

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is made as of January __, 2015 by and between the South Bay Cities Council of Governments, a California joint powers authority ("SBCCOG") and Siembab Corporation, a California Corporation ("Consultant").

RECITALS

A. SBCCOG desires to utilize the services of Consultant as an independent contractor to provide specific professional services to SBCCOG necessary to develop and implement programs for various land use and transportation projects that advance SBCCOG policy.

B. Several of the projects will be funded through various grants from outside agencies and each will include a different scope of work.

C. Budget for this master agreement will be defined through specific task orders which reflect the project management tasks of the various scopes of work and attached as Exhibits to this agreement.

D. Consultant represents that it is an independent company in the business of providing the above services and is fully qualified to perform consulting services by virtue of its experience and the training, education and expertise of its principal and due to the specialized nature of these programs, there is justification for a sole source procurement.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

1. Services.

1.1 The overall nature and scope of the services to be performed by Consultant are as described in Exhibit A, attached hereto and incorporated herein by reference but each specific project's scope of work and budget will be approved through a task order

1.2 SBCCOG agrees to conduct its best effort to assist with the success of the program and understands that the Consultant assumes full responsibility to manage and produce the program.

1.3 SBCCOG and participating agencies shall provide all relevant documentation in their possession to the Consultant upon request in order to minimize duplication of efforts. The SBCCOG staff shall work with the Consultant as necessary to facilitate performance of the services.

2. Term of Agreement. This Contract shall take effect January 1, 2015 and shall continue until December 31, 2018 unless earlier terminated pursuant to the provisions of paragraph 14 herein. The term of this Agreement may be extended or amended by

mutual agreement of the parties as may be necessary or desirable to carry out its purposes.

3. Compensation. SBCCOG shall pay for services based on the estimated budget for each project. All invoices must be submitted on a time and materials basis. The agreed upon hourly rate for Walter Siembab is \$85/hour to be reviewed annually. SBCCOG must be notified in writing prior to any sub-contracted work by Siembab Corporation. Rates for such services must be pre-approved prior to work commencing. Mileage expenses will be reimbursed at the current Federal rate.

4. Terms of Payment. Consultant shall submit monthly invoices for services rendered and for reimbursable expenses incurred. The invoice should include: an invoice number, the dates covered by the invoice, the hours expended and a summary of the work performed. SBCCOG shall pay the invoices with sixty (60) days of receipt.

5. Parties' Representatives. Jacki Bacharach shall serve as the SBCCOG's representative for the administration of the project. All activities performed by the Consultant shall be coordinated with this person. Walter Siembab shall be in charge of the project for the Consultant on all matters relating to this Agreement and any agreement or approval made by him shall be binding on the Consultant. This person shall not be replaced without the written consent of the SBCCOG.

6. Addresses.

SBCCOG:
South Bay Cities Council of Governments
20285 Western Avenue, Suite 100
Torrance, California 90501
Attention: Jacki Bacharach, Executive Director

Consultant:
Siembab Corporation
Attention: Walter Siembab, President
5944 Chariton Avenue
Los Angeles, California 90056

7. Status as Independent Contractor.

A. Consultant is, and shall at all times remain as to SBCCOG, a wholly independent contractor in business for itself. Consultant shall have no power to incur any debt, obligation, or liability on behalf of SBCCOG or any participating agency or otherwise act on behalf of SBCCOG or any participating agency as an agent except as specifically provided in the Scope of Services. Neither SBCCOG nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner employees of SBCCOG.

B. Consultant shall certify that it has no employees. In the event that it acquires

employees, Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant further agrees to indemnify and hold SBCCOG harmless from any failure of Consultant to comply with applicable worker's compensation laws.

8. Standard of Performance. Consultant shall perform all work at the standard of care and skill ordinarily exercised by members of the profession under similar conditions.

9. Indemnification. Consultant agrees to indemnify the SBCCOG and participating public agencies, their respective officers, staff consultants, agents, volunteers, employees, and attorneys against, and will hold and save them and each of them harmless from, and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the acts, errors or omissions of Consultant, its agents, employees, subcontractors, or invitees, including each person or entity responsible for the provision of services hereunder, except for liability resulting from the sole negligence or wrongful acts of the SBCCOG or a participating agency.

10. Insurance. Consultant shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California and approved by the SBCCOG (1) a policy or policies of broad-form comprehensive general liability insurance with minimum limits of \$1,000,000.00 combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts by Consultant, its officers, employees, agents, and independent contractors in performance of services under this Agreement; (2) property damage insurance with a minimum limit of \$1,000,000.00; (3) automotive liability insurance, with minimum combined single limits coverage of \$500,000.00; and if applicable (4) worker's compensation insurance with a minimum limit of \$500,000.00 or the amount required by law, whichever is greater. SBCCOG and participating public agencies, their respective officers, employees, attorneys, staff consultants, and volunteers shall be named as additional insureds on the policy (ies) as to comprehensive general liability, property damage, and automotive liability. The policy (ies) as to comprehensive general liability, property damage, and automobile liability shall provide that they are primary, and that any insurance maintained by the SBCCOG shall be excess insurance only.

A. All insurance policies shall provide that the insurance coverage shall not be non-renewed, canceled, reduced, or otherwise modified (except through the addition of additional insureds to the policy) by the insurance carrier without the insurance carrier giving SBCCOG thirty (30) day's prior written notice thereof. Consultant agrees that it will not cancel, reduce or otherwise modify the insurance coverage.

