

THIS PRINT COVERS CALENDAR ITEM NO.: 10.3

**MUNICIPAL TRANSPORTATION AGENCY
City and County of San Francisco**

DIVISION: Transit Services

BRIEF DESCRIPTION

Requesting authorization for the Director of Transportation to execute Contract No. SFMTA - 2011/12-25 As- Needed Specialized Engineering Services for SFMTA Rail Vehicle Projects, with Parsons Corporation in an amount not to exceed \$5,000,000 and a term not to exceed six years.

SUMMARY:

- The Municipal Transportation Agency Board issued an RFP for As-Needed Specialized Engineering Services.
- SFMTA received two proposals from CH2M Hill and Parsons Corporation. A selection panel ranked Parsons Corporation highest.
- The scope of this project is to provide as-needed and specialized services to support the Agency's existing rail vehicle projects and associated operational needs.
- The funding for this project will come from a combination of federal grants, local grants and operating funds.
- This contract will enable staff to obtain technical and professional services on short notice and on an as-needed basis.

ENCLOSURES:

1. SFMTAB Resolution
2. Agreement

APPROVALS:

DATE

DIRECTOR _____ 1/28/13

SECRETARY _____ 1/28/13

ASSIGNED SFMTAB CALENDAR DATE: February 5, 2013

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PURPOSE:

The purpose of this contract is to provide as-needed specialized professional engineering services in a broad area of technical disciplines to supplement staff in the implementation of various SFMTA rail rehabilitation and procurement projects and related operations activities. Some of the projects that will utilize these as-needed services are Breda light rail vehicle overhaul, wreck repairs, overhaul of historic streetcars, and cable car rehabilitation.

GOAL:

The goal of this project is to improve equipment reliability in order to meet the following goals and objectives of the SFMTA's Strategic Plan:

- Goal 1: Create a safer transportation experience for everyone
 - Objective 1.1: Improve security for transportation system users
 - Objective 1.3: Improve the safety of the transportation system
- Goal 2: Make transit, walking, bicycling, taxi, ridesharing and carsharing the preferred means of travel
 - Objective 2.1: Improve customer service and communications
 - Objective 2.2: Improve transit performance
- Goal 3: Improve the environment and quality of life in San Francisco
 - Objective 3.2: Increase the transportation system's positive impact to economy
 - Objective 3.4: Deliver services efficiently
 - Objective 3.3: Allocate capital resources effectively.
 - Objective 3.4: Deliver services efficiently.

DESCRIPTION:

Due to the unpredictability and variety of project work, the need for professional services and other assistance sometimes exceeds the availability of in-house staff or requires specialized expertise. If these services cannot be obtained when needed, it may adversely impact SFMTA projects.

This contract will enable staff to obtain technical and professional services and other assistance on short notice to assist and supplement staff on an as-needed basis.

The use of as-needed services is closely monitored. When a project team determines that staff needs assistance to complete work on schedule, they request authorization from the Director of Transit to utilize as-needed professional services. Upon approval, a scope of work is prepared and given to the consultant for a cost proposal. The proposal will be reviewed and negotiated by the project manager. Once the Director of Transit approves the negotiated task order and the Controller certifies that funding is available, a Notice to Proceed is issued.

Bids Received:

In response to a Request for Proposals issued “September 10, 2012, FSMTA received two proposals on October 26, 2012, from CH2M Hill Inc., and Parsons Corporation. After an extensive review and evaluation, the selection committee ranked Parsons Corporation the higher of the two proposals. The contract will not exceed \$5,000,000 and be for a term of up to six years.

The SFMTA requires the Consultant to be able to provide a broad range of specialized services to complete task orders. The task orders may require engineering assistance in a variety of areas related to the SFMTA's rail vehicles and rail operations. Exhibit A of the Agreement includes a detailed list of services to be provided.

The Contract Compliance Office has confirmed the consultant’s commitment to meeting the 25% SBE participation goal for this contract.

