

**SACRAMENTO LOCAL AGENCY FORMATION COMMISSION**

**1112 I Street, Suite #100  
Sacramento, California 95814  
(916) 874-6458**

June 6, 2012

TO: Sacramento Local Agency Formation Commission  
FROM: Peter Brundage, Executive Officer *PB*  
RE: FY 2012-13 Contracts

**RECOMMENDATION:**

Authorize the Executive Officer to sign the attached contracts for FY 2012-13.

- |    |                                 |                       |
|----|---------------------------------|-----------------------|
| A. | Miller & Owen                   | Commission Counsel    |
| B. | Environmental Planning Partners | Environmental Support |
| C. | James Marta, CPA                | FY 2011-12 Audit      |

**DISCUSSION:**

The attached contract renewals cover the various on-going consulting services for FY 2012-13. These contracts include amounts for reimbursable project costs as well as funding for general support that is not reimbursable.

The following contract amounts have been included in the FY 2012-13 Final Budget:

	<u>Contract Amount</u>	<u>Revenue</u>	<u>Net Cost</u>
Legal	\$160,000	\$100,000	\$60,000
Environmental	50,000	30,000	20,000
James Marta, CPA	<u>8,000</u>		<u>8,000</u>
Total	\$218,000	\$130,000	\$88,000

**AGREEMENT BETWEEN  
SACRAMENTO LOCAL AGENCY FORMATION COMMISSION  
AND  
MILLER & OWEN  
A Professional Corporation**

This Agreement is made and entered into this 30<sup>th</sup> day of June 2012, by and between the **SACRAMENTO LOCAL AGENCY FORMATION COMMISSION** (hereinafter referred to as "LAFCo"), and **MILLER & OWEN, A Professional Corporation** (hereinafter referred to as "Contractor").

1. **CONTRACTORS OBLIGATION** Contractor shall provide legal services, representation, consultation, research, opinions, and advice. Contractor shall send LAFCo a detailed statement for fees and costs incurred every month.

2. **LAFCO'S RESPONSIBILITIES** For the purposes described in this Agreement, LAFCo shall pay Contractor for services rendered at the hourly rate outlined in Exhibit "A," attached hereto.

The total amount paid to Contractor under this Agreement shall not exceed \$60,000 for services that are not reimbursed by third parties and \$100,000 for services that are reimbursed by third parties for a total amount not to exceed \$160,000 unless the amount is amended in writing by the parties. The total amount does not include any amounts for litigation. In the event of litigation the contract amount may be amended.

3. **CONTRACTOR'S RESPONSIBILITIES** Contractor shall provide legal services to LAFCo, as requested, in order to assist LAFCo in relation to proceedings undertaken. Contractor's services may include, but are not necessarily be limited to:

Representing LAFCo as general counsel including, but not limited to, litigation if any. If litigation is initiated, the budgeted amount may increase upon written agreement of the parties.

Making recommendations to LAFCo on the development of LAFCo positions on various issues as requested by staff or the Commission.

4. **TERM** The term of this Agreement shall be effective from July 1, 2012, through June 30, 2013. It is the parties' intent that this Agreement may be annually renewed by LAFCo and Contractor.

5. **TERMINATION** This Agreement may be terminated as follows:

By mutual consent of both parties; or

By LAFCo upon written notice thereof to Contractor.

**ASSIGNMENT** Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without prior written consent of LAFCo, except that claims for money due or to become due Contractor from LAFCo under this Agreement may be assigned by Contract to a bank, trust company, or other financial institution without such approval, written notice of any such transfer shall be furnished promptly to LAFCo. Any attempt at assignment of rights under this Contract except for those specifically consented to by both parties or as stated above shall be void.

**MODIFICATION** This Agreement may only be modified by a written amendment hereto, executed by both parties.

**SEVERABILITY** If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

**CONFIDENTIAL RELATIONSHIP** All dealings of the parties hereto are confidential, and no report, data, information or communication developed, prepared or assembled by Contractor hereunder shall be revealed or made available to any person or entity other than LAFCo without LAFCo's permission except as provided by law.

