

# **REQUEST FOR PROPOSALS**

*for preparation of*

## **SB 743 VEHICLE MILES TRAVELED (VMT) REGIONAL BASELINE STUDY**

**FOR:**

**MENDOCINO COUNCIL OF GOVERNMENTS**

Mendocino Council of Governments  
367 North State St., Suite 204  
Ukiah, CA 95482

June 24, 2019

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## **I. BACKGROUND**

### **A. The Region**

The Region, served by the Mendocino Council of Governments' (MCOG) transportation planning activities, exists totally within the boundaries of Mendocino County. Mendocino County lies within the northern extension of California's Coastal Ranges. These mountains are characterized by a series of southeast to northwest trending ridges which are separated occasionally by narrow valleys. Although the relief is not particularly great except in the extreme eastern part of the county, the mountainous nature of the area minimizes ground transportation options. Transportation routes tend to be located within intermontane valleys. East-west travel is especially arduous, since parallel ridges must be traversed.

### **B. Population**

2018 California Department of Finance population estimates place Mendocino County population at 89,299. This includes an unincorporated population of 59,985 and an incorporated population of 29,314. Four cities share the incorporated population: Ukiah (16,226), Fort Bragg (7,512), Willits (5,128), and Point Arena (448).

The bulk of the population in Mendocino County is concentrated in a few areas of the county. Ukiah, Talmage, Calpella, and Redwood Valley make up the largest single population concentration. Fort Bragg and the coastal area southward to the Navarro River is another population center. Willits, the surrounding Little Lake Valley and Brooktrails subdivision comprise the only other large settlement area in the county. Much of the rest of Mendocino County is rural and undeveloped.

### **C. Organization and Management**

Transportation planning in Mendocino County is the responsibility of the Mendocino Council of Governments, which is the designated Regional Transportation Planning Agency (RTPA). MCOG is a Joint Powers Agency composed of the County of Mendocino, and the cities of Fort Bragg, Point Arena, Ukiah, and Willits. The MCOG Board of Directors is composed of two members of the County Board of Supervisors, one councilmember from each of the four cities, and one countywide representative appointed by the Board of Supervisors. With the addition of a representative of the Caltrans District 1 Director, the MCOG Board becomes the Policy Advisory Committee.

### **D. Purpose**

The Mendocino Council of Governments is soliciting proposals for the development of a "Senate Bill 743 Vehicle Miles Traveled Regional Baseline Study". This project will result in recommendations for establishing methodology, thresholds, and procedures for California Environmental Quality Act (CEQA) analysis of transportation impacts of land use and transportation projects and plans in the local jurisdictions within Mendocino County.

## **II. PROJECT DESCRIPTION**

SB 743 (adopted in 2013) changes how transportation impacts are measured under CEQA in the review of land use and transportation plans and projects. SB 743 removed automobile delay as the primary measure of transportation impacts of environmental significance, typically measured by traffic level of service (LOS), and required the Governor's Office of Planning and Research (OPR) to develop revisions to CEQA Guidelines establishing criteria for determining the significance of transportation impacts. OPR selected Vehicle Miles Traveled (VMT) as the preferred metric to comply with SB 743.

As a result of these changes, beginning July 1, 2020, lead agencies under CEQA will be required to analyze project-related VMT to determine whether transportation impacts from a given development would constitute a significant environmental impact under CEQA. In order to properly evaluate impacts, it will be necessary for local agencies to establish methodologies and quantified thresholds from which to determine levels of significance. Local jurisdictions in Mendocino County currently have no methodology or mechanism in place to transition to these new requirements.

This project will analyze existing traffic conditions in the region to arrive at a baseline standard from which to determine significance thresholds for future land use and transportation projects. It will result in recommendations for establishing methodology, thresholds, and technical tools and procedures for CEQA analysis of transportation impacts of land use and transportation projects and plans in the local jurisdictions within Mendocino County.

Results from the study will be used by agency officials from the County of Mendocino, and cities of Ukiah, Willits, Fort Bragg and Point Arena, to make the appropriate environmental impact determinations under CEQA for projects within their respective jurisdictions.

### III. SCOPE OF WORK

**RESPONSIBLE PARTIES:** The Mendocino Council of Governments (MCOG) will be the lead agency for this project. The project will be conducted by a consultant. A project Technical Advisory Group (TAG) (composed of representatives from MCOG, County of Mendocino, City of Ukiah, City of Willits, City of Fort Bragg, City of Point Arena, and Caltrans) will be formed to assist with implementation.

**OVERALL PROJECT OBJECTIVES:**

**Task 1: Project Initiation/Coordination with Project Partners**

Task 1.1: Hold Grant Kick-off Meeting: MCOG will hold a grant project kick-off meeting with MCOG staff and Caltrans staff to discuss grant procedures and project expectations including invoicing, quarterly reporting, and all other relevant project information. (MCOG, Caltrans) *(Note: This task does not include consultant time; included for grant numbering sequence and reference only.)*

Task 1.2: Form a Technical Advisory Group (TAG): MCOG will form a TAG to provide input during the Study. TAG is expected to include representatives from MCOG, County of Mendocino, City of Ukiah, City of Willits, City of Fort Bragg, and Caltrans. (MCOG) *(Note: This task does not include consultant time; included for grant numbering sequence and reference only.)*

Task 1.3: Conduct Study Kick-off Meeting: A study kick-off meeting will be held with MCOG, TAG and consultant *(to be selected in a separate competitive procurement process, separate from this grant)* to refine and clarify scope of work, and resolve any remaining issues. Includes travel expenses. (MCOG, TAG & Consultant)

Task 1.4: Hold TAG Meetings: The TAG will meet as needed *(approx. 3-4 times)*, throughout the course of the study. Consultant will prepare agendas and minutes for TAG meetings. Includes travel expenses. (MCOG, TAG & Consultant)

Task 1.5 Hold Monthly Teleconferences: Consultant will schedule and hold monthly teleconference status meetings, and provide meeting notes. (MCOG, Consultant, Caltrans)

Task 1.6 Project Coordination & Technical Review – MCOG staff will provide general project coordination and technical review of deliverables. (MCOG) *(Note: This task does not include consultant time; included for grant numbering sequence and reference only.)*

- **Responsible Party: MCOG & Consultant**

Task	Deliverable
1.1	<i>Project Kick-off Meeting Agenda &amp; Meeting Notes (MCOG)</i>
1.2	<i>TAG Roster (MCOG)</i>
1.3	<i>Study Kickoff Meeting Agenda and Meeting Notes, Travel Expenses (Consultant)</i>
1.4	<i>TAG Meeting Agendas &amp; Minutes, Travel Expenses (Consultant)</i>
1.5	<i>Teleconferences &amp; Meeting Notes (Consultant)</i>

