reimbursable expenses incurred. The invoice should include: an invoice number, the dates covered by the invoice, the hours expended, and a summary of the work performed. (NAME) shall pay the invoices within sixty (60) days of receipt.

**5. Parties' Representatives.** Jacki Bacharach shall serve as the SBCCOG's representative for the administration of the project. All activities performed by the SBCCOG shall be coordinated with this person. (NAME) shall be in charge of the project for the (NAME) on all matters relating to this Agreement and any agreement or approval made by him/her shall be binding on the SBCCOG.

**6. Addresses.**

SBCCOG:  
South Bay Cities Council of Governments  
2355 Crenshaw Blvd., Suite 125  
Torrance, CA 90501  
Attention: Jacki Bacharach, Executive Director

(NAME):  
(ADDRESS)  
Attention: (NAME)

**7. Status as Independent Contractor.**

A. SBCCOG is, and shall at all times, remain as to (NAME), a wholly independent contractor. SBCCOG shall have no power to incur any debt, obligation, or liability on behalf of (NAME) or any participating agency or otherwise act on behalf of (NAME) or any participating agency as an agent except as specifically provided in the Scope of Services. Neither (NAME) nor any of its agents shall have control over the conduct of SBCCOG or any of SBCCOG's employees, except as set forth in this Agreement. SBCCOG shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner employees of (NAME).

B. SBCCOG shall fully comply with the workers' compensation law regarding SBCCOG and SBCCOG's employees. SBCCOG further agrees to indemnify and hold (NAME) harmless from any failure of SBCCOG to comply with applicable worker's compensation laws.

**8. Standard of Performance.** SBCCOG shall perform all work at the standard of care and skill ordinarily exercised by members of the profession under similar conditions.

**9. Indemnification.** SBCCOG agrees to indemnify the (NAME) and participating public agencies, their respective officers, staff SBCCOGs, agents, volunteers, employees, and attorneys against, and will hold and save them and each of them harmless from, and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the acts, errors or omissions of SBCCOG, its agents, employees, subcontractors, or invitees, including each person or entity responsible for the provision of services hereunder, except for liability resulting from the sole negligence or wrongful acts of the (NAME) or a participating agency.

**10. Insurance.** SBCCOG shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California and approved by the (NAME) (1) a policy or policies of broad-form comprehensive general liability insurance with minimum limits of \$1,000,000.00 combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts by SBCCOG, its officers, employees, agents, and independent contractors in performance of services under this Agreement; (2) property damage insurance with a minimum limit of \$1,000,000.00; (3) automotive liability insurance, with minimum combined single limits coverage of \$500,000.00; and (4) worker's compensation insurance with a minimum limit of \$500,000.00 or the amount required by law, whichever is greater. (NAME) and participating public agencies, their respective officers, employees, attorneys, staff SBCCOGs, and volunteers shall be named as additional insureds on the policy (ies) as to comprehensive general liability, property damage, and automotive liability. The policy (ies) as to comprehensive general liability, property damage, and automobile liability shall provide that they are primary, and that any insurance maintained by the (NAME) shall be excess insurance only.

A. All insurance policies shall provide that the insurance coverage shall not be non-renewed, canceled, reduced, or otherwise modified (except through the addition of additional insureds to the policy) by the insurance carrier without the insurance carrier giving (NAME) thirty (30) day's prior written notice thereof. SBCCOG agrees that it will not cancel, reduce or otherwise modify the insurance coverage.

B. All policies of insurance shall cover the obligations of SBCCOG pursuant to the terms of this Agreement; shall be issued by an insurance company which is admitted to do business in the State of California or which is approved in writing by the (NAME); and shall be placed with a current A.M. Best's rating of no less than A VII.

C. SBCCOG shall submit to (NAME) (1) insurance certificates indicating compliance with the minimum worker's compensation insurance requirements above, and (2) insurance policy endorsements indicating compliance with all other minimum insurance requirements above, not less than one (1) day prior to beginning of performance under this Agreement. Endorsements shall be executed on (NAME)'s appropriate standard forms entitled "Additional Insured Endorsement", or a substantially similar form which the (NAME) has agreed in writing to accept.

**11. Confidentiality.** Parties agree to preserve as confidential all Confidential Information that has been or will be provided to each other.

**12. Ownership of Materials.** All materials provided by SBCCOG in the performance of this Agreement shall be and remain the property of (NAME) and its partner organizations without restriction or limitation upon their use or dissemination by (NAME). The SBCCOG will retain non-exclusive perpetual rights to the use of material developed under this contract.

**13. Conflict of Interest.** It is understood and acknowledged that SBCCOG will serve as an agent of the (NAME) and the participating agencies for the limited purpose of implementation of this project.

**14. Termination.** Either party may terminate this Agreement without cause upon fifteen (15) days' written notice to the other party. The effective date of termination shall be upon the date specified in the notice of termination, or, in the event no date is specified, upon the fifteenth (15th) day following delivery of the notice. Immediately upon receiving written notice of termination, SBCCOG shall discontinue performing services. Should the Agreement be breached in any manner, the non-breaching party may, at its option, terminate the Agreement not less than five (5) days after written notification is received by the breaching party to remedy the violation within the stated time or within any other time period agreed to by the parties.

**15. Personnel.** SBCCOG represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by SBCCOG or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. SBCCOG reserves the right to determine the assignment of its own employees to the performance of SBCCOG's services under this Agreement, but (NAME) reserves the right, for good cause, to require SBCCOG to exclude any employee from performing services on (NAME)'s premises.

**16. Non-Discrimination and Equal Employment Opportunity.**

A. SBCCOG shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement and will comply with all rules and regulations of (NAME) relating thereto. Such nondiscrimination shall include but not be limited to the following: employment, upgrading, demotion, transfers, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. SBCCOG will, in all solicitations or advertisements for employees placed by or on behalf of SBCCOG state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

**17. Assignment.** SBCCOG shall not assign or transfer any interest in this Agreement nor the performance of any of SBCCOG's obligations hereunder, without the prior written consent of (NAME), and any attempt by SBCCOG to so assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

**18. Compliance with Laws.** SBCCOG shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments. Each party is responsible for paying its own all federal and state income taxes, including estimated taxes, and all other government taxes, assessments and fees incurred as a result of his/her performance under this Agreement and the compensation paid by or through this Agreement.

**19. Non-Waiver of Terms, Rights and Remedies.** Waiver by either party of

any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by (NAME) of any payment to SBCCOG constitute or be construed as a waiver by (NAME) of any breach of covenant, or any default which may then exist on the part of SBCCOG, and the making of any such payment by (NAME) shall in no way impair or prejudice any right or remedy available to (NAME) with regard to such breach or default.

**20. Resolving Disputes.** If a dispute arises under this Agreement, prior to instituting litigation the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in California. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties.

**21. Severability.** If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in effect provided that the principal purposes of the parties are not thereby frustrated.

**22. Notices.** Any notices required to be given under this Agreement by either party to the other may be affected by any of the following means: by electronic correspondence (email), by personal delivery in writing by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices must be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change the address by giving written or electronic notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first. Electronic notices are deemed communicated as of actual time and date of receipt. Any electronic notices must specify an automated reply function that the email was received. The email addresses for each party are as follows:

Jacki Bacharach – jacki@southbaycities.org  
(NAME) – (EMAIL)

**23. Governing Law.** This Contract shall be interpreted, construed and enforced in accordance with the laws of the State of California.

**24. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

**25. Entire Agreement.** This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between SBCCOG and (NAME). This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties which expressly refers to this Agreement. Amendments on behalf of the (NAME) will only be valid if signed by the (NAME) (TITLE) Executive Director or the Chairman of the Board and attested by the (NAME) Secretary.

**26. Exhibits.** All exhibits referred to in this Agreement are incorporated herein by

this reference.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

"SBCCOG"  
South Bay Cities Council of Governments

By: \_\_\_\_\_  
(SBCCOG Chair) (Signature)

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
SBCCOG Secretary

**NAME**

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
**(Typed or Printed Name)**

Title: \_\_\_\_\_

Date: \_\_\_\_\_