**INDEPENDENT CONTRACTOR** No employer/employee relationship is intended by the parties hereto, the relationship of Contractor to the LAFCo being that of independent contractor. LAFCo will not be required to make payroll deductions or provide worker's compensation insurance or health benefits.

**INSURANCE** During the term of this Agreement, Contractor shall maintain professional liability insurance which is reasonably satisfactory to LAFCo in an amount not less than \$500,000 per occurrence and \$1,000,000 umbrella coverage. Contractor shall also maintain worker's compensation insurance in an amount not less than \$1,000,000.

**SURVIVAL** Contractor shall remain obligated under all clauses of this Agreement which expressly or by their nature extend beyond the term hereof.

**NOTICES** All notices that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with a United States Post Office for delivery by registered or certified mail and addressed to the parties at the following addresses, unless such addresses are changed by notice, in writing, to the other party:

LAFCo: Sacramento Local Agency Formation Commission  
Attention: Peter Brundage  
1112 I Street, #100  
Sacramento CA 95814-1280

CONTRACTOR: MILLER & OWEN  
Attention: Nancy C. Miller  
A Professional Corporation  
428 J Street, Suite 400  
Sacramento CA 95814

**ADDITIONAL PROVISIONS** This Agreement shall be governed by the laws of the State of California. It constitutes the entire agreement between the parties regarding its subject matter. This Agreement supersedes all proposals, oral or written, and all negotiations, conversations or discussions heretofore and between the parties related to the subject matter of this Agreement.

Executed by Contractor and by LAFCo in Sacramento, California on the date and year first above written.

SACRAMENTO LOCAL AGENCY  
FORMATION COMMISSION

MILLER & OWEN  
A Professional Corporation

By: \_\_\_\_\_  
Peter Brundage  
Executive Officer

By: \_\_\_\_\_  
Nancy C. Miller

## Exhibit A

### RATE SCHEDULE FY 2011-12

Nancy C. Miller	\$275.00
William L. Owen	\$275.00
Christiane E. Layton	\$255.00
Paul J. Chrisman	\$255.00
Madeline E. Miller	\$220.00
Jennifer V. Gore	\$205.00
Matt McOmber	\$190.00
Paralegals	\$105.00

In addition, only the following costs will be billed as follows:

In-house photocopying will be billed at \$.05 a copy. Other photocopying, postage, long distance telephone charges, federal express, courier service, court and administrative fees, and all other "out of pocket" costs will be billed at actual costs. Travel to and from client is not billed.

Hourly rates may increase upon written amendment by the parties. The firm usually adjusts rates annually.

**AGREEMENT BETWEEN  
SACRAMENTO LOCAL AGENCY FORMATION COMMISSION  
AND  
ENVIRONMENTAL PLANNING PARTNERS, INCORPORATED**

This Agreement is made and entered into this 1<sup>st</sup> day of July, 2012, by and between the SACRAMENTO LOCAL AGENCY FORMATION COMMISSION (hereinafter referred to as "LAFCo"), and ENVIRONMENTAL PLANNING PARTNERS, Inc.

1. **CONTRACTORS OBLIGATION** Contractor shall provide environmental planning services, environmental document preparation, consultation, research, opinions, and advice. Contractor shall send LAFCo a detailed statement for fees and costs incurred every month.
2. **LAFCO'S RESPONSIBILITIES** For the purposes described in this Agreement, LAFCo shall pay Contractor for services rendered at the hourly rate outlined in Exhibit "A," attached hereto.

The total amount paid to Contractor under this Agreement shall not exceed \$20,000 for services that are not reimbursed by third parties and \$30,000 for services that are reimbursed by third parties for a total amount not to exceed \$50,000 unless the amount is amended in writing by the parties. The total amount does not include an amount for litigation. In the event of litigation, the contract may be amended.

