



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 4/3/2012

Report Type: Consent

Title: Grant Agreement: Capital Area Plug-In Electric Vehicle Coordinating Council

Report ID: 2012-00235

Location: Citywide

Recommendation: Pass a Motion approving an agreement with the Sacramento Area Council of Governments for the Capital Area Plug-In Electric Vehicle Coordinating Council.

Contact: Erik de Kok, Senior Planner, (916) 808-2022, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Long Range Planning

Dept ID: 21001222

Attachments:

1-Description/Analysis

2-Background

3-Agreement with Sacramento Area Council of Governments

City Attorney Review

Approved as to Form
 Sabina D. Gilbert
 3/28/2012 2:04:35 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
 Russell Fehr
 3/8/2012 11:00:34 AM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 3/27/2012 2:04:23 PM

Description/Analysis

Issue: The Sacramento Area Council of Governments (SACOG), in partnership with numerous agencies and organizations, is convening a regional planning effort known as the Capital Area Plug-in Electric Vehicle Coordinating Council (CAPEVCC). SACOG has requested City of Sacramento staff assistance with completing a number of tasks as part of the CAPEVCC process, including: Streamlining permitting guidance for electric vehicle supply equipment (EVSE) permits for existing buildings, and planning for plug in electric vehicles (PEV) and EVSE integration into future developments.

Policy Considerations: Permit streamlining and planning for the current and future use of electric vehicles is consistent with the City's 2030 General Plan, Sustainability Master Plan and Climate Action Plan.

Environmental Considerations:

California Environmental Quality Act (CEQA): This project is comprised of administrative and government funding activities that do not involve commitment to any particular project and, therefore, is not considered a project as defined by Section 15378(b)(2) and (4) of the CEQA Guidelines.

Sustainability: None.

Commission/Committee Action: None.

Rationale for Recommendation: The agreement and associated funding is necessary to implement this work.

Financial Considerations: SACOG will pay the City \$12,527 to cover staff time for this project. Staff costs and direct expenses will be tracked and covered under the Community Development Department's operating budget, to be reimbursed by SACOG.

Emerging Small Business Development (ESBD): None, since no goods or services are being procured with this action.

Background:

The Capital Area Plug-in Electric Vehicle Coordinating Council (CAPEVCC) is a collaborative program of SACOG, SMUD, other agencies, and private sector stakeholders in a regional effort to further PEV's and related clean/green technologies. As outlined below, City staff from the Community Development Department and Department of Transportation staff will be assisting SACOG and the CAPEVCC in the following two focus areas:

Task 1. Permitting EVSE installations in existing buildings

Task 2. Planning for PEV/EVSE integration in new development

Staff will participate in regular CAPEVCC monthly meetings as well as appropriate subcommittee(s), and assist in research and development of work products per these two focus areas. It is assumed that the two tasks outlined below will be completed **by July 31, 2012.**

Background information and specific activities anticipated under each task are included below. A separate estimate of staff hours and costs is attached to this scope of work.

Task 1: Permitting EVSE Installations in Existing Buildings

- In 2011, the City worked with SMUD to develop a new permitting guidance document for PEV's called "**Guide to Residential Electric Vehicle Supply Equipment (EVSE) Permits.**" This guide explains what EVSE is and various configurations that could trigger a requirement for a building permit, basic submittal requirements and steps for submitting an application, and how SMUD's process integrates with the City's in terms of consultation with SMUD both prior to and after City's permit process to qualify for the discounted EV electricity billing rate (RTEV). The guide currently only covers residential EVSE installations and does not address commercial or public charging applications.
- City staff will work with CAPEVCC participants in a subcommittee to review the permit guide, discuss opportunities for improvement (i.e. creation of a sample building permit plan set), and participate in collaborative development of EVSE permitting guidelines that could be standardized in the region for both residential and commercial applications. White papers, presentations, or other appropriate deliverables will be determined once the subcommittee meetings have commenced and the scope of work for each subcommittee has been clearly identified.
- The City is in the process of rolling out a series of building permit process improvements under the "**Sacramento Streamline**" initiative. The initiative is focused around an all-electronic process for application submittal, plan review, and permit issuance, with additional customer service enhancements. Many of these pending changes will benefit EVSE permitting customers during the first phase of this initiative, and therefore presents an opportunity for the City to share lessons

learned from testing and integration of EVSE permit guidelines with online permit application in-take and processing. The changes generally include:

- **Online Project Status Updates and Appointment Scheduling**
The City is working to implement on-line appointment scheduling, which will help to reduce wait times for building permits.
- **Online Permit Application**
The City will soon begin to process minor permits (including EVSE and small-scaled solar permits) via an online application portal, which will allow the entire permitting process to occur from a customer's home or office. The City plans to launch this effort for minor permits in the Spring of 2012.
- **Electronic Plan Submittal and Plan Check**
Along with on-line permitting, the City will start accepting digital building plans when applicants are required to go through a formal plan review process (vs. "over the counter" review/issuance). Customers will have the option to go through "all-digital" plan check, provided that they meet the electronic submittal criteria.

