

AGREEMENT BETWEEN
THE CITY OF SAN DIEGO
AND
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS
(SANDAG) SERVICE BUREAU
FOR
AS-NEEDED TRANSPORTATION MODELING SERVICES

CONTRACT NUMBER: H2226103

AGREEMENT FOR AS-NEEDED CONSULTANT SERVICES

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**AS-NEEDED AGREEMENT BETWEEN
THE CITY OF SAN DIEGO
AND
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)
FOR SERVICE BUREAU TRANSPORTATION MODELING SERVICES**

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation (City), and the San Diego Association of Governments (SANDAG) (Consultant) for the Consultant to provide Professional Services to the City for Transportation Modeling.

RECITALS

The City wants to retain the services of SANDAG to provide the Professional Services on an as-needed, hourly fee basis.

The Consultant represents that it has the expertise, experience and personnel necessary to provide the Professional Services on an as-needed, hourly fee basis.

The City and the Consultant (Parties) want to enter into an Agreement whereby the City will retain the Consultant to provide, and the Consultant shall provide, the Professional Services on an as-needed, hourly fee basis (Agreement).

In consideration of the above recitals and the mutual covenants and conditions set forth herein, and for good and valuable consideration, the sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

**ARTICLE I
CONSULTANT SERVICES**

The above-listed recitals are true and correct and are hereby incorporated by reference.

1.1 Scope of Services. The scope of services will be determined by the City on an as-needed basis and presented to Consultant as an individual task (Task). The Consultant shall perform the Professional Services at the direction of the City and as generally set forth in the Scope of Services (Exhibit A) and as more specifically described in each Task Order Authorization (Task Order) (Exhibit B). Consultant agrees that only its employees shall perform the Professional Services. Consultant shall not retain any other contractor, subcontractor, subconsultant, or vendor to perform the Professional Services.

1.1.1 Task Order. Prior to beginning performance in response to a Task Order, Consultant shall complete and execute the Task Order which must be approved in writing by the City. Each Task Order shall include a scope of Professional Services, a cost estimate, and the time for completion. The scope of Professional Services shall include all activities or work reasonably anticipated as necessary for successful completion of each Task presented by the City. The city may decline Consultant's proposed response to the City's Task Order prior to the parties signing a Task Order. The date of the City's Request for Cost Proposal for a Task Order Letter (Proposal Letter) shall be used for the purpose of

determining which published prevailing wage rate shall apply on a Task Order. All wage rates published and all predetermined wage rate increases known at the date of the Proposal Letter shall apply for the duration of said Task Order. Any rate adjustment (as contemplated in Exhibit C, Compensation Schedule) must be proposed in Consultant's response to a City Task Order before the City approves the Task Order. Once City has approved a Task Order, and the Task Order has been signed by both parties, no rate adjustment may be applied to that Task Order.

1.1.2 Non-Exclusivity. The Consultant agrees that this Agreement is non-exclusive and that the City may enter into agreements with other Consultants to perform the same or similar Professional Services during the term of this Agreement.

1.1.3 Issuance of Task Orders for Multiple Contracts with the Same Services. When multiple As-Needed Agreements exist for the same discipline, the Contract Manager will rotate award of Task Orders between the multiple agreements until the contract duration expires or the contract authorization amount is reached. After a Consultant has been issued a Task Order, that Consultant will be placed at the end of the list for consideration to perform the next Task Order.

1.2 Task Administrator. The Sustainability and Mobility Department is the task administrator for this Agreement. The Consultant shall provide the Professional Services under the direction of a designated representative of the Sustainability and Mobility Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Professional Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise. Further, when this Agreement refers to an act or approval to be performed by City, that act or approval shall be performed by the Mayor or designee, unless the Agreement specifies otherwise.

1.3 City Modification of Scope of Services. The City may, without invalidating this Agreement, order changes in any Task by altering, adding to or deducting from the Professional Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in the Consultant's cost of, or the time required for, the performance of any of the Professional Services, the Consultant shall immediately notify the City. Consultant shall not initiate work on additions to the Scope of Services resulting in a cost increase until an amendment to the Agreement or Task Order is executed.

1.4 Written Authorization. Prior to performing any Professional Services in connection with the Tasks, the Consultant shall obtain from the City a written authorization to proceed. Further, throughout the term of this Agreement, the Consultant shall immediately advise the City in writing of any anticipated changes to any Task, including any changes to the time for completion or the Compensation and Fee Schedule, and shall obtain the City's written consent to the change prior to making any changes. In no event shall the City's consent be construed to relieve the Consultant from its duty to render all Professional Services in accordance with applicable laws and accepted industry standards.

1.5 Confidentiality of Services. All Professional Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for

the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission of the Consultant, (c) otherwise becomes known to the Consultant other than through disclosure by the City, or (d) is otherwise required by law to be disclosed.

ARTICLE II DURATION OF AGREEMENT

2.1 Term of Agreement. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40. Unless otherwise terminated, this Agreement shall be effective for issuing and completing Task Orders for no more than **36 Months** following the date of its execution by the City, unless said duration is modified in writing by an amendment to this Agreement. If required, the duration of this Agreement can be extended up to a maximum of sixty (60) months. Any extension beyond sixty (60) months will require City Council approval via Ordinance.

2.2 Time of Essence. Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement. The time for performance of any Task shall be set forth in the Task Order and shall not exceed the contract duration.

2.3 Notification of Delay. The Consultant shall immediately notify the City in writing if Consultant experiences or anticipates experiencing a delay in performing the Professional Services within the time frames set forth in the Task Order. The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of, the delay. If in the opinion of the City, the delay affects a material part of the Task, the City may exercise its rights under Sections 2.5-2.7 of this Agreement.

