

**Gateway Cities Council of Governments Climate Action Planning Framework**  
**Technical Consultant Scope of Work**  
May 2017

Contents

I. Introduction ..... 2

II. Overview of the CAP Framework ..... 3

III. Scope of Work ..... 4

IV. Process, Budget, and Timeline..... 8

EXHIBIT 1 – GATEWAY CITIES PARTICIPATION IN CLIMATE-RELATED ACTIVITIES ..... 10

EXHIBIT 2 – GATEWAY CITIES CAP AND TRADE RESOLUTION ..... 11

EXHIBIT 3 – SAMPLE CONSULTANT CONTRACT ..... 12

## I. Introduction

The Gateway Cities are twenty-seven cities and additional unincorporated communities in Southeastern Los Angeles County, totaling about 2 million residents. For over twenty years, these jurisdictions have collaborated through the Gateway Cities Council of Governments (COG) on plans and projects related to transportation, air quality, housing, and economic development. The COG office is centrally located in the member city of Paramount.

About three-quarters of the Gateway Cities residents live in census tracts designated as “disadvantaged communities” according to CalEnviroScreen.<sup>1</sup> While our communities are vibrant and resilient, our region suffers from persistent high poverty levels and unemployment rates; linguistic isolation and low levels of educational attainment in some communities; a loss of well-paying manufacturing jobs over the past two decades; and the environmental impacts of being the hub for a large portion of the nation’s goods movement through the ports of Los Angeles and Long Beach.

According to the California Energy Commission, “Local governments play a critical role in helping California meet its energy and climate goals. They have a unique connection with their constituents and jurisdictions over building and land use decisions.” Many of our cities are undertaking early steps towards climate action. Some are members of utility-based local government partnerships, while others are members of the Institute for Local Government’s Beacon Climate Action and Sustainability Program, and some participate in energy efficiency projects through The Energy Network. There is some overlap of participation among these programs, as shown in Exhibit 1 (exhibits are presented at the end of this document). However, very few of our cities have adopted a Climate Action Plan.

It is important to note that we have a wide diversity of city sizes and capacities in our region. Our largest city is Long Beach, with a population of close to half a million; our smallest city, Vernon, has a residential population of about 100, and is home to many industrial facilities that help power our region economically. Many of our cities are very small and have a limited capacity to serve residents with a great deal of need. In fact, it is these capacity limitations that have kept many of our members from turning to climate planning; they are simply dealing with more immediate and pressing public priorities.

The Gateway Cities have previously adopted plans related to GHG reduction. In 2011 the COG member cities voluntarily prepared a subregional Sustainable Communities Strategy (SCS), as allowed under SB 375. The SCS documented land use and transportation projects and strategies that cumulatively would help the six-county SCAG region meet the regional GHG reduction targets assigned by the state (although those targets did not apply at the subregional level). In 2016 the COG Board approved a Strategic Transportation Plan (STP), which is a long-

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<sup>1</sup> The California Office of Environmental Hazard Assessment’s (OEHHA) CalEnviroScreen tool is used to identify disadvantaged communities in the state. See <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>.

range, multi-modal plan laying out the region's transportation needs. The STP identifies numerous projects that would reduce GHG emissions as they are individually and collectively implemented. Both of these plans demonstrate the Gateway Cities' commitment to addressing GHG reductions through land use and transportation strategies.

In addition, the Gateway Cities COG Board in November 2016 passed a resolution (see Exhibit 2) regarding the region's readiness to work with the state to constructively invest cap and trade funds in our region for the benefit of our many disadvantaged communities and to assist the state in its policy goals to reduce GHG emissions.

## **II. Overview of the CAP Framework**

Working through the COG, the Gateway Cities wish to prepare a Climate Action Planning (CAP) Framework. The purpose of the CAP Framework is to serve as a COG-wide template to help member cities readily create their own individual Climate Action Plans, at a reduced cost and effort compared to undertaking a CAP on their own.<sup>2</sup> The CAP Framework is not, however, a regional CAP: it will not set any reduction targets or impose any requirements on member jurisdictions.

