

**GATEWAY CITIES COUNCIL OF GOVERNMENTS  
JOINT MEETING OF THE BOARD OF DIRECTORS and  
EXECUTIVE COMMITTEE**

*Wednesday, August 4, 2010*

*5:30 p. m. Buffet*

*6:00 p. m. Meeting*

**Gateway Cities Council of Governments**

**16401 Paramount Boulevard**

**Paramount, California**

**AGENDA**

**STAFF REPORTS AND OTHER WRITTEN DOCUMENTS ARE AVAILABLE IN THE GATEWAY CITIES COUNCIL OF GOVERNMENTS OFFICES, 16401 PARAMOUNT BOULEVARD, PARAMOUNT, CALIFORNIA. ANY PERSON HAVING QUESTIONS CONCERNING ANY AGENDA ITEM MAY CALL THE COG STAFF AT (562) 663-6850.**

**FOR YOUR INFORMATION:** The Board of Directors will hear from the public on any item on the agenda or an item of interest that is not on the agenda. The Board of Directors cannot take action on any item not scheduled on the agenda. These items may be referred for administrative action or scheduled on a future agenda. Comments are to be limited to three minutes for each speaker, unless extended by the Board of Directors, and each speaker will only have one opportunity to speak on any one topic. You have the opportunity to address the Board of Directors at the following times:

- A. **AGENDA ITEM:** at this time the Board of Directors considers the agenda item OR during Public Comments, and
- B. **NON-AGENDA ITEMS:** during Public Comments, comments will be received for a maximum 20-minute period; any additional requests will be heard following the completion of the Board of Directors agenda; and
- C. **PUBLIC HEARINGS:** at the time for public hearings.

**Please keep your comments brief and complete a speaker card for the President.**

- I. CALL TO ORDER**
- II. ROLL CALL – BY SELF INTRODUCTIONS**
- III. PLEDGE OF ALLEGIANCE**
- IV. AMENDMENTS TO THE AGENDA** - This is the time and place to change the order of the agenda, delete or add any agenda item(s).
- V. PUBLIC COMMENTS** - Three minutes for each speaker.

**VI. SPECIAL COMMENDATION**

- A. Mr. Ray Harris, Transportation Deputy, Metro

**VII. MATTERS FROM STAFF**

**VIII. CONSENT CALENDAR:** All items under the Consent Calendar may be enacted by one motion. Any item may be removed from the Consent Calendar and acted upon separately by the Board of Directors.

- A. Approval of Minutes – Minutes of the Board of Directors Meeting of July 7, 2010, are presented for approval. Approval receives and files the minutes of July 7<sup>th</sup>, Board of Directors meeting.
- B. Approval of Warrant Register - Request for Approval of Warrant Register Dated August 4, 2010
- C. June 2010 Local Agency Investment Fund Statement
- D. Status Report from Lobbyist - Edington, Peel & Associates
- E. Resolution 2010-03 - A Resolution of the Gateway Cities Council of Governments Authorizing the Executive Director to Enter into a Partnership Agreement in Support of the U.S. Department of Housing and Urban Development (HUD) FY 2010 Sustainable Communities Regional Planning Grant Program
- F. Resolution 2010-04 – A Resolution of the Board of Directors of the Gateway Cities Council of Governments Endorsing the County of Los Angeles Energy Program and Encouraging Our Member Cities to Adopt Resolutions to Join the County Energy Program
- G. Resolution 2010-05 – Resolution of the Gateway Cities Council of Governments Approving the Application for Grant Funds for the Sustainable Communities Planning Grant and Incentives Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84).

CONSENT CALENDAR ACTION:  
A MOTION TO APPROVE THE RECOMMENDATIONS FOR CONSENT  
CALENDAR ITEMS A THROUGH G

**IX. REPORTS**

- A. Memorandum of Agreement for Special Study – Los Angeles River Metals TMDL

**15 Min**

SUGGESTED ACTION: A MOTION TO APPROVE AGREEMENT AND/OR GIVE  
DIRECTION TO STAFF AND RECEIVE AND FILE

B. Agreement for Consulting Services by and Between Gateway Cities Council of Governments and Larry Walker Associates for Special Study for the Los Angeles River Metals TMDL

**3 Min**

SUGGESTED ACTION: A MOTION TO APPROVE AGREEMENT AND/OR GIVE DIRECTION TO STAFF

C. Agreement for Consulting Services by and Between Gateway Cities Council of Governments and Flow Sciences Incorporated for Scientific Oversight of the Special Study for the Los Angeles River Metals TMDL

**3 Min**

SUGGESTED ACTION: A MOTION TO APPROVE AGREEMENT AND/OR GIVE DIRECTION TO STAFF

D. Agreement for Consulting Services by and Between Gateway Cities Council of Governments and Cambridge Systematics for Development of Subregional Sustainable Communities Strategy Under SB 375

**3 Min**

SUGGESTED ACTION: A MOTION TO APPROVE AGREEMENT AND/OR GIVE DIRECTION TO STAFF

**X. REPORTS FROM COMMITTEES**

A. Report from the Conservancy Committee – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

B. Report from the I-710 EIR/EIS Project Committee – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

C. Report from the SR-91/I-605/I-405 Corridor Cities Committee – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

D. Report from the Transportation Committee – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

E. Report from the Committee on Homelessness – Oral Report

**3 Min**

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

F. California High Speed Rail – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

**XI. REPORTS – COMMITTEES/ AGENCIES – ALL COMMITTEE / AGENCY REPORTS ARE LIMITED TO 3 MINUTES UNLESS ADDITIONAL TIME IS GRANTED BY THE BOARD PRESIDENT**

A. Matters from The I-5 Consortium Cities Joint Powers Authority – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

B. Matters from the League of California Cities – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

C. Matters from Southern California Association of Governments (SCAG) – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

D. Matters from the Orangeline Development Authority – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

E. Matters from the South Coast Air Quality Management District (AQMD) – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

F. Matters from the Metro Gateway Cities– Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

G. Conservation Corps Report – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

H. Matters from the Coalition for America’s Gateways & Trade Corridors – Oral Report

3 Min

SUGGESTED ACTION: A MOTION TO HEAR REPORT, POSSIBLE ACTION AND/OR GIVE DIRECTION TO STAFF

**XII. MATTERS FROM THE BOARD OF DIRECTORS**

**XIII. MATTERS FROM THE PRESIDENT**

- A. Appointment of Gordon Stefenhagen to Transportation Committee

**XIV. ADJOURNMENT**

NOTICE: New items will not be considered after 9:00 p.m. unless the Board of Directors votes to extend the time limit. Any items on the agenda that are not completed will be forwarded to the next regular Board of Directors meeting scheduled for Wednesday, September 1, 2010, 6:00 PM.

IN COMPLIANCE WITH THE AMERICAN WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE COG OFFICE AT (562) 663-6850. NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE COUNCIL OF GOVERNMENTS TO MAKE REASONABLE ARRANGEMENT TO ENSURE ACCESSIBILITY TO THIS MEETING.

**VIII. CONSENT CALENDAR**  
**Item A**  
**Approval of Minutes**

**MINUTES OF THE MEETING  
OF THE JOINT MEETING OF THE  
BOARD OF DIRECTORS OF THE  
GATEWAY CITIES COUNCIL OF GOVERNMENTS  
AND THE EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS  
Gateway Cities Council of Governments  
16401 Paramount Boulevard  
Paramount, California  
July 7, 2010**

President Stefenhagen called the meeting to order at 6:00 p.m.

**PRESENT:** President Gordon Stefenhagen, City of Norwalk  
First Vice President Gil Hurtado, City of South Gate  
Second Vice President Raymond Dunton, City of Bellflower  
Immediate Past President Anne M. Bayer, City of Downey  
Member Tony Lima, City of Artesia  
Member George Mirabal, City of Bell  
Member Sergio Infanzon, City of Bell Gardens  
Member Bruce Barrows, City of Cerritos  
Member Joe Aguilar, City of Commerce  
Member Lillie Dobson, City of Compton  
Member Josue Barrios, City of Cudahy  
Member Reynaldo Rodriguez, City of Hawaiian Gardens  
Member Elba Guerrero, City of Huntington Park  
Member Susan Tripp, City of La Mirada  
Member Diane DuBois, City of Lakewood  
Member Felipe Aguirre, City of Maywood  
Member Gene Daniels, City of Paramount  
Member Betty Putnam, City of Santa Fe Springs  
Member Edward H. J. Wilson, City of Signal Hill  
Member William Davis, City of Vernon  
Member Greg Nordbak, City of Whittier  
Member Connie Sziebl, Office of Supervisor Don Knabe  
Member Erica Jacquez-Santos, Office of Supervisor Gloria Molina  
Member Vincent Harris, Office of Supervisor Mark Ridley-Thomas

**ABSENT:** Member Bob Kennedy, City of Avalon  
Member Stan Carroll, City of La Habra Heights  
Member Patrick O'Donnell, City of Long Beach  
Member from the City of Long Beach  
Member from the City of Montebello  
Member Maria Teresa Santillan, City of Lynwood  
Member Gustavo Camacho, City of Pico Rivera  
Member Richard Steinke, Ex Officio Member, Port of Long Beach

ALSO PRESENT: Signal Hill City Manager Ken Farfsing, Chair, City Managers Steering Committee; Commerce City Administrator Jorge Rifa; La Mirada Director of Public Works Steve Forster; South Gate City Engineer Mohammad Mostahkami; Michael Hollon, Field Representative, Office of Assemblyman Hector De La Torre; Brian Mineghiro, Field Representative, Office of Assemblyman Warren Furutani; Jay Day, Principal Consultant, Office of Assemblywoman Bonnie Lowenthal; MTA Project Manager Jon Grace; Metro Community Relations Manager David Hershenson; MWD Senior Regional Affairs Representative Luis Cetina; SCAG Public Affairs Officer Matt Horton; Alex Kenefick, Coordinator, Los Angeles and San Gabriel Rivers Watershed Coalition; Craig Perkins, Executive Director, The Energy Coalition; Joyce McDevitt, Deputy Director, Conservation Corps of Long Beach; Yvette Kirrin, Executive Director/Authority Engineer, I-5 JPA; Gene Bougdanos, Vice President, HNTB; Tamara Werkmeister, Business Development, HTNB; Lan Saadatnejadi, Program Manager, HDR; Frank Osgood, Author of Region Aroused; GCCOG General Counsel Richard D. Jones; GCCOG Deputy Executive Director Jack Joseph; GCCOG Transportation Deputy Karen Heit; GCCOG Director of Regional Planning Nancy Pfeffer.

Roll was taken through self-introductions.

Member Tripp led the Pledge of Allegiance.

There were no amendments to the agenda

There were no public comments.

The Executive Director reported that a successful meeting had been held with U.S. Department of Transportation Deputy Director Joel Szabat. He said the joint meeting with the San Gabriel Valley COG had been arranged by Congresswoman Grace Napolitano. He referred the Board to the booklet regarding the COG's transportation initiatives that was presented to Mr. Szabat. He said Mr. Szabat's comments were very candid regarding federal transportation policy and TIGER II grants. Second Vice President Dunton described the helicopter tour on which he accompanied Mr. Szabat.

It was moved by Member Aguilar, seconded by Member Davis, to approve the consent calendar. The motion was approved unanimously.

Craig Perkins, Executive Director of The Energy Coalition, gave a presentation regarding the Los Angeles County Energy Program. He reported that 10 of the 27 Gateway Cities members had passed resolutions joining the County program, which to date had 44 of the 88 County cities participating. He said the aim is to create jobs and conserve energy by retrofitting homes. The statewide goal is to retrofit 1% of the housing stock. The County's goal is to retrofit 30,000 homes over the next three years.

Mr. Perkins said the emphasis of the program is to improve whole house performance as opposed to individual components. He described the basic path and advanced path



aspects of the program. He said financing for the program comes from multiple sources: County funds, utilities, state tax credits, and PACE financing (property assessments). He said program participants have the option of paying a contractor directly or participating in a loan from the County paid over time from their property tax bills. He said the typical loan amounts would range from \$5,000 to \$100,000. Mr. Perkins said there is no cost to cities to participate; they need only pass a city council resolution.

Member Barrios asked if multi-family properties would be able to participate. Mr. Perkins responded that the first phase of the program is limited to owner occupied properties of up to four units, but that multi-family properties will be included in the second phase of the program.

It was moved by Member Barrows, seconded by Second Vice President Dunton, that the Board support the County Energy Program. The motion was approved unanimously.

Alex Kennefick, Los Angeles and San Gabriel Rivers Watershed Council, gave a presentation on Creating Community Amenities with Innovative Use of Storm Drains. He presented background information on the Watershed Council, which is a non-profit agency established in 1996. He said it serves as a stakeholder forum for agencies to work together for the benefit of the watershed.

Mr. Kennefick described the Storm Drain Daylighting Feasibility Study, which was funded by a grant from the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and commenced in January 2008. He described the project history and timeline. Outreach was completed in January of this year and the public comment period ends this month. The final report is due to be completed in August or September. He said the project team is looking at the catchment area of Compton Creek where I-105 crosses over. He said three sites were chosen in the Gateway Cities area, with two in unincorporated County area and one in Compton. He presented renderings of what the open storm drains in these locations would look like.

Member Mirabal asked if there would be a problem with mosquitoes. Mr. Kennefick responded that the project is designed so that water does not remain stagnant for the three days that are required for mosquito larvae to hatch.

It was moved by Member Barrows, seconded by First Vice President Hurtado, to receive and file the report. The motion was approved unanimously.

The Deputy Executive Director presented a report on the proposed Fiscal Year 2010-11 Budget. He said the budget is basically status quo with regard to the COG's program and activities and includes no increases in assessments or labor compensation.

#### RESOLUTION NO. 2010-02

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS APPROVING AND ADOPTING THE 2010-2011 ANNUAL

## BUDGET OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS

It was moved by Member Daniels, seconded by Member Putnam, to adopt the resolution approving the Fiscal Year 2010-11 Budget. The motion was approved unanimously.

President Stefenhagen announced that two nominations had been submitted to fill the vacancy for an elected official on the Metro Gateway Cities Governance Council. He said the two nominees were Councilmember Josue Barrios of Cudahy and Councilmember Gene Daniels of Paramount. Members Barrios and Daniels addressed the Board regarding their respective interest in the position.

President Stefenhagen asked that ballots be distributed to the Board for the purpose of nominating the representative to the Governance Council. After the ballots were collected and counted, the General Counsel announced that the result was a 12-12 tie between members Barrios and Daniels.

It was the consensus of the Board to have a re-vote. After the second round of ballots were collected and counted, the General Counsel announced that Member Barrios had been elected by a vote of 13-11.