1.6	<i>Project Coordination &amp; Technical Review &amp; Comment on Deliverables (MCOG)</i>
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**Task 2: Data Collection/Establish Baseline Vehicle Miles Traveled (VMT) Data**

Task 2.1: Collect, Review, and Incorporate Relevant Data from Planning Documents: The consultant will conduct an initial review and analysis of the 2017 Regional Transportation Plan (RTP), County and City General Plans and Circulation Elements, recent Environmental Impact Reports (EIRs), and any other relevant planning documents. (Consultant)

Task 2.2: Review/Update Existing Travel Demand Models: The consultant will conduct a review of the existing MCOG Countywide Travel Demand Model and Greater Ukiah Area Microsimulation Model (GUAMM), to determine applicability for developing baseline VMT for use in establishing thresholds. The consultant will determine if any portions of the county are not covered by a travel demand model, and shall delineate such areas (if any), and provide a recommendation on how to address such areas. This information will be used in the analysis to determine how to best establish VMT baselines, including potential methodologies for establishing VMT baselines for each jurisdiction, and to identify any necessary model modifications. Consultant shall update traffic demand models, as needed. (Consultant)

Task 2.3: Develop Baseline VMT Data: Based on the review of the travel demand models in Task 3.2 and data collected, the consultant will estimate and summarize the baseline VMT by major trip types by jurisdiction for review by the TAG. The consultant will also compare this data and make a recommendation regarding the best approach to generate baseline VMT for areas not covered by the travel demand models (if any). (Consultant)

Task 2.4 Document Jurisdictional VMT Data: After reviewing the draft baseline VMT with the TAG and incorporating any recommended revisions, the consultant will document the Baseline VMT Methodology and Data in a Technical Memorandum. (Consultant)

- **Responsible Party: Consultant**

Task	Deliverable
2.1	<i>List of Resources Reviewed (Consultant)</i>
2.2	<i>Technical Memoranda #1 – Travel Demand Models (Consultant) Updates to Travel Demand Model (Consultant)</i>
2.3; 2.4	<i>Technical Memoranda #2 – Baseline VMT &amp; Jurisdictional Data (Consultant)</i>

**Task 3: Development of VMT Mitigation Measures**

Task 3.1: Review Applicable VMT Mitigation Measures: The consultant will review available data on strategies to reduce VMT, with a focus on those most applicable in the rural Mendocino County region and document a minimum of seven (7) strategies. (Consultant)

Task 3.2: Identify Five (5) High Priority VMT Mitigation Measures: The consultant will prioritize the potential VMT reduction strategies, based on effectiveness, focusing on those that are applicable to common projects in the Mendocino County region and identify the estimated level of VMT reduction. (Consultant)

Task 3.3: Develop Localized Quantification Methodology for High Priority Mitigation Measures: The consultant will identify methodologies and approaches to quantify VMT reductions associated with the five (5) high priority mitigation measures. (Consultant)

- **Responsible Party: Consultant**

<b>Task</b>	<b>Deliverable</b>
3.1; 3.2; 3.3	<i>Technical Memoranda #3 – VMT Mitigation Measures (Consultant)</i>

**Task 4: Public Participation and Stakeholder Outreach**

Task 4.1: Develop Stakeholder Roster: With input from the TAG, identify and develop a list of stakeholders for participation in public meetings. (Consultant)

Task 4.2: Advertise Meetings: Advertise public meetings to stakeholders, as well as community, using outreach methods consistent with MCOG’s Public Participation Plan. This may include social media and online surveys in addition to traditional outreach methods. Consultant shall provide a brief summary of SB 743 requirements and project goals to ensure stakeholders and community members have an adequate understanding of the project, in advance of the meetings. (Consultant)

Task 4.3: Hold Stakeholder/Public Meetings: Conduct two public meetings (coastal and inland) to solicit input on methodologies, thresholds, and potential mitigation measures from stakeholders and community. The consultant will plan and schedule meetings at appropriate stages of the project, contact invitees, and perform other logistical tasks for the meetings, and will prepare an outreach summary documenting stakeholder and public comments. Includes travel expenses. (Consultant)

- **Responsible Party: Consultant**

<b>Task</b>	<b>Deliverable</b>
4.1	<i>Stakeholder Roster (Consultant)</i>
4.2	<i>Advertising Materials; SB 743 Summary (Consultant)</i>
4.3	<i>Stakeholder/Public Meeting Agendas and Meeting Notes, Outreach Summary; Travel Expenses (Consultant)</i>

**Task 5: Development of Potential VMT Thresholds, Methodologies & Forecasting Tool**

Task 5.1: Review and Analyze Potential VMT Thresholds: The consultant will review the recommended OPR guidance on the implementation of VMT thresholds in rural non-MPO regions of the state and compare it with the information collected in Tasks 2 and 3. The consultant will review and analyze different VMT metrics (i.e. per capita, per employee, etc.) to determine the most appropriate metric to apply when establishing the VMT thresholds within Mendocino County. The consultant will also consider



the amount of VMT mitigation that is determined to be achievable when recommending appropriate thresholds.

In addition to the review and analysis of project level VMT thresholds by jurisdiction, the consultant will also review and analyze potential VMT thresholds and analysis methods as they relate to transportation projects as well as land use and transportation planning documents (i.e. Regional Transportation Plan, General Plans Circulation Elements, General Plan Environmental Impact Reports, etc.). The consultant will also analyze the need for and applicability of establishing sub-regional VMT thresholds. The potential thresholds will be shared with stakeholders including the TAG, representatives of local Contractors' or Builders' Association, and other key stakeholders for their review and comment. *(See task 4.3) (Consultant)*

Task 5.2: Develop, Evaluate & Recommend Threshold Alternatives: Based on the stakeholder meetings, the consultant will identify up to three (3) potential thresholds by jurisdiction that could be used for projects of varying sizes, types of uses, and other considerations. One likely threshold will be some type of screening criteria that could limit the need for detailed analysis on smaller scale projects. The consultant will test the alternative thresholds to verify these thresholds can be applied in Mendocino County and do not create unintended consequences. The consultant will make a final recommendation on the potential VMT thresholds for each jurisdiction within the region. *(Consultant)*

Task 5.3: Prepare VMT Threshold Guidance Documents: The consultant will prepare model guidance documents that can be incorporated into each jurisdiction's planning guidelines, should they choose to apply these thresholds. *(Consultant)*

Task 5.4: Identify, Review & Recommend Potential VMT Calculation Methodologies: The consultant will identify a minimum of three (3) and up to five (5) potential VMT calculation methodologies for use by the jurisdictions in Mendocino County. These methodologies will consider projects of varying size and scale. *(Consultant)*