The CAP Framework should be as forward-thinking as possible, while recognizing that cities may have limited capacity to implement, and often more pressing priorities. The CAP Framework should be comprehensive in scope, addressing all elements of climate action planning and adaptation and taking into account related planning work by the COG such as the Strategic Transportation Plan and the Sustainable Communities Strategy. It must also include a means for the cities to track and document the GHG emission reductions associated with their efforts.

The technical consultant selected by means of this RFP will work in a Project Team with the COG staff and the COG's project partner, the Institute for Local Government (ILG).<sup>3</sup> The Gateway Cities COG member jurisdictions will be key stakeholders engaged in the CAP Framework development. The technical consultant will be responsible for the following elements of the CAP Framework (these are further described below under Scope of Work):

- Identify
  - a means for the member jurisdictions to establish GHG emissions inventories,
  - a process for member jurisdictions to set emission reduction targets, and
  - a full range of possible strategies to reduce emissions.

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<sup>2</sup> To comply with the eligibility limits of our funding source, the CAP Framework will be prepared for all the member cities except Long Beach, which is too large to qualify. Long Beach is preparing its own Climate Action Plan and we anticipate continued close collaboration and sharing of information between the city and COG.

<sup>3</sup> ILG is the non-profit research and education affiliate of the League of California Cities, the California State Association of Counties (CSAC), and the California Special Districts Association (CSDA).

Some emissions inventory work has been conducted for the Gateway Cities, and many frameworks exist for emission reduction strategies.

- Develop an Emissions Tracking Tool that all member jurisdictions can use to estimate and document greenhouse gas (GHG) emissions reductions. The goal of this tool is for cities to be able to take full credit for reductions when the state holds them accountable.
- Develop a climate adaptation element including anticipated climate impacts and strategies to help cities comply with SB 379.<sup>4</sup>

The COG staff and ILG will work with the technical consultant to engage the member jurisdictions in CAP Framework development through a series of workshops held at the COG office, electronic communications, and additional outreach efforts to be deployed as the project proceeds. The CAP Framework effort does not envision direct outreach to communities; that would be conducted by individual cities when they undertake climate planning in a form suitable to their needs. However, the CAP Framework will include template materials and guidance and training on effective methods for community engagement, developed and provided by ILG, that can be adapted and applied by cities engaging in outreach to their residents.

ILG will also work directly with the most engaged cities to facilitate their efforts at adopting and advancing climate-related efforts, which may take forms other than a full CAP. The technical consultant will not be expected to provide direct stakeholder engagement or public outreach services. A public engagement consultant will be brought into the team via a separate procurement. However, the technical consultant will coordinate with the COG staff, ILG and the public engagement consultant to ensure that information regarding the CAP Framework developed to support the stakeholder engagement process is clear, accurate and appropriately geared to the target audiences.

### **III. Scope of Work**

The scope of work for the technical consultant consists of the following tasks. Where “stakeholders” are mentioned, this usually refers to the city staff participating in the CAP Framework development. In some cases, other stakeholders who have been supportive in COG climate and energy efforts may be engaged in the process via workshops, electronic communications, or other means. These could be regional stakeholders in non-profit, academic, and other governmental institutions. In general, every task that involves a deliverable can be expected to go through a process of producing a draft deliverable; having the Project Team and cities review it; and producing a final deliverable.

#### **1. CAP Framework Overview**

- 1.1. Identify CAP Framework Elements: In this task, the technical consultant and Project Team will work with the cities to define a vision for the final CAP Framework to be delivered. The technical consultant will be asked to identify and describe the

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<sup>4</sup> See [http://focus.senate.ca.gov/sites/focus.senate.ca.gov/files/climate/SB\\_379\\_Fact\\_Sheet.pdf](http://focus.senate.ca.gov/sites/focus.senate.ca.gov/files/climate/SB_379_Fact_Sheet.pdf).

anticipated elements of the CAP Framework, including at a minimum Emissions Inventory, Target Setting Tools, Emissions Reduction Strategies, Emissions Tracking, and Climate Adaptation. Another required element will be a section providing CEQA guidance for cities adopting CAPs, in the form of a road map, checklist or advice memo. The technical consultant will also recommend the form of the final CAP Framework (e.g., document, website, other).