The Executive Director reported on the Memorandum of Understanding between the COG and the Southern California Association of Governments which establishes the basis for cooperation between the two agencies for the COG to prepare its subregional Sustainable Communities Strategy under SB 375. It was moved by Member Daniels, seconded by Member Putnam, to approve the Memorandum of Understanding with SCAG. The motion was approved unanimously.

Member Wilson presented a report from the Conservancy Committee. He said the RMC Board had approved two projects within the Gateway Cities on June 28: the Lynwood Pocket Park project and the Huntington Park Trail and Open Space Development project.

The Transportation Deputy presented a report from the I-710 EIR/EIS Project Committee. She said I-710 Project Committee would be meeting on July 29 to receive a status report on the EIR/EIS and the Air Quality Action Plan.

President Stefenhagen presented a report from the SR-91/I-605/I-405 Corridor Cities Committee. He said the Technical Advisory Committee and the Corridor Cities Committee had voted to approve the addition of project study reports (PSRs) on three freeway intersections to the scope of work for the Feasibility Analysis Study previously approved by the Board: I-605/SR-91 interchange; I-605/I-5 interchange; and I-605/SR-60 interchange. It was moved by Member Wilson, seconded by Member Barrios, to concur with the Technical Advisory Committee and Corridor Cities Committee recommendations that the updated scope of work be used for the request for proposals (RFP) by MTA as one project, and that 25% of the work be subcontracted to small businesses. The motion was approved unanimously.

Member DuBois presented a report from the Transportation Committee. She announced that Supervisor Don Knabe had been elected as the new Chair of the MTA Board. She commended the Transportation Deputy for the excellent presentation on the COG's transportation priorities that she had given to Deputy Secretary of Transportation Joel Szabat. Member DuBois reported that the Board had approved the 2010-11 Metrolink budget.

There was no report from the Committee on Homelessness.

Yvette Kirrin presented a report on the California High Speed Rail project. She discussed the ongoing study regarding the proposed project alignment through the subregion. She said there is continuing concern about the proposed elevated track.

It was moved by Member Rodriguez, seconded by First Vice President Hurtado, to receive and file the committee reports. The motion was approved unanimously.

Yvette Kirrin presented a report from the I-5 JPA. She said that Caltrans is considering bidding four of five segments at one time. She said this is meant to deal with the problem of possible lapsing funds if all segments cannot be done by the funding deadline.

There was no report from the League of California Cities.

Matt Horton presented a report from SCAG. He said that SCAG is working with CARB on the regional greenhouse gas targets under AB 32.

Karen Heit presented a report from the Orangeline Development Authority. She said the Authority is working on a Memorandum of Understanding with Bob Hope Airport to join the Authority. She said SCAG had finished its first round of public meetings on the cross county study.

There was no report from the South Coast Air Quality Management District.

David Hershenson presented a report from the Metro Gateway Cities Service Sector. He said Metro will be doing some service changes in December, and that public hearings regarding the changes would begin in August. He said the last of six meetings of the Blue Ribbon Committee had been held.

Joyce McDevitt presented a report from the Long Beach Conservation Corps. She said that Proposition 84 funding is still available for the Corps to do work in cities. She said the Corps has a contract to do weatherization projects for low income families. She said the Corps had received a grant from WalMart to put in drought resistant plants and that the Corps would provide the labor for such projects.

There was no report from the Coalition for America's Gateways and Trade Corridors.

It was moved by First Vice President Hurtado, seconded by Member DuBois, to receive and

file the agency reports. The motion was approved unanimously.

There were no matters from Board members.

President Stefenhagen announced that the City of Norwalk would be hosting the moving replica Vietnam Memorial Wall on August 19<sup>th</sup> through August 22<sup>nd</sup>.

The General Counsel announced that now was the time for the annual election of officers.

It was moved by Member Nordbak, seconded by Member Barrows, to elect First Vice President Hurtado as President. The motion was approved unanimously.

It was moved by Member Barrows, seconded by Member Lima, to elect Second Vice President Dunton as First Vice President. The motion was approved unanimously.

It was moved by Member DuBois, seconded by Member Barrows, to elect Member Daniels and Second Vice President. The motion was approved unanimously.

It was moved by Member Nordbak, seconded by Member DuBois, to elect President Stefenhagen as Immediate Past President. The motion was approved unanimously.

The General Counsel announced that it was now in order to receive nominations to fill the remaining eight positions on the Executive Committee. The following cities were self-nominated: Artesia, Bell, Cerritos, Compton, Downey, Huntington Park, Lakewood, Signal Hill, and Whittier.

The General Counsel said, because more than eight cities had been nominated, that an election would now need to occur. Ballots were passed and then collected from the Board members. Following a counting of the ballots, the General Counsel announced that the following eight cities had been elected to the Executive Committee: Artesia, Bell, Cerritos, Downey, Huntington Park, Lakewood, Signal Hill, and Whittier.

Newly elected President Hurtado thanked the Board for the vote of confidence and that he looked forward to the year ahead.

**Adjournment:** It was the consensus of the Board to adjourn the meeting at 7:42 p.m.

Respectfully submitted,

Richard Powers, Secretary

**VIII. CONSENT CALENDAR**  
**ITEM B**  
**Approval of Warrant Register**

**VIII. CONSENT CALENDAR  
ITEM C  
June 2010 Local Agency Investment  
Fund Statement**

**Local Agency Investment Fund**  
**P.O. Box 942809**  
**Sacramento, CA 94209-0001**  
**(916) 653-3001**

[www.treasurer.ca.gov/pmia-laif](http://www.treasurer.ca.gov/pmia-laif)

July 27, 2010

[PMIA Average Monthly Yields](#)

Account Number:

GATEWAY CITIES COUNCIL OF
TREASURER
16401 PARAMOUNT BOULEVA

**Transactions**

June 2010 Statement

[Tran Type Definitions](#)

Effective Date	Transaction Date	Tran Type	Confirm Number	Authorized Caller	Amount
6/3/2010	6/3/2010	RW	1273864	JACK JOSEPH	-65,000.00

**Account Summary**

Total Deposit:	<input type="text" value="0.00"/>	Beginning Balance:	<input type="text" value="792,779.55"/>
Total Withdrawal:	<input type="text" value="-65,000.00"/>	Ending Balance:	<input type="text" value="727,779.55"/>

**VIII. CONSENT CALENDAR  
ITEM D**

**Status Report from Lobbyist - Edington,  
Peel & Associates**



**Monthly Report by Jim Dykstra to Gateway Cities COG**  
**July 27, 2010**

I and the firm Edington, Peel & Associates provided a range of services in support of the Gateway Cities Council of Governments. These included participation in a number of meetings, telephonic, email and fax exchanges and other communications.

\*I continued to coordinate closely with Gateway Cities COG staff regarding efforts on behalf of the Gateway Cities COG's priorities and interests in the 111<sup>th</sup> Congress. I also continued to coordinate with the staff of the I-5 Joint Powers Authority on the I-5 widening initiative, the COG's number one priority.

\*I continued to provide follow up regarding requests for funding in the Fiscal Year 2011 appropriations process and reported to Gateway Cities COG officials that Reps. Grace Napolitano and Lucille Roybal-Allard, with whom I have been working, were successful in securing \$1 million for the I-5 widening project in the House version of the FY2011 Transportation/HUD appropriations bill. That legislation was reported out of the House Appropriations Committee's Transportation/HUD Subcommittee and has been approved by the full committee.

In addition, I continued to focus on follow up with the Gateway Cities COG's elected Representatives in the House of Representatives and have kept the Gateway Cities COG informed of the status of the Transportation Reauthorization Act. As I have been reporting, Congress has continued to provide extensions of the existing law, and it looks increasingly unlikely there will be reauthorization legislation approved during this Congress.

\*I followed up on a June 4 conference call regarding development of a strategy for seeking federal and state sustainability grants that would be beneficial to Gateway Cities COG. I made a recommendation on grant funding that could be a strong candidate to pursue and coordinated with Gateway Cities officials to confirm the pre-application deadline for grant proposals was met.

\*I participated on Gateway Cities' behalf in conference calls and email exchanges with the Coalition for America's Gateways and Trade Corridors regarding the surface transportation reauthorization bill. I also participated on Gateway Cities' behalf in follow up to the CAGTC annual meeting held in late May.

\*I have had discussions and electronic exchanges with Gateway Cities officials regarding the MTA Board of Directors policy regarding the 30-10 Initiative, and I raised the issue and provided background information with senior congressional staff.

\*I have continued discussions and email exchanges with staff of Members of Congress representing Gateway Cities members, as well as other key congressional staff, regarding the COG's legislative priorities.

\*As part of my responsibilities, I closely monitor legislation, as well as seminars, hearings, meetings and publications of key interest to legislators and senior executive branch officials for articles and information of possible interest and importance to member cities of the Gateway Cities COG. I attend Senate and House committee hearings, follow Senate and House floor proceedings, and track legislative initiatives pertinent to Gateway Cities COG interests and priorities.

**VIII. CONSENT CALENDAR  
ITEM E**

**Resolution 2010-03 – A Resolution of the  
Gateway Cities Council of Governments  
Authorizing the Executive Director to  
Enter into a Partnership Agreement in  
Support of the U.S. Department of  
Housing and Urban Development (HUD)  
FY 2010 Sustainable Communities  
Regional Planning Grant Program**

**TO:** Board of Directors

**FROM:** Richard Powers, Executive Director

**SUBJECT:** Resolution 2010-03 A Resolution of the Gateway Cities Council of Governments authorizing the Executive Director to Enter into a Partnership Agreement in support of the Us Department of Housing and Urban Development (HUD) FY 2010 Sustainable Communities Regional Planning Grant Program

### **Background**

The Los Angeles County Metropolitan Transportation Authority (MTA) is taking the lead in forming a countywide partnership to apply for the Sustainable Communities Regional Planning Grant Program to bring resources to Los Angeles County to support the implementation of SB 375.

The Partnership is to include the Gateway Cities Council of Governments, the City and County of Los Angeles, the Southern California Association of Governments, the South Bay Cities Council of Governments, the Westside Cities Council of Governments, San Gabriel Valley Council of Governments, the Los Angeles Regional Collaborative and MoveLA. The Partnership will apply for funds to complete a Sustainable Corridors Implementation Strategy that supports sustainability planning and strategy development in up to five demonstration corridors, one of which will be selected by the Gateway Cities Council of Governments within the parameters established by the Partnership. The MTA will provide matching funds for the grant.

### **Issue**

The Grant application requires partnership agreements amongst the participants. The partnership agreement will provide proof of commitment to work together and a description of the cooperative framework for carrying out the Sustainable Corridors Implementation Strategy should funds be awarded to the Partnership.

The Partnership Agreement was not ready for execution at the August GCCOG Board meeting. This Resolution will allow the Executive Director to execute the Partnership Agreement for inclusion into the grant application. The grant application is due to HUD in mid-August.

### **Attachment**

Resolution 2010-03

**Recommended Action**

It is recommended that the GCCOG Board authorize the Executive Directive to execute a Partnership Agreement with the Los Angeles County Metropolitan Transportation Authority for the purposes of applying for HUD's Fiscal Year 2010 Sustainable Communities Regional Planning Grant Program as part of the Los Angeles County Compass Blueprint Implementation Partnership.

**RESOLUTION NO. 2010-03**

A RESOLUTION OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A PARTNERSHIP AGREEMENT IN SUPPORT OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FY 2010 SUSTAINABLE COMMUNITIES REGIONAL PLANNING GRANT PROGRAM.

WHEREAS, the Department of Housing and Urban Development (HUD) has promulgated a Notice of Funding Availability (NOFA) for HUD's Fiscal Year 2010 Sustainable Communities Regional Planning Grant Program to support multi-jurisdictional planning efforts that integrate housing, land use, economic and workforce development, transportation, and infrastructure investments, and

WHEREAS, funds are available to prepare detailed execution plans for an adopted regional plan for sustainable development, such as the Southern California Compass Blueprint, and

WHEREAS, eligible applicants for the Sustainable Communities Regional Planning Grant Program are partnerships that represent a county and include cities, counties or units of general local government that represent no less than 50 percent of the population residing within the county, and

WHEREAS, the Los Angeles County Metropolitan Transportation Authority is taking the lead in forming a countywide partnership (the "Partnership") to apply for the Sustainable Communities Regional Planning Grant Program to bring resources to Los Angeles County to support the implementation of SB 375, and

WHEREAS, the Partnership is proposed to include the Gateway Cities Council of Governments, the City and County of Los Angeles, the Southern California Association of Governments, the South Bay Cities Council of Government, the Westside Cities Council of Governments, San Gabriel Valley Council of Governments, the Los Angeles Regional Collaborative and MoveLA, and

WHEREAS, the Partnership will apply for funds to complete a Sustainable Corridors Implementation Strategy that supports sustainability planning and strategy development in up to five demonstration corridors, one of which will be selected by the Gateway Cities Council of Governments within the parameters established by the Partnership, and

WHEREAS the objectives of the Sustainable Corridors Implementation Strategy will include among others to:

- Establish a framework for implementing the Compass Blueprint within Los Angeles County and throughout the six (6) county Southern California region.

- Leverage MTA's investment in transportation corridors to achieve regional and local housing, environmental, economic development, and community goals.
- Support the subregions in developing and implementing strategies that can be incorporated into the broader regional Sustainable Communities Strategy to implement SB 375 and achieve the state greenhouse reduction target.
- Build capacity within Los Angeles County and the subregions to facilitate multi-jurisdictional and multi-subregional sustainable corridor plans.
- Create up to five demonstration sustainability corridors that will become the hallmarks for transit-oriented districts or liveable boulevards in Los Angeles County and throughout Southern California.
- Establish a coordinated voice to support future corridor-wide funding needs; to create strategies for various funding partners; and to provide information to support individual agency funding requests.
- Attract private investment consistent with corridor goals and city land-use plans and policies.
- Build capacity within Los Angeles County to incorporate Livability Principles into regional transportation, housing, air quality, economic development and natural resource plans by further developing the countywide leadership network and policy forum.

**NOW, THEREFORE BE IT RESOVLED**, that the Gateway Cities Council of Governments authorizes the Executive Directive to execute a partnership agreement with the Los Angeles County Metropolitan Transportation Authority for the purposes of applying for HUD's Fiscal Year 2010 Sustainable Communities Regional Planning Grant Program as part of the Los Angeles County Compass Blueprint Implementation Partnership. The partnership agreement will provide proof of commitment to work together and a description of the cooperative framework for carrying out the Sustainable Corridors Implementation Strategy should funds be awarded to the Partnership.