B. All policies of insurance shall cover the obligations of Consultant pursuant to the terms of this Agreement; shall be issued by an insurance company which is admitted to do business in the State of California or which is approved in writing by the SBCCOG; and shall be placed with a current A.M. Best's rating of no less than A VII.

C. Consultant shall submit to SBCCOG if applicable (1) insurance certificates indicating compliance with the minimum worker's compensation insurance requirements above, and (2) insurance policy endorsements indicating compliance with all other minimum

insurance requirements above, not less than one (1) day prior to beginning of performance under this Agreement. Endorsements shall be executed on SBCCOG's appropriate standard forms entitled "Additional Insured Endorsement", or a substantially similar form which the SBCCOG has agreed in writing to accept.

11. Confidentiality. Parties agree to preserve as confidential all Confidential Information that has been or will be provided to each other.

12. Ownership of Materials. All materials provided by Consultant in the performance of this Agreement shall be and remain the property of SBCCOG and its partner organizations without restriction or limitation upon their use or dissemination by SBCCOG. The consultant will retain non-exclusive perpetual rights to the use of material developed under this contract.

13. Conflict of Interest. It is understood and acknowledged that Consultant will serve as an agent of the SBCCOG and the participating agencies for the limited purpose of implementation of this project.

14. Termination. Either party may terminate this Agreement without cause upon fifteen (15) days' written notice to the other party. The effective date of termination shall be upon the date specified in the notice of termination, or, in the event no date is specified, upon the fifteenth (15th) day following delivery of the notice. Immediately upon receiving written notice of termination, Consultant shall discontinue performing services. Should the Agreement be breached in any manner, the non-breaching party may, at its option, terminate the Agreement not less than five (5) days after written notification is received by the breaching party to remedy the violation within the stated time or within any other time period agreed to by the parties.

15. Personnel. Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant's services under this Agreement, but SBCCOG reserves the right, for good cause, to require Consultant to exclude any employee from performing services on SBCCOG's premises.

16. Non-Discrimination and Equal Employment Opportunity.

A. Consultant shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement, and will comply with all rules and regulations of SBCCOG relating thereto. Such nondiscrimination shall include but not be limited to the following: employment, upgrading, demotion, transfers, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Consultant will, in all solicitations or advertisements for employees placed by

or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

17. Assignment. Consultant shall not assign or transfer any interest in this Agreement nor the performance of any of Consultant's obligations hereunder, without the prior written consent of SBCCOG, and any attempt by Consultant to so assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

18. Compliance with Laws. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments. Each party is responsible for paying its own all federal and state income taxes, including estimated taxes, and all other government taxes, assessments and fees incurred as a result of his/her performance under this Agreement and the compensation paid by or through this Agreement

19. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by SBCCOG of any payment to Consultant constitute or be construed as a waiver by SBCCOG of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by SBCCOG shall in no way impair or prejudice any right or remedy available to SBCCOG with regard to such breach or default.

20. Resolving Disputes. If a dispute arises under this Agreement, prior to instituting litigation the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in California. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties.

21. Severability. If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in effect provided that the principal purposes of the parties are not thereby frustrated.

22. Notices. Any notices required to be given under this Agreement by either party to the other may be affected by any of the following means: by electronic correspondence (email), by personal delivery in writing by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices must be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change the address by giving written or electronic notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first. Electronic notices are deemed communicated as of actual time and date of receipt. Any electronic notices must specify an automated reply function that the email was received. The email addresses for each party are as follows:

Jacki Bacharach – jacki@southbaycities.org
Walter Siembab – ws@siembab.com

23. Governing Law. This Contract shall be interpreted, construed and enforced in accordance with the laws of the State of California.

24. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

25. Entire Agreement. This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between Consultant and SBCCOG. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the parties which expressly refers to this Agreement. Amendments on behalf of the SBCCOG will only be valid if signed by the SBCCOG Executive Director or the Chairman of the Board and attested by the SBCCOG Secretary.

26. Exhibits. All exhibits referred to in this Agreement are incorporated herein by this reference.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

"SBCCOG"

"SBCCOG"
South Bay Cities Council of Governments

By: _____
James F. Goodhart (Signature)

Title: _____

Date: _____

Attest: _____
SBCCOG Secretary

Contractor

By: _____
(Signature)

(Typed or Printed Name)

Title: _____

Date: _____

Exhibit A – Task Order #1

All compensation will be funded through grants received and in no event shall exceed the total amount designated for the tasks described.

1. BEV Demonstration Plan Development – Siembab Corporation shall serve as the project manager for AQMD Technology Department Task Order dated March 26, 2012 and incorporated herein by reference. Budget allocation for Siembab Corporation is \$38,000 from January 1, 2015 and ending April 30, 2015 to prepare the final report and close out the project.
2. Multi-Family Dwelling Unit Electric Vehicle Charging Station study – Siembab Corporation shall serve as the project manager for the contract to be entered into between the California Energy Commission and the SBCCOG and shall be responsible for all deliverables. Budget allocation for Siembab Corporation is \$43,000 starting at the commencement of the signed contract approximately March, 2015 and ending June 30, 2016.
3. Climate Action Plans – Siembab Corporation shall prepare the land use and transportation chapters of the South Bay COG’s Climate Action Plan for the subregion, advise on the city plans, and contribute to the Implementation Framework. The funding for this will be from the contract to be entered into between the Strategic Growth Council and Metro. Budget allocation for Siembab Corporation is \$175,000 from January 2, 2015 to December 31, 2018.