3. **CONTRACTOR'S RESPONSIBILITIES** Contractor shall provide environmental planning services to LAFCo, as requested, in order to assist LAFCo in complying with the California Environmental Quality Act in LAFCo's consideration of projects and applications brought before LAFCo. Contractor's services may include, but are not necessarily limited to:
  - Preparing environmental documents compliant with the California Environmental Quality Act for LAFCo projects. Such documents under this contract include Notices of Exemption, Initial Studies, and Negative Declarations. If an expanded Initial Study with special technical studies or an Environmental Impact Report is initiated, the budgeted amount may increase upon written agreement of the parties.
  - Reviewing and commenting upon environmental documents prepared by local lead agencies to support applications submitted to LAFCo in LAFCo's role as a responsible agency under terms of the California Environmental Quality Act.
4. **TERM** The term of this Agreement shall be from the effective date of July 1, 2012 through June 30, 2013.

5. **TERMINATION** This Agreement may be terminated as follows:

By mutual consent of both parties; or

By LAFCo upon written notice thereof to Contractor

**ASSIGNMENT** Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the same without prior written consent of LAFCo, except that claims for money due or to become due Contractor from LAFCo under this Agreement may be assigned by Contract to a bank, trust company, or other financial institution without such approval, written notice of any such transfer shall be furnished promptly to LAFCo. Any attempt at assignment of rights under this Contract except for those specifically consented to by both parties or as stated above shall be void.

**MODIFICATION** This Agreement may only be modified by a written amendment hereto, executed by both parties.

**SEVERABILITY** If any provision of this Agreement is held to be unenforceable, the remainder of this Agreement shall be severable and not affected thereby.

**CONFIDENTIAL RELATIONSHIP** All dealings of the parties hereto are confidential, and no report, data, information or communication developed, prepared or assembled by Contractor hereunder shall be revealed or made available to any person or entity other than LAFCo without LAFCo's permission except as provided by law.

**INDEPENDENT CONTRACTOR** No employer/employee relationship is intended by the parties hereto, the relationship of Contractor to the LAFCo being that of independent contractor. LAFCo will not be required to make payroll deductions or provide worker's compensation insurance or health benefits.

**INSURANCE** During the term of this Agreement, Contractor shall maintain professional liability insurance that is reasonably satisfactory to LAFCo in an amount not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. Contractor shall also maintain worker's compensation insurance as required by statute.

**SURVIVAL** Contractor shall remain obligated under all clauses of this Agreement that expressly or by their nature extend beyond the term hereof.

**NOTICES** All notices that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with a United States Post Office for delivery by registered or certified mail and addressed to the parties at the following addresses, unless such addresses are changed by notice, in writing, to the other party:

LAFCO: Sacramento Local Agency Formation Commission  
Attention: Peter Brundage  
1112 I Street, #100  
Sacramento CA 95814-1280

CONTRACTOR: Environmental Planning Partners Inc.  
Attention: Robert D. Klousner  
PO Box 627  
7281 Lone Pine Drive, Suite D-203  
Sloughouse, CA 95683

**ADDITIONAL PROVISIONS** This Agreement shall be governed by the laws of the State of California. It constitutes the entire agreement between the parties regarding its subject matter. This Agreement supersedes all proposals, oral or written, and all negotiations, conversations or discussions heretofore and between the parties related to the subject matter of this Agreement.

In addition, only the following costs will be billed as follows:

In-house photocopying will be billed at \$.05 a copy. Other photocopying, postage, long distance telephone charges, federal express, courier service, court and administrative fees, and all other "out of pocket" costs will be billed at actual costs.

Hourly rates shown in Exhibit A attached

Executed by Contractor and by LAFCo in Sacramento, California on the date and year first above written.

**SACRAMENTO LOCAL AGENCY  
FORMATION COMMISSION**

**ENVIRONMENTAL PLANNING PARTNERS**  
Incorporated

By: \_\_\_\_\_  
Peter Brundage  
Executive Officer

By: \_\_\_\_\_  
Robert D. Klousner



**Exhibit A**

**2012-2013 RATE SCHEDULE**

Client: Sacramento Local Agency Formation Commission

Matter: Environmental Document Preparation and Consulting

**Hourly rates for Planning Partners' personnel:**

Principal	\$145.00
Principal Planner/Scientist	\$125.00
Prof. Planner/Scientist	\$120.00
Senior Planner	\$105.00
Assoc. Planner/Scientist	\$95.00
Assistant Planner	\$90.00
Planning Technician	\$85.00
Cartographer	\$75.00
Support	\$57.50



**James Marta & Company**  
**Certified Public Accountants**

*Accounting, Auditing, Consulting, and Tax*

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March 1, 2012

Peter Brundage  
Executive Officer  
Sacramento Local Agency Formation Commission  
1112 I Street, Suite 100  
Sacramento, CA 95814

We are pleased to confirm our understanding of the services we are to provide for Sacramento Local Agency Formation Commission for the year ended June 30, 2012.