PASSED, APPROVED AND ADOPTED this 4<sup>th</sup> day of August, 2010.

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Gil Hurtado, President

ATTEST:

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Richard Powers  
SECRETARY

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )     ss



**VIII. CONSENT CALENDAR  
ITEM F**

**Resolution 2010-04 –**

**A Resolution of the Board of Directors of  
the Gateway Cities Council of  
Governments Endorsing the County of  
Los Angeles Energy Program and  
Encouraging Our Member Cities to  
Adopt Resolutions to Join the County  
Energy Program**

**TO:** Board of Directors

**FROM:** Richard Powers, Executive Director

**SUBJECT:** Resolution 2010-04 – A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS ENDORSING THE COUNTY OF LOS ANGELES ENERGY PROGRAM AND ENCOURAGING OUR MEMBER CITIES TO ADOPT RESOLUTIONS TO JOIN THE COUNTY ENERGY PROGRAM

### **Background**

At the meeting of July 7, 2010, the Board heard a presentation from the County of Los Angeles regarding the County Energy Program, under which residents of County unincorporated areas or of cities that adopt resolutions to participate in the County program can apply for low interest loans to make improvements to owner occupied residences that result in energy conservation and reduction of greenhouse gases.

Following the presentation, the Board adopted a motion supporting the Los Angeles County Energy Program and directing that a resolution be drafted encouraging the COG's member cities to join the County program. A draft resolution is attached for your consideration.

### **Recommended Action**

Adopt the attached resolution endorsing the Los Angeles County Energy Program and encouraging our member cities to adopt resolutions joining the program.

**RESOLUTION NO. 2010-04**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE GATEWAY CITIES COUNCIL OF  
GOVERNMENTS ENDORSING THE COUNTY OF LOS  
ANGELES ENERGY PROGRAM AND  
ENCOURAGING OUR MEMBER CITIES TO ADOPT  
RESOLUTIONS TO JOIN THE COUNTY ENERGY  
PROGRAM**

WHEREAS, Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code authorizes cities and counties to assist free and willing property owners in financing the installation of distributed generation renewable energy sources and energy and water efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property through a contractual assessment program; and

WHEREAS, the Board of Supervisors of the County of Los Angeles has established a contractual assessment program named the Los Angeles County Energy Program pursuant to the above State law; and

WHEREAS, State law authorizes the County to enter into contractual assessments with property owners located within incorporated cities only subsequent to the approval of the legislative body of the related city to participate in the Los Angeles County Energy Program; and

WHEREAS, participation by our member cities will assist in the achievement of subregional goals to save energy and reduce greenhouse gas emissions;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Gateway Cities Council of Governments endorses the County of Los Angeles Energy Program and encourages all of our twenty-seven member cities to adopt resolutions approving participation in the County Energy Program.

PASSED, APPROVED, AND ADOPTED this 4<sup>th</sup> day of August 2010.

\_\_\_\_\_  
Gil Hurtado, President

ATTEST:

\_\_\_\_\_  
Richard Powers  
SECRETARY

**VIII. CONSENT CALENDAR  
ITEM G**

**Resolution 2010-05 – Resolution of the Gateway Cities Council of Governments Approving the Application for Grant Funds for the Sustainable Communities Planning Grant and Incentives Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84).**

**TO:** Board of Directors

**FROM:** Richard Powers, Executive Director

**SUBJECT:** Resolution 2010-05 – Resolution of the Gateway Cities Council of Governments Approving the Application for Grant Funds for the Sustainable Communities Planning Grant and Incentives Program Under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84).

### **Background**

In January 2010, the COG board elected to prepare a subregional Sustainable Communities Strategy (SCS) under SB 375 (2008).

### **Issue**

Since economic times are difficult for all cities, the COG staff is seeking relevant grant opportunities to help relieve the financial burden of preparing the SCS.

One such opportunity is a state grant program designed to assist in the preparation of SCS. The program is administered by the state's Strategic Growth Council (SGC), which was created by SB 732, companion legislation to SB 375. The funding for this program comes from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006. COGs are eligible to apply for funding to develop plans that implement SB 375.

The grant application materials require the governing body of each applicant to approve a resolution in advance of the application submission. Since the application is due August 31, 2010, the resolution is provided on this agenda for approval.

### **Attachments**

- Resolution 2010-05

### **Recommended Action**

Approve resolution.

**RESOLUTION NO. 2010-05**

RESOLUTION OF THE GATEWAY CITIES COUNCIL OF GOVERNMENTS APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE SUSTAINABLE COMMUNITIES PLANNING GRANT AND INCENTIVES PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (PROPOSITION 84).

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the Strategic Growth Council has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the Strategic Growth Council require a resolution certifying the approval of application(s) by the Applicants governing board before submission of said application(s) to the State; and

WHEREAS, the applicant, if selected, will enter into an agreement with the State of California to carry out the development of the proposal.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Gateway Cities Council of Governments

1. Approves the filing of an application for the Gateway Cities Sustainable Communities Strategy (SCS) in order to become a sustainable community;
2. Certifies that applicant understands the assurances and certification in the application, and
3. Certifies that applicant or title holder will have sufficient funds to develop the Proposal or will secure the resources to do so, and
4. Certifies that the Proposal will comply with any applicable laws and regulations.
5. Appoints the Executive Director, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

PASSED, APPROVED AND ADOPTED this 4<sup>th</sup> day of August, 2010.

\_\_\_\_\_  
Gil Hurtado, President

ATTEST:

\_\_\_\_\_  
Richard Powers  
SECRETARY

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )       ss

**IX. REPORTS**  
**ITEM A**

**Memorandum of Agreement for Special  
Study – Los Angeles River Metals TMDL**



**TO:** Board of Directors

**FROM:** Richard R. Powers, Executive Director

**BY:** Ken Farfsing, Chair, City Managers Steering Committee

**SUBJECT:** Memorandum of Agreement for Special Study – Los Angeles River Metals TMDL

### **Background**

In September of 2007, the Los Angeles Regional Water Quality Control Board adopted regulations limiting the concentrations of certain metals (e.g. cadmium, copper, lead, selenium, and zinc) in the Los Angeles River and its major tributaries. These regulations were subsequently approved by the State Water Resources Control Board in June of 2008 and became effective on October 29, 2008. These federally required regulations, known as Total Maximum Daily Loads (TMDLs), are based on metal concentrations reported as toxic to aquatic life, potentially “impairing” a water body.

The 40 watershed cities, along with Los Angeles County and Caltrans, are now required to monitor and take proactive steps to improve the water quality of Los Angeles River with respect to the discharges of these metals. The TMDL also contains several “voluntary” special studies, which could be used to revise the TMDL.

Local watershed city managers, Los Angeles County and Caltrans officials formed a watershed management group in 2005 in order to determine if any special studies were warranted and to discuss how best to implement the Coordinated Monitoring Plan. The managers recommended the formation of both a Steering Committee, consisting of city managers and public works directors and a Technical Committee, consisting of city staff assigned to storm water programs to assist the city managers.

The watershed management group recommended moving forward with a Copper Water Effects Ratio study and a Lead Recalculation study (Special Studies) in February of 2010, to be prepared by Larry Walker Associates (LWA). This report discusses the need for the Special Studies, the costs, the funding plan and the role of the Gateway Cities COG in administering the Special Studies contracts for the watershed’s communities. There are two other related Director’s reports. One report discusses the consultant services agreement with LWA to prepare the Special Studies, while the other report discusses retaining the firm of Flow Science as science advisor to the Steering and Technical Committees.

### **Need for the Special Studies – the California Toxic Rule/ Water Effects Ratios and Site Specific Objectives**

The TMDL is based upon the California Toxics Rule (CTR), which was adopted by the United States Environmental Protection Agency (EPA) in 1999. CTR applies as a “default” toxicity value on surface waters in California. CTR is considered overly protective, since it was conducted in testing labs in the eastern United States, relying on laboratory waters and aquatic species not native to Southern California. Scientists recognize that toxicity is water body specific based on several factors, including actual metal concentrations, water hardness factors and local aquatic species. U.S EPA has adopted a scientific protocol to test for specific toxicity in water bodies, known as a Water Effect Ratio (WER). Once a WER is approved by the Regional Board, a Site Specific Objective (SSO) is adopted for the water body through the Basin Plan Amendment (BPA) process. Individual city remediation actions are then based on the levels established by the SSO.

### Preliminary Copper WER

The City of Los Angeles funded a preliminary WER in 2009. The purpose of the preliminary WER was to verify whether moving forward with the full WER was advisable, especially based on the expense of completing the full study. The work included the collection of water toxicity samples in 16 locations and coordination by LWA. The City of Los Angeles conducted the preliminary WER relying in RWA.

Results from the preliminary WER suggests that copper SSO's would allow increased concentration targets, while maintaining beneficial use protection intended by the TMDL. These SSO's could reduce TMDL implementation costs for our local agencies, since BMPs can be better tailored to the actual River conditions. The Regional and State Water Boards have adopted four WER based SSOs in the past three years (Calleguas Creek and Mugu Lagoon Copper, LA County Ammonia, City of Buenaventura wastewater permit and the Los Angeles River Copper SSO for the wastewater treatment plants for the cities of Los Angeles and Burbank. The City of Los Angeles also funded the preparation of the Final WER Work Plan. Total investment by the City of Los Angeles was \$611,400.

As the September 9, 2009 Regional Board meeting, the Regional Board directed its staff to review this Final WER work plan and provide guidance. The Regional Board and environmental community requested that the cities complete a review of the critical conditions and an analysis outlined in Section 5.2 of the California State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries. These additional costs are included in the budget for the Final WER.

### Project Budget and Schedule for the Final WER/Recalculation Study

The Final WER/Recalculation Study is divided into four tasks and is projected to require 35 months to complete, as detailed in the attached Memorandum of Agreement (MOA). Task One includes water sampling and laboratory testing and will take 30 months, at a cost of \$969,626. Task Two would be the copper WER calculation and lead recalculation, preparing and finalizing the report through a stakeholder process, which will take five months and is estimated to cost \$391,855. Task Three would be the development of the

Basin Plan Amendment for consideration by the Regional Board, over a five month period at an estimated cost of \$35,804. Task Four includes LWA project management costs of \$21,827. The GCCOG Board of Directors will be requested to review and approve of a separate consultant agreement with LWA for the completion of the Special Study.

Approximately 20% of the watershed was burned in the summer of 2009 as a result of the Station Fire. Data from local burn areas studied in the past indicate that runoff is likely to increase during rain events after the burns. Metals concentrations in storm flows are highly variable, both before and after fires, but cities in the upper watershed expressed concern about sediments from the fire damaged hillsides skewing the WER/Recalculation studies. The work plan has been revised to take into consideration these concerns (See Task 1.4).

Due to the technical nature of the TMDLs, WERs and SSOs, the Steering Committee recommended retain a scientific advisor to assist both the Technical and Steering Committee. The science advisor would interface with the Steering and Technical Committee, the study consultant, the Regional Board, U.S. EPA, the environmental community and the Technical Advisory Committee of outside experts. The estimated oversight will be \$107,000 over the next three year period of time. Please refer to the MOA for addition work plan details. The GCCOG Board will also be requested to review and approve a separate agreement with Flow Sciences for scientific oversight.

#### Study Funding

Over 97% of the watershed's cities (35) voted to move forward on the Special Study (only the Cities of Alhambra, Calabasas, Cudahy and Temple City declined to participate). The County of Los Angeles and Caltrans have voted to participate in the Special Study as well. The total costs of the WER/Recalculation Study is \$1,419,267. Funding has been divided into three fiscal years in order to assist the cities, with \$765,861 required in FY2010-2011, \$689,316 due in FY 2011-2012 and \$98,423 due in FY 2012-2013. The Special Study funding relies on the same funding formula that was previously adopted by the watershed's local governments for the Coordinated Monitoring Plan. The City of Los Angeles will receive a credit of \$611,400 towards the Special Studies, based on their completion of the Preliminary WER and the development of the final work plan.

#### Role of the GCCOG and the need for the MOA's

The GCCOG stepped forward in 2007 to assist the watershed's communities in the implementation of the TMDL's Coordinate Monitoring Plan (CMP). Fifteen GCCOG members are regulated by the Metals TMDL, so the GCCOG's communities have a major stake in the success of the TMDL and the Special Study. The GCCOG's role would be similar to the administration of the CMP - invoicing the communities for the costs of the Special Study and payment of invoices to LWA and Flow Science. The GCCOG would charge \$10,000 annually for overhead. The GCCOG would not initiate the various phases of the study without having the funding in place from the watershed's communities, Los Angeles County and Caltrans.

GCCOG staff is proposing that each watershed community, Los Angeles County and Caltrans enter into Memorandum of Agreements (MOAs) in order to memorialize the respective responsibilities of both parties. The proposed MOAs were drafted relying on the existing MOA's approved by the GCCOG Board in 2007 for the implementation of the CMP. The MOA's will need to be executed by the all of the parties and payment will have to have been received for FY2010-2011 prior to the start-up of the Special Study

**Attachments**

Proposed Memorandum of Agreement

**Recommended Action**

Approve the Memorandum of Agreement, subject to final review by the GCCOG's General Counsel, and authorize the GCCOG Board President to execute.