**Deliverable:** Proposed CAP Framework Overview for review by Project Team and stakeholders.

- 1.2. Finalize CAP Framework Overview: Revise and finalize the proposed CAP Framework elements in accordance with Project Team and stakeholder input.

**Deliverable:** Final CAP Framework Overview.

## **2. Emissions Tracking Tool**

- 2.1. Create Emissions Tracking Tool: One of the key challenges facing the Gateway Cities is a lack of connection between city activities and GHG reductions. City staff generally are not likely to be aware of how projects or programs affect GHG emissions, or when reductions may result. Hence, one of the goals of the CAP Framework effort is to increase this level of awareness and understanding.

To support this goal, the technical consultant will be asked to develop a tool for cities to use to track their projects and estimate GHG emission reductions, in consultation with COG member cities and the Project Team. The tool could be built on an existing system such as ICLEI's ClearPath tool; it must be capable of both holding community inventory data (including projected future emissions), and helping cities estimate the emissions reductions associated with proposed projects, programs, or other activities that reduce GHG emissions. This first step will be to create a proposed or draft tool for review and testing by member jurisdictions.

**Deliverable:** Draft Emissions Tracking Tool.

- 2.2. Test Emissions Tracking Tool: Allow a group of volunteer cities and COG staff to test the draft tool, and provide guidance as to how to structure training for cities using the tool.

**Deliverable:** Draft Guidance on Training.

- 2.3. Finalize Emissions Tracking Tool and Training/Guidance: Revise and finalize the Emissions Tracking Tool, and the associated training or guidance materials, following testing and review by COG jurisdictions and staff.

**Deliverables:** Final Emissions Tracking Tool and Training Guidance.

### 3. CAP Framework: Inventory, Targets, and Strategies

- 3.1. Baseline Emissions Inventory: In 2015, Los Angeles County and UCLA developed a 2010 community emissions inventory for each city in the County, including all those in the Gateway Cities COG. To the extent that it is complete, available, and suitable, this inventory can be used as a foundation for a baseline community inventory for the Gateway Cities CAP Framework. The COG staff possesses summary files on emissions for each city and will provide these to the consultant. The consultant will be asked to review and summarize this existing GHG community emissions inventory, to recommend an approach to build a baseline GHG inventory for each of the Gateway Cities, and provide the inventory data for each city to the fullest extent possible.

**Deliverables:** Recommendation memo (draft, final) and baseline emissions inventory for each city.

- 3.2. Develop Target Setting Tools: The COG CAP Framework will diverge from being an actual CAP in that it will not set a target for emissions reductions from member jurisdictions. The adoption of a CAP, including a future target and projected future GHG inventories, will be the choice of each city when and if it is ready. The job of the CAP Framework is to provide guidance and a process to each city for setting future GHG reduction targets. Cities should be advised to consider adopting the state's emission reduction targets to ensure their CAP will be regarded as a programmatic document for CEQA purposes.<sup>5</sup> The consultant will be asked to develop a recommended approach for cities to select emission reduction targets, including target years, decision making process, and recommended public communications.

**Deliverable:** Target Setting Process (draft, final).

- 3.3. Identify Emission Reduction Strategies: As mentioned earlier, there are numerous existing climate strategies and frameworks that can provide ready-made tools and guidance to local jurisdictions. The consultant will be expected to consider known frameworks and programs and recommend the most suitable and relevant for inclusion, rather than developing new programs – recognizing that some member jurisdictions are already participating in such programs. It will also be helpful to consider and advise on which strategies give the greatest reductions for the least possible investment or cost, or which strategies may offer a return on investment or a cost savings. Based on this review, the consultant will be asked to compile a comprehensive toolkit of available GHG emission reduction strategies, drawing from all aspects of transportation and land use planning, energy and water conservation, urban forestry and greening, and other innovative and emerging strategies which cities may wish to consider.

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<sup>5</sup> According to the Governor's Office of Planning & Research, "Lead agencies may significantly streamline the analysis of greenhouse gases on a project level by using a programmatic greenhouse gas emissions reduction plan meeting certain criteria. (See CEQA Guidelines § 15183.5(b).)"

