

[Insert WITHHOLDING or NO WITHHOLDING here]

**TECHNICAL SERVICES AGREEMENT BETWEEN
THE SHASTA REGIONAL TRANSPORTATION AGENCY AND
[Insert firm's name here] FOR PREPARATION OF [Insert purpose here]**

This agreement is entered into between the Shasta Regional Transportation Agency ("SRTA") and [Insert consultant name here] ("Consultant") for the purpose of [Insert purpose here].

1. RESPONSIBILITIES OF CONSULTANT

- A) Consultant shall complete the services outlined in the scope of work shown in Attachment A.
- B) As required by California Government Code Section 7550, each document or report prepared by Consultant, for or under the direction of SRTA pursuant to this agreement, shall contain the numbers and dollar amount of the agreement and all subcontracts under the agreement relating to the preparation of the document or written report. If multiple documents or written reports are the subject of the agreement or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports. Consultant shall label the bottom of the last page of the document or report as follows: Shasta Regional Transportation Agency, agreement number, and dollar amount. If more than one document or report is produced under this agreement, Consultant shall add: "This [document or report] is one of [number] produced under this agreement."

2. RESPONSIBILITIES OF SRTA

- A) SRTA shall compensate Consultant as set forth in section 3 of this agreement and shall monitor Consultant's performance.
- B) SRTA shall review draft documents in a timely manner.
- C) SRTA will provide [Insert any SRTA commitments here], in a timely manner.

3. COMPENSATION

Compensation shall be based on expenses associated with the bid deliverables, per the budget shown in Attachment B. Compensation shall not exceed \$[Insert amount here] for the services described in both Attachments A and B.

4. BILLING AND PAYMENT

Consultant shall submit to SRTA within thirty days (30) after completion of the services described in section 1, an itemized invoice of services rendered and an accompanying progress report. Consultant may submit periodic invoices (no more than twelve per year) as work is completed during the term of this agreement; however, not less than quarterly Consultant shall submit an invoice and progress report. SRTA shall make payment within 30 days of receipt of Consultant's correct and approved invoice(s). All requests for payment must include a narrative of services performed in the period by task, and any agreed-upon deliverables per Attachments A and B.

For travel and subsistence (per diem) expenses of Consultant and its subcontractors, Consultant rates shall not exceed rates authorized to be paid rank and file State employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by Consultant are in excess of DPA rates, SRTA will not reimburse those amounts in excess of the DPA rates.

Consultant will require that it and its subcontractors be obligated to agree, that (a) the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual project cost items (contractors shall refer to, 2 CFR, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and/or parties shall comply with applicable regulations (i) 2 CFR part 220, "Cost Principles for Educational Institutions (OMB Circular A-21);" (ii) 2 CFR part 230, "Cost Principles for Non-Profit Organizations (OMB Circular A-122); and (b) all parties shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Contractor, and subcontractor(s), as applicable shall comply with Federal administrative procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Consultant, and its subcontractors, shall establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) to support Requests for Reimbursement which segregate and accumulate the costs of work elements by line item (i.e direct labor, other direct costs, consultants/subcontractor, etc) and enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.

For the purpose of determining compliance with Title 2, California Government Code, Chapter 6.5, Article 2, Section 8546.7, Consultant and its subcontractors shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts and/or agreements, including, but not limited to, the costs of administering those various

contracts and/or agreements. All of the above referenced parties shall make such contracts and/or agreements available at their respective offices at all reasonable times during the entire period of the contract duration and for three (3) years from the date of final payment to Consultant or until audit resolution is achieved for each annual SRTA Overall Work Program Agreement, whichever is later. The State, the California State Auditor, or any duly authorized representative of the State or the United States Department of Transportation, shall each have access to any books, records, and documents that are pertinent to the fulfillment of the contracts/ and/or agreements for audits, examinations, excerpts, and transactions, and Consultant and its subcontractors shall furnish copies thereof if requested.

5. TERM OF AGREEMENT AND SCHEDULE

This agreement shall commence on the date of SRTA board of directors, or executive director, signing and shall terminate upon completion of the services described in section 1, or on [Insert termination date here], whichever is earlier, unless this agreement is terminated under the provisions of Section 6. of this agreement.