MEMORANDUM OF AGREEMENT  
BETWEEN  
THE GATEWAY CITIES COUNCIL OF GOVERNMENTS  
AND  
THE CITY OF ARCADIA

REGARDING THE ADMINISTRATION AND COST SHARING TO UNDERTAKE  
SCIENTIFIC STUDIES TO DEVELOP SITE SPECIFIC OBJECTIVES APPLICABLE TO  
THE LOS ANGELES RIVER AND TRIBUTARIES METALS TMDL

This Memorandum of Agreement ("Agreement") is made and entered into as of the date of the last signature set forth below by and between the Gateway Cities Council of Governments, a California joint powers authority ("GCCOG"), and the City of Arcadia, a California municipal corporation ("City"); (hereinafter "Party" or "Parties") with respect to the following:

**RECITALS**

WHEREAS, the mission of the GCCOG includes environmental planning and providing technically sound science and analyses to its member cities and agencies; and

WHEREAS, fifteen of the GCCOG's member cities are located within the Los Angeles River watershed and the GCCOG has established effective working relationships with the adjacent Councils of Governments; and

WHEREAS, the GCCOG has previously entered into interagency agreements, successfully partnering with various cities, SCAG, CALTRANS and the County of Los Angeles to undertake projects and studies of regional significance, including the Coordinated Monitoring Plan for the Los Angeles River Metals TMDL; and

WHEREAS, the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") adopted the Los Angeles River and Tributaries Metals Total Maximum Daily Load ("TMDL" or "Los Angeles River Metals TMDL") in September of 2007, with the intent of improving water quality in the Los Angeles River and its tributaries; and

WHEREAS, the Parties recognize that the TMDL is not self-enforcing, but could become legally enforceable through incorporation into current or future National Pollutant Discharge Elimination System Permits for Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges within the County of Los Angeles, and the incorporated cities therein; and

WHEREAS, this TMDL regulates the discharge of runoff from, forty cities, the County of Los Angeles, and CalTrans, herein referred to as collectively the "Regulated Entities" or singularly a "Regulated Entity", requiring a high degree of organization and cooperation from the local watershed agencies; and

WHEREAS, a Los Angeles River Metals TMDL Technical Committee, consisting of

representatives from the Regulated Entities, has been established to understand the requirements of the TMDL, then plan potential integrated compliance and implementation strategies for consideration by the Regulated Entities; and

WHEREAS, a Los Angeles River Metals TMDL Steering Committee, consisting of representatives from the Regulated Entities, has been established for the purpose of providing general oversight regarding implementation of the TMDL; and

WHEREAS, a Los Angeles River Watershed Management Committee, required by the Municipal Storm Water NPDES Permit, meets on a regular basis and is attended by representatives of the Regulated Entities in the watershed; and

WHEREAS, TMDLs in general, and the Los Angeles Rivers Metals TMDL in particular, allow and encourage the Regulated Entities to undertake technical or scientific studies to provide a better understanding of the complex interactions of constituents in the river within the context of both the urban and natural watershed environments; and

WHEREAS, the City of Los Angeles, having recently overseen the completion of a Preliminary Water-Effects Ratio study, supported the initial development by Larry Walker Associates (LWA) of a Los Angeles Rivers Metals TMDL Final Water-Effects Ratio and Lead Recalculation studies, including Site Specific Objectives and a Basin Plan Amendment (Special Studies) draft work plan dated May 20, 2009, which was shared and generally accepted by representatives from among the Regulated Entities and Regional Board; and

WHEREAS, the Regulated Entities met in February 2010 to learn about the proposed Special Studies a majority agreed to support these Special Studies; and

WHEREAS, the majority of Regulated Entities participating in the Special Studies are known as the Participating Entities, and during the intervening period have cooperatively worked to resolve remaining questions about how best to implement both the studies and an Agreement to fund them; and

WHEREAS, undertaking the Los Angeles River Metals TMDL Special Studies requires administrative services that the Participating Entities desire the GCCOG to coordinate, including contracting for professional consulting services; and

WHEREAS, the GCCOG has agreed to provide administrative services to the Participating Entities to facilitate undertaking the necessary Los Angeles River Metals TMDL Special Studies; and

WHEREAS, a final work plan for the Copper Water-Effects Ratio study and Lead Recalculation study is attached hereto as Exhibit "A" and Project Management related to these Special Studies is attached hereto as Exhibit "B"; and

WHEREAS, the Participating Entities have agreed to share in fully funding the costs of the Los Angeles River Metals TMDL Special Studies, including those costs incurred by the GCCOG in administering this Agreement, based on the cost allocation formula contained in Exhibit "C"; and

WHEREAS, GCCOG will execute similar cost-sharing agreements with all other Participating Entities, identified in Exhibit "D" attached hereto, before this agreement becomes enforceable, unless stated otherwise elsewhere in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the Parties do hereby agree as follows:

Section 1. Recitals. The recitals set forth above are fully incorporated as part of this Agreement.

Section 2. Purpose. The purpose of this Agreement is to cooperatively fund the implementation of the Los Angeles River Metals TMDL Special Studies.

Section 3. Cooperation. The Parties shall fully cooperate with one another to attain the purposes of this Agreement.

Section 4. Voluntary Nature. This Agreement is voluntarily entered into for the implementation of the Los Angeles River Metals TMDL Special Studies.

Section 5. Term. This Agreement shall remain and continue in effect until completion of the Los Angeles River Metals TMDL Special Studies.

Section 6. Los Angeles River Metals TMDL Special Studies. The Los Angeles River Metals TMDL Special Studies consists of the Scope of Services set forth in Exhibit "A" incorporated into this Agreement along with any subsequent technical changes as recommended by the Los Angeles River Metals Technical Committee.

Section 7. Project Management. The complexity of the Special Studies, combined with the lack of staff expertise in these matters on the Steering and Technical Committees, requires project management by Flow Science Incorporated which is included as Exhibit "B" of this Agreement.

Section 8. Assessment for Proportional Costs of the Study. The City of Arcadia agrees to provide funds to the GCCOG in the amount shown in Exhibit C, based on the estimated costs of Professional Services outlined in Exhibit A and Exhibit B, attached hereto and made a part of this Agreement by this reference. The GCCOG will annually invoice the City upon the execution of this Agreement, based on allocated costs, which includes all administrative costs incurred by the GCCOG in the performance of its duties under this Agreement. The GCCOG administrative costs include compensation for staff

time, audit expenses, and costs incurred in administering agreements. Any overpayment or underpayment of the costs shall be credited or billed to the City in the next year's invoice or if it occurs in the last year of the Agreement it shall be reimbursed at its termination.

Section 9. Role of the GCCOG. The GCCOG shall enter into substantially and materially similar agreements with each of the Participating Entities to effectuate the purposes of the Agreement, invoice and collect from the Participating Entities the estimated amounts identified in Exhibits A and B, which are based on the cost allocation formula in Exhibit C, and reimburse the Consultants for their respective services as described in this Agreement.

Section 10. Invoice and Payment.

- a) Annual Study Payment – The GCCOG shall reimburse the Consultants for their Professional Services in accordance with Exhibits A and B within ninety (90) days of receipt of the invoice from the Consultants. The GCCOG shall not be obligated to remit to the Consultants more than the amount it has actually collected from Participating Entities pursuant to this Agreement less its estimated administrative costs. In the event that funds received by the GCCOG are not sufficient to cover the full GCCOG administrative within 90 days of invoice, but are subsequently received, those subsequent amounts shall be paid to the Consultants within 30 days of receipt by the GCCOG. The annual payment shall be increased by the State of California Consumer Price Index (CPI) annually<sup>1</sup>. The cost estimates of Professional Services presented in Exhibits A and B, are subject to change pursuant to a Regional Board requirement or unforeseen challenges in the field. The Technical Committee shall be notified by the Consultant of any substantive changes in the actual cost of the study, which will be reconciled with the next annual payment.
- b) Invoice – The GCCOG shall invoice the Participating Entities as soon as practical for the first invoice in order to begin the study with the 2010 rain year, which will take place immediately following the execution of this Agreement. The first invoice will consist of the first year Los Angeles River Metals TMDL Site Specific Objectives study costs, and from thereon invoicing will be done in July of each year and will be based on the estimated costs of the following fiscal year as indicated in Exhibits A and B. The Participating Entities shall pay the GCCOG invoices within sixty (60) days of receipt of the invoices. The Consultants will submit invoices to the Technical Committee for review, which will then recommend the invoice for approval to the Steering Committee and the GCCOG for payment. The GCCOG shall pay the Consultant within ninety (90) days of receipt.

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<sup>1</sup> The State of California CPI is referenced at <http://www.dir.ca.gov/DLSR> for Los Angeles-Riverside-Orange County Region for the month of June.



- c) Late Payment Penalty – Any payment that is late shall be subject to interest on the original amount due from the date that the payment first became due. The interest rate shall be equal to the Prime Rate in effect when the payment first became due plus one percent for any payment that is made from 1 to 30 days after the due date. The Prime Rate in effect when the payment first became due plus five (5) percent shall apply for any payment that is made from 31 to 60 days after the due date. The Prime Rate in effect when the payment first became due plus ten (10) percent shall apply for any payment that is made more than 60 days after the due date. The rates shall, nevertheless, not exceed the maximum allowed by law.
  
- d) Delinquent Payments – A Participating Entity's payment is considered to be delinquent 180 days after being invoiced by the GCCOG. The following procedure may be implemented to attain payments from the delinquent Participating Entity or Entities per instructions from the Steering Committee: 1) verbally contact/meet with the manager from the delinquent Participating Entity or Entities, 2) submit a formal letter to the delinquent Participating Entity or Entities from the GCCOG attorney, and 3) notify the Regional Board that the delinquent Participating Entity or Entities are no longer a participating member. If a Participating Entity or Entities remain delinquent after the above procedures, then any delinquent amount(s) will be distributed in the following year's invoice amongst all remaining Participating Entities proportionate to each Entity's area as it relates to the overall remaining total Participating Entities area, excluding the delinquent Participating Entity or Entities. The Steering Committee will revise Exhibit C to show the recalculated costs for each Participating Entity; these revised exhibits will be sent to the GCCOG and included with the annual invoices to the Participating Entities.
  
- e) Interest Accrual – Any interest accrued on the funds collected per this Agreement during the term of this Agreement shall be re-deposited into the appropriate account and used for implementation of the Study. The GCCOG shall report on an annual basis to the Steering Committee the amount of interest and late payment penalties accrued by the study account(s).

Section 10. Independent Contractor.

- a) The GCCOG is and shall at all times remain a wholly independent contractor for performance of the obligations described in this Agreement. The GCCOG officers, employees and agents performing such obligations shall at all times be under the GCCOG's exclusive control. The Regulated Entities shall not have control over the conduct of the GCCOG or any of its officers, employees or agents, except as set forth in this Agreement. The GCCOG, and its officers, employees, or agents are not and shall not be deemed to be employees of the Participating Entities.



- b) Separate Accounting and Auditing. The GCCOG agrees to establish a separate account to track the revenues from the Regulated Entities and the expenses from the study. Quarterly financial statements and the annual audit will be made available to all of the Participating Entities and will be provided to the Steering and Technical Committees.
- 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 to 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.
- 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 the 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.
- h) Entire Agreement. This Agreement 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.
- i) 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 this Agreement shall be read and constructed without the invalid, void, or unenforceable provision(s).
- j) 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.

- k) Legal Representation. All Parties have been represented by counsel in the preparation and negotiation of this Agreement. Accordingly, this Agreement shall be construed according to its fair language.
  
- l) Agency Authorization. Each of the persons signing below on behalf of a Party represents and warrants that he or she is authorized to sign this Agreement on behalf of such Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on their behalf, respectively, as follows:

DATE: \_\_\_\_\_

CITY OF ARCADIA

\_\_\_\_\_  
City Official

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DATE: \_\_\_\_\_

GATEWAY CITIES COUNCIL OF  
GOVERNMENTS

\_\_\_\_\_  
Gil Hurtado President

ATTEST:

\_\_\_\_\_  
Richard Powers, Secretary

**EXHIBIT "A"**  
**SCOPE OF SERVICES**  
**COPPER WATER-EFFECTS RATIO AND LEAD RECALCULATION STUDY**  
**LOS ANGELES RIVER METALS TMDL**

**Task 1. Implement Final Work Plan**

- Task 1.1 Finalize sampling schedule and coordinate toxicity and chemistry laboratories as well as sampling sub-consultants to review sample collection and analysis procedures.
- Task 1.2 Provide support to Metals TMDL Coordinated Monitoring Program (CMP) staff for the collection and analysis of dry weather BML samples in coordination of the CMP events. Conduct analysis of BLM samples collected during wet weather through Task 1.3. This task is optional and if the Steering Committee chooses to implement this aspect of the scope of work, LWA will work with the CMP members to determine if it is feasible given the current CMP work load.
- Task 1.3 Conduct WER sampling, and coordinate toxicity and chemistry testing by qualified labs. The cost estimate provided is based on the comments received to date and the current approach to addressing the comments. This approach is still under discussion with the Regional Board and the TAX. The key assumptions made in the cost estimate are provided in the cost estimate section below.
- Task 1.4 Conduct additional toxicity testing and general chemistry analysis (hardness and Total Suspended Solids) to evaluate potential effects of the 2009 Station Fire on WER testing in the Arroyo Seco and Verdugo Wash
- Task 1.5 Receive, review and QA/QC WER water quality toxicity testing data.
- Task 1.6 Conduct a meeting with the Stakeholder Committee, to review the results of sampling data in the midpoint of the sample collection effort.

Costs - \$969,626.00

**Task 2 Develop Final Reports**

- Task 2.1 Develop a Preliminary Draft Lead Recalculation Report and conduct a conference call with Los Angeles River Metals TMDL Technical Committee (TC). The draft report will summarize the data utilized, the analysis conducted, and the results of the recalculation of the lead criteria as outlined in the Final Work Plan.
- Task 2.2 Conduct a conference call with TC designee, Regional Board staff and TAC to discuss the Preliminary Draft Recalculation Report.
- Task 2.3 Revise the Preliminary Draft Lead Recalculation based on comments received by the Regional Board staff, TAC, and a conference call with the TC.

- Task 2.4 Conduct a meeting with the Stakeholder Committee to review the Draft Recalculation Report.
- Task 2.5 Finalize the Lead Recalculation based on comments received by the Stakeholder Committee and conduct a conference call with TC.
- Task 2.6 Develop a WER Calculation Memorandum presenting the WER data for each sample and propose final WER calculation methods. The final WER calculation method details how each WER sample will be determining the final WER. The memorandum is used as the basis for the approach to calculating the final WERs. Conduct conference call with the TC.
- Task 2.7 Conduct a conference call with TC designee, Regional Board staff and TAC to discuss the WER Calculation Memorandum.
- Task 2.8 Develop a Preliminary Draft WER Report that summarizes the sampling activities, details the analysis conducted per the Work Plan, provides the information required by the Interim Guidance, and presents the resulting final WERs as outlined in the Work Plan. This report is intended to embody the technical requirements of developing a SSO based on the Interim Guidance. Conduct a conference call with TC.
- Task 2.9 Conduct a conference call with TC designee, Regional Board staff and TAC to discuss the Preliminary Draft WER Report.
- Task 2.10 Revise the Preliminary Draft WER Report and conduct a conference call with TC.
- Task 2.11 Conduct a meeting with the Stakeholder Committee to review the Draft WER Report.
- Task 2.12 Finalize the Draft WER Report based on comments received by the Stakeholder Committee and conduct a conference call with the TC.
- Task 2.13 Conduct a meeting (in person or via conference call) with the TC designee, Regional Board, and TAC (via conference call) to finalize the WER report.
- Task 2.14 Develop Implementation Report that summarizes additional analysis conducted to support the implementation of the SSO's as outlined in the Final Work Plan. This report is intended to embody the policy based requirements of implementing SSOs based on the results of conducting a WER Study and Lead Recalculation. Conduct a conference call with TC.
- Task 2.15 Conduct a meeting with the Stakeholder Committee to review the Draft Implementation Report.
- Task 2.16 Finalize the Draft Implementation Report based on comments received by the Stakeholder Committee and conduct a conference call with the TC.
- Task 2.17 Provide support to the Regional Board staff during the State Board peer review process. It is unclear the extent to which the Regional Board would require support, as such a rough estimate is provided.