The consultant will evaluate a minimum of three (3) and up to five (5) projects using the VMT calculation methodologies to verify they are appropriate to use in the Mendocino County region. The consultant will recommend the implementation of one or more VMT calculation methodologies for use by the jurisdictions within Mendocino County. *(Consultant)*

Task 5.5: Prepare Updated Guidance Documents for VMT Calculations: The consultant will develop guidelines and other materials to document VMT calculation approaches that can be used by the jurisdictions within Mendocino County. It is anticipated that this task will include the development of model traffic study guidelines that the jurisdictions can incorporate into their existing guidelines. *(Consultant)*

Task 5.6: Develop VMT Forecasting Tool & User Manual: Anticipating the need for a tailored VMT forecasting tool that could be easily utilized for small and medium sized projects, the consultant will review available tools that could be modified for use in the Mendocino County region. The consultant will develop a tailored VMT forecasting tool for the jurisdictions in Mendocino County, using localized data on travel behavior where appropriate. The consultant will be responsible for documenting the localized tools and producing a "user manual" for use by jurisdiction staff. *(Consultant)*

Task 5.7: Conduct Legal Review – The consultant shall arrange for a legal review of the recommended methodologies and procedures to be conducted by a qualified individual experienced in CEQA and legal matters. Consultant shall document results of legal review. (Consultant)

- **Responsible Party: Consultant**

<b>Task</b>	<b>Deliverable</b>
5.1; 5.2 5.3	<i>Technical Memoranda #4 – VMT Thresholds, Alternatives &amp; Guidance (Consultant)</i>
5.4	<i>Technical Memorandum #5 – VMT Calculation Methodologies (Consultant)</i>
5.5	<i>Technical Memoranda #6 - VMT Calculations Guidance Documents (Consultant)</i>
5.6	<i>VMT Forecasting Tool &amp; User Manual (Consultant)</i>
5.7	<i>Documentation of Legal Review (Consultant)</i>

**Task 6: Draft & Final Reports**

Task 6.1: Prepare and Present Draft Report: The consultant will prepare a draft report for review and comment by the TAG. (Consultant)

Task 6.2: Prepare and Present Final Report: The consultant will incorporate the comments received on the draft report into the final report, as appropriate, and present it at a public meeting of the Mendocino Council of Governments. Includes Travel Expenses. (Consultant)

- **Responsible Party: Consultant**

<b>Task</b>	<b>Deliverable</b>
6.1	<i>Draft Report – Eight (8) print copies, plus one digital copy (Consultant)</i>
6.2	<i>Final Report – Eight (8) print copies, plus one digital copy; Presentation to MCOG; Travel Expenses (Consultant)</i>

**Task 7: Training**

Task 7.1: Conduct Local Agency Training: The consultant will schedule and conduct a half-day training session for local agency staff on the use and application of the tools, procedures, and “user manual” developed under Tasks 2, 3, and 5. A facility for the training will be provided by MCOG or local agencies. Includes travel expenses. (Consultant)

- **Responsible Party: Consultant**

<b>Task</b>	<b>Deliverable</b>
7.1	<i>Half-Day Training Session; Travel Expenses</i>

## **Task 8: Project Management/Administration**

**Task 8.1: Prepare Invoices:** MCOG will prepare invoices and act as the fiscal administrator for the project, and will establish and oversee contractual agreements with consultant, coordinate involved agencies, as well as coordinate with and participate in the Technical Advisory Group. (MCOG) *(Note: This task does not include consultant time; included for grant numbering sequence and reference only.)*

**Task 8.2: Prepare Quarterly Reports:** MCOG will prepare quarterly reports. (MCOG) *(Note: This task does not include consultant time; included for grant numbering sequence and reference only.)*

- **Responsible Party: MCOG**

<b>Task</b>	<b>Deliverable</b>
8.1	<i>Invoices (MCOG)</i>
8.2	<i>Quarterly Reports (MCOG)</i>

## **IV. PROPOSAL REQUIREMENTS**

Each technical proposal shall contain as a minimum, the following elements:

### **A. Identification of Prospective Contractor**

The proposal shall include the name of the firm submitting the proposal, its mailing address, telephone number, e-mail address, and the name of an individual to contact if further information is desired.

### **B. Management**

The prospective contractor shall designate by name the project manager to be assigned to this project. The selected contractor shall not cause the substitution of the project manager without prior written approval of the Mendocino Council of Governments.

### **C. Personnel**

The prospective contractor shall describe the qualifications of all professional personnel to be employed, including a summary of similar work or studies performed, a resume' for each professional, a statement indicating how many hours (estimated) each professional will be assigned to the contract and what tasks each professional will perform. The contractor shall not cause members of the project team to be substituted without prior written approval of the Mendocino Council of Governments.

### **D. References**

The prospective contractor shall provide names, addresses and telephone numbers for at least three clients for whom the prospective contractor has performed work similar to that proposed in this request. A summary statement for each assignment shall be provided.

### **E. Subcontractors**

If subcontractors are to be used, the prospective contractor must submit a description of each person or firm and the work to be done by each subcontractor. The cost of the subcontract work is to be itemized in the cost proposal. Consultant mark-up on sub-consultant costs is not allowed.

**NOTE:** Subcontractors will be obligated to comply with all applicable Federal and State procedures for this contract.

### **F. Methodology**

The prospective contractor shall describe the overall approach to the project, specific techniques that will be used, and specific administrative and operations management expertise that will be employed. Proposers' responses to the required tasks outlined in the RFP must be specifically numbered the same as in the RFP. If the responsible party for a certain task is not the Consultant, then that should be noted to maintain the required numbering. If additional tasks are proposed, they should be numbered as sub-tasks under the appropriate existing task.

## **G. Schedule of Tasks**

The proposal shall contain a detailed schedule identifying major tasks to be undertaken to conduct the work and timeframe for each task. The schedule shall also identify all meetings, progress reports, deliverables, and the estimated staffing and hours to accomplish each task and deliverables.

## **H. Budget**

The prospective contractor shall prepare a detailed budget, by task, for the work to be performed. A sample budget format is attached as **Exhibit 1**. The budget shall itemize all items that will be charged to the project, using fully-weighted hourly billing rates for all personnel. In addition, the methodology for calculating the fully-weighted rates must be shown (e.g. labor, overhead rate, fringe, profit, etc.).

Consultant mark-up on direct costs is not allowed. Reimbursement for travel-related direct costs (hotels, meals, etc.) is limited to approved State rates which may be found on the Caltrans website:

(<http://www.dot.ca.gov/hq/asc/travel/ch12/1consultant.htm>). When invoicing, receipts are required to be submitted for all direct costs, other than fully-weighted personnel costs.