[INSERT AGREED UPON SCHEDULE AND OTHER SCOPE OF WORK ITEMS]

Subcontractor contracts containing Federal and State planning funds are required to be competitively bid and awarded in accordance with Title 49, CFR, Part 18, Section 18.37 and consistent with Local Assistance Procedure Manual, Ch. 10 or successors thereto.

6. TERMINATION OF AGREEMENT

- A) Termination for Convenience – This agreement may be terminated by either party for any reason and at any time by giving no less than thirty (30) days written notice of such termination to the other party and specifying the effective date thereof; provided, however, that no such termination may be effected by the agency unless an opportunity for consultation is provided prior to the effective date of the termination.
- B) Termination for Default – SRTA retains the right to terminate this agreement completely or partially for default if the Consultant fails to: i) make delivery of the supplies, or perform the services, within the time specified in this agreement; ii) perform any other provision of this agreement; iii) make progress, and that failure endangers performance of this agreement; or iv) retain the project manager as specified in this agreement. With respect to item 6.B) iv): SRTA shall require notice of project manager revisions within 7 days of the change.

Under a termination for default, SRTA is not liable for the Consultant's costs on undelivered work and is entitled to the repayment of advance and progress payments, if any, applicable to that work.

- C) Termination for Cause – If Consultant materially fails to perform duties to the satisfaction of SRTA or if Consultant fails to fulfill in a timely and professional manner obligations under this agreement, or if Consultant violates any of the terms or provisions of this agreement, then SRTA shall have the right to terminate this agreement for cause effective immediately upon SRTA giving written notice thereof to Consultant. If termination for cause is given by SRTA to Consultant and it is later determined that Consultant was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph D of this section.
- D) Termination without Cause – SRTA may terminate this agreement without cause on 30 days’ written notice to Consultant. SRTA shall pay Consultant for all work satisfactorily completed as of the date of notice.
- E) Immediate Termination – SRTA may terminate this agreement immediately upon oral and/or written notice should funding cease, or be materially decreased, during the term of this agreement.
- F) Stop Work Order – SRTA may, in order to investigate a possible deficiently-performing consultant or, in some instances protect itself and/or consultant from financial risk associated with lapsed funding, may request a stop order on all consultant work associated with this agreement. Such stop work order will be delivered in writing to the consultant and shall be effective immediately.
- G) SRTA’s right to terminate this agreement may be exercised by the Executive Director, or his/her designee.
- H) Disposition of, Title to and Payment for Work upon Expiration or Termination –

Upon expiration of this agreement or termination for cause or termination for the convenience of a party, all finished or unfinished documents and other materials (e.g. finished and unfinished reports, data, studies, photographs, charts, and other documents), if any, and all rights therein shall become, at the option of SRTA, the property of and shall be promptly returned to SRTA, although Consultant may retain a copy of such work for its personal records only. Unless otherwise expressly provided in this agreement, any copyrightable or patentable work created by Consultant under this agreement shall be deemed a “work made for hire” for purposes of copyright or patent law and only SRTA shall be entitled to claim or apply for the copyright or patent thereof.

- I) Payment Terms Upon Termination – Consultant shall only be paid for services completed and provided prior to the notice of termination. Consultant shall be paid for the percentage of work completed under the Agreement, as agreed to by the agency, to the total compensation authorized by the agreement, less payments of compensation previously made.

7. DISPUTE RESOLUTION

Any dispute between Consultant and SRTA relating to the implementation or administration of this agreement may be attempted to be resolved through the following process:

- A) The parties shall first attempt to resolve the dispute informally in meetings or communications between Consultant and SRTA. If the dispute remains unresolved fifteen (15) days after it first arises, Consultant may request that SRTA issue a recommended decision on the matter in dispute. The SRTA project manager shall issue the recommended decision in writing and provide a copy to Consultant.
- B) The recommended decision of the SRTA project manager shall become final unless, within fifteen (15) days of receipt of such recommended decision, Consultant submits a written request for review to the SRTA executive director. In connection with any such review, Consultant and SRTA shall be afforded an opportunity to be heard and to offer evidence on the issues presented. If the dispute remains unresolved after review by the executive director, either party may seek judicial resolution of the dispute in an appropriate court within Shasta County, California.
- C) Pending final resolution of a dispute under this section, Consultant shall proceed diligently with performance in accordance with this agreement and SRTA's recommended decision.

8. ENTIRE AGREEMENT; AMENDMENTS

- A) This agreement supersedes all previous agreements relating to the subject of this agreement and constitutes the entire understanding of the parties hereto. Consultant shall be entitled to no other benefits other than those specified herein. Consultant specifically acknowledges that in entering into and executing this agreement, Consultant relies solely upon the provisions contained in this agreement and no others.
- B) No changes, amendments, or alterations shall be effective unless in writing and signed by both parties. However, minor amendments which do not result in a substantial or functional change to the original intent of the agreement and do not cause an increase to the maximum amount payable under this agreement may be agreed to in writing between Consultant and the executive director. If the proposed minor amendment alters the project schedule, a revised project schedule will be required from the Consultant for this agreement.
- C) The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.

9. NONASSIGNMENT OF AGREEMENT; NON-WAIVER

Inasmuch as this agreement is intended to secure the specialized services of the Consultant, Consultant may not assign, transfer, delegate or sublet any interest herein without the prior written consent of SRTA. The waiver by SRTA of any breach of any requirement of this agreement shall not be deemed to be a waiver of any other breach.

10. EMPLOYMENT STATUS OF CONSULTANT

Consultant shall, during the entire term of this agreement, be construed to be an independent contractor and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow SRTA to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of this agreement; provided, however, that the services to be provided by Consultant shall be provided in a manner consistent with the professional standards applicable to such services. The interest of SRTA is to ensure that services shall be rendered and performed in a competent, efficient, timely and satisfactory manner. Consultant shall be fully responsible for payment of all taxes due to the State of California or the federal government which would be withheld from compensation if Consultant were an SRTA employee. SRTA shall not be liable for deductions for any amount, for any purpose, from Consultant's compensation. Consultant shall not be eligible for coverage under SRTA workers' compensation insurance plan nor shall Consultant be eligible for any other SRTA benefit. Consultant must issue W-2 and 941 Forms for income and employment tax purposes, for all of Consultant's assigned personnel under the terms and conditions of this agreement.

11. INDEMNIFICATION

Consultant shall defend, hold harmless, and indemnify SRTA, its elected officials, officers, employees, and agents against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of SRTA counsel and counsel retained by SRTA, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees by reason of any person's or persons' injury, including death, or property (including property of SRTA) being damaged by the negligent acts, willful acts, or errors or omissions of the Consultant or any of Consultant's subcontractors, any person employed under Consultant, or under any subcontractor, or in any capacity during the progress of the work, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of SRTA. Consultant shall also defend and indemnify SRTA for any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency and shall defend, indemnify and hold harmless SRTA with respect to Consultant's "independent contractor" status that would establish a liability on SRTA for failure to make social security deductions or contributions or income tax withholding payments, or any other legally mandated payment.

For professional services provided under this agreement, Consultant shall indemnify, defend, and hold harmless SRTA, its elected officials, officers, employees, agents, and volunteers from and against any and all claims, demands, actions, losses, liabilities, damage, and costs, including reasonable attorneys' fees, arising out of or resulting from the negligent performance of the professional services provided under this agreement.

12. INSURANCE COVERAGE

- A) Consultant and any subcontractor shall obtain, from an insurance carrier authorized to transact business in the State of California, and maintain continuously during the term of this agreement Commercial General Liability Insurance, including coverage for owned and non-owned automobiles, and other insurance necessary to protect SRTA and the public with limits of liability of not less than \$1 million combined single limit bodily injury and property damage; such insurance shall be primary as to any other insurance maintained by SRTA.
- B) Consultant and any subcontractor shall obtain and maintain continuously required Workers' Compensation and Employer's Liability Insurance to cover Consultant, subcontractor, Consultant's partner(s), subcontractor's partner(s), Consultant's employees, and subcontractor(s) employees with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by Consultant or subcontractor. Consultant hereby certifies that Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and Consultant will comply with such provisions before commencing the performance of the work of this agreement.
- C) Consultant shall obtain and maintain continuously a policy of Errors and Omissions coverage with limits of liability of not less than \$1 million.
- D) Consultant shall require subcontractors to furnish satisfactory proof to them that liability and workers' compensation and other required types of insurance have been obtained and are maintained similar to that required of Consultant pursuant to this agreement. Consultant shall not allow any contract or subcontract to continue without proper insurance in effect after notification of the lapse of requisite insurance.
- E) With regard to all insurance coverage required by this agreement:
 - (1) Any deductible or self-insured retention exceeding \$25,000 for Consultant or subcontractor shall be disclosed to and be subject to approval by SRTA prior to the effective date of this agreement.

- (2) If any insurance coverage required hereunder is provided on a “claims made” rather than “occurrence” form, Consultant or subcontractor shall maintain such insurance coverage with an effective date earlier or equal to the effective date of the agreement and continue coverage for a period of three years after the expiration of the agreement and any extensions thereof. In lieu of maintaining post-agreement expiration coverage as specified above, Consultant or subcontractor may satisfy this provision by purchasing tail coverage for the claims-made policy. Such tail coverage shall, at a minimum, provide coverage for claims received and reported three years after the expiration date of the agreement.
- (3) All insurance (except workers’ compensation and professional liability) shall include an endorsement or an amendment to the policy of insurance which names the *Shasta Regional Transportation Agency (SRTA), its elected officials, officers, employees, agents, and volunteers as an additional insured* and provides that coverage *shall not be reduced or canceled without 30 days written prior notice certain to SRTA*. The Additional Insured coverage shall be equal to Insurance Service Office endorsement CG 20 10 for on-going operations and CG 20 37 for completed operations.

- (4) Each insurance policy (except for workers’ compensation and professional liability policies), or endorsement thereto, shall contain a “separation of insureds” clause which shall read:

“Separation of Insureds.”

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a) As if each Named Insured were the only Named Insured; and
- b) Separately to each suit insured against whom a claim is made or suit is brought.”
- (5) Consultant shall provide SRTA with an endorsement or amendment to Consultant’s policy of insurance as evidence of insurance protection before the effective date of this agreement. The accountant/finance officer, or his designee, shall approve the insurance certificate. A copy of the insurance certificate will be kept in the project file.
- (6) The insurance required herein shall be in effect at all times during the term of the agreement. In the event any insurance coverage expires at any time during the term of the agreement, Consultant shall provide, at least twenty (20) days prior to said expiration date, a new endorsement or policy amendment

evidencing insurance coverage as provided for herein for not less than the remainder of the term of the agreement or for a period of not less than one year. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided and a renewal endorsement or policy amendment is not provided within ten (10) days of the expiration of the endorsement or policy amendment in effect at inception of the agreement, SRTA may, in addition to any other remedies it may have, terminate the agreement upon the occurrence of such event and pay in full all contractual invoices for work completed prior to expiration of insurance.

- (7) If the endorsement or amendment does not reflect the limits of liability provided by the policy of insurance, Consultant shall provide SRTA a certificate of insurance reflecting those limits.

13. NOTICE OF CLAIM/APPLICABLE LAW/VENUE

- A) If any claim for damages is filed with Consultant or if any lawsuit is instituted concerning Consultant's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect SRTA, Consultant shall give prompt and timely notice thereof to SRTA. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten days following the date of service of process of a lawsuit.
- B) Any dispute between the parties, and the interpretation of this agreement, shall be governed by the laws of the State of California. Any litigation shall be venued in Shasta County.

14. FEDERAL CERTIFICATIONS AND ASSURANCES

- A) The Consultant shall adhere to the requirements contained in SRTA's annual Certification and Assurances (FHWA and FTA "Metropolitan Transportation Planning Process Certification") submitted as part of SRTA's OWP, pursuant to 23 CFR 450.334 and 23 U.S.C. 134. This Certification shall be published annually in SRTA'S OWP. Such requirements shall apply to the Consultant to the same extent as SRTA and may include, but are not limited to:
- (1) 23 U.S.C. 134, 49 U.S.C. 5303, and this subpart;
- (2) In nonattainment and maintenance areas, section 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93.
- (3) Title VI of the Civil Rights Act of 1964 and Title VI Assurance executed by California under 23 U.S.C. 324 and 29 U.S.C. 794;

- (4) Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;
 - (5) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and 49 CFR parts 27, 37, and 38;
 - (6) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
 - (7) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
 - (8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;
 - (9) Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and
 - (10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.
- B) The Consultant shall additionally comply with the requirements contained in the annual FTA "Certifications and Assurances for FTA Assistance," including "Certifications and Assurances Required of Each Applicant" and the "Lobbying Certification" in compliance with 49 U.S.C. Chapter 53; published annually in SRTA'S OWP and found online at http://www.fta.dot.gov/grants/12825_93.html. Such assurances shall apply to the Consultant to the same extent as SRTA, including but not limited to the following areas:
- (1) Authority of Applicant and its Representatives;
 - (2) Standard Assurances;
 - (3) Intergovernmental Review Assurance;
 - (4) Nondiscrimination Assurance;
 - (5) Suspension and Debarment Certification;
 - (6) U.S. OMB Assurances in SF-424B and SF-424D.

15. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- A) It is the policy of SRTA, the California Department of Transportation, and the U.S. Department of Transportation, that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, shall have an equal opportunity to receive and participate in the performance of agreements financed in whole or in part with FHWA/FTA funds provided under this agreement.
- B) The Consultant, its employees, and its sub-contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of FHWA/FTA funds-assisted contract or in the administration of SRTA's DBE program per the requirements of 49 CFR Part 26. Failure to carry out the requirements of this paragraph shall constitute a breach of contract and may result in termination of this agreement or such other remedy SRTA may deem appropriate.
- C) If Consultant proposed the contract project with Disadvantaged Business Enterprise participation, the Consultant will adhere to the stated participation rate unless otherwise agreed to, in writing, between SRTA and the Consultant for circumstances beyond the control of the Consultant.

Consultant will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps shall include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - (4) Establishing delivery schedules, where the project requirements permit, that encourage participation by small and minority business, and women's business enterprises;
 - (5) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce;
- D) The Consultant shall, as required by 49 CFR part 26, include the language in Attachment C into all contracts funded in whole or in part with funds authorized in this agreement.

16. EQUAL EMPLOYMENT OPPORTUNITY/NONDISCRIMINATION

- A) In the performance of work undertaken pursuant to this agreement, the Consultant for itself, its assignees, and successors in interest, shall affirmatively require that its employees and subcontractors 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), mental disability, medical condition (including cancer), age (over 40), marital status, denial of family and medical care leave, and denial of pregnancy disability leave.
- B) The Consultant shall ensure that the evaluation and treatment of its employees and applicants for employment, as well as its subcontractors, are free from such discrimination and harassment. The Consultant 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 the Government Code sections referenced above, are incorporated into this agreement by reference and made a part hereof as set forth in full. The Consultant shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements.
- C) In the event of the Consultant's noncompliance with the nondiscrimination provisions of this agreement, SRTA shall impose such contract sanctions as it, the DOT, or other applicable funding agency may determine to be appropriate, including, but not limited to:
 - (1) Withholding of payments to the Consultant under this agreement until the Consultant complies; and/or
 - (2) Cancellation, termination or suspension of the agreement, in whole or in part.
- D) Consultant shall 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 the State to investigate compliance with this section.
- E) The Consultant shall include the provisions of this Section in every agreement with its subcontractor(s). The Consultant shall take such action with respect to any such agreement as SRTA, the DOT, or other applicable funding agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

17. COMPLIANCE WITH LAWS

- A) Consultant will observe and comply with all applicable federal, state, and local laws, ordinances, and codes which relate to the services to be provided pursuant to this agreement.
- B) Consultant agrees to adhere to the Buy America regulations which apply to federally- assisted, typically development and/or construction activities subject to a NEPA determination, procurements exceeding certain amounts. Buy America regulations require Consultant to provide goods produced or manufactured in the US, unless the federal government has granted a waiver authorized by those regulations.
- C) When using federal funds, Consultant will, for any contract of over \$30,000, abide by lobbying disclosure requirements, per compliance with 31 U.S.C. 1352. For contracts which exceed \$100,000, Consultant shall require the following language of this subsection to be included in all subcontracts.
 - (1) By signing this agreement, Consultant certifies, to the best of its knowledge and belief, that no state or federal funds have been paid or will be paid, by or on behalf of the 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 federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than state or federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Federal Standard Form-LL, "Disclosure Form to Report Lobbying," in accordance with those form instructions.
 - (3) This certification is a material representation of fact, upon which reliance was placed when this AGREEMENT was entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. and by the MFTA between SRTA and the state or, alternatively, the grant agreement with the respective funding entity. Any persons who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and more than \$100,000 for each such failure.

- D) Consultant, by signing this agreement, acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose penalties under the Program Fraud Civil Remedies Act of 1986.
- E) Consultant is required to acknowledge the mandatory standards and policies related to every 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, et. seq.).
- F) Consultant acknowledges that it will not enter into contracts for over \$30,000 with suspended or debarred consultants (Executive Order 12549; 49 CFR part 29)
- G) Consultant will comply with appropriate Patent and Rights in Data requirements (37 C.F.R. Part 401 and 49 C.F.R. Part 18).
- H) Consultant will comply with 49 U.S.C. 40118 in accordance with the General Service Administration's regulations at 41 C.F.R. Part 301-10.
- I) Consultant, in accordance with 49 U.S.C. Section 5325(b)(3), will ensure that all federally assisted contracts and subcontracts including program management, architectural engineering, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping or related services must be performed (i.e. a consultant cannot incur and invoice the agency any unallowable, unallocable, or unreasonable costs prohibited by the Federal Acquisition Regulations (FAR) and/or the contract terms and conditions) and audited in accordance with FAR Part 31 cost principles. The consultant, its sub-consultants, and sub-recipients must accept FAR indirect cost rates for one-year applicable accounting periods established by a cognizant federal or state government agency, if those rates are not currently under dispute, and these established rates will apply for purposes of contract estimation, negotiation, administration, reporting, change order, options, and payments, not limited by administrative or de facto ceilings.

18. ACCESS TO RECORDS/RETENTION

SRTA, federal, and state officials shall have access to any books, documents, papers, and records of Consultant which are directly pertinent to the subject matter of this agreement for the purpose of auditing or examining the activities of Consultant or SRTA. Except where longer retention is required by federal or state law, Consultant shall maintain all records for five years after SRTA makes final payment hereunder.

19. LICENSES AND PERMITS

Consultant shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, County of

Shasta, and all other appropriate governmental agencies, including any certification and credentials required by SRTA. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this agreement and constitutes grounds for the termination of this agreement by SRTA.

20. PERFORMANCE STANDARDS

Consultant shall perform the services required by this agreement in accordance with the industry and/or professional standards applicable to Consultant's services.

21. CONFLICT OF INTEREST

Consultant, including its officers and employees, is required, prior to entering into this agreement, to inform agency of any real or apparent organizational conflict of interest. Such organizational conflict of interest exists when the nature of the work to be performed under a contract may, without some restriction on future activities, results in an unfair competitive advantage to the Consultant, or may impact the Consultant's objectivity in performing the contract work.

22. NOTICES

A) Any notice required to be given pursuant to the terms and provisions of this agreement shall be in writing and shall be sent first-class mail to the following addresses:

If to SRTA: Shasta Regional Transportation Agency
Attn: Dan Little, AICP, Executive Director
1255 East Street, Suite 202
Redding, CA 96001

If to Consultant: [Insert Consultant name here]
Attn: [Insert contact/title here]
[Insert address here]
[Insert city, state and zip code here]

B) Notice shall be deemed to be effective two days after mailing. Any oral notice authorized by this agreement shall be deemed to be effective immediately.

23. CONFIDENTIALITY

During the term of this agreement, both parties may have access to information that is confidential or proprietary in nature. Both parties agree to preserve the confidentiality of, and to not disclose, any such information to any third party without the express

written consent of the other party or as required by law. This provision shall survive the termination, expiration, or cancellation of the agreement.

24. SCOPE AND OWNERSHIP OF WORK

All research data, reports, and every other work product of any kind or character arising from or relating to this agreement shall become the property of SRTA and be delivered to SRTA upon completion of its authorized use pursuant to the agreement. SRTA may use such work products for any purpose whatsoever. All works produced under this agreement shall be deemed works produced by a contractor for hire, and all copyright with respect thereto shall vest in SRTA without payment of royalty or any other additional compensation.