2.4 Delay. If delays in the performance of the Professional Services are caused by unforeseen events beyond the control of the Parties, such delay may entitle the Consultant to a reasonable extension of time, but such delay shall not entitle the Consultant to damages or additional compensation. Any such extension of time must be approved in writing by the City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the Consultant's work; inability to obtain materials, equipment or labor; required additional Professional Services; or other specific reasons agreed to between the City and the Consultant; provided, however, that: (a) this provision shall not apply to, and the Consultant shall not be entitled to an extension of time for, a delay caused by the acts or omissions of the Consultant; and (b) a delay caused by the inability to obtain materials, equipment, or labor shall not entitle the Consultant to an extension of time unless the Consultant furnishes the City, in a timely manner, documentary proof satisfactory to the City of the Consultant's inability to obtain materials, equipment, or labor.

2.5 City's Right to Suspend for Convenience. The City may, at its sole option and for its convenience, suspend all or any portion of the Consultant's performance of the Professional Services, for a reasonable period of time not to exceed six months. In accordance with the provisions of this Agreement, the City will give written notice to the Consultant of such suspension. In the event of such a suspension, in accordance with the

provisions of Article III of this Agreement, the City shall pay to the Consultant a sum equivalent to the reasonable value of the Professional Services the Consultant has performed up to the date of suspension. Thereafter, the City may rescind such suspension by giving written notice of rescission to the Consultant. The City may then require the Consultant to resume performance of the Professional Services in compliance with the terms and conditions of this Agreement; provided, however, that the Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

2.6 Parties' Right to Terminate for Convenience. The Parties may, at their sole option and for their convenience, terminate all or any portion of the Professional Services agreed to pursuant to this Agreement by giving written notice of such termination to the other party. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Professional Services shall be effective upon receipt of the notice by the other party. After termination of this Agreement, the Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of the Consultant's Professional Services under this Agreement. For services rendered in completing the work, the Consultant shall be entitled to fair and reasonable compensation for the Professional Services performed by the Consultant before the effective date of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all drawings, plans, calculations, specifications and other documents or records related to the Consultant's Professional Services on all Task(s). By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant discharges the City of all of the City's payment obligations and liabilities under this Agreement.

2.7 City's Right to Terminate for Default. If the Consultant fails to perform or adequately perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. A Default includes the Consultant's failure to complete the Professional Services within the time for completion as set forth in the Task Order. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

ARTICLE III COMPENSATION

3.1 Amount of Compensation. The City shall pay the Consultant for performance of all Professional Services rendered in accordance with this Agreement, including all reasonably related expenses, in an amount not to exceed \$1,000,000. The City agrees to issue at least one or more Task Orders with a minimum aggregate value of \$1,000.00 to the Consultant.

3.2 Manner of Payment. The City shall pay the Consultant in accordance with the Compensation and Fee Schedule (Exhibit C). For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts

specified in the Compensation and Fee Schedule. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt.

3.3 Additional Costs. Additional Costs are those costs that can be reasonably determined to be related to the Consultant's errors or omissions, and may include Consultant or City, overhead, construction, materials, demolition, and related costs. The Consultant shall not be paid for the Professional Services required due to the Consultant's errors or omissions, and the Consultant shall be responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, the Consultant. Whether or not there are any monies due, or becoming due, the Consultant shall reimburse the City for Additional Costs due to the Consultant's errors or omissions.

3.4 Eighty Percent Notification. The Consultant shall promptly notify the City in writing of any potential cost overruns. Cost overruns include, but are not limited to the following: (1) where anticipated costs to be incurred in the next sixty calendar days, when added to all costs previously incurred, will exceed 80 percent of the maximum compensation for this Agreement or for any issued Task Order; or (2) where the total anticipated cost for performance of the Scope of Services may be greater than the maximum compensation for this Agreement or for any Task Order.

ARTICLE IV CONSULTANT'S OBLIGATIONS

4.1 Industry Standards. The Consultant agrees that the Professional Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent regional transportation planning agency using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the Mayor or his designee, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

4.2 Right to Audit.

4.2.1 Access. The City retains the right to review and audit, and the reasonable right of access to Consultant's premises to review and audit the Consultant's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of the Consultant's premises, of any and all records related to the Professional Services provided hereunder with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This information shall be kept by the City in the strictest confidence allowed by law.

4.2.2 Audit. The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City

determines are necessary to discover and verify that the Consultant is in compliance with all requirements under this Agreement.

4.2.2.1 Cost Audit. If there is a claim for additional compensation or for Additional Costs, the City's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

4.2.2.1.1 Accounting Records. The Consultant shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. The Consultant shall make available to the City for review and audit, all Service-related accounting records and documents, and any other financial data. Upon the City's request, the Consultant shall submit exact duplicates of originals of all requested records to the City.

4.2.3 Reserved.

4.2.4 Compliance Required before Mediation or Litigation. A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is the Consultant's full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

4.3 Insurance. The Consultant shall not begin the Professional Services under this Agreement until it has: (a) obtained, and provided to the City, insurance certificates and endorsements reflecting evidence of all insurance required in Article IV, Section 4.3.1; and (b) confirmed that all policies contain the specific provisions required in Article IV, Section 4.3.4 of this Agreement. However, failure to obtain City approval of the required documents prior to the Professional Services commencing shall not waive Consultant's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time. Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. If Consultant maintains broader coverage or higher limits than the minimums shown below, City requires and shall be entitled to the broader coverage or the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City. Except as provided for under California law, all policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the City. Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

4.3.1 Types of Insurance. At all times during the term of this Agreement, the Consultant shall maintain insurance coverage as follows:

4.3.1.1 Commercial General Liability. The Consultant shall keep in full force and effect Commercial General Liability (CGL) Insurance written on an ISO Occurrence

form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$2,000,000 per occurrence and subject to an annual aggregate of \$4,000,000. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

4.3.1.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1,000,000 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto). If the Consultant does not possess owned automobiles then coverage for hired and non-owned automobiles shall be provided.