Cost - \$391,855.00

**Task 3      Develop and Support WER Basin Plan Amendment**

- Task 3.1      Prepare a Draft Basin Plan Amendment (BPA) and environmental review for Regional Board consideration and comment for appropriately adjusting water quality objectives for metals of concern in the reaches/tributaries of concern. Conduct a conference call with TC.
- Task 3.2      Revise Draft BPA and submit to Regional Board for 45-day posting.
- Task 3.3      Develop comments on the tentative BPA, if necessary.
- Task 3.4      Prepare response to 45-day posting comments, revise Draft BPA, if necessary, and submit to Regional Board for adoption hearing.
- Task 3.5      Attend Regional Board adoption hearing(s).
- Task 3.6      Prepare the administrative record for the State Board hearing.

Cost - \$35,804.00

**Task 4      Project Management**

Cost - \$21,827 (Estimated \$7,300 annually)



**Exhibit A**

Task No	Task	LWA Costs	TAC Costs	Sampling Sub	Outreach Costs	Chem Analysis	Toxicity Testing	Total
1	Implement WER Work Plan	\$291,055		\$147,770	\$8,000	\$252,918	\$237,918	\$937,313
2	Recalculate WER/ Implementation Report	\$284,406	\$66,000	\$2,240	\$28,000		\$6,092	\$386,738
3	Develop & Support BPA	\$35,804						\$35,804
4	PM & Contract Admin	\$21,827						\$21,827
<b>Total</b>		<b>\$633,247</b>	<b>\$66,000</b>	<b>\$150,010</b>	<b>\$36,000</b>	<b>\$252,918</b>	<b>\$243,663</b>	<b>\$1,381,837</b>
	LWA 5% markup	\$633,247	\$69,300	\$157,511	\$37,800	\$265,563	\$255,846	\$1,419,267

Note: Incorporated by reference into the Scope of Work are the following documents:

- 1) Work Plan for Recalculation and Water-Effect Ratio to Support Implementation of the Los Angeles River and Tributaries Metals TMDL, Larry Walker Associates, March 31, 2010
- 2) Final State Implementation Policy (SIP) Justification Report for: Site-Specific Objectives for Copper and Lead to Support Implementation of the Los Angeles River and Tributaries Metals TMDL, Larry Walker Associates, March 31, 2010
- 3) Based on the LWA letter of July 27, 2010, Scope and Cost Estimate to Implement a Copper Water-Effect Ratio and Lead Recalculation Special Study in Support of the Los Angeles River Metals TMDL

**EXHIBIT "B"**

**PROJECT MANAGEMENT RELATED TO THE SPECIAL STUDIES  
LOS ANGELES RIVER WER AND RECALCULATION STUDY**

**Task 1 Review of Draft Documents**

Based on the draft LWA scope of work for the special studies, a number of documents will require review as follows:

- Sampling schedule and plan
- WER final work plan (after incorporation of Regional Board and TAC edits)
- Lead recalculation report (preliminary draft, revised draft and final report)
- WER calculation memorandum proposing final WER edits
- WER report (preliminary, draft, revised draft and final report)
- Basin Plan Amendment (draft and final)
- Administrative record (following study completion and adoption of Basin Plan Amendment)

Cost – The total budget for document review is estimated at \$32,835 (current year dollars)

**Task 2 Participation in meetings and conference calls**

A number of conference calls and meetings have been identified in the draft LWA scope of work, as follows:

- Meeting to discuss Regional Board and TAX comments on the draft work plan
- Midpoint meeting with Stakeholder Committee to review sampling results
- Three (3) conference calls and one (1) meeting related to the lead recalculation report
- Two (2) conference calls related to the WER calculation memorandum
- Four (4) conference calls and two (2) meetings associated with the WER report
- Two (2) conference calls and three (3) meetings associated with the implementation report
- Two (2) conference calls associated with the Basin Plan Amendment
- One (1) Regional Board hearing for consideration of the Basin Plan Amendment

Cost – The cost estimate for this work is \$35,630 (current year dollars)

**Exhibit "B"**  
**Project Management**

**Task 3      Project management and coordination**

This special study is estimated to involve four (4) hours of project management and coordination with the Steering and Technical Committees per month, and that the total duration will be three years (36) months.

Cost - \$32,960 (current years dollars)

**Fiscal Year Budget Estimates (with 5% cost escalation per year for years 2 &3)**

FY2010-2011 -	\$30,300
FY2011-2012 -	\$31,900
FY2012-2013 -	\$44,750
Total	\$107,000

Exhibit C

City	Watershed Area sq miles	Percentage	FY 2010-1			FY 2011-2			FY 2012-3			Total Estimated Costs per Agreement Term \$0.00
			Apportionment** Base Rate	Invoice Amount	Apportionment** Base Rate	Invoice Amount	Apportionment** Base Rate	Invoice Amount	Apportionment** Base Rate	Invoice Amount		
Alhambra	7.6	1.22583%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00
Arcadia	10.93	1.76293%	\$6,886	\$21,217	\$28,103	\$3,763	\$12,152	\$15,915	\$492	\$1,589	\$2,081	\$46,099.67
Bell	2.74	0.44194%	\$6,886	\$5,319	\$12,205	\$3,763	\$3,046	\$6,810	\$492	\$398	\$890	\$19,905.24
Bell Gardens	2.48	0.40001%	\$6,886	\$4,814	\$11,700	\$3,763	\$2,757	\$6,521	\$492	\$361	\$953	\$19,073.67
Bradbury	1.4	0.22581%	\$6,886	\$2,718	\$9,604	\$3,763	\$1,597	\$5,320	\$492	\$204	\$696	\$16,619.46
Burbank	17.35	2.79843%	\$6,886	\$33,679	\$40,566	\$3,763	\$19,290	\$23,053	\$492	\$2,522	\$3,015	\$66,633.04
Caltrans	11.24	1.81293%	\$6,886	\$21,819	\$28,705	\$3,763	\$12,497	\$16,260	\$492	\$1,634	\$2,126	\$47,091.16
Calabasas	5.58	0.90001%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00
Carson	0.88	0.14194%	\$6,886	\$1,708	\$8,595	\$3,763	\$978	\$4,742	\$492	\$128	\$820	\$13,966.32
Commerce	6.56	1.05808%	\$6,886	\$12,734	\$19,620	\$3,763	\$7,293	\$11,057	\$492	\$954	\$1,446	\$32,122.91
Compton	8.6	1.38712%	\$6,886	\$16,694	\$23,580	\$3,763	\$9,591	\$13,325	\$492	\$1,250	\$1,742	\$38,647.53
Cudahy	1.12	0.18065%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00
Downey	5.66	0.91292%	\$6,886	\$10,987	\$17,873	\$3,763	\$6,293	\$10,056	\$492	\$823	\$1,315	\$29,244.40
Duarte	2.3	0.37097%	\$6,886	\$4,465	\$11,351	\$3,763	\$2,557	\$6,320	\$492	\$334	\$826	\$18,497.97
El Monte	6.97	1.12421%	\$6,886	\$13,530	\$20,416	\$3,763	\$7,749	\$11,513	\$492	\$1,013	\$1,505	\$33,434.23
Glendale	30.62	4.93879%	\$6,886	\$59,438	\$66,325	\$3,763	\$34,043	\$37,806	\$492	\$4,452	\$4,944	\$109,075.06
Hidden Hills	1.57	0.25323%	\$6,886	\$3,048	\$9,934	\$3,763	\$1,746	\$5,509	\$492	\$228	\$720	\$16,163.17
Huntington Park	3.03	0.48872%	\$6,886	\$5,882	\$12,768	\$3,763	\$3,369	\$7,132	\$492	\$441	\$933	\$20,832.76
Inwandle	1.89	0.30484%	\$6,886	\$3,669	\$10,555	\$3,763	\$2,101	\$5,865	\$492	\$275	\$767	\$17,186.64
La Canada Flintridge	8.57	1.38228%	\$6,886	\$16,636	\$23,522	\$3,763	\$9,528	\$13,291	\$492	\$1,246	\$1,738	\$38,551.58
Long Beach	16.66	2.68714%	\$6,886	\$32,340	\$39,226	\$3,763	\$18,522	\$22,286	\$492	\$2,422	\$2,914	\$64,426.18
Los Angeles	281.44	45.39428%	***	***	***	\$3,763	\$249,548	\$253,312	\$492	\$40,917	\$41,409	\$294,720.65
Lynwood	4.85	0.78227%	\$6,886	\$9,415	\$16,307	\$3,763	\$5,392	\$9,156	\$492	\$705	\$1,197	\$26,665.74
Maywood	1.18	0.19033%	\$6,886	\$2,291	\$9,177	\$3,763	\$1,312	\$5,075	\$492	\$172	\$664	\$14,916.82
Monrovia	10.34	1.66777%	\$6,886	\$20,072	\$26,958	\$3,763	\$11,496	\$15,259	\$492	\$1,503	\$1,995	\$44,212.65
Montebello	8.36	1.34841%	\$6,886	\$16,228	\$23,114	\$3,763	\$9,295	\$13,058	\$492	\$1,215	\$1,708	\$37,879.93
Monterey Park	7.66	1.23550%	\$6,886	\$14,869	\$21,756	\$3,763	\$8,516	\$12,280	\$492	\$1,114	\$1,606	\$36,641.09
Paramount	4.34	0.70001%	\$6,886	\$8,425	\$15,311	\$3,763	\$4,825	\$8,589	\$492	\$631	\$1,123	\$26,022.59
Pasadena	22.7	3.66135%	\$6,886	\$44,064	\$50,951	\$3,763	\$25,238	\$29,001	\$492	\$3,300	\$3,792	\$83,744.18
Pico Rivera	3.12	0.50323%	\$6,886	\$6,056	\$12,943	\$3,763	\$3,469	\$7,232	\$492	\$454	\$946	\$21,120.61
Rosemead	5.14	0.82905%	\$6,886	\$9,978	\$16,864	\$3,763	\$5,715	\$9,478	\$492	\$747	\$1,239	\$27,581.26
San Fernando	2.41	0.38872%	\$6,886	\$4,678	\$11,565	\$3,763	\$2,679	\$6,443	\$492	\$350	\$842	\$18,849.78
San Gabriel	4.12	0.66453%	\$6,886	\$7,998	\$14,884	\$3,763	\$4,581	\$8,344	\$492	\$599	\$1,091	\$24,318.95
San Marino	3.76	0.60646%	\$6,886	\$7,299	\$14,185	\$3,763	\$4,190	\$7,944	\$492	\$547	\$1,039	\$23,167.65
Sierra Madre	2.99	0.48227%	\$6,886	\$5,804	\$12,690	\$3,763	\$3,324	\$7,088	\$492	\$435	\$927	\$20,704.82
Signal Hill	1.13	0.18226%	\$6,886	\$2,194	\$9,080	\$3,763	\$1,256	\$5,020	\$492	\$164	\$656	\$14,765.90
South El Monte	2.09	0.33710%	\$6,886	\$4,057	\$10,943	\$3,763	\$2,324	\$6,087	\$492	\$304	\$796	\$17,826.31
South Gate	7.48	1.20647%	\$6,886	\$14,520	\$21,406	\$3,763	\$8,316	\$12,090	\$492	\$1,087	\$1,580	\$35,065.39
South Pasadena	3.43	0.55323%	\$6,886	\$6,658	\$13,545	\$3,763	\$3,813	\$7,577	\$492	\$499	\$991	\$22,112.09
Temple City	4.01	0.64678%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00
Vernon	5.08	0.81937%	\$6,886	\$9,861	\$16,747	\$3,763	\$5,648	\$9,411	\$492	\$739	\$1,231	\$27,389.36
LA County Unincorp.	80.61	13.00182%	\$6,886	\$156,477	\$163,364	\$3,763	\$89,622	\$93,365	\$492	\$11,719	\$12,211	\$266,960.28
<b>Total</b>	<b>619.99</b>	<b>100.00000%</b>	<b>\$254,793</b>	<b>\$511,068</b>	<b>\$765,881</b>	<b>\$143,007</b>	<b>\$546,309</b>	<b>\$689,316</b>	<b>\$18,700</b>	<b>\$79,723</b>	<b>\$98,423</b>	<b>\$1,553,600.00</b>

\* Based on total costs of \$2,165,000, which includes administrative, management, and oversight, but no CPI adjustment.  
 \*\* \$500/\$100,000 of annual base costs, with already expended costs front loaded  
 \*\*\* City of Los Angeles is credited \$548,045 in the first year and \$63,355 in the second year, in repayment of \$611,400 WER Development costs.  
 WER Development = \$611,400.00  
 Estimated Study Cost = \$2,165,000.00

**EXHIBIT "D"**  
**PARTICIPATING ENTITIES**  
**LOS ANGELES RIVER METALS TMDL**  
**SPECIAL STUDIES**

- |                                  |                              |
|----------------------------------|------------------------------|
| 1) City of Arcadia               | 20) City of Lynwood          |
| 2) City of Bell                  | 21) City of Maywood          |
| 3) City of Bell Gardens          | 22) City of Monrovia         |
| 4) City of Bradbury              | 23) City of Montebello       |
| 5) City of Burbank               | 24) City of Monterey Park    |
| 6) Caltrans                      | 25) City of Paramount        |
| 7) City of Carson                | 26) City of Pasadena         |
| 8) City of Commerce              | 27) City of Pico Rivera      |
| 9) City of Compton               | 28) City of Rosemead         |
| 10) City of Downey               | 29) City of San Fernando     |
| 11) City of Duarte               | 30) City of San Gabriel      |
| 12) City of El Monte             | 31) City of San Marino       |
| 13) City of Glendale             | 32) City of Sierra Madre     |
| 14) City of Hidden Hills         | 33) City of Signal Hill      |
| 15) City of Huntington Park      | 34) City of South El Monte   |
| 16) City of Irwindale            | 35) City of South Gate       |
| 17) City of La Canada Flintridge | 36) City of South Pasadena   |
| 18) City of Long Beach           | 37) City of Vernon           |
| 19) City of Los Angeles          | 38) LA County Unincorporated |

**IX. REPORTS  
ITEM B**

**Agreement for Consulting Services by  
and Between Gateway Cities Council of  
Governments and Larry Walker  
Associates for Special Study for the Los  
Angeles Rivers Metals TMDL**

**TO:** Board of Directors

**FROM:** Richard R. Powers, Executive Director

**BY:** Ken Farfsing, Chair, City Managers Steering Committee

**SUBJECT:** Agreement for Consulting Services by and Between Gateway Cities Council of Governments and Larry Walker Associates for Special Study for the Los Angeles River Metal TMDL

### **Background**

The GCCOG Board will consider entering into an agreement for consulting services with Larry Walker Associates (LWA), a scientific firm with expertise in water quality. LWA will complete a scientific study of copper and lead toxicity on the Los Angeles River, relying on U.S. EPA scientific protocol. The study is necessary in order to properly characterize the toxicity of both storm water discharges and dry-season flows from the local storm drain system into the Los Angeles River and its tributaries. The LWA contract is related to the Board of Director's approval of the Memorandum of Agreements (MOAs) with the Los Angeles River watershed communities, Los Angeles County and Caltrans, to fund the study. (Please refer to the GCCOG's report on the MOA's for the background and need for the Special Studies, as well as the costs and the role of the GCCOG).