A key resource in developing strategies will be the Sustainability Best Practices Framework compiled by the Institute for Local Government's Beacon Program, which includes best practices in ten areas of sustainability that have been implemented by local jurisdictions throughout the state and are beginning to be adopted among the Gateway Cities.

**Deliverable:** Toolkit of GHG reduction strategies (draft, final).

- 3.4. Develop Model CAP: A key goal of the CAP Framework is to facilitate the adoption of Climate Action Plans by cities, and to make that process as low-cost and low-effort as possible for cities that want to undertake it. The consultant will be asked, to the extent possible within the budget available, to provide a model Climate Action Plan that shows cities how to use the existing emissions inventory to set targets and select strategies to achieve them, using the three other elements of this task. In coordination with COG staff, ILG, and the public engagement consultant, the consultant will be asked to include guidance for cities as to how to make use of the template.

**Deliverable:** Model Climate Action Plan (draft, final) including guidance for use.

#### **4. Climate Adaptation Tools**

- 4.1. Assess Climate Change Impacts: Very little, if any, action has been devoted to climate adaptation in the Gateway Cities. The key reason is that no information has been provided by any institution explaining the specific potential impacts of climate change upon the residents, businesses, infrastructure or other resources of the region. Without such information, cities continue with known and pressing priorities and are unlikely to devote resources to adaptation. The consultant will be asked to provide a description of what information is known about the potential impacts of climate change on the Gateway Cities.

**Deliverable:** Climate Impact Report (draft, final).

- 4.2. Identify Climate Adaptation Tools: The consultant will be asked to provide a comprehensive list of relevant tools and strategies available to cities to adapt to the potential impacts of climate change in the Gateway Cities. It will be helpful to identify where existing city activities or programs may already be contributing to resiliency and readiness for adaptation.

**Deliverables:** Climate Adaptation Toolkit (draft, final).

- 4.3. Prepare Recommended Climate Adaptation Goals, Policies and Objectives: State Senate Bill (SB 379) requires cities to update the local hazard mitigation plan or the safety element of the local general plan to include goals, policies and objectives to address climate adaptation and resiliency strategies. The Governor's Office of Planning and Research has developed a Draft Safety Element update to the state's General Plan

Guidelines.<sup>6</sup> The consultant will be asked to provide an inventory of recommended goals, policies and objectives that cities can consider for inclusion in their local hazard mitigation plans or General Plans in accordance with SB 379.

**Deliverable:** Recommended Climate Adaptation Goals, Policies and Objectives (draft, final).

## 5. CAP Framework

5.1. Create Draft CAP Framework: Based on the work in all prior tasks, provide a draft CAP Framework document, web site, or other form (as developed in Task 1) for review by the cities and COG staff.

**Deliverable:** Draft CAP Framework.

5.2. Finalize CAP Framework: Review and finalize the CAP Framework based on all the preceding steps and on input from stakeholders.

**Deliverable:** Final CAP Framework.

## IV. Process, Budget, and Timeline

Proposals will be **due Monday, June 12, 2017 by 5:00 p.m.**, in electronic form only, via e-mail to Genny Cisneros, Administrator, Gateway Cities Council of Governments, [gcisneros@gatewaycog.org](mailto:gcisneros@gatewaycog.org). Either Word or PDF files are acceptable. Please limit proposals to a maximum of 30 pages, exclusive of cover page, table of contents, and full resumes of proposed personnel.

The available budget for the work described in this RFP is \$339,500. Please note that approval of the grant that will fund this effort is scheduled to be taken up by the California Energy Commission on June 14, 2017. Approval is anticipated, but not guaranteed. Award of a contract based on this RFP is contingent on approval of funding.

No pre-bid conference will be held. Questions on the RFP may be submitted to Sandra Mora, [smora@gatewaycog.org](mailto:smora@gatewaycog.org), by 5:00 p.m. on Wednesday, May 24, 2017. Answers to questions will be posted on the COG website, [www.gatewaycog.org](http://www.gatewaycog.org), by approximately Friday, May 26, 2017.