4.3.1.3 Workers' Compensation and Employer's Liability. For all of the Consultant's employees who are subject to this Agreement the Consultant shall keep in full force and effect, Workers' Compensation Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

4.3.1.4 Professional Liability. For all of the Consultant's employees who are subject to this Agreement, the Consultant shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of \$3,000,000 per claim and \$3,000,000 annual aggregate. The Consultant shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the Professional Services as described in issued Task Orders; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Professional Services as described in issued Task Orders or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss.

4.3.2 Consultant shall disclose deductibles and self-insured retentions to the City at the time the evidence of insurance is provided. The City may require Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

4.3.3 Acceptability of Insurers.

4.3.3.1 Except for the State Compensation Insurance Fund, all insurance required by this Agreement shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the City.

4.3.3.2 The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All

policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

4.3.4 Required Endorsements

The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

4.3.4.1 Commercial General Liability Insurance Endorsements

ADDITIONAL INSURED. To the fullest extent permitted by law and consistent with the limiting provisions set forth at California Civil Code section 2782, California Insurance Code section 11580.04, and any applicable successor statutes limiting indemnification of public agencies that bind the City, the policy or policies shall be endorsed to include as an Additional Insured the City and its respective elected officials, officers, employees, agents, and representatives, with respect to liability arising out of:

- a. Ongoing operations performed by you or on your behalf,
- b. your products,
- c. your work, e.g., your completed operations performed by you or on your behalf, or
- d. premises owned, leased, controlled, or used by you.

PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

4.3.4.2 Worker's Compensation and Employer's Liability Insurance Endorsements

WAIVER OF SUBROGATION. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the City.

4.3.5 Reservation of Rights. The City reserves the right, from time to time, to review the Consultant's insurance coverage, limits, deductible and self-insured retentions to determine if they are acceptable to the City. The City will reimburse the Consultant for the cost of the additional premium for any coverage requested by the City in excess of what is required by this Agreement without overhead, profit, or any other markup.

4.3.6 Additional Insurance. The Consultant may obtain additional insurance not required by this Agreement.

4.3.7 Notice of Changes to Insurance. Consultant shall notify the City 30 days prior to any material change to the policies of insurance provided under this Agreement.

4.3.8 Excess Insurance. All policies providing excess coverage to the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

4.3.9 Self Insurance. Notwithstanding the insurance provisions of this section 4.3 to the contrary, Consultant shall have the right to self-insure with respect to any of the insurance required to be carried by Consultant under section 4.3, provided that (a) Consultant has not assigned its interest in this Agreement to any other entity; (b) Consultant governs and manages (either internally or through a third party administrator) its self-insurance program, and maintains sufficient reserves on its balance sheet committed to its self-insurance program liabilities, in a manner consistent with comparable programs managed by cities of comparable size and population; and (c) applicable laws(s) do not prohibit or render unenforceable Consultant's indemnification obligations under this Agreement.

4.4 Reserved.

4.5 Contract Records and Reports.

4.5.1 Reserved.

4.5.2 The Consultant shall retain all records, books, papers, and documents directly pertinent to the Contract for a period of not less than five (5) years after Completion of the contract and allow access to said records by the City's authorized representatives.

4.6 Non-Discrimination Requirements.

4.6.1 - Compliance with the City's Equal Opportunity Contracting Program.

The Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Consultant shall provide equal opportunity in all employment practices. .

4.6.2 Non-Discrimination Ordinance. The Consultant shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, vendors or suppliers. The Consultant shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subcontractors, vendors and suppliers.

4.6.3 Reserved.

4.7 Drug-Free Workplace. By signing this Agreement the Consultant agrees that it is aware of, and hereby certifies that it agrees to comply with, the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. Council Policy 100-17 is available on line at <https://www.sandiego.gov/city-clerk/officialdocs>.

4.7.1 Consultant's Notice to Employees. The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession,

or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

4.7.2 Drug-Free Awareness Program. The Consultant shall establish a drug-free awareness program to inform employees about all of the following:

4.7.2.1 The dangers of drug abuse in the work place.

4.7.2.2 The policy of maintaining a drug-free work place.

4.7.2.3 Available drug counseling, rehabilitation, and employee assistance programs.

4.7.2.4 The penalties that may be imposed upon employees for drug abuse violations.

4.7.3 Posting the Statement. In addition to Section 4.7.1 above, the Consultant shall post the drug-free policy in a prominent place.

4.7.4 Reserved.

4.8 Product Endorsement. The Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

4.9 Conflict of Interest. The Consultant is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

4.9.1 If, in performing the Professional Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests. The determination as to whether any individual members of the Assessment Engineering Professional's organization must make disclosures of relevant financial interests is set forth in the Determination Form (Exhibit E).

4.9.1.1 Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The Consultant shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the Consultant is subject to a conflict of interest code. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

4.9.1.2 If the City requires the Consultant to file a statement of economic interests as a result of the Professional Services performed, the Consultant shall be

considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

4.9.2 The Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

4.9.3 The Consultant's personnel employed for the Professional Services shall not accept gratuities or any other favors from any Subcontractors or potential Subcontractors. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

4.9.4 If the Consultant violates any conflict of interest law or any of the provisions in this Section 4.9, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorneys' fees and all damages sustained as a result of the violation.

4.10 Reserved.

4.11 Reserved.

4.12 Reserved.

4.13 ADA Certification. By signing this Agreement the Consultant agrees that it is aware of, and hereby certifies that it agrees to comply with, the City's Americans With Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference. Council Policy 100-04 is available at <https://www.sandiego.gov/city-clerk/officialdocs>.

4.14 Reserved.

ARTICLE V RESERVED

ARTICLE VI INDEMNIFICATION

6.1 Indemnification and Hold Harmless Agreement. With respect to any liability, including but not limited to claims asserted or costs, losses, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of a party, or a party's employees, agents, and officers, arising out of any services performed under this Agreement, that party agrees to defend, indemnify, protect, and hold harmless the other party, its agents, officers, and employees from and against all liability.