Task 2: Planning for Integration of PEV's and EVSE infrastructure in New Development

- Consideration of PEV's and EVSE installations in planning new development, particularly in multifamily or commercial settings, is an issue that will require development of model ordinance language for local zoning codes.
- The City recently initiated our Green Development Code Update process, in which a comprehensive assessment of the City's Zoning, Subdivision and other sections of City Code are being reviewed and updated consistent with the City's 2030 General Plan, Climate Action Plan, and Sustainability Master Plan. Inclusion of PEV and EVSE considerations will be an opportunity to sync up the work of CAPEVCC with the second phase of the City's Green Development Code Update process, which is anticipated to begin in 2012.
- City staff will research and identify best practices for model code language and guidelines that ensure development projects are "shovel ready" with adequate infrastructure for PEV's and EVSE. This could include, but is not limited to, the following:
 - Minimum standards for designated PEV parking spaces, and/or placement of dedicated parking and EVSE, both on-site and in the public right-of-way.
 - Standards for siting and design requirements for fast-charging stations on dedicated sites, or integration with master planning as part of larger mixed-use projects or specific plans.
 - Creation of an incentive mechanism to encourage the inclusion of public EVSE in strategic geographical locations.

White papers, presentations, or other appropriate deliverables will be determined once the subcommittee meetings have commenced and the scope of work for each subcommittee has been clearly identified.

CAPEVCC -- Estimated City of Sacramento Staff Costs

	<u>Hours</u>	-	<u>Hours x Billable Rates</u>
<u>Task 1: Permit Streamlining for EVSE installations</u>			
Senior Planner	20		\$ 1,090.60
Associate Planner	60		\$ 2,785.20
<u>Task 2: Planning for PEV/EVSE in New Development</u>			
Senior Planner	48		\$ 2,617.44
Associate Planner	130		\$ 6,034.60
TOTAL	258		\$ 12,527.84



SACRAMENTO AREA COUNCIL OF GOVERNMENTS STANDARD AGREEMENT

THIS AGREEMENT, is made and entered into this _____ day of _____ 2012 at Sacramento, California, by and between the Sacramento Area Council of Governments, a joint powers agency (hereinafter “SACOG”), through its duly appointed Chief Executive Officer, and the City of Sacramento, a municipal agency (hereinafter “Contractor”).

RECITALS:

1. Contractor represents that it is specially trained and/or has the experience and expertise necessary to competently perform the services set forth in this Agreement; and
2. Contractor is willing to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement; and
3. SACOG desires to contract with Contractor to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Time of Performance: Contractor shall commence work upon execution of this Agreement and in accordance with the Scope of Work, attached hereto as Exhibit “A” and incorporated herein. Contractor shall complete work as expeditiously as is consistent with generally accepted standards of professional skill and care and the orderly progress of work. Work shall be completed and this Agreement shall expire on September 30, 2012, unless otherwise terminated as provided for in this Agreement or extended by written agreement between the parties.
2. Scope of Work: Contractor agrees to fully perform the work described in Exhibit A - Scope of Work. In the event of any inconsistency between Exhibit A and other terms and conditions of this Agreement, Exhibit A shall control. SACOG reserves the right to review and approve all work to be performed by Contractor in relation to this Agreement. Any proposed amendment to the Scope of Work must be submitted by Contractor in writing for prior review and approval by SACOG's Chief Executive Officer. Approval shall not be presumed unless such approval is made by SACOG in writing.
3. Standard of Quality: All work performed by Contractor under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.
4. Compliance with Laws: Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders and decrees. Contractor warrants and represents to SACOG that Contractor shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals that are legally required for Contractor to practice its profession or are necessary and incident to

the performance of the services and work Contractor performs under this Agreement. Contractor shall provide written proof of such licenses, permits, insurance and approvals upon request by SACOG. SACOG is not responsible or liable for Contractor's failure to comply with any or all of the requirements contained in this paragraph.

5. Consideration: Payment to Contractor by SACOG shall be made as set forth in Exhibit A. The amount to be paid to Contractor under this Agreement shall not exceed twelve thousand six hundred dollars (\$12,600), unless expressly authorized in writing by the SACOG Chief Executive Officer. In no instance shall SACOG be liable for any payments or costs for work in excess of this amount, nor for any unauthorized or ineligible costs. Contractor shall be paid at the times and in the manner set forth in this Agreement. The consideration to be paid Contractor, as provided in this Agreement, shall be in compensation for all of Contractor's expenses incurred in the performance of work under this Agreement, including travel and per diem, unless otherwise expressly so provided.

a. Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., (any subcontractors and subrecipients shall refer to the *Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments*) shall be used to determine the allowability of individual items of cost.

b. Contractor also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

c. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq.; *Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments*; or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by Contractor to SACOG. Disallowed costs must be reimbursed to SACOG within sixty (60) days unless SACOG approves in writing an alternative repayment plan.

d. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of Sections 5 (a) through (c) above.