The watershed's city managers, Los Angeles County officials and Caltrans staff recommends contracting with LWA based upon the successful completion of the Preliminary WER/Recalculation study in 2009 by LWA. The City of Los Angeles funded this scientific effort, with no financial support from the other cities, Los Angeles County or Caltrans. The results of the preliminary study concluded that adjustments to copper levels can be made, while still being protective of water quality. These adjustments are important, since they will determine the extent and type of water quality improvements constructed by the cities.

### **Work Plan for the Copper WER/Lead Recalculation**

LWA is proposing a three-year study, estimated to cost \$1,419,267. The City of Los Angeles would receive a credit for \$611,400 towards the Special Studies based on their funding of the Preliminary WER/Recalculation Study. The Special Studies work plan includes species and test selection, toxicity testing in a local laboratory environment, field measurements, dissolved metals field filtration, quality control and other tasks. A more detailed work plan is contained in Exhibit A of the contract. In addition, two detailed documents were submitted to the Regional Board on May 5, 2010 (Work Plan for Recalculation and Water-Effect Ratio to Support Implementation of the Los Angeles River and Tributaries Metals TMDL – March 31, 2010 and Final State Implementation Policy (SIP) Justification Report for: Site-Specific Objectives for Copper and Lead to Support

Implementation of the Los Angeles River and Tributaries Metals TMDL – March 31, 2010). A scientific peer review panel has been assembled to monitoring the studies. The work also plan includes the drafting of a Basin Plan Amendment, the Site Specific Objectives and preparation of the environmental analysis.

### Station Fire Impacts

Approximately 20% of the Los Angeles River watershed was burned in the summer of 2009 as a result of the Station Fire. Data from local burn areas studied in the past indicate that runoff is likely to increase during rain events after the burns. Metals concentrations in storm flows are highly variable, both before and after fires, but cities in the upper watershed expressed concern about sediments from the fire damaged hillside skewing the WER/Recalculation. LWA and the scientific advisor for the Metals TMDL Steering Committee are recommending additional precautions. These include collecting samples from the Station Fire area (primarily the Arroyo Seco and the Verdugo Wash) at the same time that samples are taken in other tributaries and the main river in order to monitor the fire results. Additional samples would be taken in Year Two, in order to also compare the toxicity over a two-year period.

### State Implementation Policy – Justification Report

The Regional Board and the environmental community requested that the watershed communities prepare a State Implementation Policy Justification Report (SIP Report). The SIP Report would review all relevant federal and state plans, policies, laws and regulations in light of the results of the Special Study. The SIP Report would also review current technology and technology-based controls for storm water and urban runoff, including source controls, city ordinances, structural BMPs, treatment facilities and a summary of the existing BMPs and controls in the Los Angeles River.

### Funding

Over 97% of the watershed's communities voted to move forward on the LWA contracts (only the Cities of Alhambra, Calabasas, Cudahy and Temple City declined to participate). The total cost of LWA's contract is \$1,416,267. The funding has been divided into three fiscal years in order to assist cities in spreading the costs of the study. The work plan tasks are the following:

Task 1 – Implement WER Work Plan (including LWA costs, sampling contractor, chemical analysis and toxicity testing) - \$969,626.

Task 2 – Develop Recalculation WER and Implementation Reports (including LWA costs, Technical Advisory Committee and Outreach) – 386,738.

Task 3 – Develop and Support the Basin Plan Amendment – LWA costs of \$35,804



Task 4 – Project Management and Contract Administration - \$21,827 over the three year period.

The cities, Los Angeles County and Caltrans voted to rely on the funding formula that was previously approved by the watershed's local governments in 2007, implementing the Coordinated Monitoring Plan.

#### GCCOG Role

The GCCOG's role includes invoicing the watershed's communities for the LWA contracted costs and payment of LWA's invoices. Work will not commence until full payments have been received from the cities, Los Angeles County and Caltrans, based on the fiscal year billing. Fiscal Year Billing is estimated at \$725,561 for FY2010-2011, \$647,366 for FY2011-2012 and \$43,673 for FY2012-2013. (Please see the MOA staff report for details of the responsibilities of the GCCOG and the watershed communities).

#### Attachment

Agreement for Consultant Services – Larry Walker Associates

#### Recommended Action

Approve the Contract for Consultant Services with Larry Walker Associates, subject to final review by the GCCOG's General Counsel, and authorize the GCCOG Board President to execute.

**AGREEMENT FOR CONSULTING SERVICES  
BY AND BETWEEN  
GATEWAY CITIES COUNCIL OF GOVERNMENTS  
AND  
LARRY WALKER ASSOCIATES INC.**

THIS AGREEMENT FOR CONSULTING SERVICES ("Agreement") is made and entered into as of September 1, 2010 , 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 Larry Walker Associates, Inc., a California corporation ("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 September 1, 2010 and shall terminate on September 1, 2014.

Section 3. Scope of Services. Consultant agrees to perform the services set forth in the Proposal attached hereto as Exhibit "A" 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 nor 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, review of materials by relevant regulatory agencies (i.e., California State Regional Water Quality Control Board, State Water Resources Control Board, or United States Environmental Protection Agency) 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.

- (a) Agency agrees to pay Consultant in accordance with Exhibit A. Consultant shall invoice Agency on a monthly basis. Invoices shall be prepared in such form and supported by such copies of invoices, payrolls, time sheets, and other documents of proof as may be reasonably required by Agency to establish the amount of such invoices as being allowable. All such invoices shall be subject to audit. Agency shall independently review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event any charges or expenses are not disputed, the invoice shall be approved and paid. In the event any charges or expenses are disputed by Agency, Agency shall withhold that portion of the invoice that is in dispute and remit the remainder.
- (b) Consultant and Agency agree that no indebtedness for work performed which results in costs under this Agreement shall arise against Agency until and unless there is appropriation of funds to pay for such work.

(c) Costs incurred by the Consultant prior to execution of this Agreement shall only be payable to the Consultant if said costs were incurred in completing any task specifically authorized by this Agreement, said costs are reviewed and approved by Agency as set forth in this Agreement, and approval for payment occurs after the Agreement is fully executed.

(d) The cost ceiling for all services called for in this Agreement shall be \$1,419,267.

Section 8. Representatives. Richard Powers or his 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. Malcolm Walker 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 sub-consultants (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 sub-consultants 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 sub-consultant 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 Chris Minton as the project manager. Consultant acknowledges that the expertise and experience of Chris Minton 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:

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To Agency: Executive Director  
Gateway Cities Council of Governments  
16401 Paramount Blvd  
Paramount, CA 90723

To Consultant: Chris Minton  
720 Wilshire Blvd, Suite 204  
Santa Monica, CA 90401

(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.

(o) Definitions. It is understood that the following words and phrases are used herein; each shall have the meaning set forth opposite the same:

Agreement

This Agreement between the Gateway Cities Council of Governments and Consultant to implement the Work Plan for Recalculation and Water-Effect Ratio to Support Implementation of the Los Angeles River and Tributaries Metals TMDL dated March 31, 2010.



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BMP	Best Management Practice
BPA	Basin Plan Amendment
Consultant	Consultant (Larry Walker Associates [LWA])
Regional Board	Los Angeles Regional Water Quality Control Board
NPDES	National Pollutant Discharge Elimination System
Project	Technical and professional services provided for developing the Metals Total Maximum Daily Load Compliance Strategy Plan for the participating cities' stormwater programs
Agency	The Gateway Cities Council of Governments, on behalf of cities/agencies who have executed Memorandums of Agreement for the purposes of this project. These cities/agencies are listed in Exhibit B attached hereto and incorporated by this reference.
Sub-consultant	An individual or company having an agreement with Consultant to provide services, equipment, or materials to Consultant.
Steering Committee	Representatives from participating City management, County, Caltrans and public works officials that will provide project management, distribute information and an interface with the Consultant.
SIP	Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, Estuaries of California (State Implementation Policy) amended February 2005.
SSO	Site Specific Objectives authorized under the Code of Federal Regulations (CFR) 40 CFR 131,11(b)(ii)
Technical Committee	Staff representatives from the participating cities, County and Caltrans that will provide technical expertise to the Consultant and to the Steering Committee.
TMDL	Total Maximum Daily Load
WER	Water-Effect Ratio based on USEPA's Interim Guidance on Determination and Use of Water-Effects Ratios for Metals (USEPA1994b)

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**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**

---

GIL HURTADO  
President

**ATTEST:**

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RICHARD R. POWERS  
Secretary

**APPROVED AS TO FORM:**

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RICHARD D. JONES  
Legal Counsel

**CONSULTANT**

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MALCOLM WALKER  
Vice President

**EXHIBIT "A"**  
**SCOPE OF SERVICES**  
**COPPER WATER-EFFECTS RATIO AND LEAD RECALCULATION STUDY**  
**LOS ANGELES RIVER METALS TMDL**

**Task 1. Implement Final Work Plan**

- Task 1.1 Finalize sampling schedule and coordinate toxicity and chemistry laboratories as well as sampling sub-consultants to review sample collection and analysis procedures.
- Task 1.2 Provide support to Metals TMDL Coordinated Monitoring Program (CMP) staff for the collection and analysis of dry weather BML samples in coordination of the CMP events. Conduct analysis of BLM samples collected during wet weather through Task 1.3. This task is optional and if the Steering Committee chooses to implement this aspect of the scope of work, LWA will work with the CMP members to determine if it is feasible given the current CMP work load.
- Task 1.3 Conduct WER sampling, and coordinate toxicity and chemistry testing by qualified labs. The cost estimate provided is based on the comments received to date and the current approach to addressing the comments. This approach is still under discussion with the Regional Board and the TAX. The key assumptions made in the cost estimate are provided in the cost estimate section below.
- Task 1.4 Conduct additional toxicity testing and general chemistry analysis (hardness and Total Suspended Solids) to evaluate potential effects of the 2009 Station Fire on WER testing in the Arroyo Seco and Verdugo Wash
- Task 1.5 Receive, review and QA/QC WER water quality toxicity testing data.
- Task 1.6 Conduct a meeting with the Stakeholder Committee, to review the results of sampling data in the midpoint of the sample collection effort.

Costs - \$969,626.00

**Task 2 Develop Final Reports**

- Task 2.1 Develop a Preliminary Draft Lead Recalculation Report and conduct a conference call with Los Angeles River Metals TMDL Technical Committee (TC). The draft report will summarize the data utilized, the analysis conducted, and the results of the recalculation of the lead criteria as outlined in the Final Work Plan.
- Task 2.2 Conduct a conference call with TC designee, Regional Board staff and TAC to discuss the Preliminary Draft Recalculation Report.
- Task 2.3 Revise the Preliminary Draft Lead Recalculation based on comments received by the Regional Board staff, TAC, and a conference call with the TC.

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- Task 2.4 Conduct a meeting with the Stakeholder Committee to review the Draft Recalculation Report.
  - Task 2.5 Finalize the Lead Recalculation based on comments received by the Stakeholder Committee and conduct a conference call with TC.
  - Task 2.6 Develop a WER Calculation Memorandum presenting the WER data for each sample and propose final WER calculation methods. The final WER calculation method details how each WER sample will be determining the final WER. The memorandum is used as the basis for the approach to calculating the final WERs. Conduct conference call with the TC.
  - Task 2.7 Conduct a conference call with TC designee, Regional Board staff and TAC to discuss the WER Calculation Memorandum.
  - Task 2.8 Develop a Preliminary Draft WER Report that summarizes the sampling activities, details the analysis conducted per the Work Plan, provides the information required by the Interim Guidance, and presents the resulting final WERs as outlined in the Work Plan. This report is intended to embody the technical requirements of developing a SSO based on the Interim Guidance. Conduct a conference call with TC.
  - Task 2.9 Conduct a conference call with TC designee, Regional Board staff and TAC to discuss the Preliminary Draft WER Report.
  - Task 2.10 Revise the Preliminary Draft WER Report and conduct a conference call with TC.
  - Task 2.11 Conduct a meeting with the Stakeholder Committee to review the Draft WER Report.
  - Task 2.12 Finalize the Draft WER Report based on comments received by the Stakeholder Committee and conduct a conference call with the TC.
  - Task 2.13 Conduct a meeting (in person or via conference call) with the TC designee, Regional Board, and TAC (via conference call) to finalize the WER report.
  - Task 2.14 Develop Implementation Report that summarizes additional analysis conducted to support the implementation of the SSO's as outlined in the Final Work Plan. This report is intended to embody the policy based requirements of implementing SSOs based on the results of conducting a WER Study and Lead Recalculation. Conduct a conference call with TC.
  - Task 2.15 Conduct a meeting with the Stakeholder Committee to review the Draft Implementation Report.
  - Task 2.16 Finalize the Draft Implementation Report based on comments received by the Stakeholder Committee and conduct a conference call with the TC.
  - Task 2.17 Provide support to the Regional Board staff during the State Board peer review process. It is unclear the extent to which the Regional Board would require support, as such a rough estimate is provided.

Cost - \$391,855.00

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**Task 3      Develop and Support WER Basin Plan Amendment**

- Task 3.1      Prepare a Draft Basin Plan Amendment (BPA) and environmental review for Regional Board consideration and comment for appropriately adjusting water quality objectives for metals of concern in the reaches/tributaries of concern. Conduct a conference call with TC.
- Task 3.2      Revise Draft BPA and submit to Regional Board for 45-day posting.
- Task 3.3      Develop comments on the tentative BPA, if necessary.
- Task 3.4      Prepare response to 45-day posting comments, revise Draft BPA, if necessary, and submit to Regional Board for adoption hearing.
- Task 3.5      Attend Regional Board adoption hearing(s).
- Task 3.6      Prepare the administrative record for the State Board hearing.

