

INTERAGENCY AGREEMENT

BETWEEN THE METROPOLITAN TRANSPORTATION COMMISSION

AND

CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY

FOR REGIONAL CARPOOL PROGRAM COMPLEMENTARY ACTIVITIES

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INTERAGENCY AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION
And CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY
For REGIONAL CARPOOL PROGRAM COMPLEMENTARY ACTIVITIES

This Agreement, effective as of October 1, 2016, is entered into by and between the Metropolitan Transportation Commission (hereafter "MTC"), a regional transportation planning agency established pursuant to California Government Code § 66500 *et seq.*, and the City/County Association of Governments of San Mateo County (hereafter "AGENCY").

WITNESSETH

WHEREAS, MTC has operated the Regional Rideshare Program since 1997, and is refocusing its work on the formation of carpools and vanpools in the Bay Area to be known as the Regional Carpool Program; and

WHEREAS, historically, the Regional Rideshare Program either provided employer outreach for the counties or delegated a share of its funds to individual counties to do this work; and

WHEREAS, MTC will no longer perform employer outreach for the counties or fund similar work, but desires to ease county transition to this change by offering one year's worth of delegated funds to each of the nine Bay Area counties;

WHEREAS, MTC is an eligible recipient of Congestion Mitigation and Air Quality (CMAQ) funds for the San Francisco Bay Region and has programmed CMAQ funds to support the Regional Carpool Program; and

WHEREAS, AGENCY has agreed to perform local Transportation Demand Management (TDM) activities that complement the Regional Carpool Program; and

WHEREAS, MTC has agreed to reimburse AGENCY for such TDM services that are eligible for funding under the CMAQ program legislation and guidance and subject to the terms of this agreement;

NOW, THEREFORE, the parties hereto agree as follows:

1.0 GENERAL

AGENCY will perform TDM activities that complement MTC's Regional Carpool Program consistent with Attachment A, Scope of Work. MTC will administer the pass-through of CMAQ funds from the U.S. Department of Transportation (DOT) to AGENCY in accordance with this Agreement.

2.0 INTERAGENCY AGREEMENT ADMINISTRATION

The administration of this Agreement will be conducted by the MTC Project Manager and day-to-day management of individual projects required under this Agreement is assigned to the AGENCY Program Manager as follows:

To MTC: Attention: Barbara Laurenson
Metropolitan Transportation Commission
375 Beale Street, Suite 800
San Francisco, CA 94105
Email: blaurenson@mtc.ca.gov

To AGENCY: Attention: Tom Madalena
City/County Association of Governments of San
Mateo County
555 County Center, 5th Floor
Redwood City, CA 94063-1665
Email: tmadalena@smcgov.org

2.1 PROGRESS REPORTS

AGENCY shall provide MTC with regular progress reports according to the schedule and form approved by the MTC Project Manager.

2.2 SUBMISSION OF CONTRACT DOCUMENTS

To the extent requested by the MTC Project Manager, AGENCY shall submit communications and required documentation, including but not limited to invoices, requests for contract modifications, and information on payments received and made to subconsultants, subconsultant utilization, and if applicable, certified payrolls, to the MTC PROJECT MANAGER or his or her designee via a one or more web-based systems designated by MTC to which MTC will provide AGENCY with system access. MTC may withhold payment of invoices pending receipt of such communications and required documentation via the applicable web-based system.

3.0 FUNDING

A. AGENCY and MTC agree that, pursuant to this Agreement, MTC shall allocate to AGENCY a total of seventy thousand dollars (\$70,000) in federal CMAQ funds assigned in Fiscal Year 2017 as per Attachment B, Budget attached hereto and incorporated herein by this reference.

B. AGENCY shall provide non-federal matching funds in a minimum amount of nine thousand seventy dollars (\$9,070) or 11.47 percent of the total project cost of seventy-nine thousand seventy dollars (\$79,070).

C. Subject only to duly executed amendments, it is expressly understood and agreed that in no event will the total compensation to be paid AGENCY under this Agreement exceed the sum of seventy thousand dollars (\$70,000).

D. Should the project costs per year exceed seventy-nine thousand seventy dollars (\$79,070), AGENCY agrees to provide the balance of funding necessary to complete the project activities described in Attachment A.

4.0 SCOPE OF WORK

In consideration of the funding detailed herein, AGENCY shall perform the project activities described in Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. Compliance with federal and state financial reporting requirements shall be AGENCY's responsibility.

5.0 TERM

This Agreement is in effect from October 1, 2016 to March 31, 2018. All funds shall be expended by March 31, 2018.

6.0 METHOD OF PAYMENT

Eligible costs shall be those set forth in the Office of Management and Budget (OMB) Circular No. A-87, Revised, "Cost Principles Applicable for State, Local and Indian Tribal Governments."

A. Contingent upon AGENCY's satisfactory completion of work products described in Attachment A, Scope of Work, AGENCY shall submit quarterly invoices to MTC for that portion of the funds available to AGENCY that have been expended. In addition, all supporting documentation must accompany expenditures included on agency invoices. Payment shall be made by MTC within thirty (30) days of receipt of an acceptable invoice, which shall be subject to the review and approval of MTC's Project Manager or a designated representative. Approval of an invoice shall not be unreasonably withheld. All invoices shall be submitted electronically via email to MTC at acctpay@mtc.ca.gov or in writing to:

Attention Accounting Section
Metropolitan Transportation Commission
375 Beale Street, Suite 800
San Francisco, CA, 94105

B. Any withholding of payment by MTC, per Article 8.0 of this Agreement, may be applied to subsequent invoices.

C. Funds not expended during the fiscal year shall be available in the following fiscal year.

D. Subject only to duly executed amendments, it is expressly understood and agreed that in no event will the total reimbursement to be paid under this Agreement exceed the sum of seventy thousand dollars (\$70,000).

E. Notwithstanding any provisions to the contrary, final payment shall not be made until MTC has determined that work tasks have been completed and all deliverable reports and products have been received as required in the Scopes of Work described in Attachment A. If MTC determines that tasks have not been undertaken or work products have not been received, it shall notify AGENCY of its findings in a prompt manner but no later than thirty (30) days after such determination.

7.0 IDENTIFICATION OF DOCUMENTS

All reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed through a grant from the U.S. Department of Transportation and the Federal Highway Administration. Content of this report does not necessarily reflect the official views or policy of the U.S. Department of Transportation."

MTC and the federal funding agencies shall have the right to reproduce, publish or otherwise use, and authorize others to use, the information developed from federally funded projects.

8.0 DELAYS AND FAILURE TO PERFORM

Whenever AGENCY encounters any difficulty that will delay timely performance of work, AGENCY shall notify MTC in writing. AGENCY agrees to cooperate with MTC to work out a mutually satisfactory course of action.

If MTC determines that (a) AGENCY's failure to complete a product on a timely basis is due to causes solely within AGENCY's control; and/or (b) AGENCY has failed to consider MTC recommendations aimed at facilitating progress toward that product, MTC may impose such sanctions as it may determine appropriate. Sanctions may include withholding of commensurate payment due under this Agreement until compliance is achieved.

9.0 AMENDMENTS

This Agreement may be amended by mutual agreement of MTC and AGENCY at any time during the term of the Agreement. All such changes shall be incorporated in written amendments, which shall specify the changes in work performed and any adjustments in compensation and schedule.

Any services added to the Scope of Work of this Agreement by an amendment shall be subject to all applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized unless contained in a duly executed amendment.

10.0 TERMINATION

Either party may terminate this Agreement, in whole or in part, at any time upon ninety (90) days written notice. In this event, AGENCY shall submit a requisition to MTC for an amount representing the actual cost of services performed to the effective date of termination for which AGENCY has not been previously reimbursed. In no event shall the maximum expenditure allowed under this Agreement be exceeded. Upon payment of the amount found due, MTC shall be under no further obligation to AGENCY, monetarily or otherwise.

11.0 USE OF THIRD PARTY CONTRACTS

AGENCY may subcontract or subvene funds to local agencies for performance of portions of the work required under this Agreement, with the prior written consent of MTC. If requested, AGENCY agrees to provide MTC with copies of all subcontracts or amendments to subcontracts exceeding \$25,000 after their execution. MTC reserves the right to review subcontracts or amendments to subcontracts, prior to their execution. All subcontracts must be in accordance with 49 Code of Federal Regulations Part 18, MTC's funding agreement with DOT and any regulations, guidelines and circulars of DOT, applicable as a result of such funding agreement. Further, all subconsultants shall agree to comply with 48 Code of Federal Regulations, Chapter 1, Part 31. MTC agrees to provide to AGENCY a copy of its funding agreement with DOT upon request.

AGENCY will include the provisions of this Agreement, as applicable, in any subagreement exceeding \$25,000, including procurement of materials and leases of equipment. AGENCY will take such action with respect to any subagreement or procurement agreement as MTC or agency of DOT may direct as a means of enforcing such provisions, including sanction for noncompliance.

12.0 RECORDS AND AUDITS

A. Records. AGENCY agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. AGENCY further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of three (3) years from submission of final expenditure report; four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer. Copies of AGENCY's audits, if any, performed during the course of Project development and at Project completion shall be forwarded to MTC no later than one hundred eighty (180) days after fiscal year end close.

B. Audits. AGENCY further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that MTC, or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor for the term specified above. The term "subcontract" as used in this clause excludes agreements not exceeding \$25,000.

AGENCY agrees to grant MTC, the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives access to the AGENCY's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Section A, above. AGENCY shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time. If, as a result of any audit, it is determined by the auditor that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the AGENCY agrees to reimburse MTC for those costs within sixty (60) days of written notification by MTC.

AGENCY further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subcontractor agrees that MTC, the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor for the term specified above.

C. Travel and Subsistence Costs. Reimbursement of AGENCY travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration for similar employees (i.e., non-represented employees).

13.0 EQUAL EMPLOYMENT OPPORTUNITY

In the performance of services under this Agreement, AGENCY shall not discriminate or permit discrimination against any persons or group of persons on the grounds of race, religious creed, color, national origin, age, ancestry, physical disability, medical condition, marital status or sex, in any manner prohibited by federal, state or local laws. AGENCY will comply with all applicable provisions of Executive Order 11246 as amended by Executive Order 11375 and as supplemented by Department of Labor regulations.

14.0 DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

It is the policy of MTC and DOT to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which disadvantaged business enterprises, as defined in 49 CFR Part 26, can compete fairly for contracts and subcontracts relating to MTC's

procurement and professional services activities. In connection with the performance of this Agreement, AGENCY will cooperate with MTC in meeting these commitments and objectives.

AGENCY shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. AGENCY shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by AGENCY to carry out these requirements is a material breach of the contract, which may result in the termination of this Agreement or such other remedy as MTC deems appropriate.

15.0 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

AGENCY agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the DOT issued thereunder (49 C.F.R. Part 21), which are incorporated herein by reference. AGENCY further agrees to comply with the provisions of Attachments D, Fair Employment Practices, and E, Nondiscrimination Assurances including its Appendices A through D, which are attached hereto and incorporated herein by this reference.

16.0 ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

AGENCY agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

17.0 STATE ENERGY CONSERVATION PLAN

AGENCY shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

18.0 DEBARMENT

AGENCY certifies that neither it, nor any of its subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department.

19.0 CLEAN AIR AND WATER POLLUTION ACTS

AGENCY agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

20.0 LOBBYING

AGENCY agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

21.0 INTEREST OF PUBLIC OFFICIALS

Persons on the governing boards of any member jurisdiction of AGENCY, or on the governing board of the AGENCY may not, during their tenure, have any interest, direct or indirect, in this Agreement or the proceeds therefrom.

22.0 INDEMNIFICATION

AGENCY shall indemnify, defend, and hold harmless MTC, its Commissioners, representatives, agents and employees (“MTC Indemnified Parties”) from and against all claims, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith) (collectively, “Claims and Losses”), incurred by reason of any act or failure to act of AGENCY, its officers, employees or agents, or subcontractors or any of them in connection with this Agreement. It is understood and agreed that AGENCY has no obligation to indemnify and hold the MTC Indemnified Parties harmless if the Claims and Losses are caused by compliance by the AGENCY with an MTC policy determined unlawful. If the sole basis of any claim, suit, or demand is that an MTC policy is unlawful, MTC shall at its own expense provide its own defense to such claim.

23.0 LAWS AND REGULATIONS

AGENCY shall comply with MTC Resolution No. 4035, as may be revised, or any superseding resolution, any and all laws, statutes, ordinance, rules, regulations or requirements of the federal, state or local government, and of any agency thereof, which relate to or in any manner affect the performance of this Agreement. Title 49 Code of Federal Regulations Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and MTC's funding agreement with DOT are each incorporated herein by reference as though set forth in full, and shall govern this Agreement except as otherwise provided herein. Those requirements imposed upon MTC as "Recipient" are hereby, in turn, imposed upon AGENCY, and those rights reserved by DOT are hereby reserved by MTC.

In addition to the foregoing, AGENCY agrees to comply with the provisions contained in Attachments D, Fair Employment Practices, and E, Nondiscrimination Assurances, attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

**CITY/COUNTY ASSOCIATION OF
GOVERNMENTS OF SAN MATEO
COUNTY**

**METROPOLITAN TRANSPORTATION
COMMISSION**

Alicia Aguirre, Board of Directors Chair

Steve Heminger, Executive Director

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ATTACHMENT A: SCOPE OF WORK

MTC/AGENCY FUNDING AGREEMENT

REGIONAL CARPOOL PROGRAM COMPLEMENTARY ACTIVITIES

TASKS AND PRODUCTS

Objectives

- To implement local Travel Demand Management (TDM) activities that complement regional efforts to reduce single occupant vehicle trips;
- To support and further the Metropolitan Transportation Commission’s (MTC) goals to promote carpooling and carpool matching apps (to the extent any funds are dedicated to support or promote carpooling);
- To include 511.org as a traveler information resource in public outreach campaigns and materials (to the extent any funds are dedicated to traveler information and/or public awareness of transportation alternatives);
- To work collaboratively with other TDM efforts in the Bay Area; and
- To monitor project outcomes.

Tasks and Related Products

1. Work Plan

Provide a brief description of the work that will be carried out or supported by the funds in this funding agreement for MTC approval. The description shall address how the work meets the above objectives and how the work will be performed. It will define deliverables and a schedule to expend all funds by March 31, 2018.

2. Project Delivery

- Implement the work as described and approved in the work plan.
- Provide quarterly invoices per the format in Attachment C.

Products/Tasks	Delivery Date
Draft Work Plan	October 31, 2016
Final Work Plan (if needed to address any MTC concerns)	November 30, 2016
Quarterly Invoices up to the time that all project funds are expended and not beyond April 30, 2018.	January 31, 2017 April 30, 2017 July 31, 2017 October 31, 2017 January 31, 2018 April 30, 2018
Deliverables, subject to Work Plan	To be determined

ATTACHMENT B: BUDGET

Estimated Cost by Funding Source:

MTC CMAQ	\$70,000	MTC CMAQ	88.53%
AGENCY Local Match	\$ 9,070	AGENCY Local Match	11.47%
Total	\$79,070	Total	100.00%

ATTACHMENT C: INVOICE FORMAT

Local Agency:	
Invoice Number:	
Billing Period:	
Total Value of Work Performed:	
Invoiced Total (88.53%):	

Attach supporting expenditure detail for the period, such as staff costs, direct costs and consulting invoices.

ATTACHMENT D: FAIR EMPLOYMENT PRACTICES

1. In the performance of this Agreement, AGENCY shall not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. AGENCY shall take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. AGENCY shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. AGENCY, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 1290-0 et seq.), and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full. Each of the AGENCY'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.

3. AGENCY shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this AGREEMENT.

4. AGENCY shall permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which AGENCY was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that AGENCY has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE in securing the goods or services thereunder shall be borne and paid for by AGENCY and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to AGENCY, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure AGENCY'S breach of this Agreement.

ATTACHMENT E: NONDISCRIMINATION ASSURANCES

AGENCY HEREBY AGREES THAT, as a condition to receiving any federal financial assistance from the STATE, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964” (hereinafter referred to as the REGULATIONS), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which AGENCY receives federal financial assistance from the Federal Department of Transportation. AGENCY HEREBY GIVES ASSURANCE THAT AGENCY shall promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the REGULATIONS.

More specifically, and without limiting the above general assurance, AGENCY hereby gives the following specific assurances with respect to its federal-aid Program:

1. That AGENCY agrees that each “program” and each “facility” as defined in subsections 21.23 (e) and 21.23 (b) of the REGULATIONS, will be (with regard to a “program”) conducted, or will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.
2. That AGENCY shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS made in connection with the federal-aid Program and, in adapted form, in all proposals for negotiated agreements: AGENCY hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.
3. That AGENCY shall insert the clauses of Appendix A of this assurance in every agreement subject to the ACT and the REGULATIONS.
4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed affecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where AGENCY receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where AGENCY receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.

7. That AGENCY shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the AGENCY with other parties:

Appendix C;

(a) for the subsequent transfer of real property acquired or improved under the federal-aid Program; and Appendix D;

(b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the federal-aid Program.

8. That this assurance obligates AGENCY for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property or interest therein, or structures, or improvements thereon, in which case the assurance obligates AGENCY or any transferee for the longer of the following periods:

(a) the period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during which AGENCY retains ownership or possession of the property.

9. That AGENCY shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that AGENCY, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the ACT, the REGULATIONS, this Assurance and the Agreement.

10. That AGENCY agrees that the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this Assurance.

11. AGENCY shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any STATE assisted contract or in the administration on its DBE Program or the requirements of 49 CFR Part 26. AGENCY shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of STATE assisted contracts. The California Department of Transportation Disadvantaged Business Enterprise Program Implementation Agreement for Local Agencies is incorporated by reference in this AGREEMENT. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out the Implementation Agreement, STATE may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 et seq.)

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to AGENCY by STATE, acting for the U.S. Department of Transportation, and is binding on AGENCY, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the federal-aid Highway Program.

APPENDIX A TO ATTACHMENT E

During the performance of this Agreement, AGENCY, for itself, its assignees and successors in interest (hereinafter collectively referred to as AGENCY) agrees as follows:

(1) **Compliance with Regulations:** AGENCY shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(2) **Nondiscrimination:** AGENCY, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. AGENCY shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) **Solicitations for Sub-agreements, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by AGENCY for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by AGENCY of the AGENCY's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) **Information and Reports:** AGENCY shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to AGENCY's books, records, accounts, other sources of information and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of AGENCY is in the exclusive possession of another who fails or refuses to furnish this information, AGENCY shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts AGENCY has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of AGENCY's noncompliance with the nondiscrimination provisions of this agreement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to AGENCY under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) **Incorporation of Provisions:** AGENCY shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

AGENCY shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event AGENCY becomes involved in, or is threatened with, litigation with a sub-

applicant or supplier as a result of such direction, AGENCY may request STATE enter into such litigation to protect the interests of STATE, and, in addition, AGENCY may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B TO ATTACHMENT E

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that AGENCY shall accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the AGENCY all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto AGENCY and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on AGENCY, its successors and assigns.

AGENCY, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) *

(2) that AGENCY shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C TO ATTACHMENT E

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by AGENCY, pursuant to the provisions of Assurance 7(a) of Attachment E.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add 'as covenant running with the land') that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of AGENCY and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D TO ATTACHMENT E

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the AGENCY, pursuant to the provisions of Assurance 7 (b) of Attachment F.

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)*

That in the event of breach of any of the above nondiscrimination covenants, AGENCY shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of AGENCY, and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

ATTACHMENT F, STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS

Caltrans Non – Discrimination

- A. In the performance of work undertaken pursuant to this Agreement, CONSULTANT shall not, and shall affirmatively require that its contractors shall not, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave.
- B. CONSULTANT shall ensure, and shall require that its contractors and all subcontractors and/or subrecipients shall ensure, that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT shall comply, and ensure that its contractors and subcontractors and/or subrecipients shall comply, with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (af), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- C. Each of CONSULTANT's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. CONSULTANT shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under this Agreement.
- D. CONSULTANT shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR Part 21, and 23 CFR Part 200 are made applicable to this Agreement by this reference. Wherever the term "Contractor" appears therein, it shall mean CONSULTANT.
- E. CONSULTANT shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by STATE to investigate compliance with these non-discrimination provisions.

CONTRACT APPROVAL SHEET

AGENCY:		MTC		
NAME OF CONTRACTOR/CONSULTANT:		City/County Association of Governments of San Mateo County		
PROJECT TITLE:	Funding Agreement for Regional Carpool Program Complementary Activities			
	Amount	Approval by ED or Committee (specify)	Committee Approval Date Attach <u>most recent</u> Committee memo	Funding Source/Coding/Budget Item
Original contract	\$70,000	P&A	December 2014	CMAQ
Amend #1				
Amend #2				
Amend #3				
WORK ITEM #:	1222	SOLE SOURCE:		
FISCAL YEARS:	2016/17 & 2017/18	N/A <input type="checkbox"/> <input checked="" type="checkbox"/>		

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REVIEW LIST

Project Manager: Barbara Laurenson Date: _____

Pre Award Audit Required: Yes No

Public Works: Yes No

Section Director: Melanie Crotty Date: _____

Budget Review: Suzanne Bode for MTC Date: _____
Sonia Elsonbaty for BATA/MTC SAFE

Contract Administration: Denise Rodrigues/Andrew Nguyen Date: _____

IT Review: Nick Roethel¹/Mark Dinh² Date: _____

Office of the General Counsel: Cynthia Segal/Matt Lavrinets Date: _____

Deputy Executive Director: Andrew B. Fremier³ Date: _____

Deputy Executive Director: N/A Date: _____
Alix Bockelman⁴

Chief Financial Officer: Brian Mayhew⁵ Date: _____

Return to Contract Administration

¹ IT review for information technology projects affecting MTC's network and computers.
² IT review for information technology projects affecting BATA's network and computers.
³ Reviews all procurements and contracts from HAO, BOO, and TCI, plus BATA-funded work.
⁴ Reviews all procurements and contracts from Planning, PAA, LPA and ATS.
⁵ Reviews all procurements and contracts from Planning, PAA, LPA and ATS.