6. Reporting and Payment:

a. Contractor shall submit monthly billings in arrears to SACOG no later than the 15th of each month and in accordance with the Scope of Work. Contractor shall be notified within fifteen (15) working days following receipt of its invoice by SACOG of any circumstances or data identified by SACOG in Contractor's written billing which would cause withholding of approval and

subsequent payment. Contractor shall be paid within thirty (30) days after SACOG approval of each billing; however, SACOG, at its own discretion, may withhold at least ten percent (10%) of each invoice until the successful completion of the scope of work and the delivery and acceptance by SACOG of all final products. Said billings shall indicate the number of hours worked by each of Contractor's personnel and reimbursable costs incurred to the date of such billing since the date of the preceding billing, if any. The billings shall include documentation of reimbursable expenses and billed items sufficient for SACOG, in its opinion, to substantiate billings. SACOG reserves the right to withhold payment of disputed amounts.

7. Independent Contractor: The Contractor, and the agents and employees of the Contractor, in the performance of this Agreement, shall act as and be independent contractors and not officers or employees or agents of SACOG. Contractor, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit SACOG to any decision or course of action, and shall not represent to any person or business that they have such power. Contractor has and shall retain the right to exercise full control of the supervision of the services and work and over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of services under this Agreement. Contractor shall be solely responsible for all matters relating to the payment of its employees, including but not limited to compliance with social security and income tax withholding, workers' compensation insurance and all regulations governing such matters.

8. Termination:

a. SACOG shall have the right to terminate this Agreement for any reason, with or without cause, at any time, by giving Contractor fifteen (15) days written notice. The notice shall be deemed served and effective for all purposes on the date it is deposited in the U.S. mail, certified, return receipt requested, addressed to Contractor at the address indicated in Section 17.

b. If SACOG issues a notice of termination:

(1) Contractor shall immediately cease rendering services pursuant to this Agreement.

(2) Contractor shall deliver to SACOG copies of all Writings, whether or not completed, which were prepared by Contractor, its employees or its subcontractors, if any, pursuant to this Agreement. The term "Writings" shall include, but not be limited to, handwriting, typesetting, computer files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including, letters, works, pictures, sounds, symbols computer data, or combinations thereof.

(3) SACOG shall pay Contractor for work actually performed up to the effective date of the notice of termination, subject to the limitations in Section 5 less any compensation to SACOG for damages suffered as a result of Contractor's failure to comply with the terms of this Agreement. Such payment shall be in accordance with Section 6. However, if this Agreement is terminated because the work of Contractor does not meet the terms or standards specified in this Agreement, then SACOG shall be obligated to compensate Contractor only for that portion of Contractor's services which is of benefit to SACOG.

9. Assignment: The parties understand that SACOG entered into this Agreement based on the professional expertise and reputation of Contractor. Therefore, without the prior express written consent of SACOG, this Agreement is not assignable by the Contractor either in whole or in part.

10. Binding Agreement: This Agreement shall be binding on the parties hereto, their assigns, successors, administrators, executors, and other representatives.

11. Time: Time is of the essence in this Agreement.

12. Amendments: No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

13. Contractors and Subcontractors: Contractor shall not subcontract any portion of the work without the prior express written authorization of SACOG. If SACOG consents to a subcontract, Contractor shall be fully responsible for all work performed by the subcontractor.

a. SACOG reserves the right to review and approve any contract or agreement to be funded in whole or in part using funds provided under this Agreement.

b. Any contract or sub-contract shall require the contractor and its subcontractors, if any, to:

(1) Comply with applicable State and Federal requirements that pertain to, among other things, labor standards, non-discrimination, the Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace, and *Office of Management and Budget Circular A-87, Cost Principles for State, Local and Indian Tribal Governments*.

(2) Maintain at least the minimum State-required Workers' Compensation Insurance for those employees who will perform the work or any part of it.

(3) Maintain unemployment insurance and disability insurance as required by law, along with liability insurance in an amount that is reasonable to

compensate any person, firm, or corporation who may be injured or damaged by the Contractor or any subcontractor in performing work associated with this Agreement or any part of it.

- (4) Retain all books, records, computer records, accounts, documentation, and all other materials pertaining to the performance of this Agreement for a period of three (3) years from the date of termination of this Agreement, or three (3) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement and any amendments, whichever is later.
- (5) Permit SACOG and/or its designees, upon reasonable notice, unrestricted access to any or all books, records, computer records, accounts, documentation, and all other materials pertaining to the performance of this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.
- (6) Comply with all applicable requirements of Title 49, Part 26 of the Code of Federal Regulations, as set forth in Section 29, Disadvantaged Business Enterprise Participation.

14. Indemnity: Contractor specifically agrees to indemnify, defend, and hold harmless SACOG, its directors, officers, agents, and employees (the "Indemnitees") from and against any and all actions, claims, demands, losses, expenses, including reasonable attorneys' fees and costs, damages, and liabilities resulting from injury or death to a person or injury to property arising out of or in any way connected with the performance of this Agreement, however caused, regardless of any negligent act of an Indemnitee, whether active or passive, excepting only such injury or death as may be caused by the sole, active negligence or willful misconduct of an Indemnitee. Contractor shall pay all costs that may be incurred by SACOG in enforcing this indemnity, including reasonable attorneys' fees. The provisions of this Section shall survive the expiration, termination, or assignment of this Agreement.

15. Insurance Requirements: Contractor hereby warrants that it carries and shall maintain, at its sole cost and expense, in full force and effect during the full term of this Agreement and any extensions to this Agreement, the following described insurance coverage:

POLICY	MINIMUM LIMITS OF LIABILITY
(1) Workers' Compensation; Employer's Liability.	Statutory requirements for Workers' Compensation; \$1,000,000 Employer's Liability.
(2) Comprehensive Automobile: Insurance Services Office, form #CA 0001 covering Automobile Liability, code 1 (any auto).	Bodily Injury/Property Damage \$1,000,000 each accident.
(3) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form #CG 0001).	\$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit, such limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
(4) Errors and Omissions/Professional Liability (errors and omissions liability insurance appropriate to the Contractor's profession as defined by SACOG).	\$1,000,000 per claim.
a. <u>Deductibles and Self-insured Retentions:</u> Any deductibles or self-insured retentions in excess of \$5,000 must be declared to and approved by SACOG.	
b. <u>Required Provisions:</u> The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:	
(1) For any claims related to this Agreement, the Contractor's insurance coverage shall be primary insurance as respects SACOG, its directors, officers, employees and agents. Any insurance or self-insurance maintained by SACOG, its directors, officers, employees or agents shall be in excess of the Contractor's insurance and shall not contribute to it.	
(2) Any failure by Contractor to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to SACOG, its directors, officers, employees or agents.	
(3) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.	
(4) Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to SACOG.	

- c. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise approved by SACOG.
 - d. Certificate of Insurance and Additional Insured Requirement: Contractor shall furnish to SACOG an original Certificate of Insurance on a standard ACORD form, or other form acceptable to SACOG, substantiating the required coverages and limits set forth above and also containing the following:
 - (1) Thirty (30) days prior written notice to SACOG of the cancellation, non-renewal, or reduction in coverage of any policy listed on the Certificate; and
 - (2) The following statement with respect to the Commercial General Liability policy: "SACOG and its directors, officers, employees and agents, are made additional insureds, but only insofar as the operations under this Agreement are concerned."
 - e. Certified Copies of Policies: Upon request by SACOG, Contractor shall immediately furnish a complete copy of any policy required hereunder, including all endorsements, with said copy certified by the insurance company to be a true and correct copy of the original policy.
 - f. Contractor's Responsibility: Nothing herein shall be construed as limiting in any way the extent to which Contractor may be held responsible for damages resulting from Contractor's operations, acts, omissions, or negligence. Insurance coverage obtained in the minimum amounts specified above shall not relieve Contractor of liability in excess of such minimum coverage, nor shall it preclude SACOG from taking other actions available to it under this Agreement or by law, including but not limited to, actions pursuant to Contractor's indemnity obligations.
16. Audit, Retention and Inspection of Records:
- a. SACOG or its designee shall have the right to review, obtain, and copy all books, records, computer records, accounts, documentation and any other materials (collectively "Records") pertaining to performance of this Agreement, including any Records in the possession of any subcontractors, for the purpose of monitoring, auditing, or otherwise examining the Records. Contractor agrees to provide SACOG or its designees with any relevant information requested and shall permit SACOG or its designees access to its premises, upon reasonable notice, during normal business hours, for the purpose of interviewing employees and inspecting and copying such Records to determine compliance with any applicable federal and state laws and regulations. Contractor further agrees to maintain such Records for a period of three (3) years after final payment under the Agreement or three (3) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement and any amendments, whichever is later.

- b. If so directed by SACOG upon expiration of this Agreement, the Contractor shall cause all Records to be delivered to SACOG as depository.