If subcontractors are to be used, the breakdown of subcontract costs shall follow the same format as that for the prime contractor, including the methodology for calculating fully-weighted rates.

## **I. Signature**

The proposal shall be transmitted with a cover letter that must be signed by an official authorized to bind the proposer contractually and shall contain a statement to the effect that the proposal is a firm offer for a 90-day period. The letter accompanying the technical proposal shall also provide the following: name, title, address, telephone number, and e-mail address of individuals with the authority to negotiate a contract and bind the Consultant to the terms of the contract.

## V. CONTRACTOR AWARD

### A. Proposal Review

Each proposal will be reviewed to determine if it meets the proposal requirements contained in Section IV. Failure to meet the requirements for the Request for Proposals will be cause for rejection of the proposal.

The Mendocino Council of Governments may reject any proposal if it is conditional, incomplete, or contains irregularities. MCOG may waive an immaterial deviation in a proposal. Waiver of an immaterial deviation shall in no way modify the Request for Proposals document or excuse the proposer from full compliance with the contract requirements if the proposer is awarded the contract.

### B. Proposal Evaluation

An evaluation committee will evaluate those proposals that meet the proposal requirements, and will determine whether interviews will be needed. MCOG reserves the right to select a Consultant based solely on written proposals. Evaluation will be based on proposer's understanding of work scope requirements demonstrated by qualifications of individuals or firm, successful experience and performance with similar projects, proposal contents and methodology, and cost proposal. Scoring will be as follows:

- |   |                     |
|---|---------------------|
| • Qualifications of Individual or Firm                | (20 points maximum) |
| • Experience/Performance                              | (30 points maximum) |
| • Proposal Contents & Methodology                     | (30 points maximum) |
| • Cost Proposal, Including Budget/Resource Allocation | (20 points maximum) |

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Total Points Possible (100 points maximum)

In the event MCOG elects to conduct interviews, a separate score will be used to rank oral responses, as follows:

- |                         |                     |
|-------------------------|---------------------|
| • Project Understanding | (50 points maximum) |
| • Project Approach      | (50 points maximum) |

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Total Points Possible (100 points maximum)

### C. Contract Award

A contract will be negotiated with the individual or firm determined in the proposal evaluation process to be best suited to perform this project. If a contract cannot be negotiated with the individual or firm submitting the highest rated proposal which is in the best interests of the Mendocino Council of Governments, then staff will terminate negotiations with that firm and commence the negotiation process with the firm submitting the second highest rated proposal.

This contract will be awarded using a cost reimbursement payment method. The contract will include all State and/or Federal requirements that "flow down" from the funding sources. (See attached **Exhibit 2** – MCOG Sample Contract). A contract shall not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 48 CFR Part 31 (per Caltrans' Local Assistance Procedures Manual Chapter 10.5). A pre-award audit may be required.

## VI. GENERAL INFORMATION

### A. Proposal Submittal

Proposals must be received by no later than **3:00 p.m. on July 22, 2019**. Six (6) print copies of the proposal, plus one electronic copy on flash drive or diskette, shall be furnished. Proposals may be either mailed or hand delivered to:

Loretta Ellard, Project Manager  
Mendocino Council of Governments - Planning  
367 North State Street, Suite 204  
Ukiah, CA 95482

### B. Late Submittals

A proposal is late if received at any time after **3:00 p.m. on July 22, 2019**. Postmarks will **not** suffice. Proposals received after the specified time will not be considered and will be returned to the proposer.

### C. Modification or Withdrawal of Proposals

Any proposal received prior to the date and time specified above for receipt of proposal may be withdrawn or modified by written request of the proposer. To be considered, however, any modified proposal must be received by the date and time specified above.

### D. Schedule

The tentative schedule of activities related to the Request for Proposals is as follows:

Activity	Date
RFP Mail-out	June 24, 2019
Written Question Submittal Deadline	July 8, 2019
Response to Questions Posted to MCOG's website <a href="http://www.mendocinocog.org/">http://www.mendocinocog.org/</a>	July 10, 2019
<b>Proposal Submittal Deadline</b>	<b>July 22, 2019 - 3:00 p.m.</b>
Review/Ranking of Proposals	July 23-26, 2019
Interviews (if needed)	July 29-31, 2019
Contractor Selection & Contract Award	August 1, 2019
Project Starting Date - Notice to Proceed	August 7, 2019
Presentation of (Draft) Final Report to MCOG	June 1, 2020
Final Report Due	June 15, 2020

### E. Property Rights

Proposals received within the prescribed deadline become the property of the Mendocino Council of Governments and all rights to the contents therein become those of the Council.

### F. Amendments to Request for Proposals

The Mendocino Council of Governments reserves the right to amend the Request for Proposals by addendum prior to the final date of proposal submission. All addenda will be posted on MCOG's website <http://www.mendocinocog.org/>.

## **G. Funding**

Funding for this project is provided with State (Sustainable Communities Transportation Planning Grant) and Local (Local Transportation Funds) funds. A total of \$120,001 is expected to be available for the Consultant's portion of the project.

## **H. Non-commitment of the Mendocino Council of Governments**

This Request for Proposals does not commit the Mendocino Council of Governments to award a contract, to pay any costs incurred in the preparation of a proposal to this request, or to procure or contract for services or supplies. MCOG reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified individual or firm, or to modify or cancel in part or in its entirety the Request for Proposals if it is in the best interest of the Council to do so.

## **I. Public Domain**

All products used or developed in the execution of any contract resulting from this request will remain in the public domain at the completion of the contract.

## **J. Questions**

Questions regarding this Request for Proposals will only be accepted in writing (Correspondence, E-mail or FAX is acceptable). Questions should include the individual's name, name of the firm, address, telephone number, and e-mail address. Questions must be submitted no later than July 8, 2019 to:

Loretta Ellard, Project Manager  
Mendocino Council of Governments – Planning  
367 N. State Street, Suite 204  
Ukiah, CA 95482  
FAX (707) 671-7764  
Email: lellard@dbcteam.net

Questions and answers will be provided in the form of an addendum to this RFP, and will be posted on MCOG's website <http://www.mendocinocog.org/> by July 10, 2019.

## **K. Affirmative Action**

Prospective contractors should be aware that the Equal Employment Opportunity Requirement of Executive Order 11246, as amended by Executive Order 11275, Title VII of the Civil Rights Act of 1964, the California Fair Employment Practices Act and other federal and state laws pertaining to equal employment opportunity are applicable to any contract awarded by the Council of Governments.