ARTICLE VII MEDIATION

7.1 Mandatory Non-binding Mediation. With the exception of Sections 2.5-2.7 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.

7.2 Mandatory Mediation Costs. The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator (Mediator), and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.

7.3 Selection of Mediator. A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator will be knowledgeable in construction aspects and may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the Mediator is selected from a list provided by AAA, the initiating Party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees, a list of three requested Mediators marked in preference order, and a preference for available dates.

7.3.1 If AAA is selected to coordinate the mediation (Administrator), within ten working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing Party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

7.3.2 The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred Mediator from the individual Parties' lists who is available to serve within the designated time frame.

7.3.3 If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be mutually agreed upon.

7.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

7.4.1 Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

7.4.2 Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE VIII INTELLECTUAL PROPERTY RIGHTS

8.1 Work For Hire. All original designs, plans, specifications, reports, documentation, and other informational materials, whether written or readable by machine, originated or prepared exclusively for the City pursuant to this Agreement (Deliverable Materials) is "work for hire" under the United States Copyright law and shall become the sole property of the City. The Contractor, including its employees, and independent Subcontractor(s), shall not assert any common law or statutory patent, copyright, trademark, or any other intellectual proprietary right to the City to the Deliverable Materials.

8.2. Rights in Deliverables. All rights including, but not limited to publication(s), registration of copyright(s), and trademark(s) in the Deliverable Materials, developed by the Contractor, including its employees, agents, talent and independent Subcontractors pursuant to this Agreement are the sole property of the City. The Consultant, including its employees, agents, talent, and independent Subcontractor(s), may not use any such Deliverable Materials mentioned in this article for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

8.3 Intellectual Property Rights Assignment. Consultant, its employees, agents, talent, and independent Subcontractor(s) agree to promptly execute and deliver, upon request by City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials; and cooperate and assist in the prosecution of any action or opposition proceeding involving said rights and any adjudication of the same.

8.4 Moral Rights. Consultant, its employees, agents, talent, and independent Subcontractor(s) hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Deliverable Materials which Consultant, its employees, agents, talent, and independent Subcontractor(s), may now have or which may accrue to Consultant, its employees, agents, talent, and independent Subcontractor(s)' benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity in or to the Deliverable Materials and the right to object to any modification, translation or use of said content, and any similar rights existing under judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

8.5 Reserved.

8.6 Publication. Consultant may not publish or reproduce any Deliverable Materials, for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

8.7 Intellectual Property Warranty and Indemnification. Consultant represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Consultant to produce, at Consultant's own expense, new non-infringing materials, deliverables or Works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Consultant further agrees to indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services, Deliverable Materials, or Works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of any third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Consultant receives payment under this contract, City shall be entitled, upon written notice to Consultant, to withhold some or all of such payment.

8.8 Enforcement Costs. The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Article 8, including but not limited to, attorneys' fees.

ARTICLE IX MISCELLANEOUS

9.1 Notices. In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: Sustainability and Mobility Department, c/o Maureen Gardiner, 1200 Third Avenue, Floor 18, Mail Station 1101B, San Diego, CA 92101, mgardiner@sandiego.gov; and notice to the Consultant shall be addressed to: SANDAG, Attn: Mike Duncan, 401 B Street, Suite 800, San Diego, CA 92101, mike.duncan@sandag.org.

9.2 Headings. All article headings are for convenience only and shall not affect the interpretation of this Agreement.

9.3 Non-Assignment. The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

9.4 Independent Contractors. The Consultant is an independent contractor and not an agent of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Professional Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

9.5 Reserved.

9.6 Covenants and Conditions. All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant shall be deemed to be both covenants and conditions.

9.7 Compliance with Controlling Law. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

9.8 Jurisdiction. The jurisdiction and applicable laws for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in accordance with the laws of the State of California without regard to the conflicts or choice of law provisions thereof.

9.9 Successors in Interest. This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

9.10 Integration. This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, amendment, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this Agreement.

9.11 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

9.12 No Waiver. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

9.13 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

9.14 Additional Consultants or Contractors. The City reserves the right to employ, at its own expense, such additional Consultants or contractors as the City deems necessary to perform work or to provide the Professional Services in the Scope of Services as described in issued Task Orders.

9.15 Employment of City Staff. This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council or Mayor in connection with the selection of the Consultant.

9.16 Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

9.17 Drafting Ambiguities. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

9.18 Signing Authority. The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

9.19 Conflicts Between Terms. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

9.20 Reserved.

9.21 Exhibits Incorporated. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

9.22 Survival of Obligations. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive, completion and acceptance of the Professional Services and termination or completion of the Agreement.

9.23 Reserved.

9.24 Equal Benefits Ordinance. Unless an exception applies, Consultant shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (§22.4304(f)). Failure to maintain equal benefits is a material breach of this Agreement. By signing this Agreement, Consultant certifies that Consultant is aware of, and will comply with, this City-mandated clause throughout the duration of the Agreement.

9.25 Public Records. By Signing this Agreement the Consultant agrees that it is aware that the contents of this Agreement and any documents pertaining to the performance of the Agreement requirements/Scope of Services resulting from this Agreement are public

records, and therefore subject to disclosure unless a specific exemption in the California Public Records Act applies.

If the Consultant submits information **clearly marked** confidential or proprietary, the City of San Diego (City) may protect such information and treat it with confidentiality only to the extent permitted by law. However, it will be the **responsibility of the Consultant** to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the California Public Records Act, should the City choose to withhold such information.

General references to sections of the California Public Records Act will not suffice. Rather, the Consultant must provide a **specific and detailed legal basis, including applicable case law that clearly establishes** the requested information is exempt from the disclosure requirements of the California Public Records Act.

If the Consultant does not provide a specific and detailed legal basis for withholding the requested information within a time specified by the City, the City will release the information as required by the California Public Records Act and the **Consultant will hold the City harmless** for release of this information.

It will be the **Consultant's obligation to defend**, at Consultant's expense, any legal actions or challenges seeking to obtain from the City any information requested under the California Public Records Act withheld by the City at the Consultant's request. Furthermore, the Consultant shall **indemnify** the City and **hold it harmless** for any claim or liability, and **defend any action** brought against the City, resulting from the City's refusal to release information requested under the Public Records Act withheld at Consultant's request.


Nothing in this Agreement creates any obligation for the City to notify the Consultant or obtain the Consultant's approval or consent before releasing information subject to disclosure under the California Public Records Act.

9.26 Equal Pay Ordinance. Unless an exception applies, Consultant shall comply with the Equal Pay Ordinance (EPO) codified in the San Diego Municipal Code (SDMC) at section 22.4801 through 22.4809. Consultant must post a notice informing its employees of their rights under the EPO in their workplace or job site. By signing this Agreement with the City of San Diego, Consultant acknowledges the EPO requirements and pledges ongoing compliance with the requirements of SDMC Division 48, section 22.4801 et seq., throughout the duration of this Agreement.


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IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor, pursuant to San Diego Municipal Code Section §22.3210, authorizing such execution, and by the Consultant pursuant to SANDAG's signature authority document.

I HEREBY CERTIFY I can legally bind SANDAG and that I have read all of this Agreement, this 30th day of May, 2023.

By 
Cindy Burke, Ph.D.
Senior Director

I HEREBY APPROVE the form of the foregoing Agreement this 30th day of May, 2023.

By 
Samantha Foulke
Office of General Counsel


Dated this 31st day of May, 2023.

THE CITY OF SAN DIEGO
Mayor or Designee

By 
Cindy Crocker
Principal Contract Specialist
Purchasing & Contracting

I HEREBY APPROVE the form of the foregoing Agreement this 2nd day of June, 2023.

MARA W. ELLIOTT, City Attorney

By 
Cassandra Mouglin
Deputy City Attorney

SCOPE OF SERVICES

As Needed Transportation Modeling Services

I. PROJECT DESCRIPTION

The City of San Diego's Sustainability and Mobility Department desires to undertake a wide variety of transportation and corridor studies related to the completion of various on-going community plan update processes throughout the City. The City needs flexibility to manage each of these studies and desires to obtain transportation modeling services from the SANDAG Service Bureau on an "as-needed" basis.

The SANDAG Service Bureau shall perform professional and technical transportation modeling services on an "as needed" basis to support the City of San Diego's transportation and planning studies. As services are needed, the City of San Diego will issue a Task Order. Each Task Order shall describe the work to be performed by the SANDAG Service Bureau, the dates of performance, and the maximum amount that the City of San Diego will pay for the services described therein. Task Orders may include, but are not limited to, those services listed under Section IV, Required Services.

II. ROLES AND RESPONSIBILITIES

A. The City of San Diego will be responsible for the following:

1. City will assign a Contract Manager to provide oversight, management, and monitoring of the contract.
2. City will assign a Project Manager for each Task Order to provide oversight and management of Task Order activities and to ensure necessary coordination occurs and critical deadlines are met.
3. City's Project Manager will provide timely response (as specified in each Task Order) to Service Bureau's data requests including submittal, review and comments on all Service Bureau-assigned tasks and activities including base year, future year highway and transit networks, ground counts, land use inputs, and alternative scenarios. City's Project Manager will provide additional data or different data as needed (e.g. current traffic counts) in a timely manner. City's Project Manager is responsible for ensuring quality control of data received by City staff and/or City's consultant(s), if applicable.
4. City's Project Manager is responsible for reviewing the products (described in Section IV, Required Services) for completeness and accuracy and informing the Service Bureau, in a timely response, as specified in each Task Order, that revisions are needed.

EXHIBIT A

5. City's Project Manager will provide written confirmation of Service Bureau's completion of key milestones and City's receipt of satisfactory Service Bureau deliverables in a timely manner, as specified in each Task Order.
 6. In cases where coordination is required between any engineering or transportation consultants working under separate agreement with the City of San Diego on the same project, City will instruct its consultants to work with SANDAG Service Bureau to provide the most recent and/or updated data inputs (including but not limited to traffic counts, land use inputs, transportation networks, and unique trip generators (e.g., military bases or universities)), comments, and/or direction in a timely manner, as specified in each Task Order, as approved by City Project Manager. City Project Manager is still responsible for providing direction to Service Bureau.
- B. SANDAG Service Bureau will be responsible for the following:
1. Assign a person as its Project Manager for each Task Order to provide oversight of each project to ensure necessary coordination is occurring and critical deadlines are being met.
 2. Perform transportation modeling services on an "as-needed" basis. The Service Bureau shall provide technically accurate modeling outputs based upon, and in reliance on the inputs provided by the City, and, unless negotiated differently in each Task Order, will provide the standard products as outlined in Section IV, Required Services.
 3. To ensure quality control, SANDAG Service Bureau is responsible for reviewing all completed tasks prior to submitting any products to the City for review.
 4. During the City's reviewing process, SANDAG Service Bureau is responsible for answering the reviewer's modeling output questions; this may require both the select link and select zones runs to verify the traffic volumes for the street segments that are in question.
 5. Notify the City Project Manager when each task of the Task Order, except for model calibration, is approaching 85 percent completion to determine if sufficient funds exist to complete the remaining Task Order scope. Any increase(s) in Task Order budgets must be approved by the City.
 6. In addition to quarterly invoicing reports that must be submitted to the City, SANDAG Service Bureau shall also provide City Project Manager with monthly status updates and budget expenditures of each Task Order.

III. REQUIRED INPUTS FROM CITY

- A. Specify Model Version (i.e.. ABM2+ 14.3.0) and associated land use data source ID together with network scenario (i.e.. DS-41 Baseline land uses with No Build Network/No Mobility Hubs/No Parking Policies; OR DS-42 Sustainable Communities Strategy (SCS) land uses with Regional Plan Vision Network; OR other (if applicable)). SANDAG to provide the latest menu of available options for City to choose from.
- B. Provide base year transportation network year prior to SANDAG Service Bureau beginning any work on model calibration.

- C. Consult with SANDAG in advance of data collection to identify needed count data and provide any new traffic counts within the defined study area prior to SANDAG Service Bureau beginning any work on model calibration.
- D. Provide future transportation network year prior to SANDAG Service Bureau beginning any work on any of the future year alternatives including the baseline "no project" scenario.
- E. Provide employment density assumptions to be used for the duration of each project prior to beginning any work on model calibration.
- F. Provide base year and future land use inputs overrides using the "client project data" Excel file format provided by SANDAG.
- G. Provide base year and future year network updates in addition to network changes to be made for each alternative/scenario via marked-up maps.
- H. Review draft output for base year and future land use and transportation scenarios and provide written comments and approval(s) to SANDAG Service Bureau in a timely manner as specified in each Task Order.

IV. REQUIRED SERVICES

A. Model Calibration:

- 1. SANDAG and the City will work together to collaboratively determine the study area and buffer areas.
- 2. The City understands that the SANDAG transportation model is a regional model. Caution should be taken when using the model for subregional analysis.
- 3. The budget amount invested toward calibration will be determined in each Task Order.
- 4. The SANDAG Service Bureau will provide an ABM Validation Report in Microsoft PowerBI format after each base-year forecast transportation demand model run for calibration. The ABM Validation Report will consist of the following reports at the regional level, and (where applicable) at the geography of the study area (i.e. community planning area):
 - Validation by road type
 - Validation by jurisdiction
 - Validation by volume category
 - Validation by PMSA
 - Gap summary by road type
 - Gap summary by volume category
 - Gap summary by jurisdiction
 - Gap summary by PSA
- 5. SANDAG will strive to achieve results (i.e. base year forecasted traffic volumes) that match base year conditions to the extent possible, within the budgeting limitations specified for calibration services in the Task Order.

EXHIBIT A

B. Future Year Transportation Forecast Alternatives:

Service Bureau will produce transportation forecast alternatives using the growth forecast, land use version, transportation network, policy assumptions, etc., specified in the Task Order. Future years that could be analyzed include a 2050 horizon year and interim years 2025, 2030, 2035, or 2040. No other interim years will be accommodated. Service Bureau will provide a menu of available options at the start of each Task Order. Examples of scenario definitions are provided in the following table:

Year	ABM Model Version	Land Use		Transportation Network	Policies		
					Mobility Hubs	Parking	Microtransit
2050	Series 14.3.x	DS-41	Baseline	No Build	No	No	No
2050	Series 14.3.x	DS-42	SCS Vision	Regional Plan Vision	Yes	Yes	Yes

The Standard Product, as defined below in Section V Products, will include the following:

1. Create a Defined Future Year Initial Scenario based on the City's specifications (see table above).
2. Establish transportation model alternatives based on the City's changes to land use, transit, and/or circulation element network (i.e., freeway, highway, or road network).
3. Establish transportation model alternatives based on the City's changes to the All Streets network for active transportation facilities.
4. Establish transportation policy changes to allow for addressing parking costs, MoHub boundaries, etc.

C. Other Modeling Services and Technical Assistance

Service Bureau provides a variety of transportation modeling services such as traffic volumes plots, vehicle hours traveled (VHT), and other technical assistance.

D. Progress Meetings

Attend progress and or coordination meetings with the City as negotiated in Task Order.

E. Presentations

Presentations at staff meetings, as negotiated in Task Order.

F. Project Management

- Perform project and contract management activities and administrative work including preparation of scopes and cost estimates.
- Submit Quarterly invoices to Sustainability and Mobility Department Project Manager for review, approval, and forwarding to Department Management Analyst for reimbursement of Task Order work completed.
- Submit Monthly status report for each Task Order to City Project Manager; Including a summary and estimated percentage of work completed to date.

V. Products

Unless otherwise specified in each Task Order, the Standard Products that the Service Bureau will produce are:

Standard Products from the Model Calibration:

- Calibration results – Power BI Report or other format agreed to by both parties containing results of the calibration runs.
- Completed calibrated model data set - Calibrated model data set for use on the future alternatives. Further analysis can be performed on the original model data set that is delivered to the City via negotiation of Task Order amendment or issuance of new Task Order. SANDAG Service Bureau will not be responsible to incorporate any changes made by the City into the SANDAG model after delivery of product to the City.

Standard Products from the Transportation Forecast Alternatives:

- Map of the study area - Customized map depicting study area (e.g., community planning area or study area around a corridor) electronically delivered.
- Functional class network, active transportation network, and traffic analysis zone (TAZ) plots - Maps that depict attributes of roadways such as posted speed limits, classification, number of lanes and median type.
- Traffic volume plots - Standard product includes maps that depict forecasted Average Daily Traffic (ADT).
- Loaded network shapefiles - ESRI shapefiles of the highway network layer after each model run, which includes the VHT by link.

Standard Products for VMT for Greenhouse Gas Emissions Analysis

Tables showing (as development allows):

EXHIBIT A

- VMT Disaggregation by Origin-Destination
- VMT Disaggregation by Street Functional Classification
- VMT Disaggregation by Speed Bin
- VMT Disaggregation by Vehicle Type
- VMT Disaggregation by other parameters as agreed upon in Task Order

Standard Products for SB 743 VMT:

- VMT per Capita
- VMT per Employee

Standard Products for mode share information:

- Mode choice output reports - Standard output includes the following set of files: mode choice report, trip length in miles report, trip length in minutes report, boardings by transit route, and transit route summaries. The first three reports noted above will be broken down by geographic area, including the study area, and will include intra-zonal trips. The last two reports will be provided by transit route.

If negotiated and agreed upon in any Task Order, the Service Bureau may also provide the following Optional Products at an additional cost.

Optional Products (including but not limited to):

- Select zone assignments - Standard output includes a plot with selected TAZ traffic volume distributions and percentages plus 24-hour daily volumes. These can be done for individual TAZs or groups of TAZs.
- Select link assignments - Standard output includes a plot with selected link traffic volume distributions and percentages plus 24-hour daily volumes.
- Turn reports - Standard output includes a spreadsheet with A.M. and P.M., and off-peak period turning volumes plus a node plot.
- Peak period directional volume plots - Standard output includes plots depicting A.M. and P.M. directional peak period volumes. (Directional volume splits should be provided by City for two-way links.)
- Travel time contour maps and demographic profile package - Standard output includes one set of six maps depicting the following travel permutations: AM from the site, AM to the site, PM from the site, PM to the site, Off Peak from the site and Off Peak to the site. The "site" must be one TAZ number. In addition to the set of six maps, there will be a set of demographic profiles, one for each of the permutations noted above. (Individual contour maps are also available.)

- Other customized transportation modeling products and services not specifically mentioned above may be produced subject to negotiation between the Parties.

VI. Deliverables

All deliverables including Standard Products and any Optional Products, as described above, shall be specified in each Task Order.

VII. Project Schedule

The project schedule will be negotiated for each Task Order.

VIII. SPECIAL CONDITIONS

Transportation Model Outputs

- Service Bureau will not be responsible for any changes made to Service Bureau work product nor its uses after delivery of product to City. Should the City modify modeling output delivered by Service Bureau in any manner, the City assumes full responsibility for all resulting analyses and outputs, and releases SANDAG from any responsibility or liability therefore.
- City acknowledges that Service Bureau has made no guarantees concerning whether the model outputs and related data results will be of assistance to City. City agrees to pay Service Bureau the amount stated in the Task Order for the work products Service Bureau provides whether or not the work product is likely to result in an outcome that is advantageous to City.

SANDAG Board Policy No. 012: SANDAG Service Bureau

- All work will be performed subject to the provisions in SANDAG Board Policy No. 012: SANDAG Service Bureau and other relevant SANDAG Board Policies.

Travel Demand Model Disclosure

- The disclosures are intended to help users understand the limitations of the Travel Demand Model. It is the responsibility of the users to independently evaluate the content and usefulness of the information, given the limitations stated below. Additionally, City understands that the SANDAG travel model is a regional model. Caution should be taken when using the model for subregional analysis.
- Series 14 Transportation Model Disclosure
 - o The Series 14 Travel Demand Model is based on an activity-based model platform. It has a base year of 2016 and a horizon year of 2050. It was developed using travel behavior information from the 2016 San Diego Household Travel Behavior Survey, data from the American Community Survey, U.S. Census Bureau, and the most current traffic and transit observations available through 2016.
 - o The Series 14 Travel Demand Model inputs including population, households, jobs, and income are derived from the Series 14 Regional Growth Forecast. Future year transportation scenarios in the Series 14 Travel Demand Model are derived from policy and investment decisions made by the SANDAG Board of Directors in the 2021 Regional Plan (RTP/SCS). SANDAG does not endorse policies or investment scenarios that deviate from the 2021 Regional Plan.

EXHIBIT A

- While care was taken to ensure the information in the Series 14 Travel Demand Model and growth forecast was accurate and current, the science and knowledge upon which they are based are dynamic, and the data upon which they rely continually evolve. Therefore, there is no guarantee given by SANDAG that the information provided by the transportation model and growth forecast is correct, complete, and/or up-to-date with conditions in the region, or the current state of scientific opinion or analysis, or as to its acceptability by any third party.

Limitation of Liability

- Service Bureau cannot guarantee the success of City's project or the results of Service Bureau's model outputs, nor provide any warranties in relation thereto. Service Bureau makes no warranties, express or implied, statutory or otherwise, including but not limited to warranties of merchantability, fitness for use, or usefulness of Service Bureau work products.

TASK ORDER AUTHORIZATION FOR PROFESSIONAL SERVICES [TASK ORDER]

Consultant:	San Diego Association of Governments (SANDAG) Service Bureau	
Agreement:	H2226103 As-Needed Modeling Agreement	
Task Order No.:		Date:
Pursuant to the Terms and Conditions of the Agreement referenced above and incorporated into this Task Order, Consultant hereby agrees to perform the Professional Services described below. The Consultant shall furnish all necessary facilities, materials, and professional, technical, and supporting personnel required by this Task Order.		
Part A	Scope of Services	
1.1	Professional Services rendered under this Task Order shall be performed in accordance with the Agreement. The Scope of Services shall be as set forth in Exhibit A of the Agreement and as more fully set forth below. If necessary, the Scope of Services may be more fully described on one or more separate sheets and attached to this Task Order.	
Part B	Task Order Compensation	
City shall pay Consultant for the Professional Services required by this Task Order in accordance with Article III of the Agreement.		
The not to exceed cost of the Scope of Services for this Task Order is \$ _____.		
Part C	Personnel Commitment	
The Scope of Services shall be performed by Consultant's personnel in the number and classifications required by City.		
Part D	Time Sequence	
All Professional Services to be performed under this Task Order shall be completed by _____, and as set forth in the Task Order Scope of Services.		
City of San Diego		Consultant
Recommended For Approval:		I hereby acknowledge receipt and acceptance of this Task Order for:
Approved By:		By:
Name: (Type)		
Title:		
Date:		

Contract No.: City # H2226103 (SANDAG # _____)

Task Order No: _____

**TASK ORDER - ATTACHMENT A
SCOPE OF SERVICES**

I. PROJECT DESCRIPTION

II. EXPECTED RESULTS

III. SCOPE OF WORK

IV. DELIVERABLES

The standard and optional deliverables are described in the master As-Needed Transportation Modeling Services.

V. SCHEDULE OF SERVICES

**VI. MATERIALS TO BE PROVIDED BY SANDAG SERVICE BUREAU AND/OR THE LOCAL AGENCY,
IN ADDITION TO MATERIALS ALREADY SPECIFIED IN MASTER CONTRACT**

VII. SPECIAL CONDITIONS

COMPENSATION AND FEE SCHEDULE

Occupational Classification	Loaded Billing Rate	
	(FY 2023 Budget)	
Department Director II	\$350.52	
Principal Analysts	\$237.25	
Senior GIS Analyst	\$195.19	
Senior Research Analyst	\$185.89	
Senior Researcher and Modeler	\$225.95	
Associate Researcher and Modeler	\$185.89	
Researcher and Modeler II	\$160.58	
Associate GIS Analyst	\$159.66	
Researcher and Modeler I	\$145.64	
Associate Legal Counsel	\$215.20	
Blended Rate	\$218.00	

NOTES:

- Mileage reimbursement rate will be at current City of San Diego mileage rate (mileage log required).
- Travel expenses for the lowest cost-effective air fare, train, and/or car rental, will be reimbursed at actual costs (receipts required).
- Lodging and Per Diem will be reimbursed at actual costs (receipts required) up to the maximum allowance for the San Diego area as published/posted on the U.S. General Services Administration website (<http://www.gsa.gov/portal/category/100120>).
- The fully burdened hourly billing rates listed in the Cost Reimbursement Fee Schedule above include direct salary costs and indirect costs such as fringe, overhead, and a 17 percent SANDAG Regional Information System fee.
- Annual rate adjustments will be approved by the SANDAG Chief Executive Officer consistent with SANDAG Board Policy No. 012. New rate schedules will be effective July 1 of the fiscal year to which they apply.

RESERVED

INSTRUCTION SHEET FOR
DISCLOSURE DETERMINATION FOR CONSULTANT
(Form CC-1671)

Use the "Disclosure Determination for Consultant" form (CC-1671) to report the disclosure requirement for any consultant hired to provide services to the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction.

2 California Code of Regulations defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency, either makes a governmental decision or serves in a staff capacity with the state or local government agency and in that capacity participates in making a governmental decision.

The "Disclosure Determination for Consultant" form is completed for all consultants under contract with the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction. Please follow the step-by-step directions:

1. List the department, board, commission or agency requesting the consultant service.
2. List the consulting company. If known, also list the individual(s) who will be providing the consultant services.
3. List the mailing address.
4. List the e-mail address of individual(s) providing the consultant service.
5. Provide the date the individual(s) will start providing the consultant service.
6. List all duties/responsibilities the consultant will have. This list will enable you to determine the disclosure requirement for the consultant.
7. Determine the consultant's disclosure category. Your consultant should be required to disclose only those economic interests which could potentially create a conflict of interest as he/she performs his/her contractual obligations. For ideas about possible disclosure categories, review those in your department's, board's, commission's or agency's conflict of interest code, available at:

www.sandiego.gov/city-clerk/elections/eid/codes.shtml

Please fill out the entire "Disclosure Determination for Consultant" form, and have it signed by the appropriate authority. (Individuals with signing authority are described in your conflict of interest code as part of the disclosure requirement for Consultants.) Forward the original form to the City Clerk's Office, MS 2A.

DISCLOSURE DETERMINATION FOR CONSULTANT EXHIBIT E

**Must be signed by department director, agency president or other individual authorized by the appropriate conflict of interest code regarding consultants.*

1. Department / Board / Commission / Agency Name: Sustainability and Mobility Department
2. Name of Specific Consultant & Company: San Diego Association of Governments (SANDAG)
3. Address, City, State, ZIP 401 B Street Suite 800, San Diego CA 92101
4. Project Title (as shown on 1472, "Request for Council Action") As-Needed Transportation Modeling Services Agreement with SANDAG (Contract # H2226103)
5. Consultant Duties for Project: Conduct Transportation Modeling Services as specified in Task Order(s).

6. Disclosure Determination [**select applicable disclosure requirement**]:

- Consultant will not be "making a governmental decision" or "serving in a staff capacity."
No disclosure required.

- or -

- Consultant will be "making a governmental decision" or "serving in a staff capacity."
Consultant is required to file a Statement of Economic Interests with the City Clerk of the City of San Diego in a timely manner as required by law. [**Select consultant's disclosure category.**]

- Full: Disclosure is required pursuant to the broadest disclosure category in the appropriate Conflict of Interest Code.

- or -

- Limited: Disclosure is required to a limited extent. [**List the specific economic interests the consultant is required to disclose.**]

By: Kristy Reeser, Deputy Director Kristy L Reeser 05/01/2023
[Name/Title]* [Date]

Once completed, with all questions answered and an authorized signature affixed, please forward the original form to the City Clerk's Office, MS 2A. Keep a copy with the contract.

DEFINITION OF "CONSULTANT"

2 California Code of Regulations defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency:

- (A) Makes a governmental decision whether to:
 - 1. Approve a rate, rule or regulation;
 - 2. Adopt or enforce a law;
 - 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
 - 4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;
 - 5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
 - 6. Grant City approval to a plan, design, report, study, or similar item;
 - 7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or

- (B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

An individual "serves in a staff capacity" if he or she performs substantially all the same tasks that normally would be performed by staff member of a governmental entity. In most cases, individuals who work on only one project or a limited range of projects for an agency are not considered to be working in a "staff capacity." The length of the individual's service to the agency is relevant. Also, the tasks over the relevant period of time must be substantially the same as a position that is or should be specified in the City's conflict of interest code.

An individual "participates in making a governmental decision" if he or she: (1) negotiates, without substantive review, with a governmental entity or private person regarding the decision; or (2) advises or makes recommendations to the decision-maker, by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the individual and the individual is attempting to influence the decision.

RESERVED

RESERVED