Notwithstanding anything to the contrary contained in this agreement, all proposals submitted in response to an RFP will become the exclusive property of the agency. At such time as the executive director recommends a proposal to the SRTA Board of Directors and such recommendation appears on the board agenda, all proposals submitted in response to the RFP shall become a matter of public record and shall be regarded as public records. **If there are any trade or proprietary secrets included by the consultant, the consultant may provide a different copy of the proposal that would be acceptable to release to the public. If an alternate document is not made available to SRTA by the consultant, then the original proposal, as submitted, will be released as requested.** Proprietary information can include secret formulas, processes, and methods used in production. It can also include a company's business and marketing plans, salary structure, customer lists, contracts, and details of its computer systems. In some cases, the special knowledge and skills that an employee has learned on the job are considered to be a company's proprietary information.

25. SEVERABILITY

If any portion of this agreement or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation, the remaining provisions of this agreement, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this agreement are severable.

IN WITNESS THEREOF, SRTA and Consultant have executed this agreement on the day and year of the last signature set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this agreement and to bind the party on whose behalf his/her execution is made.

SHASTA REGIONAL TRANSPORTATION AGENCY

Date: _____

SRTA Chair

[Insert Consultant Name Here]

Date: _____

By: _____
Principal/President

Tax I.D.#: _____

Approved as to form:

JOHN KENNY
Counsel, Shasta Regional Transportation Agency

**Attachment A
SCOPE OF WORK**

Attach Scope of Work Here

///INSERT AGREED UPON SCOPE OF WORK///

Attachment B

BUDGET

Attach Budget Here

///INSERT AGREED UPON BUDGET///

Maximum Compensation:

\$///

Attachment C

CPG Subrecipient Responsibilities for DBE include:

- Participation in the race neutral DBE Program when contracting/awarding to subrecipients or planning consultants involving any fraction of federal CPG funds.
- Participation in the race neutral DBE Program even if subrecipients have not contracted out work to sub-recipients or consultants. They must also complete, sign and turn in the FTA DBE Uniform Report form, showing zero dollars. This information will provide necessary data for the federally mandated Caltrans DBE disparity study.
- Completion of the FTA DBE Uniform Report form twice a year: April 1st and October 1st. The DBE Uniform Report shows the federal dollar amount provided through contract/s as well as DBE participation in these contracts. This information will provide necessary data for the federally mandated Caltrans DBE disparity study and reporting to the FTA. The completed forms are sent to the appropriate HQ ORIP Liaison.
- Development and implementation of a DBE Program following the Caltrans DBE Program Plan, pursuant to the Master Fund Transfer Agreement, Article IV, Section 2. This Plan formally acknowledges the statutory and/or regulatory requirements with its race-neutral measures, and their commitment to comply with all the prescribed responsibilities explained herein.
- Development and maintenance of a Bidder's List, consisting of information about all DBE and non-DBE firms that bid or quote on CPG-assisted contracts. The Bidder's List includes the name, address, DBE/non-DBE status, age and annual gross receipts of firms.
- Inclusion of the following clause is required, verbatim, in each CPG-assisted contract:
 - o The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which

may result in the termination of this contract or such other remedy, as recipient deems appropriate.

- Inclusion of contractual language specifying prompt payment clauses are required in the foregoing provisions. These prompt payment clauses benefit all subcontractors equally.

- **Prompt Progress Payment to Subcontractors**—A prime contractor or subcontractor shall pay to any subcontractor not later than 10-days of receipt of each progress payment, in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-day rule is applicable unless a longer period is agreed to in writing. 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 Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

- **Prompt Payment of Withheld Funds to Subcontractors**—The MPO, RTPA or local government entity shall include either (1), (2), or (3) of the following provisions in their CPG-assisted contracts to ensure prompt and full payment of retainage (withheld funds) to subcontractors in compliance with 49 CFR 26.29.

- 1) No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor 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 contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor,

deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

- 2) No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30-days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and 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 contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- 3) 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 prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30-days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor 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 contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or

noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.