Proposals will be scored by a Proposal Review Committee according to the following criteria:

Technical Approach	35
Bidder Qualifications	25
Prime	
Subconsultants	
Project Management Approach	15
Project Schedule	10
Project Cost	5

<sup>6</sup> [https://www.opr.ca.gov/docs/Safety\\_Element\\_SB379\\_DRAFT\\_10-21-2016.pdf](https://www.opr.ca.gov/docs/Safety_Element_SB379_DRAFT_10-21-2016.pdf)



References (2-3 similar projects)	10
TOTAL	100

Bidders selected for interview can expect to be notified by approximately Wednesday, June 28, 2017.

Interviews are planned for the week of July 10. A selection will be made by the end of that week.

A sample of the contract that bidders will need to sign is included in Exhibit 3.

## EXHIBIT 1 – GATEWAY CITIES PARTICIPATION IN CLIMATE-RELATED ACTIVITIES

**Gateway Cities Voluntary Participation in Climate and Energy Programs, Plans, and Policies**

	Artesia	Avalon	Bell	Bellflower	Bell Gardens	Cerritos	Commerce	Compton	Cudahy	Downey	Hawaiian Gardens	Huntington Park	Industry	La Mirada	Lakewood	Long Beach	Lynwood	Maywood	Montebello	Norwalk	Paramount	Pico Rivera	Santa Fe Springs	Signal Hill	South Gate	Vernon	Whittier	
Descriptions of each are provided in the table below																												
Gateway Cities Energy Leader Partnership																												
Beacon Program																												
The Energy Network																												
Tree City USA																												

Legend 1	
	In Progress
	Participant/ Completed

	Artesia	Avalon	Bell	Bellflower	Bell Gardens	Cerritos	Commerce	Compton	Cudahy	Downey	Hawaiian Gardens	Huntington Park	Industry	La Mirada	Lakewood	Long Beach	Lynwood	Maywood	Montebello	Norwalk	Paramount	Pico Rivera	Santa Fe Springs	Signal Hill	South Gate	Vernon	Whittier	
<b>Climate Actions Items</b>																												
The following was obtained from the 2016 California Jurisdictions Addressing Climate Change Summary (Office of Planning and Research) <a href="https://www.opr.ca.gov/docs/2016_California_Jurisdictions_Addressing_Climate_Change_Summary.pdf">https://www.opr.ca.gov/docs/2016_California_Jurisdictions_Addressing_Climate_Change_Summary.pdf</a>																												
General Plan Policy	A	IP																										
GHG Emissions Inventory				C												C										C		
GHG Reduction Plan				P																								
Climate Action Plan				P												IP												
Sustainability Plan																	A								A			C
<b>Last Updated</b>	1/24/2017																											

Legend 2			
A	Adopted		
C	Completed		
IP	In Progress		
P	Planned		

## EXHIBIT 2 – GATEWAY CITIES CAP AND TRADE RESOLUTION

RESOLUTION NO. 2016-03

### RESOLUTION OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS REGARDING INVESTMENT OF STATE CAP AND TRADE REVENUES

WHEREAS the Gateway Cities Council of Governments (COG) is a Joint Powers Authority consisting of twenty-seven incorporated cities, Supervisorial Districts 1, 2 and 4 of the County of Los Angeles, and the Port of Long Beach;

WHEREAS the member jurisdictions of the COG have been collaborating for the benefit of the two million residents they represent since the COG was formed in 1996;

WHEREAS three-quarters of our residents live in census tracts designated as "disadvantaged communities" (top 25% of scores) according to the State's CalEnviroScreen 2.0 model;

WHEREAS sixty-four (64) of our census tracts are in the top 5% of disadvantaged communities, with a total population of 281,576 in those tracts;

WHEREAS the COG has policy committees overseeing the improvement of the I-710 South Corridor and the SR-91/I-605/I-405;

WHEREAS the COG voluntarily developed in 2011 a subregional Sustainable Communities Strategy (SCS) under Senate Bill 375, one of only two such subregional SCS documents in the state;

WHEREAS the COG in 2014 formed a Committee on Sustainability to ensure that our member jurisdictions could benefit fully from state cap and trade revenues and similar sources of funding;