**I. SCOPE OF WORK**

We have been engaged to perform an audit of Sacramento Local Agency Formation Commission's basic financial statements as of June 30, 2012. The purpose of an audit is to express an opinion as to whether your financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America, and is limited to the period covered by our audit.

**II. MANAGEMENT'S RESPONSIBILITIES**

At the outset, it is imperative that we state the scope of your responsibilities in connection with this engagement. The financial statements are the responsibility Sacramento Local Agency Formation Commission's management. Encompassed in that responsibility are the establishment and maintenance of effective internal control over financial reporting, the establishment and maintenance of proper accounting records, and the selection of appropriate accounting principles.

Management is responsible for the design and implementation of programs and controls to prevent or detect fraud, and for informing us about all known or suspected fraud affecting the government involving (a) management, (b) employees who have significant roles in internal control, and (c) others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of its knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, management is responsible for identifying and ensuring that the entity complies with applicable laws and regulations.

We will assist in the preparation of your financial statements, but the responsibility for the financial statements remains with you. You are responsible for adjusting the financial statements to correct material misstatements and for confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

As part of our engagement we may propose standard, adjusting, or correcting journal entries to your financial statements. You are responsible for reviewing the entries and understanding the nature of any proposed entries and the impact they have on your financial statements. Further, you are responsible for designating a qualified management-level individual to be responsible and accountable for overseeing these services.

### **III. OUR RESPONSIBILITY**

Our responsibility is to express an opinion as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles, and is limited to the period covered by our audit. Facts and circumstances may require us to qualify that opinion, or to disclaim it, or to express an adverse opinion. Other facts and circumstances may require us to provide additional information on our report. We will keep you informed if and when we begin to reach conclusions that our report may need to be modified because of such facts and circumstances.

### **IV. CHARACTER AND LIMITATIONS OF AN AUDIT**

Our audit will be conducted in accordance with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Government Auditing Standards. Those standards require that we initially assess the risk that errors, fraud, irregularities, and illegal acts may cause the financial statements to contain a material misstatement. This is necessary because we do not audit all the transactions and balances in the financial statements, only a selected portion of them, in some cases a very small portion. The costs for us to examine a large portion of them, or all of them of a certain category, or all of them in all categories, would be prohibitive. Consequently, there are risks.

In making this initial assessment, we are required to obtain an understanding of the entity and its environment, including its internal control, sufficient to assess the risks of material misstatement of financial statements and to design appropriate audit procedures. Those considerations mandate your complete cooperation and honesty about your knowledge and understanding of the possibility of the existence of errors, fraud, irregularities and illegal acts. By signing this letter, you agree that you will provide this cooperation and that you will be totally honest with us.

Based on that assessment, the standards require us to design the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement, whether caused by errors, fraud, irregularities and illegal acts. Accordingly, a material misstatement may remain undetected. While we are required to exercise due care and professional skepticism, since our opinion is based on the concept of reasonable assurance, we are not an insurer and our report does not constitute a guarantee. We will inform you of all matters of fraud that come to our attention. We will also inform you of illegal acts that come to our attention, unless they are clearly inconsequential. We will inform you of any need to extend our procedures because of them and our estimate of their additional cost.

The discovery, subsequent to the date of the auditor's report, that one or more errors, frauds, irregularities, or illegal acts causing the financial statements to contain one or more material misstatements, have occurred does not necessarily mean that our audit was not conducted in accordance with generally accepted auditing standard.

An audit includes obtaining an understanding of internal control sufficient to plan the audit, but is not designed to provide assurance on internal control or to identify significant deficiencies conditions. However, during the audit, if we become aware of such reportable conditions or ways that we believe management practices can be improved, we will communicate them to you in a separate letter.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, legal counsel, creditors, and financial institutions.