17. Project Managers: SACOG's project manager for this Agreement is Raef Porter unless SACOG otherwise informs Contractor. Any notice, report, or other communication required by this Agreement shall be mailed by first-class mail to the SACOG Project Manager at the following address:

Raef Porter, Senior Analyst
Sacramento Area Council of Governments
1415 L Street, Suite 300
Sacramento, California 95814

Contractor's project manager for this Agreement is Erik de Kok. No substitution of Contractor's project manager is permitted without the prior written agreement of SACOG, which agreement shall not be unreasonably withheld. With the exception of notice pursuant to Section 8 (a) above, any notice, report, or other communication to Contractor required by this Agreement shall be mailed by first-class mail to:

Erik de Kok, Senior Planner
City of Sacramento, Community Development Department
300 Richards Boulevard
Sacramento, CA 95811

18. Successors: This Agreement shall be binding on the parties hereto, their assigns, successors, administrators, executors, and other representatives.

19. Waivers: No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of SACOG to enforce at any time the provisions of this Agreement or to require at any time performance by the Contractor of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of SACOG to enforce these provisions.

20. Litigation: Contractor shall notify SACOG immediately of any claim or action undertaken by it or against it that affects or may affect this Agreement or SACOG, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of SACOG.

21. National Labor Relations Board Certification: Contractor, by signing this Agreement, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court which orders Contractor to comply with an order of the National Labor Relations Board (Public Contract Code § 10296).

22. Americans with Disabilities Act (ADA) of 1990: By signing this Agreement, Contractor assures SACOG that it complies with the Americans with Disabilities Act (ADA) of

1990 (42 U.S.C. § 12101, et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

23. Non-discrimination Clause:

- a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religion, national origin, physical disability, mental disability, medical condition, age or marital status. Contractor and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code § 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, § 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code §§ 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 a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- b. Contractor shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

24. Drug-Free Certification: By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code § 8350, et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or the organization's policy of maintaining a drug-free workplace;
 - (3) Any available counseling, rehabilitation, and employee assistance programs; and
 - (4) Penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee of Contractor who works under this Agreement shall:

- (1) Receive a copy of Contractor's Drug-Free Workplace Policy Statement; and
- (2) Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.

25. Union Organizing: By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code § 16645 through § 16649 to this Agreement, excluding § 16645.2 and § 16645.7.

- a. Contractor will not assist, promote, or deter union organizing by employees performing work on this Agreement if such assistance, promotion, or deterrence contains a threat of reprisal or force, or a promise of benefit.
- b. Contractor will not meet with employees or supervisors on SACOG or state property if the purpose of the meeting is to assist, promote or deter union organizing, unless the property is equally available to the general public for meetings.

26. Debarment, Suspension, and Other Responsibilities: Contractor certifies and warrants that neither the Contractor firm nor any owner, partner, director, officer, or principal of Contractor, nor any person in a position with management responsibility or responsibility for the administration of funds:

- a. Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency.
- b. Has within the three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- c. Is presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commissions of any of the offenses enumerated in paragraph "b" above.
- d. Has within a three-year period preceding this Agreement, had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.
- e. Contractor shall complete the Debarment Certification Form, attached hereto as Exhibit B.

27. Conflicts of Interest: Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with SACOG's interest. During

the term of this Agreement, Contractor shall not accept any employment or engage in any consulting work that would create a conflict of interest with SACOG or in any way compromise the services to be performed under this Agreement. Contractor shall immediately notify SACOG of any and all potential violations of this paragraph upon becoming aware of the potential violation.

28. Political Reform Act Compliance: Contractor is aware and acknowledges that certain contractors that perform work for governmental agencies are "consultants" under the Political Reform Act (the "Act") (Government Code § 81000, et seq.) and its implementing regulations (2 California Code of Regulations § 18110, et seq.). Contractor agrees that any of its officers or employees deemed to be "consultants" under the Act by SACOG, as provided for in the Conflict of Interest Code for SACOG, shall promptly file economic disclosure statements for the disclosure categories determined by SACOG, to be relevant to the work to be performed under this Agreement and shall comply with the disclosure and disqualification requirements of the Act, as required by law.

29. Prohibition of Expending State or Federal Funds for Lobbying:

a. Contractor certifies, to the best of his or her knowledge or belief, that:

- (1) No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal contract, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal Agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

b. This certification is a material representation of fact upon which reliance was placed when this Agreement was entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- c. Contractor also agrees by signing this Agreement that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

30. Disadvantaged Business Enterprise (DBEs) Participation: This Agreement is subject to Title 49, Part 26 of the Code of Federal Regulations (CFR) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Financial Assistance Programs." DBE's and other small businesses, as defined in Title 49 CFR Part 26, are encouraged to participate in the performance of agreements financed in whole or in part with federal funds; however, DBE participation is not a condition of award. In any event, Contractor shall complete the DBE Information Form attached to this Agreement as Exhibit "C" so that SACOG may compile statistics for federal reporting purposes.

- a. Non-Discrimination: Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as SACOG may deem appropriate. Each subcontract signed by Contractor in the performance of this Agreement must include an assurance that Contractor and subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement.
- b. Prompt Payments of Withheld Funds to DBE and Non-DBE Subcontractors: Contractor shall pay to subcontractor(s) all moneys withheld in retention from the subcontractor within thirty (30) days from receiving payment from SACOG for work satisfactorily completed, even if other work is not completed and has not been accepted in conformance with the terms of the contract. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to Contractor or subcontractor in the event of a dispute involving late payment or non-payment to the Contractor or deficient subcontract performance or noncompliance by a subcontractor.
- c. Records: Contractor shall maintain records of all subcontracts entered into with certified DBE subcontractors and records of materials purchased from certified DBE suppliers. The records shall show the name and business address of each DBE subcontractor or vendor and the total dollar amount actually paid each DBE subcontractor or vendor. The records shall show the date of payment and the total dollar figure paid to all firms. Upon completion of the contract, a summary of these records shall be prepared and submitted to SACOG.
- d. Termination of a DBE: In conformance with Federal DBE regulation Section 26.53(f)(1) and 26.53(f)(2), Part 26, 49 CFR, Contractor shall not:

- (1) Terminate for convenience a listed DBE subcontractor and then perform that work with its own forces (personnel), or those of an affiliate, unless Contractor has received prior written authorization from the Project Manager of SACOG to perform the work with other forces (other than Contractor's own personnel) or to obtain materials from other sources; and
 - (2) If a DBE subcontractor is terminated or fails to complete its work for any reason, Contractor shall be required to make good faith efforts to replace the original DBE subcontractor with another DBE.
 - (3) Noncompliance by Contractor with the requirements of this paragraph is considered a material breach of this Agreement and may result in termination of the Agreement or other such appropriate remedies for a breach of this Agreement as SACOG deems appropriate.
- e. DBE Certification and Decertification: If a DBE subcontractor is decertified during the life of the contract, the decertified subcontractor shall notify Contractor in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the contract, the subcontractor shall notify Contractor in writing with the date of certification. Contractor shall then provide to the Project Manager of SACOG written documentation indicating the DBE's existing certification status.

Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

31. Campaign Contribution Disclosure: Contractor has complied with the campaign contribution disclosure provisions of the California Levine Act (Government Code § 84308) and has completed the Levine Act Disclosure Statement attached hereto as Exhibit "D."

32. Costs and Attorneys' Fees: If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and reasonable attorneys' fees.

33. Governing Law and Choice of Forum: This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Sacramento County.

34. Integration: This Agreement represents the entire understanding of SACOG and Contractor as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 12.

35. Severability: If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term

and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law, unless the exclusion of such term or provision, or the application of such term or provision, would result in such a material change so as to cause completion of the obligations contemplated herein to be unreasonable.

36. Headings: The headings of the various sections of this Agreement are intended solely for convenience of reference and are not intended to explain, modify, or place any interpretation upon any of the provisions of this Agreement.

37. Authority: Each person signing this Agreement on behalf of a party hereby certifies, represents, and warrants that he or she has the authority to bind that party to the terms and conditions of this Agreement.

38. Ownership; Permission:

- a. Contractor agrees that all work products, including but not limited to, notes, designs, drawings, reports, memoranda, and all other tangible personal property produced in the performance of this Agreement, shall be the sole property of SACOG, provided that Contractor may retain file copies of said work products. Contractor shall provide said work products to SACOG upon request.
- b. Contractor represents and warrants that: (i) all materials used or work products produced in the performance of this Agreement, including, without limitation, all computer software materials and all written materials, are either owned by or produced by Contractor or that all required permissions and license agreements have been obtained and paid for by Contractor; and (ii) SACOG is free to use, reuse, publish or otherwise deal with all such materials or work products except as otherwise specifically provided in Exhibit "A." Consultant shall defend, indemnify and hold harmless SACOG and its directors, officers, employees, and agents from any claim, loss, damage, cost, liability, or expense to the extent of any violation or falsity of the foregoing representation and warranty.

39. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AGREEMENT AS OF THE DATE HEREIN ABOVE APPEARING:

SACRAMENTO AREA COUNCIL OF GOVERNMENTS

MIKE MCKEEVER
Chief Executive Officer

APPROVED AS TO FORM:

Miller & Owen
Legal Counsel to SACOG

RECOMMENDED BY:

Director's Name
Director's Title

CONTRACTOR:

John F. Shirey, City Manager
City of Sacramento

APPROVED AS TO FORM:



Sabina Gilbert, Deputy City Attorney
City of Sacramento

EXHIBIT A

Scope of Work

The City of Sacramento supports the mission of the Capital Area Plug-in Electric Vehicle Coordinating Council (CAPEVCC), and welcomes the opportunity engage with SACOG, SMUD, other agencies, and private sector stakeholders in a regional collaboration effort in the furtherance of PEV's and related clean/green technologies.

As outlined in the scope of work below, City staff from the Community Development Department and Department of Transportation staff will be assisting SACOG and the CAPEVCC in the following two focus areas:

- Task 1. Permitting EVSE installations in existing buildings**
- Task 2. Planning for PEV/EVSE integration in new development**

It is assumed that the two tasks outlined below will be completed **by September 30, 2012**. Background information and specific activities anticipated under each task are included below. An estimate of staff hours and costs is included in this scope of work.

1. Permitting EVSE Installations in Existing Buildings

City staff will work with SACOG and others in the Capital Area PEV Coordinating Council to review the City's existing residential EVSE permit guide, discuss opportunities for improvement, and develop EVSE permitting guidelines that could be standardized in the region for both residential and commercial applications.

The City is in the process of rolling out a series of improvements to our permitting process, under the **"Streamline Sacramento" initiative**. The initiative is focused around an all-electronic process for application submittal, plan review, and issuance, with additional customer service enhancements. The changes generally include:

- Establishment of an "Express Line"
- Online Project Status Updates and Appointment Scheduling
- Online Permit Application
- Electronic Plan Submittal and Plan Check
- Creation of an Expedited Plan Review Process for "Pre-Approved" Customers

Many of these pending changes will benefit EVSE permitting customers, and presents an opportunity to test integration of the EVSE permit guidelines and process steps noted above with online application in-take and permit issuance.

Tasks: Lead Coordinating Council and sub-committee meeting agenda items related to EVSE permitting. Incorporate ideas into a draft guideline for EVSE permitting.

Products: Draft of changes to existing guide with regional application based on input from Coordinating Council and sub-committees. Due: September 30, 2012.

2. Planning for Integration of PEV’s and EVSE infrastructure in New Development

City staff will work with SACOG and others in the Capital Area PEV Coordinating Council in the consideration of PEV’s and EVSE installations in planning new development, particularly in multifamily or commercial settings. Considerations include: development of model ordinance language for local zoning codes, and standardization of best practices to ensure development projects are “shovel ready” with adequate infrastructure for PEV’s and EVSE. Standards include the placement of dedicated parking and EVSE, siting and design requirements for fast-charging stations on dedicated sites or as part of larger mixed-use projects or specific plans, and the creation of an incentive mechanism to encourage the inclusion of public EVSE in strategic geographical locations.

The City recently initiated the Green Development Code Update process, in which a comprehensive assessment of the City’s Zoning, Subdivision and other sections of City Code are being reviewed and updated consistent with the City’s 2030 General Plan, Climate Action Plan, and Sustainability Master Plan.

Inclusion of PEV and EVSE considerations will be an opportunity to sync up the work of CAPEVCC with the second phase of the City’s Green Development Code Update process, which is anticipated to begin in 2012.

Tasks: Review best practices to identify areas to address as part of the Green Development Code Update process. Draft language for best practices report and guideline for application in other jurisdictions.

Product: Draft language for best practices report and guideline for application in other jurisdictions. Due: September 30, 2012.

BUDGET

	<u>Hours</u>		<u>Hours x Billable Rates</u>
<u>Permit Streamlining for EVSE installations</u>			
Senior	20	\$	1,090.60
Associate	60	\$	2,785.20
<u>Planning for PEV/EVSE in New Development</u>			
Senior	48	\$	2,617.44
Associate	130	\$	6,034.60
TOTAL	258	\$	12,527.84

EXHIBIT B
DEBARMENT CERTIFICATION FORM

The Contractor certifies that, neither the Contractor firm nor any owner, partner, director, officer, or principal of the Contractor, nor any person in a position with management responsibility or responsibility for the administration of federal funds:

(a) Is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency;

(b) Has within a three-year period preceding this certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or

(d) Has within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.

The Contractor further certifies that it shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency.

Dated this _____ day of _____, 20 _____

By _____

Authorized Signature for Contractor

John F. Shirey, City Manager

Printed Named and Title

915 I Street

Address

Sacramento, CA 95814

City/State/Zip Code

(916) 808-5704; jfshirey@cityofsacramento.org

Area Code/Telephone Number and E-Mail Address

EXHIBIT C**DISADVANTAGED BUSINESS ENTERPRISE (“DBE”)**
INFORMATION FORM**(including Underutilized Disadvantaged Business Enterprises (“UDBE”))****Background**

The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR). The term “Underutilized Disadvantaged Business Enterprise” or “UDBE” is a firm meeting the definition of a DBE as specified in Title 49 and also one of the following groups: (i) Black American; (ii) Asian-Pacific American; (iii) Native American; and (iv) Women. It is the policy of the Sacramento Area Council of Governments (SACOG), the California Department of Transportation (“Caltrans”), and the U.S. Department of Transportation that DBE’s, including UDBE’s, have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal transportation funds. A certified DBE or UDBE may participate in the performance of SACOG contracts as a contractor, subcontractor, joint venture partner, or as a vendor of material or supplies.

Requirements and Purpose of Form

The awardee shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Even if no DBE or UDBE participation will be reported, the awardee shall check the “No DBE Participation” option below (Option #1), and sign and return this form.

Resources

The California Unified Certification Program (CUCP) may be used for DBE certification and to identify firms eligible to participate as DBE’s or UDBE’s. The CUCP database may be accessed on-line at <http://www.californiaucp.com>. If you believe a firm is certified but cannot locate it in the CUCP database, you may contact the CalTrans Office of Certification toll free number 1-866-810-6346 for assistance. If you do not have internet access, you may order a written directory of certified DBE firms from the CalTrans Division of Procurement and Contracts/Publication Unit, 1900 Royal Oaks Drive, Sacramento, CA 95815, Telephone: (916) 445-3520.

DBE/UDBE Participation Information

(Awardee must check at least one of the options below, provide required information regarding certified DBE’s and/or UDBE’s, and sign this Information Sheet on page 3)

__x__ Option #1 - No Certified DBE or UDBE participation proposed for this contract.

_____ **Option #2 - It is proposed that the following DBE(s) be used on this contract:**

(Please attach an additional sheet if necessary)

Note: Use Option #3, next page, if DBE proposed is also a UDBE

Name of Certified DBE

DBE Certification No.

DBE Address

DBE Telephone No.

DBE E-Mail Address

Capacity of DBE (*e.g., contractor, subcontractor, vendor*)

\$ Amount DBE Participation

Description of services or materials to be provided by DBE

Name of Certified DBE

DBE Certification No.

DBE Address

DBE Telephone No.

DBE E-Mail Address

Capacity of DBE (*e.g., contractor, subcontractor, vendor*)

\$ Amount DBE Participation

Description of services or materials to be provided by DBE

_____ **Option #3 - It is proposed that the following UDBE(s) be used on this contract:**
(Please attach an additional sheet if necessary)

_____ Name of Certified UDBE	_____ DBE Certification No.
_____ UDBE Address	_____ UDBE Telephone No.
_____	_____ UDBE E-Mail Address
_____ Capacity of UDBE (e.g., contractor, subcontractor, vendor)	_____ \$ Amount UDBE Participation

Description of services or materials to be provided by UDBE

_____ Name of Certified UDBE	_____ DBE Certification No.
_____ UDBE Address	_____ UDBE Telephone No.
_____	_____ UDBE E-Mail Address
_____ Capacity of UDBE (e.g., contractor, subcontractor, vendor)	_____ \$ Amount UDBE Participation

Description of services or materials to be provided by UDBE

Submitted by:

_____ Signature	_____ Date
<u>John F. Shirey</u> Print Name and Title	
<u>City of Sacramento</u> Name of Contractor, if different than signatory	

EXHIBIT D
LEVINE ACT DISCLOSURE STATEMENT

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an Officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the Officer, or received by the Officer on behalf of any other Officer, or on behalf of any candidate for office or on behalf of any committee. The Levine Act also requires disclosure of such contributions by a party to be awarded a specified contract. Please refer to the attachment for the complete statutory language.

Current members of the SACOG Board of Directors are: (as of 1/18/12)

John Allard	Diane Hodges	Susan Peters
Harold Anderson	Jim Holmes	Suzanne Roberts
Christina Billeci	Robert Jankovitz	David Sander
Christopher Cabaldon	Kevin Johnson	Don Saylor
Steve Cohn	John Knight	Walt Scherer
Tom Cosgrove	Joe Krovoza	Phil Serna
Gary Davis	Roberta MacGlashan	Jeff Slowey
Mary Jane Griego	Leslie McBride	Tom Stallard
Carl Hagen	Steve Miklos	Rick West
Kevin Hanley	Larry Montna	
Peter Hill	Barbara Payne	

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any SACOG Director(s) in the 12 months preceding the date of the issuance of this request for proposal or request for qualifications?

YES NO

If yes, please identify the Director(s): _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any SACOG Director(s) in the three months following the award of the contract?

YES NO

If yes, please identify the Director(s): _____

Answering yes to either of the two questions above does not preclude SACOG from awarding a contract to your firm. It does, however, preclude the identified Director(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(JOHN F. SHIREY, CITY MANAGER)

(CITY OF SACRAMENTO)

California Government Code Section 84308

- (a) The definitions set forth in this subdivision shall govern the interpretation of this section.
- (1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.
 - (2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if he or she lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.
 - (3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.
 - (4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.
 - (5) "License, permit, or other entitlement for use" means all business, professional, trade and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.
 - (6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.
- (b) No officer of an agency shall accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.
- (c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty

dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7. If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

- (d) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.
- (e) Nothing in this section shall be construed to imply that any contribution subject to being reported under this title shall not be so reported.

For more information, contact the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814, (916) 322-5660.