WHEREAS the COG adopted in 2016 a Strategic Transportation Plan articulating the long-term vision of the region for all modes of transportation, including transit, highways, active transportation, freight, and advanced technologies;

WHEREAS the COG has formed an Economic Development Working Group and a Committee on Homelessness as venues for collaboration on economic development and housing, respectively;

WHEREAS several member cities have joined the Beacon Program for energy efficiency, and the member City of South Gate won the prestigious Beacon Award last year for its transformative climate and sustainability actions, showing that our region is stepping forward as an example of climate action by disadvantaged communities;

WHEREAS the Gateway Cities COG staff has submitted a comment letter to the Strategic Growth Council (SGC) regarding the Notice of Proposed Rulemaking for the Allocation of Transformative Climate Community Program Funds;

NOW, THEREFORE, BE IT RESOLVED THAT the Gateway Cities COG is ready to work with the State to ensure that cap and trade revenues, and related funds, can be constructively invested in our region to meet the State's goals of reducing greenhouse gas emissions while also improving conditions in disadvantaged communities.

PASSED, APPROVED, AND ADOPTED this 2<sup>nd</sup> day of November, 2016.



Al Austin II, President

ATTEST:



Richard Powers  
Secretary

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    )    ss

**EXHIBIT 3 – SAMPLE CONSULTANT CONTRACT**

**AGREEMENT FOR CONSULTING SERVICES  
BY AND BETWEEN  
GATEWAY CITIES COUNCIL OF GOVERNMENTS  
AND**

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THIS AGREEMENT FOR CONSULTING SERVICES (“Agreement”) is made and entered into as of \_\_\_\_\_, \_\_\_\_\_, by and between the Gateway Cities Council of Governments, a joint powers authority organized and existing pursuant to the laws of the State of California (“Agency”) and \_\_\_\_\_, a(n) \_\_\_\_\_ (“Consultant”).

**WITNESSETH:**

WHEREAS, Agency requires the professional services of a qualified consultant in connection with providing the services described herein below; and

WHEREAS, Consultant represents that Consultant is qualified and willing to perform the professional services required herein; and

WHEREAS, Agency and Consultant desire to enter into this Agreement to set forth their rights, duties, and liabilities in connection with the performance of such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other consideration, the sufficiency of which is hereby acknowledged, the parties hereto do agree as follows:

Section 1. Defined Terms. Unless the context otherwise requires, the terms defined in this Agreement shall, for all purposes of this Agreement and of any amendment hereto, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined.

Section 2. Term of Agreement. Subject to Section 20 of this Agreement, the term of this Agreement shall commence as of \_\_\_\_\_, \_\_\_\_\_ and shall terminate on \_\_\_\_\_, \_\_\_\_\_.

Section 3. Scope of Services. Consultant agrees to perform the services set forth in Exhibit "A," "Scope of Services," attached hereto and made a part of this Agreement.

Section 4. Time of Performance. Consultant shall diligently perform the services required under this Agreement and in accordance with any schedule agreed upon by both Consultant and Agency. If Consultant falls behind schedule, it shall immediately notify Agency of the estimated delay and shall provide a written explanation of the delay if requested by Agency. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

Section 5. Excusable Delays and Extension of Agreement. Neither Consultant or Agency shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the parties. Such acts include, but are not limited to, acts of God, the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If work is delayed at any time as a result of any of such acts, or by reason of a suspension order by Agency, or because of any other act of Agency or neglect by Agency, then Consultant shall be entitled to an extension of time to perform the work equivalent to the time actually lost by such delay.

Section 6. Non-Exclusive Agreement. Consultant acknowledges that Agency may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services.

Section 7. Compensation and Method of Payment. Agency agrees to pay Consultant in accordance with Exhibit "B," Compensation and Method of Payment," attached hereto and made a part of this Agreement.

Section 8. Representatives. \_\_\_\_\_ or his or her designee shall be the representative of Agency for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of Agency called for by this Agreement, except as otherwise expressly provided in this Agreement. \_\_\_\_\_ shall be Consultant's representative for purposes of this Agreement and shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

Section 9. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to Agency or its representative for inspection and/or audit at mutually convenient times for a period of three (3) years from the date this Agreement is terminated.

Section 10. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibit "A" unless Agency approves such additional services in writing prior to performance. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

Section 11. Status of Consultant. Consultant is and shall at all times remain a wholly-independent contractor and not an officer, employee or agent of Agency. Consultant shall not obtain any rights to any benefits of any kind which accrue to Agency's direct employees, if any. Consultant expressly waives any claim to such rights except those specifically granted herein.

Section 12. Standard of Performance and Licenses. Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement. Consultant represents and warrants to Agency that it has all licenses, permits, and approvals that are legally

required to practice its profession and to provide the services hereunder. Consultant further represents and warrants that it shall keep in effect all such licenses, permits, and approvals throughout the term of this Agreement.

Section 13. Conflicts of Interest. Consultant covenants that neither it nor any officer, principal, agent or employee of its firm has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of Agency. Consultant covenants further that neither it nor any officer, principal, agent or employee shall acquire any interest in property sold to or purchased or leased from Agency.

Section 14. Indemnification.

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless Agency and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

*(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless Agency, and any and all of its employees, officials and agents from and against any liability (including, but not limited to, liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including, but not limited to, officers, agents, employees or subconsultants of Consultant.*

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of Agency to monitor compliance with these requirements imposes no additional obligations on Agency and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend Agency as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

Section 15. Insurance. Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit "C," "Insurance Requirements," attached hereto and made a part of this Agreement.

Section 16. Nondiscrimination. Consultant shall not discriminate on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual preference, age, marital status, physical handicap, or other prohibited grounds in the performance of this Agreement.

Section 17. Compliance with Law. The parties agree to be bound by all federal, state, and local laws and regulations applicable to performance of this Agreement.

Section 18. Assignment. The expertise and experience of Consultant are material considerations for this Agreement. Agency has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the Board of Directors of Agency. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling Agency to any and all remedies at law or in equity, including summary termination of this Agreement.

Section 19. Continuity of Personnel. Consultant will fulfill the obligations of this Agreement with \_\_\_\_\_ as the account principal. Consultant acknowledges that the expertise and experience of \_\_\_\_\_ are material considerations for this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement. Consultant shall notify Agency of any changes in Consultant's staff assigned to perform the services required under this Agreement prior to any such performance.

Section 20. Termination of Agreement. Either party may terminate this Agreement, with or without cause, by giving the other party thirty (30) days written notice of termination. All property belonging to Agency, including, but not limited to, documents prepared by Consultant in the performance of this Agreement, shall be returned to Agency within (five) 5 days of Consultant's delivery of termination notice to Agency or ten (10) days of Agency's delivery of termination notice to Consultant. In the event of termination by either party, Consultant shall immediately cease work and shall furnish a final invoice for work performed and expense incurred by Consultant, and Agency shall pay said invoice within thirty (30) days thereof.

Section 21. Miscellaneous.

(a) Notices. All notices which any party is required or desires to give hereunder shall be in writing and shall be deemed given when delivered personally or three (3) days after mailing by registered or certified mail (return receipt requested) to the following address or at such other address as the parties may from time to time designate by written notice in the aforesaid manner:

To Agency:

To Consultant:

(b) Ownership of Documents. All documents prepared by Consultant in the performance of this Agreement shall be and remain the sole property of Agency and shall be promptly made available to Agency upon request throughout the term of this Agreement at no cost to Agency. Consultant shall deliver to Agency any plans, specifications, studies, reports, drawings or any other items or materials prepared in accordance with the required services under this Agreement to Agency no later than at the conclusion of the performance of such services by Consultant. Consultant agrees that the documents or information prepared by Consultant in the performance of this Agreement shall not be used by anyone except for in connection with the performance of services under this Agreement. Consultant also agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of Agency. Agency's use of such documents for other projects not contemplated by this Agreement, or use of incomplete documents, shall be at the sole risk of Agency and without liability or legal exposure to Consultant.

(c) Binding Effect. This Agreement shall be binding upon and inure to the benefit of each party to this Agreement and their respective heirs, administrators, representatives, successors, and assigns.

(d) Amendment. The terms and provisions of this Agreement may not be amended, modified or waived, except by an instrument in writing signed by the parties.

(e) Waiver. Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by Agency of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

(f) Law to Govern; Venue. This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles.

(g) No Presumption in Drafting. The parties to this Agreement agree that the general rule that an Agreement is to be interpreted against the party drafting it or causing it to be prepared shall not apply to this Agreement.

(h) Time of Essence. Time is of the essence for each and every provision of this Agreement.

(i) No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of Agency and Consultant, no other parties are intended to be direct or incidental beneficiaries of this Agreement, and no third party shall have any right in, under, or to this Agreement.

(j) Attorneys' Fees, Costs and Expenses. In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled.



(k) Entire Agreement. This Agreement, including the attached exhibits hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, whether written or oral, with respect thereto.

(l) Severability. If any term, provision, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

(m) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute but one and the same instrument, provided, however, that such counterparts shall have been delivered to both parties to this Agreement.

(n) Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first above written.

**GATEWAY CITIES COUNCIL OF GOVERNMENTS**

\_\_\_\_\_

President

**ATTEST:**

\_\_\_\_\_  
RICHARD R. POWERS  
Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
RICHARD D. JONES  
Legal Counsel

\_\_\_\_\_

\_\_\_\_\_  
[Authorized Officer]

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

**EXHIBIT "B"**

**COMPENSATION AND METHOD OF PAYMENT**

Consultant shall receive compensation for work performed in accordance with Exhibit "A" as follows:

## EXHIBIT "C"

### INSURANCE REQUIREMENTS

Prior to the commencement of the services to be performed under this Agreement, and throughout the term of this Agreement, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to Agency in excess of the limits and coverage required in this Agreement and which is applicable to a given loss, will be available to Agency.

Consultant shall provide the following types and amounts of insurance:

1. **Commercial General Liability Insurance** using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to policy limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event shall be less than \$1,000,000 per occurrence and \$2,000,000 general aggregate.
2. **Business Auto Coverage** on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.
3. **Professional Liability or Errors and Omissions Insurance** as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of Consultant and "Covered Professional Services" as designated in the policy must specifically include the services performed under this Agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this Agreement.
4. **Worker's Compensation** as required by the state of California with employer's liability limits no less than \$1,000,000 per accident for all covered losses. However, Consultant will not be required to maintain worker's compensation insurance if Consultant does not have any employees.

**Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Bests rating of A or better and a minimum financial size VII.**

#### **General conditions pertaining to provision of insurance coverage by Consultant.**

Consultant and **Agency** agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds Agency, its officials, employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against Agency regardless of the applicability of any insurance proceeds.
3. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to Agency and approved of in writing.
4. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured.
5. All coverage types and limits required are subject to approval, modification and additional requirements by Agency, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) that may affect Agency's protection without Agency's prior written consent.
6. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to Agency at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, Agency has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by Agency shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at Agency option.
7. Consultant agrees to endorse the insurance provided pursuant to these requirements to require 10 days notice to Agency prior to cancellation of such liability coverage or any material alteration or non-renewal of any such coverage, other than for nonpayment of premium, 30 days notice to Agency prior to any other cancellation of such liability coverage or material alteration or non-renewal of any such coverage, and to require indemnifying parties to do likewise.
8. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Consultant is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self insurance available to Agency.
9. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to Agency. At that time Agency shall review options with Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

10. Agency reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to Consultant, Agency will negotiate additional compensation proportional to the increased benefit to Agency.
11. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
12. Consultant acknowledges and agrees that any actual or alleged failure on the part of Agency to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on Agency nor does it waive any rights hereunder in this or any other regard.
13. Consultant will renew the required coverage annually as long as Agency, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until Agency executes a written statement to that effect.
14. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to Agency within five days of the expiration of the coverages.
15. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to Agency, its employees, officials and agents.
16. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
17. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.
18. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
19. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge Agency or Consultant

for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to Agency. It is not the intent of Agency to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against Agency for payment of premiums or other amounts with respect thereto.

20. Consultant agrees to provide immediate notice to Agency of any claim or loss against Consultant arising out of the work performed under this Agreement. Agency assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve Agency.