## **L. Protest Procedures and Dispute Resolution Process**

The Mendocino Council of Government's "Protest Procedures and Dispute Resolution Process" (**Exhibit 3 - attached**) shall be utilized to resolve any protests or disputes to this procurement process.

## **M. MCOG Acknowledgement**

The following acknowledgment of participation must appear on the cover or title page of the Final Report for this study: "The preparation of this report was programmed through the Mendocino Council of Governments' FY 2019/20 Transportation Planning Work Program and funded with State (Sustainable Communities Transportation Planning Grant) and Local (Local Transportation Funds) funds.



**Sample Budget Format**

**SB 743 Vehicle Miles Traveled (VMT) Regional Baseline Study**

		<i>Personnel</i>	B. Jones	B. Smith	B. White	<i>Direct Costs/ Amount</i>	<i>Direct Costs Description/ Attach Receipt *</i>	<b>Total</b>
		<i>Fully Loaded Hourly Billing Rate</i>	\$100	\$120	\$130			
<b>Task</b>	<b>Title</b>							
<b>Task 1</b>	<b>Project Initiation/Coordination</b>							
Task 1.3	Hold Study Kick-off Mtg	3			\$58.00	100 miles @\$0.58	\$358.00	
Task 1.4	Hold TAG Mtgs							
Task 1.5	Hold Monthly Teleconf.							
<b>Task 2</b>	<b>Data Collection/Establish Baseline VMTA Data</b>							
<b>Totals</b>		3	0	0	\$58.00		\$358.00	

*If Consultant is not listed after task/sub-task in Scope of Work, do not include in budget (i.e. Task 1.1)*

*\*Note: Receipts are required for all direct costs, except mileage (paid @ IRS rate).*

# MENDOCINO COUNCIL OF GOVERNMENTS

## PROFESSIONAL SERVICES AGREEMENT

[Project Name]

This Professional Services Agreement (“Agreement”) is entered into on [Date], by and between the Mendocino Council of Governments, hereinafter referred to as "MCOG" and [Company Name], hereinafter referred to as “Consultant.”

### RECITALS:

MCOG may retain independent contractors to perform special, technical, expert, or professional services. **Consultant** is equipped, staffed, licensed, and prepared to provide such services.

MCOG is lead agency for the [Project Name], hereinafter referred to as the "**Project**," funded by [grant name, funding source and amount/s] from the [State of California, Department of Transportation], hereinafter referred to as the "**State**." MCOG shall be responsible to **State** for the successful completion of this **Project**, as authorized by resolution of MCOG’s Board of Directors.

All services performed by MCOG, **Consultant** and any sub-consultants pursuant to this Agreement are intended to be performed in accordance with all applicable Federal, State, and County of Mendocino laws, ordinances, regulations, and Caltrans’ published manuals, including the approved grant application. In case of conflict between Federal, State and County of Mendocino laws, ordinances, or regulations, the order of precedence for applicability of these laws shall be Federal, State and County of Mendocino laws and regulations, respectively.

MCOG and **Consultant** agree as follows:

### 1. WORK TO BE PERFORMED

**Consultant** agrees to provide those services, tasks and products detailed in the attachments, incorporated herein by reference. Professional services described in Exhibits A and B may be refined or amended by written agreement of MCOG and **Consultant**. [confirm Exhibits to be attached and label exhibits appropriately]

- Exhibit A: MCOG’s Request for Proposals dated \_\_\_\_\_, with Attachments 1-6
- Exhibit B: Scope of Work, Schedule and Budget
- Exhibit C: Rates of [Consultant] and Sub-consultants
- Exhibit D: Caltrans Local Assistance Procedures Manual Exhibit 10-J  
- Standard Contract Provisions for Sub-consultant/DBE Participation.

**Consultant** agrees to perform any additional services as may be required due to significant changes in general scope of the project or its design, including but not limited to change in

size, complexity, or character. Such additional services shall be paid for by Amendment to this Agreement or by a Supplemental Agreement and shall conform to the rates of payment specified in Section 2 hereof.

## 2. PAYMENT FOR SERVICES

Compensation for services provided shall not exceed \$[contract amount] This shall include compensation for completing the tasks and products identified in **Exhibits A and B**. Cost overruns and/or failure to perform within the limits of the proposed budget shall not relieve **Consultant** of responsibility to provide those tasks and products specified in the Exhibits.

**MCOG** shall pay **Consultant** for work satisfactorily completed in accordance with **Exhibits A and B** according to the process in Section 3 below. The method of payment shall be “Actual Cost Plus Fixed Fee,” also known as “Cost Reimbursement,” to include hourly rates plus non-salary expenses and fee (profit), in accordance with **Consultant's** Cost Proposal, as attached hereto and made a part hereof in **Exhibit B**.

## 3. INVOICES AND DISBURSEMENT

**MCOG** will pay **Consultant** no more often than monthly, based on itemized invoices for work completed, by task, including receipts and sufficient documentation of any direct expenses. Charges shall be shown to reflect hourly billing rates for all personnel labor. Monthly invoices shall be accompanied by a brief summary of progress to date, segregated by task. Sub-consultant invoices also shall include a narrative of work completed and documentation of any direct costs. **Consultant** mark-up of direct expenses or of subcontractor invoices are not allowable; therefore **MCOG** will not pay **Consultant** for any such increases to actual costs incurred.

**MCOG** shall review invoices and may approve them for payment or adjust them after contact with **Consultant**. Total progress payments for each task shall not exceed 100% of the budget for each major task as shown in **Exhibit B**. **MCOG** will make payments within 30 days of receipt of **Consultant's** invoices, or as promptly as its fiscal system allows.

**MCOG** shall hold ten percent (10%) retainage of each invoice from **Consultant** and shall make quarterly incremental acceptances of portions of the contract work, and release retainage payments to **Consultant** based on these acceptances. **Consultant** shall return all monies withheld in retention from a sub-consultant within 30 days after receiving payment from **MCOG** as defined in Attachment D, Standard Contract Provisions for Sub-consultant/DBE Participation, Section 4(D).

Contractor shall make progress payments to its subcontractors, if any, no later than 10 days following receipt of payments by **MCOG**, in accordance with Section 7108.5 of the California Business and Professional Code, unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with **MCOG's** prior written approval.

Travel expenses and per diem rates are not to exceed the rate specified by the State of California Department of Personnel Administration. For more information, refer to: <http://www.dot.ca.gov/hq/asc/travel/ch12/1consultant.htm>

If **MCOG** substantially alters the scope of work, the maximum fee may be changed by Supplemental Agreement or an Amendment signed by both **MCOG** and **Consultant**.

#### 4. REPORTS

Due dates and milestones are detailed in **Exhibit B**. Preparation of deliverable work products detailed in **Exhibit B** shall be in formats acceptable to **MCOG**. **MCOG** will provide **Consultant** with guidance on acceptable formats. **Consultant** shall bear the expense of all printing and reproduction costs of the deliverable products, until final reports and products are accepted by **MCOG**. **Consultant** shall provide deliverable products in both print and electronic formats as specified in **Exhibit B**.

#### 5. SERVICES OF MCOG

**MCOG** shall provide full information as to its requirements for performance of this Agreement, attached as **Exhibit A**. **MCOG** shall provide program guidance and appropriate monitoring of work task performance under this Agreement. **MCOG** shall place at the disposal of **Consultant** all available information pertinent to the project. **MCOG** will examine all studies, reports, or other submittals from **Consultant** and will make every effort to provide comments pertaining thereto within ten (10) calendar days of receipt.

#### 6. TERM OF AGREEMENT

The term of this Agreement shall be from [start date—spelled out] to [end date]. Execution of this Agreement by **MCOG** shall constitute **Consultant's** authority to proceed immediately with the performance of the work described by **Exhibit B**, provided that evidence of insurance has been received by **MCOG** as specified under Section 11 below.

All work by **Consultant** shall be completed and all deliverables submitted to and in the possession of **MCOG** by due dates listed in **Exhibit B**. Extensions of due dates shall be made only upon written authorization by **MCOG**. **Consultant** shall not be held responsible for delays caused by circumstances beyond its control.

**Consultant** acknowledges that timely performance of services is an important element of this Agreement and will perform services in a timely manner consistent with sound professional practices.

#### 7. PROJECT INSPECTION AND ACCOUNTING RECORDS

**Consultant** agrees that duly authorized representatives of **MCOG and State** shall have right of access to the **Consultant's** files and records relating to the **Project** and may review the work at appropriate stages during performance of the work. **Consultant** must maintain

accounting records and other evidence pertaining to costs incurred, which records and documents shall be kept available at **Consultant's** offices during the contract period and thereafter for three (3) years from the date of final payment, or until annual audit resolution is achieved, whichever is later. (See also Section 13.)

#### 8. OWNERSHIP OF FINAL REPORTS AND PRODUCTS:

All original reports and documents together with such backup data as required by this Agreement shall be and shall remain the property of **MCOG and State**.

**Consultant** is advised that Government Code Section 7550 states in part, “*Any documents or written reports prepared as a requirement of this contract shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts and subcontracts relating to the preparation of those documents or reports if the total cost for work by non-employees of the public agency exceeds \$5,000.*”

[Opt.: “**MCOG shall have unlimited future rights to use any models or computer programs which may be developed during the course of this study, and MCOG shall be exempt from any extra charge or license fee imposed by Consultant for such use, unless specifically identified in the proposal.**”]

#### 9. TERMINATION

At any time **MCOG** may suspend indefinitely or abandon the project, or any part thereof, and may require **Consultant** to suspend the performance of its services. In the event **MCOG** abandons or suspends the project, **Consultant** shall receive compensation for services rendered to date of abandonment and suspension in accordance with the provisions of Sections 2 and 3 herein.

It is understood and agreed that should **MCOG** determine that any part of the work involved in the program is to be suspended indefinitely, abandoned, or canceled, this Agreement shall be amended accordingly. Such abandonment or cancellation of a portion of the program shall in no way void or invalidate this Agreement as it applies to any remaining portion of the project.

If, in the opinion of **MCOG**, **Consultant** fails to perform or provide prompt, efficient and thorough service, or if **Consultant** fails to complete the work within the time limits provided, **MCOG** shall have the right to give notice in writing to **Consultant** of its intention to terminate this Agreement. The notice shall be delivered to **Consultant** at least seven (7) days prior to the date of termination specified in the notice. Upon such termination **MCOG** shall have the right to take **Consultant's** studies, and reports insofar as they are complete and acceptable to **MCOG** and pay **Consultant** for its performance rendered, in accordance with Sections 2 and 3 herein, prior to delivery of the notice of intent to terminate, less the amount of damages, general or consequential, if any, sustained by **MCOG** due to the breach of this Agreement by **Consultant**. Said termination of the Agreement shall not relieve **Consultant** of its liability to **MCOG** for any damages, general or consequential, which **MCOG** may

sustain as a result of **Consultant's** failure to satisfactorily perform its obligations under this Agreement.

#### 10. RESPONSIBILITY FOR CLAIMS AND LIABILITIES

**Consultant** shall indemnify and hold harmless **MCOG** and its agents and officers against and from any and all claims, lawsuits, actions, liability, damages, losses, expenses, and costs (including but not limited to attorney's fees), brought for, or on account of, injuries to or death of any person or persons including employees of **Consultant**, or injuries to or destruction of property including the loss of use thereof, arising out of, or resulting from, the performance of the work described herein, provided that any such claim, lawsuit, action, liability, damage, loss, expense, or cost is caused in whole or in part by any negligent or intentional act or omission of the **Consultant**, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. Where **Consultant** is found to have caused the injury, damage, or loss only in part, **Consultant** shall hold **MCOG** harmless only to the extent **Consultant** caused the injury, damage, or loss. **MCOG** agrees to timely notify **Consultant** of any such negligence claim and to cooperate with **Consultant** to allow **Consultant** to defend such a claim.

**MCOG** shall indemnify and hold harmless **Consultant**, its officers, agents, and employees from any and all claims, suits, losses, damages, costs (including reasonable attorney's fees) and demands, pure economic damages, administrative fees, penalties and fines imposed, and demands, including reasonable attorney's fees connected therewith, on account of personal injury, including death, or property damage, sustained by any person or entity not a party to this Agreement between **Consultant** and **MCOG** and arising out of the performance of such Agreement to the extent such injury, death or damage is caused by the negligence or willful misconduct of **MCOG** or its contractors or their respective employees, officers and agents.

#### 11. INSURANCE

**Consultant**, at its expense, shall secure and maintain at all times during the entire period of performance of this Agreement, insurance as set forth herein with insurance companies acceptable to **MCOG** for **MCOG's** protection, its elected or appointed officials, employees and volunteers, **Consultant** and any other independent contractor from any and all claims which may arise from operations under this Agreement, whether operations be by **Consultant**, by another independent contractor, or by anyone directly or indirectly employed by either of them.

**Consultant** shall provide to **MCOG** Certificates of Insurance evidencing minimum coverage as specified below:

Vehicle/Bodily Injury - \$250,000 Each Person, \$500,000  
Each Occurrence and Vehicle/Property Damage - \$250,000  
Each Occurrence

OR

Combined Single Limit Vehicle Bodily Injury and Property  
Damage Liability - \$1,000,000 Each Occurrence

AND

General Liability - \$1,000,000 per Occurrence for Bodily  
Injury, Personal Injury and Property Damage

AND

Worker's Compensation and Employer's Liability: Limits  
as required by the labor code of the State of California.

In the event of breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, **MCOG**, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend further work pursuant to this Agreement.

**Consultant** shall not commence work, nor shall it allow its employees or subcontractors or anyone to commence work contemplated through this Agreement until all insurance required hereunder has been submitted to and accepted by **MCOG**. Failure to submit proof of insurance as required herein may result in awarding said Agreement to another bidder.

Insurance coverage in a minimum amount set forth herein shall not be construed to relieve **Consultant** for liability in excess of such coverage, nor shall it preclude **MCOG** from taking such other action as is available to it under any other provisions of this Agreement or otherwise in law.

Before beginning the work, **Consultant** shall furnish to **MCOG** satisfactory proof that it has secured, for the period covered under this Agreement, Workers Compensation Insurance for all persons whom it may employ in carrying out the work completed under this Agreement, in accordance with the "Workers Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any acts amendatory thereof. Such insurance shall be maintained in full force and effect during the period covered by this Agreement.

**Consultant** shall require all subcontractors similarly to provide Workers' Compensation Insurance as required by the Labor Code of the State of California for all of subcontractor's employees.

## 12. STANDARD OF CARE

The absence, omission, or failure to include in this Agreement items which are considered to be a part of normal procedures for work of this type or which involve professional judgment shall not be used as a basis for submission of inadequate work or incomplete performance.

**MCOG** relies upon the professional ability and stated experience of **Consultant** as a material inducement to entering into this Agreement. **Consultant** understands the use to which **MCOG** will put its work product and hereby warrants that all findings, recommendations, studies and reports shall be made and prepared in accordance with generally accepted professional practices.

**Consultant** will comply with all Federal, State and Local laws and ordinances as may be applicable to the performance of work under this Agreement.

### 13. STATE AND FEDERAL REQUIREMENTS

Non-Discrimination. a) In the performance of work under this Agreement, **MCOG**, **Consultant** and its sub-consultants 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, disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, denial of family and medical care leave and denial of pregnancy disability leave.

b) **MCOG**, **Consultant** and its sub-consultants shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. **MCOG**, **Consultant** and its sub-consultants 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 (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 part hereof as if set forth in full.

c) **MCOG**, **Consultant** and its sub-consultants shall each give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other labor agreement.

d) **MCOG**, **Consultant** and its sub-consultants 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 this section.

Disadvantaged Business Enterprise (DBE) Obligation. **MCOG**, **Consultant** and its sub-consultants shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Title VI of the Civil Rights Act of 1964. **Consultant** agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, California Civil Code section 51(b) and the regulations of the U.S. Department of Transportation issued thereunder



in 49 CFR Part 21.

Equal Employment Opportunity. In connection with the performance of this Agreement, **Consultant** shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex, or national origin. Such action shall include, but not be limited to, 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.

Cost Principles. **MCOG, Consultant** and its sub-consultants will be obligated to agree, that (a) Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual Project cost items and (b) all parties shall comply with Federal administrative procedures in accordance with Title 2, CFR, part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, as applicable. For more information, refer to: <http://www.gpoaccess.gov/nara/index.html>.

Record Retention and Audits. **MCOG, Consultant** and its sub-consultants shall maintain all source documents, accounting records, and other supporting papers connected with performance of work under this Agreement for a minimum of three (3) years from the date of final payment, or until annual audit resolution is achieved, whichever is later. All such supporting information shall be made available for inspection and audit by representatives of State of California Department of Transportation (State), the California State Auditor, and auditors representing the federal government. Copies will be made and furnished by **MCOG** upon request, at no cost to State.

**MCOG, Consultant** and its sub-consultants shall each establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP), to support invoices and requests for reimbursement that segregate and accumulate project costs by line item, and can produce interim (quarterly) reports that clearly identify reimbursable costs and other expenditures for the project.

#### 14. COMPLIANCE

**Consultant**, in the conduct of the services contemplated within this agreement, shall comply with all statutes, State or Federal, and all ordinances, rules and regulations enacted or issued by the County of Mendocino.

#### 15. INDEPENDENT CONSULTANT

Both **MCOG** and **Consultant** agree and acknowledge that the relationship between them is that of public entity and independent contractor and shall in no event be considered that of employer/employee. **MCOG** shall compensate **Consultant** by payment of the gross amounts

due to **Consultant**, and **Consultant** shall be solely responsible for any federal, state, and local taxes and withholdings that may be applicable.

#### 16. FINANCIAL INTEREST

**Consultant** covenants that it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. **Consultant** further covenants that in the performance of this Agreement, no person having any such interest shall be employed or subcontracted.

#### 17. SUCCESSOR AND ASSIGNMENTS

**MCOG** and **Consultant** each binds itself, its partners, successors, and executors, administrators, and assigns to the other party to this Agreement, and to the partners, successors, executors, administrators and assigns of such party in respect to all covenants of this Agreement.

Except as noted above, neither **MCOG** nor **Consultant** shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other, however, **Consultant** reserves the right to assign the proceeds due under this Agreement to any bank or person.

In the case of death of one or more members of the firm of **Consultant**, the surviving member or members shall complete the professional services covered by this Agreement.

#### 18. NOTICES

Notices pursuant to this Agreement shall be served via **certified** United States mail, addressed to the parties as follows:

Phillip J. Dow, Executive Director  
Mendocino Council of Governments  
367 N. State St., Suite 206  
Ukiah, CA 95482

[Consultant Name, Title]  
[Consultant Company Name]  
[Address]  
[City, State, Zip]

#### 19. VENUE

The venue for this agreement shall be Mendocino County, California.

#### 20. EXTENT OF AGREEMENT:

This Agreement and all exhibits made a part hereof constitute the entire Agreement between the parties. In case of conflict or inconsistency between this Agreement and any exhibits, this Agreement shall control. This Agreement shall not be modified except by written agreement of both parties.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Agreement in duplicate as of the day and year first written above.

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Phillip J. Dow, Executive Director  
Mendocino Council of Governments

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[Name, Title]  
[Consultant Company Name]

Federal ID No.: \_\_\_\_\_

## **Mendocino Council of Governments**

### **Protest Procedures & Dispute Resolution Process**

#### **I. Protest Procedures**

11. Purpose: The purpose of these procedures is to set forth the procedures to be utilized by the Mendocino Council of Governments (MCOG) in considering and determining all bid protests or objections regarding solicitations, proposed award of a contract, or award of a contract whether before or after award.

12. General: In order for a bid protest to be considered by MCOG, it must be submitted by an interested party (as defined below in accordance with the procedures set forth herein). A protest which is submitted by a party which is not an interested party or which is not in accordance with the procedures shall not be considered by MCOG, and will be returned to the submitting party without any further action by MCOG.

13. Definitions: For purposes of these Bid Protest Procedures:

(1) The term "Bid" includes any bid or offer submitted by a bidder in response to an Invitation for Bid (IFB), and a proposal submitted by an offeror in response to a Request for Proposals (RFP).

(2) The term "contract" means that document to be entered into between MCOG and the successful bidder and offeror.

(3) The term "days" refers to normal business days of MCOG staff offices.

(4) The term "interested party" means any person: (a) who is an actual or prospective proposer, bidder, or offeror in the procurement involved; and (b) whose direct economic interest would be affected by the award of the contract or by failure to award a contract.

(5) The term "solicitation" means an Invitation for Bids (IFB), Request for Proposals (RFP), or other form of document used to procure equipment or services.

14. Grounds for Protest: Any interested party may file a bid protest with MCOG on the grounds that:

(1) MCOG has failed to comply with applicable Federal or State Law;

(2) MCOG has failed to comply with its procurement procedures;

(3) MCOG has failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable;

(4) MCOG has issued restrictive or discriminatory specifications; or,

(5) Award is made to other than the lowest responsive and responsible bidder on formally advertised (IFB) procurements.

15. Contents of Protest:

(1) A bid protest must be filed in writing and must include:

- a. The name and address of the protestor.
- b. The name and number (if available) of the procurement solicitation.
- c. A detailed statement of the grounds for the protest, including all relevant facts and a citation to the Federal or State law, the provision of MCOG procurement procedures, or specific term of the solicitation alleged to have been violated.
- d. Any relevant supporting documentation the protesting party desires MCOG to consider in making its decision.
- e. The desired relief, action, or ruling sought by the protestor.

(2) Protests must be filed with:

Executive Director  
Mendocino Council of Governments  
367 N. State Street, Suite 206  
Ukiah, CA 95482

(3) All protests must be received at the MCOG address listed above during normal office hours of 8:00 a.m. to 5:00 p.m., Pacific Standard Time.

(4) If any of the information required by this section is omitted or incomplete, MCOG will notify the protestor, in writing, within one day of the receipt of the protest, and the protestor will be given one day to provide the omitted or incomplete information in order for the protest to be further considered. Note that this provision only applies in the case of a failure to state any grounds for a protest and does not apply to stating inadequate grounds for a protest or the failure to submit documentation.

16. Timing Requirements and Categories of Protests: MCOG will consider the following categories of bid protests within the time period set forth in each category:

(1) Any bid protest alleging improprieties in a solicitation process or in solicitation documents must be filed no later than five days prior to the scheduled bid opening or deadline for submittal or proposals, as appropriate, in order to be considered by MCOG. Any protest based on such grounds not filed within this period will not be considered by MCOG. This category of protests includes, but is not limited to, allegation of restrictive or exclusionary specifications or conditions.

(2) Any bid protests regarding the evaluation of bids or proposals by MCOG, or improprieties involving the approval or award or proposed approval or award of a contract must be filed with MCOG no later than 72 hours after the protestor's receipt of MCOG's written notice of its decision or intended decision to award a contract. Any protest filed after such date which raises issues regarding the bid proposal evaluation, or the contract approval or award will not be considered by MCOG.

17. Review of Protest by MCOG:

(1) MCOG will notify the protestor within 3 days of timely receipt of a bid protest that the protest is being considered.

(2) In the notification, MCOG will inform the protestor of any additional information required for evaluation of the protest by MCOG, and set a time deadline for submittal of such information. If MCOG requests additional information, and it is not submitted by the stated deadline, MCOG may either review the protest on the information before it, or decline to take further action on the protest

(3) In its sole discretion, MCOG may give notice of any bid protest to other bidders or proposers for the procurement involved in the protest, as appropriate, and permit such bidders or offerors to submit comments to MCOG relative to the merits of the bid protest. MCOG will set a time deadline for the submittal of such comments, which will be no less than 5 days after MCOG provides notification of the protest.

(4) In its sole discretion, MCOG may schedule an informal conference on the merits of a bid protest. All interested parties will be invited to participate in the conference. Any information provided at the conference will only be considered by MCOG in deciding the bid protest if it is submitted to MCOG in writing within 3 days after the conference.

18. Effects of Protest on Procurement Actions:

(1) Upon receipt of a timely protest regarding either the solicitation process of the solicitation documents in the case of sealed bids, MCOG will postpone the opening of bids until resolution of the protest. The filing of the protest will not, however, change the date on which bids are due, unless MCOG determines, and so notifies all bidders, that such a date change is necessary and appropriate to carry out the goals of the procurement and assure fair treatment for all bidders.

(2) Upon receipt of a timely protest regarding evaluation of bid or proposals, or the approval or award of a contract, MCOG will suspend contract approval or other pending action, or issue a stop work order if appropriate, until the resolution of the protest. In this event, the successful bidder or proposer may not recover costs as a change order.

(3) Notwithstanding the pendency of a bid protest, MCOG reserves the right to proceed with any appropriate step or action in the procurement process or in the implementation of the contract in the following cases:

- a. Where the item to be procured is urgently required;
- b. Where MCOG determines, in writing, that the protest is vexatious or frivolous;
- c. Where delivery or performance will be unduly delayed, or other undue harm to MCOG will occur, by failure to make the award promptly; or,
- d. Where MCOG determines that proceeding with the procurement is otherwise in the public interest.

I9. Summary Dismissal of Protests: MCOG reserves the right to summarily dismiss all or any portion for a bid protest that raises legal or factual arguments or allegations that have been considered and adjudicated by MCOG in a previous bid protest by any interested party in the same solicitation or procurement action.

I10. Protest Decisions:

(1) After review of a bid protest, the Procurement Officer shall make a recommendation to the Executive Director of the appropriate disposition of such protest.

(2) The recommendation shall be made on the basis of the information provided by the protestor and other parties, the results of any conferences, and MCOG's own investigation and analysis.

(3) If the protest is upheld, MCOG will take appropriate action to correct the procurement process and protect the rights of the protestor, including re-solicitation, revised evaluation of bids or proposals or MCOG's determination, or termination of the contract.

(4) If the protest is denied, MCOG will lift any suspension imposed and proceed with the appropriate state of the procurement process or the contract.

I11. Judicial Appeals: A protest adversely affected by a bid protest decision may appeal such decision to an appropriate court of the State of California located in the county of Mendocino.

*October 1, 2014*