Cost - \$35,804.00

**Task 4      Project Management**

Cost - \$21,827 (Estimated \$7,300 annually)

**Exhibit A  
Scope of Service – Copper WER &  
Lead Recalculation Study**

<b>Task No</b>	<b>Task</b>	<b>LWA Costs</b>	<b>TAC Costs</b>	<b>Sampling Sub</b>	<b>Outreach Costs</b>	<b>Chem Analysis</b>	<b>Toxicity Testing</b>	<b>Total</b>
<b>1</b>	<b>Implement WER Work Plan</b>	<b>\$291,055</b>		<b>\$147,770</b>	<b>\$8,000</b>	<b>\$252,918</b>	<b>\$237,918</b>	<b>\$937,313</b>
<b>2</b>	<b>Recalculate WER/ Implementation Report</b>	<b>\$284,406</b>	<b>\$66,000</b>	<b>\$2,240</b>	<b>\$28,000</b>		<b>\$6,092</b>	<b>\$386,738</b>
<b>3</b>	<b>Develop &amp; Support BPA</b>	<b>\$35,804</b>						<b>\$35,804</b>
<b>4</b>	<b>PM &amp; Contract Admin</b>	<b>\$21,827</b>						<b>\$21,827</b>
<b>Total</b>		<b>\$633,247</b>	<b>\$66,000</b>	<b>\$150,010</b>	<b>\$36,000</b>	<b>\$252,918</b>	<b>\$243,663</b>	<b>\$1,381,837</b>
	<b>LWA 5% markup</b>	<b>\$633,247</b>	<b>\$69,300</b>	<b>\$157,511</b>	<b>\$37,800</b>	<b>\$265,563</b>	<b>\$255,846</b>	<b>\$1,419,267</b>

Note: Incorporated by reference into the Scope of Work are the following documents:

- 4) Work Plan for Recalculation and Water-Effect Ratio to Support Implementation of the Los Angeles River and Tributaries Metals TMDL, Larry Walker Associates, March 31, 2010
- 5) Final State Implementation Policy (SIP) Justification Report for: Site-Specific Objectives for Copper and Lead to Support Implementation of the Los Angeles River and Tributaries Metals TMDL, Larry Walker Associates, March 31, 2010  
Based on the LWA letter of July 27, 2010, Scope and Cost Estimate to Implement a Copper Water-Effect Ratio and Lead Recalculation Special Study in Support of the Los Angeles River Metals TMDL

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**Exhibit B**  
**Participating Agencies**  
**Copper Water-Effects Ratio and Lead Recalculation Study**  
**Los Angeles River Metals TMDL**

- |                                  |                              |
|----------------------------------|------------------------------|
| 20) City of Arcadia              | 20) City of Lynwood          |
| 21) City of Bell                 | 21) City of Maywood          |
| 22) City of Bell Gardens         | 22) City of Monrovia         |
| 23) City of Bradbury             | 23) City of Montebello       |
| 24) City of Burbank              | 24) City of Monterey Park    |
| 25) Caltrans                     | 25) City of Paramount        |
| 26) City of Carson               | 26) City of Pasadena         |
| 27) City of Commerce             | 27) City of Pico Rivera      |
| 28) City of Compton              | 28) City of Rosemead         |
| 29) City of Downey               | 29) City of San Fernando     |
| 30) City of Duarte               | 30) City of San Gabriel      |
| 31) City of El Monte             | 31) City of San Marino       |
| 32) City of Glendale             | 32) City of Sierra Madre     |
| 33) City of Hidden Hills         | 33) City of Signal Hill      |
| 34) City of Huntington Park      | 34) City of South El Monte   |
| 35) City of Irwindale            | 35) City of South Gate       |
| 36) City of La Canada Flintridge | 36) City of South Pasadena   |
| 37) City of Long Beach           | 37) City of Vernon           |
| 38) City of Los Angeles          | 38) LA County Unincorporated |

## 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 or as approved by the GCCOG risk manager 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 insured's 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. Certificate of Insurance will provide 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. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to Agency. Professional liability deductible is \$50,000 per claim.
  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.

**IX. REPORTS  
ITEM C**

**Agreement for Consulting Services by  
and Between Gateway Cities Council of  
Governments and Flow Sciences  
Incorporated for Scientific Oversight of  
the Special Study for the Los Angeles  
River Metals TMDL**

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**TO:** Board of Directors

**FROM:** Richard R. Powers, Executive Director

**BY:** Ken Farfsing, Chair, City Managers Steering Committee

**SUBJECT:** Agreement for Consulting Services by and Between Gateway Cities Council of Governments and Flow Sciences Incorporated for Scientific Oversight of the Special Study for the Los Angeles River metals TMDL

### **Background**

The GCCOG will consider entering into an agreement for consulting services with Flow Science Incorporated (FSI), a scientific firm with expertise in water quality. FSI will assist the Technical and Steering Committee related to the development and implementation of the copper water effect ratio (WER) study and the lead recalculation study to be conducted in support of the Los Angeles River Metals TMDL. The GCCOG Board has a separate staff report discussing the role of Larry Walker Associates (LWA) in conducting the detailed WER and recalculation studies (see the Agreement for Consulting Services – Larry Walker Associates – Special Studies for the Los Angeles River Metals TMDL – August 3, 2010) and a report outline the need for the Special Studies (see Memorandum of Agreement – Special Studies – Los Angeles River Metals TMDL – August 3, 2010).

Local watershed managers, Los Angeles County and Caltrans officials formed a watershed management group in 2005 in order to determine if any special studies were warranted and to discuss how best to implement the Coordinated Monitoring Plan. The managers recommended the formation of both a Steering Committee, consisting of city managers and public works officials and a Technical Committee consisting of city staff assigned to storm water programs, to assist the Steering Committee. Dr. Susan Paulsen, of the scientific firm of FSI, was contacted to assist both the Steering Committee and the Technical Committee in the review of the special studies and in formulating the Coordinated Monitoring Plan.

With the assistance of Dr. Paulsen, the watershed management group recommended moving forward with a Copper WER/Lead Recalculation (Special Studies) in February of 2010 to be prepared by LWA. A science advisor is critical to the success of the Special Studies, since the cities, Los Angeles County and Caltrans will be investing over \$1.3 million in the overall scientific effort. City and agency staffs do not have the expertise in highly complex WER and recalculation studies.

FSI's role will be to review the sampling schedule and plan, review the revised and final WER and recalculation work plans, memorandums and reports. FSI will also review the Basin Plan Amendment and the State Implementation Policy Justification Report. FSI will also participate in meetings and conference calls with LWA, the Regional Board, the peer review committee, the Stakeholder Committee and with representatives from the Steering

and Technical Committee. Sufficient budget also exists for project management and coordination with the Steering and Technical Committee for the 35 month study period.

FSI estimates costs for FY2010-2011 at \$30,300; costs for FY2011-2012 at \$31,900; and costs for FY2012-2013 at \$44,750 for a total contract of \$107,000. The costs are based on their January 2009 professional service rates, which may be modified in the future. Any modification would be subject to approval of the GCCOG, after review by the Steering Committee.

**Attachment**

Agreement for Consultant Services with Flow Science Incorporated

**Recommended Action**

Approve the Contract for Consultant Services with Flow Science Incorporated, subject to final review and approval by the GCCOG's General Counsel, and authorize the GCCOG Board President to execute.

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

THIS AGREEMENT FOR CONSULTING SERVICES ("Agreement") is made and entered into as of August 3, 2010 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 Flow Science Incorporated, a California corporation ("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 September 1, 2010 and shall terminate on September 1, 2014.

Section 3. Scope of Services. Consultant agrees to perform the services set forth in the Proposal attached hereto as Exhibit "A" 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 nor 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, review of materials by relevant regulatory agencies (i.e., California State Regional Water Quality Control Board, State Water Resources Control Board, or United States Environmental Protection Agency) 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.

- (e) Agency agrees to pay Consultant in accordance with Exhibit A. Consultant shall invoice Agency on a monthly basis. Invoices shall be prepared in such form and supported by such copies of invoices, payrolls, time sheets, and other documents of proof as may be reasonably required by Agency to establish the amount of such invoices as being allowable. All such invoices shall be subject to audit. Agency shall independently review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event any charges or expenses are not disputed, the invoice shall be approved and paid. In the event any charges or expenses are disputed by Agency, Agency shall withhold that portion of the invoice that is in dispute and remit the remainder.
- (f) Consultant and Agency agree that no indebtedness for work performed which results in costs under this Agreement shall arise against Agency until and unless there is appropriation of funds to pay for such work.
- (g) Costs incurred by the Consultant prior to execution of this Agreement shall only be payable to the Consultant if said costs were incurred in completing any task specifically authorized by this Agreement, said costs are reviewed and approved by Agency as set forth in this Agreement, and approval for payment occurs after the Agreement is fully executed.
- (h) The cost ceiling for all services called for in this Agreement shall be \$107,000.



Section 8. Representatives. Richard Powers or his 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. Susan Paulsen 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 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 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 sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement. This provision shall not apply in advance of any finding of any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof).

(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 sub-consultants 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 sub-consultant 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 Susan Paulsen as the project manager. Consultant acknowledges that the expertise and experience of Susan Paulsen 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:                   Executive Director  
                                      Gateway Cities Council of Governments  
                                      16401 Paramount Blvd  
                                      Paramount, CA 90723

To Consultant:             Dr. Susan Paulsen

723 E. Green Street  
Pasadena, CA 91101

(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 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.

(o) Definitions. It is understood that the following words and phrases are used herein; each shall have the meaning set forth opposite the same:

Agreement	This Agreement between the Gateway Cities Council of Governments and Consultant to implement the Work Plan for Recalculation and Water-Effect Ratio to Support Implementation of the Los Angeles River and Tributaries Metals TMDL dated March 31, 2010.
BMP	Best Management Practice
Consultant	Consultant (Flow Science Incorporated)
Regional Board	Los Angeles Regional Water Quality Control Board
NPDES	National Pollutant Discharge Elimination System

Project	Technical and professional services provided for developing the Metals Total Maximum Daily Load Compliance Strategy Plan for the participating cities' stormwater programs
Agency	The Gateway Cities Council of Governments, on behalf of cities/agencies who have executed Memorandums of Agreement for the purposes of this project. These cities/agencies are listed in Exhibit B attached hereto and incorporated by this reference.
Sub-consultant	An individual or company having an agreement with Consultant to provide services, equipment, or materials to Consultant
Steering Committee	City management and public works officials that will provide project management and an interface between the cities and the Consultant.
Technical Committee	Staff representatives from the participating cities that will assist the Steering Committee in reviewing the technical and scientific issues behind the Special Study.
SIP	Policy for the Implementation of Toxic Standards for Inland surface Waters, Enclosed Bays, Estuaries of California (State Implementation Policy) amended February 2005
SSO	Site Specific Objectives authorized under the Code of Federal Regulations (CFR) 40 CFR 131.11(b)(ii)
TMDL	Total Maximum Daily Load
WER	Water-Effect Ratio based on USEPA's Interim Guidance on Determination and Use of Water-Effects Ratios for Metals (USEPA 1994b)

**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**

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GIL HURTADO  
President

**ATTEST:**

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RICHARD R. POWERS  
Secretary

**APPROVED AS TO FORM:**

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RICHARD D. JONES  
Legal Counsel

**CONSULTANT**

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SUSAN C. PAULSEN  
Vice President

**EXHIBIT "A"**

**PROPOSAL FOR CONSULTING SERVICES  
PROJECT MANAGEMENT RELATED TO THE SPECIAL STUDIES  
LOS ANGELES RIVER WER AND RECALCULATION STUDY**

**Task 1                      Review of Draft Documents**

Based on the draft LWA scope of work for the special studies, a number of documents will require review, as follows:

- Sampling schedule and plan
- WER final work plan (after incorporation of Regional Board and TAC edits)
- Lead recalculation report (preliminary draft, revised draft and final report)
- WER calculation memorandum proposing final WER edits
- WER report (preliminary, draft, revised draft, and final report)
- Basin Plan Amendment (draft and final)
- Administrative record (following study completion and adoption of Basin Plan amendment)

Cost – The total budget for document review is estimated at \$32,835 (current year dollars)

**Task 2                      Participation in meetings and conference calls**

A number of conference calls and meetings have been identified in the draft LWA scope of work, as follows:

- Meeting to discuss Regional Board and TAC comments on the draft work plan
- Midpoint meeting with Stakeholder Committee to review sampling results
- Three (3) conference calls and one (1) meeting related to the lead recalculation report
- Two (2) conference calls related to the WER calculation memorandum
- Four (4) conference calls and two (2) meetings associated with the WER report
- Two (2) conference calls and three (3) meetings associated with the implementation report
- Two (2) conference calls associated with the Basin Plan Amendment
- One (1) Regional Board hearing for consideration of the Basin Plan Amendment

Cost – The cost estimate for this work is \$35,630 (current year dollars)



**Task 3 Project management and coordination**

This Special Study is estimated to involve four (4) hours of project management and coordination with the Steering and Technical Committee per month, and that the total duration will be three years (36 months).

Cost - \$32,960 (current year dollars)

**Fiscal Year Budget Estimates (with 5% cost escalation per year for years 2 and 3)**

FY2010-2011 - \$30,300  
FY2011-2012 - \$31,900  
FY2012-2013 - \$44,750  
**Total \$107,000**

**Flow Science Incorporated – Schedule of Hourly Billing Rates  
(Effective January 2010)**

Professional

Principal Consultant \$250.00

Senior Engineer III \$235.00

Senior Engineer II \$180.00

Senior Engineer I \$150.00

Project Engineer III \$150.00

Project Engineer II \$140.00

Project Engineer I \$115.00

Associate Engineer III \$110.00

Associate Engineer II \$105.00

Associate Engineer I \$100.00

Assistant Engineer II \$90.00

Assistant Engineer I \$80.00

Senior Scientist III \$215.00

Senior Scientist II \$170.00

Senior Scientist I \$135.00

Project Scientist II \$120.00

Project Scientist I \$115.00

Managerial \$150.00

Clerical \$85.00

Expenses  
Mileage

At Cost  
IRS Rate

Rates will be increased by 5% per year for years 2 and 3 of the contract.

**EXHIBIT "B"**

**PARTICIPATING AGENCIES  
Copper Water-Effects Ratio and Lead Recalculation Study  
Los Angeles River Metals TMDL**

1

- |                                  |                            |
|----------------------------------|----------------------------|
| 1) City of Arcadia               | 20) City of Los Angeles    |
| 2) City of Bell                  | 21) City of Lynwood        |
| 3) City of Bell Gardens          | 22) City of Maywood        |
| 4) City of Bradbury              | 23) City of Monrovia       |
| 5) City of Burbank               | 24) City of Montebello     |
| 6) Caltrans                      | 25) City of Monterey Park  |
| 7) City of Calabasas             | 26) City of Paramount      |
| 8) City of Carson                | 27) City of Pasadena       |
| 9) City of Commerce              | 28) City of Pico Rivera    |
| 10) City of Compton              | 29) City of Rosemead       |
| 11) City of Downey               | 30) City of San Fernando   |
| 12) City of Duarte               | 31) City of San Gabriel    |
| 13) City of El Monte             | 32) City of San Marino     |
| 14) City of Glendale             | 33) City of Sierra Madre   |
| 15) City of Hidden Hills         | 34) City of South El Monte |
| 16) City of Huntington Park      | 35) City of South Gate     |
| 17) City of Irwindale            | 36) City of Signal Hill    |
| 18) City of La Canada Flintridge | 37) City of South El Monte |
| 19) City of Long Beach           | 38) City of South Pasadena |
|                                  | 39) City of Vernon         |
|                                  | 40) County Unincorporated  |

## 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" Consultant and must include a provision establishing the insurer's duty to defend Consultant. 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 or as approved by the GCCOG risk manager 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 insured's 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. Certificate of Insurance will provide 10 days notice to Agency prior to cancellation of such liability coverage , other than for nonpayment of premium, 30 days notice to Agency prior to any other cancellation of such liability coverage , and to require indemnifying parties to do likewise. In the event of any material alteration or non renewal of any such coverage, Consultant will provide Agency 30 days notice.
8. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Consultant, excepting Professional Liability and Workers' Compensation, 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. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to Agency. Professional liability deductible is \$25,000 per claim.
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 for 5 years from the completion of Consultant's work under this agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason.
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 seven business 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 Consultant or its Sub-consultants 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.

**IX. REPORTS  
ITEM D**

**Agreement for Consulting Services by  
and Between Gateway Cities Council of  
Governments and Cambridge Systematics  
for Development of a Subregional  
Sustainable Communities Strategy  
Under SB 375**



**TO:** Board of Directors

**FROM:** Richard Powers, Executive Director

**BY:** Ken Farfsing, Chair City Managers Steering Committee

**SUBJECT:** Consultant Selection Recommendation for Sustainable Communities Strategy (SCS) under SB 375

### **Background**

In January 2010, the GCCOG Board elected to prepare a sub regional Sustainable Communities Strategy (SCS) under SB 375 (2008). This decision was preceded by several months of Board study of this landmark legislation and completion of *A White Paper Addressing the Requirement of SB 375 at the Sub-Regional Level* (December 2009) by the GCCOG's planning, traffic engineering and air quality team of experts. The Board also approved a city assessment formula to provide the funding necessary to pay for consultant support needed to carry out this effort. The City Managers Steering Committee formed a subcommittee of managers, planning directors and public works officials to assist GCCOG staff in developing a request for proposal (RFP) to prepare the SCS, reviewing consultant proposals, interviewing consultants and in negotiating the work plan. We have attached to this memo a list of the city staff involved in the SCS Policy Development Committee (SCS Committee).

SB 375 legislates a strict compliance schedule on the CARB and the regional planning organizations. All planning organizations are struggling to meet the schedule. The schedule will require major effort on the part of the Board and the cities. The key milestones in implementing SB 375 are as follows:

- June 2010: ARB released draft regional target for GHG reductions in the SCAG region
- September 2010: ARB finalizes SCAG and other regional targets
- Spring 2011: SCAG finalizes growth forecast for inclusion in 2012 RTP/SCS
- June 2011: Sub regional SCS due from Gateway Cities to SCAG
- Fall 2011: SCAG releases draft RTP/SCS for public comment
- April 2012: SCAG approves final 2012 RTP/SCS

**Issue**

The GCCOG staff has now completed the competitive bidding process necessary to select a technical consultant team to assist the Gateway Cities in developing a sub regional SCS. The Scope of Work and RFP were posted on the COG web site and distributed to approximately 40 firms during the week of May 24<sup>th</sup>. Bids were due June 25<sup>th</sup> and a total of three teams submitted proposals as follows:

<b>Prime</b>	<b>Subs</b>	<b>Total, Required Tasks</b>	<b>Additional Optional Tasks</b>
<b>Cambridge Systematics, Inc.</b>	Moore Iacofano Goltsman, Inc. (MIG), Willdan Engineering, Urban Economics, Eric Schreffler (indiv. consultant)	\$539,974	\$254,291
<b>Design, Community &amp; Environment</b>	Iteris, Inc., Sespe Consulting, Economic & Planning Systems	\$429,059	\$197,473
<b>Hogle-Ireland, Inc.</b>	Rimpo & Associates, Iteris, Inc., AECOM	\$392,722	\$253,863

The SCS Committee met on July 8<sup>th</sup> to rank the proposals and decided that the proposals by Cambridge Systematics and Design, Community & Environment teams were responsive to the RFP. Interviews were held on July 15<sup>th</sup> by the SCS Committee.

Following the interviews, the Committee felt that Cambridge Systematics offered the best combination of approach and capabilities to assist the COG. The team proposed a bottom-up approach involving meetings with each of the member cities' planning staffs. The Cambridge team has analyzed and published a comprehensive report on a number of potential strategies that cities may find appropriate for consideration as part of the SCS. In particular, they will be able to assist the Gateway Cities in identifying a full range of potential strategies including land use and others. The Cambridge team also brings a strong technical analysis and modeling capability. This will enable the Gateway Cities to create a well supported SCS that is likely to be accepted by SCAG.

**Final Work Plan and Schedule**

The GCCOG staff and the SCS Committee met on July 23<sup>rd</sup> and July 27<sup>th</sup> with the Cambridge team to revise the proposed work plan. The final recommended project budget is \$373,246 which is a reduction of \$166,028 from the original proposal of \$539,274. Substantial savings were achieved by consolidation of workshops for the GCCOG planning

directors/public works officials, better tailoring the public outreach meetings to fit the GCCOG's needs, limiting consultant team travel and by eliminating redundant tasks. The SCS Committee is recommending a 10% standard contingency, for a total project budget of \$410,000.

The GCCOG Board has been interested in understanding the economic impacts of the SCS and in an inventory of the GHG reductions that the region has already implemented. These studies were included as optional items in the proposal, based on budget availability. The economic impact review would cost an additional \$19,843. The SCS Committee expressed concern that this was not a fiscal impact analysis on city services, but only examined the land use and market impacts of the SCS. The Committee also felt that this study should be re-examined and include the input of Cal State Long Beach Economic Department.

The review of prior actions would cost \$44,393 and the SCS Policy Committee felt that this review might be a bit premature. We believe that the consultants, GCCOG staff, the cities and the Board will be in a better position to decide on this study once the region has examined the GHG targets and has a draft SCS.

Once the contract is approved, the consultants will begin work by reviewing past relevant COG studies and organizing a kickoff workshop. The Board would be integrated into three of the five workshops (Kick-Off, First Draft SCS and Final Sub Regional SCS). A list of workshops can be found on Page 1-6 of the proposal. Two workshops with Planning Directors and Public Works Officers will be held to develop the technical content of the SCS. Periodic briefings will be provided to the Board.

It is anticipated that the Kick-Off Workshop would be in September. The Planning Directors and Public Works Officials Workshops would be in October and November. It is anticipated that the draft SCS would be available in January, with the four public outreach meetings scheduled in January and February. It is anticipated that these sub regional outreach meetings would be scheduled for the cities of Long Beach, Cerritos, Pico Rivera and South Gate. Cities would make their own decisions on whether to schedule local SCS meetings. The consultant team could be made available for these meetings, but each city would have to make separate payment arrangements.

#### Funding the SCS Effort

The GCCOG staff has attached the cost breakdown of the SCS for each city as an attachment to this report. The GCCOG staff is currently applying for two grants to assist in the funding of the SCS. However, the timing of these grants does not fit into the SB 375 mandated schedule, so city assessments will be necessary. The staff is applying for the US EPA's Climate Showcase Grant and the California Strategic Growth Council Sustainable Communities Planning Grant. EPA grant notification will be October, while the Growth Council's grant recipients will be notified in November. It may take two months for grant agreements to be put into place, if we receive these grants. The SCS Committee suggests dividing the assessment into two billings – September through January and

February through project completion. This will allow cities more flexibility, should the grants be approved.

It is estimated that 35% of the SCS budget revolves around finding suitable regional sites for affordable housing, RHNA compliance and quantifying GHG reductions due to changes in housing locations. This work includes direct consultant charges from Willdan and support services from MIG and Cambridge. Cities with redevelopment agencies should consider use of their low-moderate housing set-aside funds for this portion of their total costs. The GCCOG staff is also working with MTA staff to identify funding through the local return of Proposition R funds.

### **Attachments**

- Proposed contract and Scope of Work (including budget).
- SB 375 Assessment Schedule approved in January 2010.
- Membership of SCS Policy Development Committee.

### **Recommended Action**

Approve the consultant agreement, subject to final review by the GCCOG's General Counsel, and authorize the GCCOG Board President to execute.

**SB 375 Assessment Based on Flat Rate and Per Capita Assessment  
 (Based on \$410,000 in Estimated Total Costs)**

	Flat Rate	2009 Pop.	Pct of Total	Population Basis	Total
ARTESIA	\$ 7,884.62	17,551	1.00%	\$ 2,044.10	\$ 9,928.72
AVALON	7,884.62	3,540	0.20%	412.29	8,296.91
BELL	7,884.62	38,759	2.20%	4,514.13	12,398.74
BELL GARDENS	7,884.62	46,786	2.66%	5,449.00	13,333.62
BELLFLOWER	7,884.62	77,194	4.39%	8,990.52	16,875.13
CERRITOS	7,884.62	54,855	3.12%	6,388.77	14,273.39
COMMERCE	7,884.62	13,550	0.77%	1,578.12	9,462.74
COMPTON	7,884.62	99,431	5.65%	11,580.39	19,465.00
CUDAHY	7,884.62	25,880	1.47%	3,014.15	10,898.77
DOWNEY	7,884.62	113,469	6.45%	13,215.34	21,099.96
HAWAIIAN GARDENS	7,884.62	15,885	0.90%	1,850.07	9,734.69
HUNTINGTON PARK	7,884.62	64,617	3.67%	7,525.72	15,410.33
LA HABRA HEIGHTS	7,884.62	6,151	0.35%	716.39	8,601.00
LA MIRADA	7,884.62	49,939	2.84%	5,816.22	13,700.84
LAKWOOD	7,884.62	83,508	4.74%	9,725.89	17,610.50
LONG BEACH	7,884.62	492,682	27.99%	57,380.97	65,265.59
LYNWOOD	7,884.62	73,174	4.16%	8,522.32	16,406.94
MAYWOOD	7,884.62	29,984	1.70%	3,492.13	11,376.75
NORWALK	7,884.62	109,567	6.22%	12,760.89	20,645.51
PARAMOUNT	7,884.62	57,874	3.29%	6,740.39	14,625.00
PICO RIVERA	7,884.62	66,899	3.80%	7,791.50	15,676.11
SANTA FE SPRINGS	7,884.62	17,784	1.01%	2,071.24	9,955.86
SIGNAL HILL	7,884.62	11,430	0.65%	1,331.21	9,215.83
SOUTH GATE	7,884.62	102,770	5.84%	11,969.27	19,853.88
VERNON	7,884.62	95	0.01%	11.06	7,895.68
WHITTIER	7,884.62	86,788	4.93%	10,107.90	17,992.51
<b>TOTAL</b>	<b>\$ 205,000.00</b>	<b>1,760,162</b>	<b>100.00%</b>	<b>\$ 205,000.00</b>	<b>\$ 410,000.00</b>

**Gateway Cities SCS Policy Development Committee**

Subcommittee of City Managers Steering Committee

City Managers:

- Mike Egan, Bellflower
- Jorge Rifa, Commerce
- Tom Modica, Long Beach
- Ken Farfsing, Signal Hill
- Ron Bates, South Gate

Planning/Community Development Directors:

- Aldo Schindler, Bell Gardens
- Torrey Contreras, Cerritos
- Sonia Southwell, Lakewood
- Brian Saeki, Downey
- Reuben Arceo, La Mirada
- Steve Masura, Santa Fe Springs
- Don Dooley, Whittier

Liaison to the Gateway Cities Public Works Officers:

- Steve Forster, Chair, La Mirada

**AGREEMENT FOR CONSULTING SERVICES  
BY AND BETWEEN  
GATEWAY CITIES COUNCIL OF GOVERNMENTS  
AND  
CAMBRIDGE SYSTEMATICS, INC.**

THIS AGREEMENT FOR CONSULTING SERVICES ("Agreement") is made and entered into as of August 4, 2010, by and between the Gateway Cities Council of Governments ("Agency"), a joint powers authority organized and existing pursuant to the laws of the State of California ("Agency") and Cambridge Systematics, Inc. ("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 August 4, 2010, and shall terminate on June 30, 2011.

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. Consultant understands that, as set forth in the Request for Proposals for the services to be provided herein, it is possible that actions or changes relating to SB 375 and/or AB 32 may affect the Scope of Services. Additionally, Consultant understands that the Scope of Services depends upon adequate funding for payment under this Agreement. Accordingly, the parties agree that the Scope of Services may be modified to limit or reduce the services set forth in Exhibit A without amendment to this Agreement. Consultant shall be fully compensated for all services actually performed.

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. The Executive Director or his 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. Christopher Wornum 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 Christopher Wornum as the account principal. Consultant acknowledges that the expertise and experience of Christopher Wornum 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:                   Richard Powers, Executive Director  
Gateway Cities Council of Governments  
16401 Paramount Boulevard  
Paramount, CA 90723

To Consultant:            Vassili Alexiadis, Vice President  
Cambridge Systematics, Inc.  
555 12<sup>th</sup> Street, Suite 1600  
Oakland, CA 94607

(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. Except as specified in Section 3 of this Agreement, 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 or 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**

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GIL HURTADO  
President

**ATTEST:**

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RICHARD R. POWERS  
Secretary

**APPROVED AS TO FORM:**

---

RICHARD D. JONES  
Legal Counsel

CAMBRIDGE SYSTEMATICS, INC.

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VASSILI ALEXIADES  
Vice President

**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 either standard ISO endorsement No. CG 2010 with an edition date of October 1993 or standard ISO endorsement No. CG 2026 with an edition date of July 2004.
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, with the exception of Consultant's professional liability policy.
3. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind applying to Agency 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 Commercial General Liability insurance and Automobile 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. This requirement is for the period of the applicable statute of limitations and during the pendency of a claim.
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.

