

South Bay Cities Council of Governments

May 26, 2016

TO: SBCCOG Board of Directors

FROM: Jacki Bacharach, SBCCOG Executive Director
Wally Siembab, SBCCOG Research Director

SUBJECT: Contract with Fehr and Peers for Work on Strategic Growth Council Grant

Adherence to Strategic Plan:

Goal A: Environment, Transportation, and Economic Development. Facilitate, implement and/or educate members and others about environmental, transportation, and economic development programs that benefit the South Bay.

Background

The South Bay Cities Council of Governments (SBCCOG) Land Use and Transportation Climate Action Planning (CAP) work is considerably expanding on the traditional foundation of Climate Action Planning. The traditional foundation, which has been featured in most published CAPs, borrows from the report: *California Air Pollution Control Officers Association (CAPCOA): Quantifying Greenhouse Gas Mitigation Measures- A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures. August 2010.*

The SBCCOG is expanding on the above efforts through new methodologies and analyses that are based on three large datasets collected by the SBCCOG over the last 10 years. In order for the larger land use and transportation community to consider the new methodologies and analyses, the work needs to be reviewed by experts.

Sole Source Justification

Fehr and Peers was a co-author of the CAPCOA document and has worked as a consultant for the majority of published CAPs. As original authors they are in a unique position to assess and validate the work the SBCCOG has done so far. Additionally, Fehr and Peers is currently drafting the Circulation Element for the City of Hermosa Beach General Plan update, a policy document closely related to the Land Use and Transportation Chapter of the CAP that the SBCCOG is producing for the City. The SBCCOG interviewed 3 consultants at the beginning of the project to gather advice and discuss research plans. It was evident from these three interviews that Fehr and Peers was the most knowledgeable.

RECOMMENDATION

That the Steering Committee approve the SBCCOG entering into a contract with Fehr and Peers not to exceed \$10,000 to review and validate the methodologies of the SBCCOG for the preparation of the land use and transportation chapters of the Climate Action Plan.



May 18, 2016

Wally Siembab
South Bay Cities Council of Governments
20285 S. Western Ave., #100
Torrance, CA 90501

Subject: Proposal for Peer Review of SBCOG VMT Reduction Strategies and Methods

Dear Mr. Siembab:

Thank you for contacting Fehr & Peers to assist you in a review and critique of your technical approach to estimating the climate outcomes for vehicle miles traveled (VMT) reduction strategies. This scope of work is based on an initial meeting with SBCOG staff on April 28, 2016. Advice is sought on both legally and empirically defensible methods to estimate potential VMT and GHG reductions associated with various transportation policy, programmatic, and project related actions, similar to those outlined in CAPCOA's guidance for quantifying greenhouse gas mitigation measures. In our initial meeting you expressed interest in Fehr & Peers providing assistance with a review of the SBCOG CAP methodology, the analytical framework and assumptions, and help brainstorming South Bay specific strategies to quantify the relationships.

This peer review effort is in support of SBCOG's broader effort to incorporate the Sustainable South Bay Strategy into LUT chapters of the sub-regional and city CAPs with strategies that are more appropriate to the South Bay land use context. It is expected that these strategies may differ from those included in the CAPCOA guidance and new guidance may be needed. The initial effort is focused on understanding the recent BEV and NEV household travel research, current analysis methods, discussing additional options, as well as initial recommendations for enhancing the current approach and methods where applicable.

Our proposed scope of work, schedule, and fee estimate are described below.

SCOPE OF WORK

Task 1 – Review of Documents and Technical Approach

Review the strategies and methods used to estimate VMT and GHG reductions related to specific strategies in the following documents:

- Sustainable South Bay Report,
- Battery Electric Vehicle (BEV) Study, and
- Neighborhood Electric Vehicle (NEV) Study

The review will include attention to the theoretical relationships, comparison to prior research, empirical and legal defensibility of findings and conclusions, and a technical review of the calculations and spatial analysis procedures. We expect to interact with staff via phone and or email weekly throughout the process to ensure that we fully understand methods and procedures in service of an objective and accurate assessment.



Task 2 – Meetings

Fehr & Peers will prepare for and participate in up to five telephone conferences and up to three in-person meetings in Torrance at the SBCOG offices. The first in-person meeting will be a data and document transfer, the second a review of initial review comments and clarification prior to documentation, and the third will be a presentation of the review documentation and discussion of appropriate next steps. No meetings with the general public or local agency stakeholders are included in this scope.

Task 3 – Documentation

Fehr & Peers will prepare a single technical memorandum documenting the review process, our technical findings, and initial recommendations for enhancing the current approach and methods if applicable.

COST ESTIMATE AND SCHEDULE

Fehr & Peers will perform this work for a fixed fee of **\$10,000**. We will submit the draft letter report within **6 to 8 weeks** following receipt of written authorization to proceed. Invoices will be submitted monthly for services rendered and are due and payable upon receipt.

If the terms of this proposal and the attached General Terms and Conditions are acceptable to you, this letter can serve as our contractual agreement. In that case, please return a signed copy of this letter to us.

We look forward to working with you on this project. If you have any questions or comments, please contact Jeremy Klop at (213) 261-3063.

Sincerely,

FEHR & PEERS

Jeremy R. Klop, AICP
Principal

ACCEPTED BY:

Signature: _____

Name: _____

Title: _____

Company: _____

Date: _____

Attachment:
Standard Terms and Conditions

/xxx
PXXXX



GENERAL TERMS AND CONDITIONS

Consultant: Fehr & Peers

Client: South Bay Council of Governments

Project: Peer Review of VMT Reduction Strategies and Methods

Effective date of this agreement: _____ May 18, 2016 _____

1. These GENERAL TERMS AND CONDITIONS apply to, and are made part of, the attached letter agreement ("Agreement") by and between FEHR & PEERS, a California corporation, ("Consultant"), and the "Client."

2. Consultant's Services

- a. This is an agreement for Consultant to provide professional services. Consultant agrees to perform the scope of services described in the Agreement, as well as all work incidental to or necessary for the performance of such services, all in accordance with the terms and conditions contained in this Agreement (the "Work").
- b. The Work shall be performed by persons qualified under applicable federal, state and local law to undertake the Work, exercising the same degree of care, skill, and diligence as is ordinarily possessed and exercised by members of their professions, currently practicing, under similar circumstances, shall meet current standards for technical accuracy and quality as defined by relevant professional organizations, societies or other recognized experts, and shall be performed in accordance with all applicable federal, state and local laws.

3. Term

The term of the Agreement shall commence on the date it is made as indicated above, and shall continue until the Work is reasonably determined to be complete by Client, or until this Agreement is terminated under Section 14 below.

4. Data To Be Furnished by Client

All information, data, documents, records and maps with respect to the Project which are available to Client and are reasonably necessary for the performance of the Work ("Client Materials"), shall be furnished to Consultant without charge by Client.

5. Independent Contractor, Not An Agent

- a. Consultant acknowledges that it is an independent contractor and that in performing the Work, it is not acting as Client's agent or representative. Consultant agrees that it will employ at its own expense, and will be solely responsible for, all personnel necessary to perform the Work, and that in no event shall such personnel be considered the employees of Client. Consultant assumes full and sole responsibility for the payment of all compensation for, and expenses incurred by, all of its personnel who are engaged in performing any part of the Work, and for all state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, as well as all other withholdings that may be applicable to the performance of the Work.



- b. Except as Client may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Client in any capacity as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Client to any obligation, or to make any decision or promise, or to enter into any contract, oral or written, on behalf of Client.

6. Compensation

- a. Client shall pay Consultant in accordance to the compensation schedule described in the Agreement. Such compensation shall be deemed to include overhead and incidental expenses, for which no additional compensation shall be paid by Client.
- b. Consultant shall submit invoices to Client monthly, describing in reasonable and understandable detail the services rendered, fee charged, and expenses incurred by Consultant during the previous month.
- c. Consultant's monthly invoices shall be paid within after their receipt by Client.
- d. If payment on any of Consultant's invoices is not received within 60 days, Consultant may, at its sole discretion, and by written notice to Client, elect to stop work until all payments are received. Client agrees to pay all costs, including attorney's fees and court costs, incurred by Consultant to collect on past due invoices.

7. Time of Performance

- a. Consultant shall commence, perform, and complete the Work in accordance with the schedule for Consultant's performance described in the Agreement. If any of the project scope, required data, and/or comments to be provided by the Client is delayed, the due dates in this schedule will be extended accordingly.
- b. Consultant shall not be responsible for any delay due to factors not within Consultant's reasonable control whether or not such delay is foreseeable.

8. Ownership

- a. All of Consultant's electronic and hard-copy records, including all maps, files, reports, drawings, sketches, samples, photographs, film and videos, memoranda, notes, correspondence, emails, and other documents and communications, draft or final, as well as all of their contents, including all inventions, data, information, ideas, improvements, discoveries, methodologies, models, formats, software, algorithms, software, processes, schematics, programs, procedures, designs, calculations, details, specifications, assumptions, and findings, conclusions, summaries, interpretations of regulations, investigations, and sources of information, and all related information, that are developed, discovered, collected, produced, or created by Consultant and its contractors, vendors, and consultants in the course of its performance of the Work are considered Consultant's Work Product.
- b. All parts of the Work Product are instruments of the Consultant's service to be used solely for the purposes intended by this Agreement, within the Project, and the Consultant shall be deemed the author and owner of the Work Product, and shall retain all rights, titles, and interests, in the Work Product, including any and all property rights, ownership rights, intellectual property rights, copyrights and moral rights, as well as all rights under all trademarks, service marks, domain names, and trade dress, that arise from the creation of the Work Product. Client shall be permitted to retain copies, including reproducible copies, of the Work Product for information and reference in connection with the Client's use on the Project. Client shall not use, or permit to be used, the Work Product on other projects, or for changes to this Project without the express written consent of the Consultant. Consultant shall not be liable or responsible for any use, reuse, or modification of, or



derivation from, any of its Work Product made without Consultant's written consent other than for purposes intended by this Agreement. Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication or violation of copyright.

- c. Consultant grants Client an irrevocable, non-exclusive, royalty-free, worldwide, right and license in perpetuity to publish, analyze, translate, reproduce, deliver, perform, derive from, display, transfer, and use the Work Product.
- d. Consultant shall not have, and shall not claim, any right, title, or interest, in any Client Materials, other than a non-exclusive license to use such materials, but solely for the particular purpose for which such materials are provided to Consultant.

9. Confidentiality, Data Security

- a. Private Data is the privacy and sensitive information of individuals, or any confidential, sensitive, or personal data that alone or in conjunction with other information identifies any individual, including the individual's name, address, license plate information, mobile phone information, license plate information, and any information on the individual's uniquely identifying movements and activities.
- b. Notwithstanding any provision in this Agreement, Consultant shall not deliver to Client in any form or medium, nor shall it incorporate into any information, data, document, or work product to be delivered to Client, any Private Data that Subconsultant may collect or use in performing its services, or that may otherwise be in Consultant's possession or control, and none of such Private Data shall be a work for hire or belong to Client.
- c. Consultant agrees to maintain as confidential all information that Client labels in writing as confidential or privileged with a standard of care at least as rigorous as that exercised by Consultant in protecting and maintaining the security of its own proprietary or confidential information.
- d. Pursuant to a court order, Consultant may disclose any information that Consultant is obligated to keep confidential, or that Consultant is prohibited from disclosing. However, before seeking any such court order, or immediately upon receiving any court order requiring the disclosure of any such information, Consultant shall notify Client and reasonably cooperate with Client in the event Client seeks any legal protective order.



10. Consultant's Insurance

- a. Consultant shall procure and maintain for the term of this Agreement the following insurance coverage at the following limits specified for each.
- | | |
|---|---|
| i. Commercial General Liability Insurance | \$ 1 million per occurrence
\$ 2 million aggregate |
| ii. Automobile Liability Insurance | \$ 1 million per occurrence |
| iii. Workers' Compensation Insurance | Per statutory requirements |
| iv. Employer's Liability Insurance | \$ 1 million policy limit |
| v. Professional Liability Insurance | \$ 1 million per claim
\$ 2 million aggregate |
- b. Prior to commencing Work under this Agreement, Consultant shall provide Client with a Certificate of Insurance evidencing such coverage and limits, and specifying that the insurer shall give the Client an unqualified thirty day's advance written notice prior to any cancellation of the policy.

11. Abiding With Laws

- a. Consultant shall comply with all federal, state, and local laws, regulations, and ordinances applicable to the Work, Consultant, Consultant's employees, or those engaged by Consultant or its employees in the performance of the Work.
- b. Consultant and its subconsultants and subcontractors, at their sole cost and expense, shall keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that they are each required to provide the Work.

12. Non-discrimination in Employment

In connection with the performance of this contract, Consultant agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.

13. Notices

Any notice or demand to be given under this Agreement shall be in writing and be deemed given when personally delivered or sent by certified or registered mail, and addressed to the parties as set forth above or to such other address as either party shall have previously designated by such a notice. Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice so mailed shall be deemed to be received five days after the date on which it was mailed.



14. Waivers

Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement. Any provision of this Agreement determined to be unenforceable shall be severed from the Agreement, and the remainder of the Agreement shall be given full force and effect.

15. Termination

Consultant and Client may terminate this Agreement for convenience at any time upon seven days' written notice to the other. Client shall pay Consultant in accordance with the provisions of this Agreement for the part of the Work performed up to the day notice of termination is given.

16. Modification

No waiver, alteration, modification of this Agreement shall be valid unless made in writing and executed by both parties.

17. Interpretation

The provisions of this Agreement shall be interpreted to give effect to their fair meaning and shall be construed as though prepared by both parties.

18. Governing Law

This Agreement shall be governed by the governing law specified in the Prime Contract, or if there is no such provision in the Prime Contract, the law of the State in which the Project is located, excluding its conflicts of laws provisions.

19. Multiple Counterparts; Electronic Copies; Electronic Signature

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original. Upon execution of such counterparts, all counterparts together shall constitute the entire Agreement. Electronic transmission (e.g., by facsimile or email) of an executed counterpart of this Agreement shall be as effective as delivery of an original executed counterpart. In addition, pursuant to the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transaction Act, both parties agree to accept an electronic signature as a valid replacement of an ink and paper signature for all business transactions related to this Agreement.

20. Successors and Assigns

This Agreement shall be binding upon Client and Consultant, their successors and assigns. Neither party shall assign, subcontract, transfer, or otherwise dispose of any interest in this Agreement without the prior written approval of the other, which shall not be unreasonably withheld.



21. Third-party Beneficiaries

This Agreement confers or creates no rights or benefits in anyone other than Consultant and Client, and it has no third-party beneficiaries.

22. Attorneys' Fees

In the event of any legal action between the parties to this Agreement arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and litigation expenses incurred, in addition to any other relief sought.

23. Entire Agreement

This Agreement sets forth the entire understanding between the parties as to the subject matter of this Agreement and merges all prior discussions, negotiations, letters of understanding or other promises, whether oral or in writing.