The Commission's management hereby promises that it will make every diligent effort to maintain proper books and records that accurately reflect its business activities, that it will be completely truthful with us and that we may rely upon both oral and written statements and responses to questions. Management further promises to immediately advise us if it become aware of any inaccuracy in the record-keeping or dishonesty in any of its business dealings, including its statements to us. Management acknowledges that the promises are the cornerstone of its relationship with us and are made to induce us to accept this audit engagement, and that we would not accept this audit engagement without such promises.

Management is responsible for making all financial records and related information available for purposes of the audit. In the event that the financial information provided is incomplete or inaccurate, then we will either complete the work at our standard rate, or delay the audit until this information is complete and accurate.

At the conclusion of our audit, we will require you to furnish us a management representation letter confirming, among others, your responsibility for your financial statements and for the design and implementation of program and controls to prevent and detect fraud. This letter is a required audit procedure prior to issuing our report. By signing this engagement letter and furnishing a management representation letter, you agree to indemnify us and hold us harmless for any liability and costs arising from knowing misrepresentations by management.

In accordance with the requirements of Government Auditing Standards, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance will not be an objective of the audit and, therefore, no such opinion will be expressed.

## V. OTHER STIPULATIONS

### Fees

Our fee for the audit will not exceed \$8,000 for the fiscal year ended June 30, 2012. This fee includes the cost of a board presentation in Sacramento, California; additional cost will be added for time and travel expense to an alternate location. Invoices are payable upon presentation. Unpaid fee balances 30 days over due will bear interest at 18 percent per annum.

Whenever possible, we will attempt to use your organization's personnel to assist in the preparation of schedules and analyses of accounts. We understand that your employees will prepare all cash or other confirmations we request and will locate any invoices selected by us for testing. This effort could substantially reduce our time requirements, facilitate the timely conclusion of the audit, and help you hold down audit fees. If assistance is not provided or accounting is not complete and we must complete these items, the additional time and costs will be charged at our standard hourly rates.

Our initial fee estimate assumes we will receive the aforementioned assistance from your personnel and unexpected circumstances will not be encountered. In the event that the GASB, FASB, AICPA, GAO, OMB, or the State issues additional standards or audit procedures that require additional work during the audit period, we will discuss these requirements with you before proceeding further. Before starting the additional work, we will prepare an estimate of the time necessary, as well as the fee for performing the additional work. Our fee for addressing the additional requirements will be our standard hourly rates for each person involved in the additional work.

### Reports

We will provide you with 15 copies of the report. If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

You agree to distribute the report those charged with governance and the appropriate officials of the responsible party.

### Working Papers

The working papers for this engagement are the property of James Marta & Company and constitute confidential information. However, we may be requested to make certain working papers available or provide copies of them to certain regulators pursuant to authority given to it by law or regulation. If requested, access to such working papers will be provided under the supervision of James Marta & Company.

We agree to retain our workpapers related to this audit for a period of at least seven (7) years from the date of our report.

**Mediation Provision**


Disputes arising under this agreement (including scope, nature, and quality of services to be performed by us, our fees and other terms of the engagement) shall be submitted to mediation. A competent and impartial third party, acceptable to both parties shall be appointed to mediate, and each disputing party shall pay an equal percentage of the mediator's fees and expenses. No suit or arbitration proceedings shall be commenced under this agreement until at least 60 days after the mediator's first meeting with the involved parties. If the dispute requires litigation, the court shall be authorized to impose all defense costs against any non-prevailing party found not to have participated in the mediation process in good faith.

Several technical accounting and auditing words and phrases have been used herein. We presume you to understand their meaning or that you will notify us otherwise so that we can furnish appropriate explanations.

If the foregoing is in accordance with your understanding, please indicate your agreement by signing the duplicate copy of this letter and returning it to us.

We appreciate the opportunity to serve you and look forward to working with you and your staff.

Sincerely,



James Marta & Company

**RESPONSE:**

This letter correctly sets forth our understanding.

Approved by:

Title:

Date: