

**AMBAG-SCCRTC-TAMC  
Cooperative Agreement  
for  
Development of the  
2005 RTP/MTP EIR**

This Agreement is both a project cost reimbursement and collaborative project between **the Association of Monterey Bay Area Governments** (hereinafter “AMBAG”) and the **Santa Cruz County Regional Transportation Commission (SCCRTC)** and the **Transportation Agency for Monterey County (TAMC)** (hereinafter “the Responsible Agencies”).

WHEREAS, AMBAG and the Responsible Agencies have a long-standing relationship for the mutual responsibility of transportation planning in the Monterey and Santa Cruz County areas of the Monterey Bay region; and

WHEREAS, AMBAG and the Responsible Agencies have signed a 2003 Memorandum of Understanding under which their respective responsibilities and operating structures are delineated; and

WHEREAS, AMBAG and the Responsible Agencies are each responsible for the development of, at a minimum, a 20-year long-range transportation plan outlining anticipated projects and policy direction for their respective coverage areas; and

WHEREAS, both AMBAG and the Responsible Agencies select Lamphier-Gregory Consulting firm to conduct environmental review on their 20 plus-year long-range transportation plans; and

WHEREAS, the parties hereto desire to enter into an Agreement calling for the mutual development of one Environmental Impact Report (EIR) covering each agency’s 2005 Regional and/or Metropolitan Transportation Plan.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to the following:

**1. Scope of Work**

AMBAG and the Responsible Agencies shall furnish all personnel, materials, services and facilities necessary for the collaboration on the Project, as described in the Scope of Work, Attachment A to this Agreement.

**2. Period of Performance**

This Agreement is effective June 9, 2004 and shall end on July 31, 2005. The period of performance may be extended by three months by written agreement of the parties.

**3. Project Cost and Payments**

The total cost to perform the RTP/MTP EIR Project is \$89,370. This amount shall not be exceeded without the written agreement of AMBAG and the Responsible Agencies. AMBAG, the SCCRTC and TAMC agree to split this aforementioned Project cost by paying one-third (1/3) each. AMBAG will receive Project consultant invoices and pay the invoices upon satisfactory completion of consultant work. Upon execution and forwarding of a Notice to Proceed to the Project consultant by AMBAG, Responsible Agencies will forward to AMBAG one-half (1/2) their full one-third (1/3) share of the Project cost to be held and paid out by AMBAG for consultant invoices. By November 1, 2004, Responsible Agencies will forward to AMBAG the remaining one-half (1/2) their full one-third (1/3) share of the Project cost to be held and paid out by AMBAG for consultant invoices.

At Project end, if the Project consultant invoices less than the aforementioned Project cost, AMBAG will return to the Responsible Agencies a one-third (1/3) pro-rata share of the remaining non-invoiced amount.

All costs incurred under this Agreement must be based on actual costs and are subject to audit. Substantiating documents (e.g., travel receipts, invoices, etc.) shall be retained and AMBAG is expected to keep an accurate accounting of all costs incurred in the performance of the Project for this Agreement.

#### **4. RTP/MTP EIR Manager**

AMBAG will designate Ms. Kathy Urlie as the RTP/MTP EIR Manager who shall be responsible for the professional conduct of the Project covered by this Agreement and liaison between Project consultant and Responsible Agencies. Any requisite change in RTP/MTP EIR Manager will be conveyed to the Responsible Agencies with all haste.

#### **5. Responsible Agency Representatives**

SCCRTC will designate Ms. Pat Dellin as the SCCRTC Representative who shall be responsible for the participation in, response to, review and oversight of the products of the Project, and for amendments to this Agreement. TAMC will designate Ms. Debbie Hale as the TAMC Representative also responsible for the participation in, response to, review and oversight of the products of the Project, and for amendments to this Agreement.

#### **6. Scope of Work Revisions**

Any significant changes in the performance of this Agreement as outlined in the Scope of Work incorporated herein, shall be in writing and require mutual authorization by the RTP/MTP EIR Manager and the Responsible Agency Representatives.

#### **7. Administrative Representative**

AMBAG will designate Mr. Nicolas Papadakis as the Administrative Representative who shall be responsible for the contractual and administrative aspects of the Agreement. Questions and correspondence of an administrative nature should be directed to the Administrative

Representative at AMBAG, P.O. Box 809, 445 Reservation Road, Suite G, Marina, CA 93933-0809.

## **8. Allowability of Costs**

There shall not be any deviation of the line items of the project budget, Attachment B, without them being in writing and requiring prior mutual AMBAG and Responsible Agencies approval. The allowability of costs shall be determined in accordance with the OMB Circular A-21. All requests for budget amendments approval shall be in writing and mutually agreed to by AMBAG and the Responsible Agencies.

## **9. Termination**

Any one of the three parties may terminate this Agreement at any time with or without cause, through a Notice of Termination. Such notice will provide forty-five (45) calendar days for AMBAG to return to the Responsible Agency(ies) any remaining funds held for completion of this Agreement which are no longer required to pay consultant work for work performed prior to the date of receipt of the Notice of Termination.

## **10. Indemnification**

AMBAG and the Responsible Agencies shall defend, indemnify and hold each other and their respective officers, employees, and agents harmless from and against any and all liability, loss, expense, including reasonable attorney's fees, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent acts or omissions or willful misconduct of their respective officers, agents, or employees.

## **11. Disputes**

In the event of a dispute arising out of the performance of this Agreement, any one of the parties may send a written notice of dispute to one or both of the other parties. Within five working days of receipt of such notice, the notified party shall respond and agree to a meeting for the purpose of negotiating a settlement or procedure for settlement of the dispute. If within twenty working days from the date of transmittal of such notice, and agreement cannot be reached, the disputed matter and responsibility for the costs of settling the dispute shall be submitted to binding arbitration by the American Arbitration Association, said decision to become part of the Agreement.

## **12. Project Records**

Financial records, supporting documents and other records pertinent to this Agreement shall be retained by AMBAG for a period of three (3) years from the date of submission of the final expenditure report except that records pertaining to audit, appeals, litigation or settlement of claims arising out of performance of this Agreement shall be retained until such audits, appeals, litigation or claims have been disposed of.

All Project records, including but not limited to original data and primary data-yielding materials, secondarily derived tables and figures, and statistical tabulations and other summaries, pertinent to this Agreement, shall be made available by Project consultant to AMBAG and the Responsible Agencies for a period of four (4) years from the termination date of this Agreement.

### **13. Nondiscrimination**

To the extent provided by law and any applicable agency regulations, this Agreement and any program assisted thereby are subject to the policies against discrimination:

- Title VI of the Civil Rights Act of 1964 and the Title VI Assurance executed by California under 23 U.S.C. 324 and 29 U.S.C. 794; and
- the provisions of the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat 327, as amended) and the U.S. DOT implementing regulations (49 CFR 27, 37, and 38).

The implementing regulations issued pursuant thereto by the California Department of Transportation, the Federal Highway Administration and the Federal Transit Administration and any assurance of compliance which AMBAG and the Responsible Agencies have filed in accordance with any applicable agency regulations.

### **14. Responsible Agencies**

Responsible Agencies shall, at no additional expense to AMBAG, name AMBAG as an additional insured on the Responsible Agency's general liability insurance coverage until completion and final payment of this Project and/or final resolution of any resultant lawsuit, as applicable. Responsible Agency's shall provide certification of said insurance to AMBAG within twenty-one (21) days of the date of the execution of this Agreement. In the event the Responsible Agencies fail to keep in effect at all time insurance coverage as herein discussed, AMBAG may, in addition to other remedies it may have, suspend or terminate the Agreement upon the occurrence of such event.

### **15. Severability**

If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect.

### **16. General Provisions and Certifications**

AMBAG and the Responsible Agencies certify that they are in compliance with all applicable federal and state laws and regulations.

### **17. Entire Agreement**

This Agreement constitutes the entire agreement and understanding between AMBAG and the Responsible Agencies, and supersedes any prior or contemporaneous agreement, or understandings, if any. Any changes or modifications shall be accomplished by a written amendment to this Agreement executed by the duly authorized representatives of the parties.

**18. Choice of Laws**

This Agreement shall be interpreted and applied according to the laws of California, and shall be deemed to have been entered into in California, as of the date of the final signatures below.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the month, day and year specified below.

\_\_\_\_\_  
Ralph Rubio, President  
Association of Monterey Bay  
Area Governments

Date:

APPROVED AS TO FORM

Roger Poyner  
AMBAG Legal Counsel

\_\_\_\_\_  
Jan Beautz, Chair  
Santa Cruz County Regional  
Transportation Commission

Date:

APPROVED AS TO FORM

Rahn Garcia  
SCCRTC Legal Counsel

\_\_\_\_\_  
Fernando Armenta, Chair  
Transportation Agency for Monterey  
County

Date:

APPROVED AS TO FORM

Kathy Paul  
TAMC Legal Counsel