The City Attorney has reviewed this Calendar item.

ALTERNATIVES CONSIDERED:

It is the policy of the SFMTA Transit Division to be staffed sufficiently to perform the essential work of the Division. However, due to the variety and specialization of this work, people with the required skills and experience are not always readily available. Staff has determined that this contract is the best possible solution to provide the needed support to the Agency. Consultant personnel also have the expertise from having worked in various other transit properties, which will ultimately benefit SFMTA.

FUNDING IMPACT:

Funding for these as-needed tasks will come from federal, state and local grants, and operating funds. Each task will be fully funded prior to task issuance.

OTHER APPROVALS RECEIVED OR STILL REQUIRED:

This contract is calendared for approval by the Civil Service Commission on February 4, 2013.

RECOMMENDATION:

Staff recommends that the SFMTA Board authorize the Director of Transportation to execute Contract No. SFMTA - 2011/12-25, As- Needed Specialized Engineering Services for SFMTA Rail Vehicle Projects to Parsons Corporation in an amount not to exceed \$5,000,000 and a term not to exceed six years.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) wishes to obtain as-needed specialized professional engineering consultant services in a broad area of technical disciplines to supplement staff in the implementation of various SFMTA rail rehabilitation and procurement projects and related operations activities; and,

WHEREAS, On September 10, 2012, the SFMTA issued a request for proposals (RFP) for As-Needed Specialized Engineering Services (Contract No. SFMTA - 2011/12-25), and,

WHEREAS, SFMTA received two responsive proposals in response to the RFP on October 26, 2012, from Parsons Corporation and CH2M Hill; and,

WHEREAS, After an extensive review and evaluation, the selection committee ranked Parsons Corporation as the higher of the two proposals; and,

WHEREAS, The funding for this project will come from a combination of federal, state, and local grants, and operating funds; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute Contract No. SFMTA - 2011/12-25, As- Needed Specialized Engineering Services for SFMTA Rail Vehicle Projects to Parsons Corporation in an amount not to exceed \$5,000,000 and a term not to exceed six years.

I certify that the foregoing resolution was adopted by the Municipal Transportation Agency Board of Directors at its meeting of February 5, 2013.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Agreement Between
The City and County of San Francisco
Municipal Transportation Agency

And

Parsons Corporation

For

**AS-NEEDED SPECIALIZED ENGINEERING SERVICES FOR SFMTA RAIL
VEHICLE PROJECTS**

CONTRACT NO. SFMTA-2011/12-25

CCO-12-1212 (1)

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**City and County of San Francisco
Municipal Transportation Agency
One South Van Ness 7th Floor
San Francisco, California 94103**

Agreement between the City and County of San Francisco and

PARSONS CORPORATION

Contract No. SFMTA-2011/12-25

This Agreement is made this _____ day of _____, 2012, in the City and County of San Francisco, State of California, by and between: Parsons Corporation, a Delaware corporation, 50 Fremont Street, Suite 1500, San Francisco CA 94105 (“Contractor”), and the City and County of San Francisco, a municipal corporation (City), acting by and through its Municipal Transportation Agency (SFMTA).

Recitals

The Agency wishes the services of a consulting firm to provide engineering and technical support for the rehabilitation and procurement of SFMTA’s rail fleet.

On September 10, 2012, the SFMTA issued a Requests for Proposals (RFP) for these engineering services and technical support, and City selected Contractor as the highest-ranked proposer.

Consultant represents and warrants that it is qualified to perform the services required by City as set forth under this Contract.

Approval for said Agreement was obtained from Civil Service Commission by PSC No. _____, dated _____.

Now, THEREFORE, the parties agree as follows:

Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of the Agreement, it shall have the meaning set forth herein.

A/E Services: The professional services of an architectural or engineering nature, as defined by State law, if applicable, that are required to be performed or approved by a person licensed, registered or certified to provide those services.

Acceptance: The formal written acceptance by the City and County of San Francisco that all work, or a specific portion thereof, under the contract has been satisfactorily completed.

Agreement or Contract: This Agreement and all referenced Exhibits to this Agreement.

Award: Authorization by resolution of the SFMTA Board of Directors for its staff to execute the Contract with the selected proposer, and, if required, approval of the Contract by the San Francisco Board of Supervisors.

Coaches: SFMTA's diesel motor coaches and trolley Coaches, also referred to as "Buses" and "Vehicles."

Certification: Certification by the Controller that funds necessary to make payments as required under the contract are available in accordance with the City's Charter.

City: City and County of San Francisco, a municipal corporation.

Contract Compliance Office (CCO): The SFMTA office that administers compliance with federal regulations governing the Disadvantaged Business Enterprises/Equal Employment and Non-Discrimination Programs, in addition to the SFMTA Small Business Enterprise Program and the City's Local Business Enterprise/Non-Discrimination Program.

Contract Modification: A written order, issued by the City to Contractor, covering changes in the Contract documents within the general scope of the Contract and establishing the basis of payment and time adjustments for the work affected by the changes.

Contractor or Consultant: Parsons Corporation

Controller: Controller of the City.

Days: Unless otherwise designated, the word "Days" refers to working days of the City.

Director: The Director of Transportation of the SFMTA or his or her designee.

Engineer: The SFMTA engineer assigned to the Contract or his or her designated agent.

Final Acceptance: The formal written acceptance by the Director that all contract deliverables for the Contract have been satisfactorily completed and accepted. This will authorize the Project Manager to release the final payment, including all retention, to the Contractor.

San Francisco Municipal Railway (Muni): The public transit system of San Francisco, under the jurisdiction of the SFMTA.

San Francisco Municipal Transportation Agency (SFMTA or Agency): The agency of the City that is in charge of the construction, management, supervision, maintenance, extension, operation, use and property of the San Francisco Municipal Railway and the former Department of Parking and Traffic, with exclusive authority over contracting, leasing and purchasing by the Agency.

Notice to Proceed: A letter from the SFMTA advising the Consultant of the day when work is to commence under the Contract,

Project Manager: The designated SFMTA employee who will assume all duties and responsibilities to manage the Contract.

Proposal: The Contractor's written response/submittal to the RFP.

Request for Proposals; RFP: The Request for Proposals for Engineering and Technical Support for Vehicle Rehabilitation and Procurement Projects issued by the SFMTA on September 10, 2012.

Scope of Services: The services, tasks, and deliverables that the Consultant will provide to the SFMTA under this Contract.

Small Business Enterprise or SBE: A for-profit, small business concern with a three-year average gross revenue not exceeding \$12,000,000 and is certified under any of the following programs: the State of California's Small Business Program, the City and County of San Francisco's LBE Program, or the California Unified Certification Program.

Subconsultant or Subcontractor: Any firm under contract to the Consultant for services under this Agreement.

Revenue Fleet: An SFMTA fleet of vehicles providing transit services to fare-paying customers.

Work Product: All reports, studies, data, specifications, design criteria, graphs, tape recordings, pictures, memoranda, letters, computer-generated data, calculations, estimates, summaries and such other information and materials as may have been accumulated or generated by the Consultant or its Subconsultants, in connection with the services performed under this Agreement, whether completed or in process.

Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

Term of the Agreement. Subject to Section 1, the term of this Agreement shall not exceed six years from the Effective Date of the Agreement.

Effective Date of Agreement. This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been so notified in writing.

Services Consultant Agrees to Perform

Scope of Agreement. The Consultant agrees to perform the services provided for in Exhibit A, "Services to be Provided by Consultant," attached hereto and incorporated by reference as though fully set forth herein.

Priority of Documents. All requirements of the RFP and the representations made in the Consultant's Proposal that are not in conflict with provisions of this Agreement are incorporated by reference and made an integral part of this Agreement as though fully set forth herein. With respect to any conflict or ambiguity between this Agreement and the RFP or Consultant's Proposal, this Agreement shall control except where the RFP or the Proposal refers to services not otherwise mentioned in this Agreement, in which case and to such extent the RFP or Proposal shall control. Documents listed as Exhibits to this Agreement are incorporated by reference as though fully set forth herein.

Information and Data. The Consultant shall request in writing any information and data it will require to perform Task Orders. The Consultant shall identify the timing and priority for which this information and data will be required. The Consultant and City shall reach agreement as to the availability and delivery time for this data and information during initial task negotiations.

Presentations. In the performance of assigned tasks, the Consultant, if requested by City, shall prepare graphic and written presentations, and participate in presentations of said material to various City departments, commissions, and interested community groups.

Compliance with Laws. Consultant shall comply with requirements of all applicable codes, regulations, and current written interpretation thereof published and in effect during Consultant's services. In the event of changes in such codes, regulations or interpretations during the course of the Project that were not and could not have been reasonably anticipated by Consultant and which result in a substantive change to the contract documents, Consultant shall not be held responsible for the resulting additional costs, fees or time, and shall be entitled to reasonable additional compensation for the time and expense of responding to such changes. Consultant shall be responsible, however, to identify, analyze and report to the City pending changes to codes and regulations that would reasonably be expected to affect the design of the Project.

Task Requirements. Task requirements will be defined by the SFMTA. The cost and estimated time to perform the task fully will be agreed upon in advance of the start of work on the task in accordance with the terms and conditions of this Agreement, generally following the procedures outlined below.

Scope of Work. SFMTA will prepare the scope of work and expected time of completion, using the Task Order form (Exhibit B) and transmit the Task Order form to the Consultant with a request for a proposal for the performance of the task.

Consultant Proposal. The Consultant shall prepare and submit a proposal for the task showing:

A work plan that includes a detailed description by subtask of the work to be performed and the means and methods that will be used to perform it;

Milestones for completion for each subtask and deliverables at each milestone;

Personnel and the Subconsultants assigned to each part of the work along with a resume or curriculum vitae that indicates why such personnel are qualified to perform the work; and prior experience in performing work of this nature;

A detailed cost estimate for each task or subtask showing:

Estimated hours and direct salaries by position (hourly rates by position as listed in Exhibit C for both Consultant and Subconsultant personnel). Labor hours for preparing monthly invoices or filling out required SBE forms will not be allowed. Consultant will manage Subconsultants so additional Subconsultant program management labor hours will not be allowed. Overtime labor hours will not be allowed without prior written approval. If overtime is approved, it will be billed at the billing rates listed and not at one and one half times the billing rate;

Overhead, including salary burden costs (% rates as listed in Exhibit D) for both Consultant and Subconsultants; to arrive at this cost, the overhead rate is multiplied by the cost in (1) above;

Estimated reasonable out-of-pocket expenses;

Proposed profit as follows:

- Proposed profit of Consultant's work effort as fixed fee amount not to exceed seven percent of Consultant's estimated direct salaries and overhead costs; and
- For work performed by all Subconsultants, proposed total mark up for Consultant on Subconsultant's work effort as a fixed fee not to exceed three percent of Subconsultant's total labor charges.

Negotiation of Cost and Profit. The Project Manager will review the proposal and negotiate either a lump sum price or a fixed profit to perform the work of each subtask and task and either a total price or a total cost not to exceed for the task.

Record of Negotiations. If agreement is reached, the Project Manager will document the negotiations and agreement in a record of negotiations.

Controller Certification. The Project Manager will request certification from the Controller that adequate funds are available to proceed with the task as agreed.

Notice to Proceed (NTP). After certification, the Project Manager will send to the Consultant a written NTP and Task Number. The Consultant shall use the task number when submitting invoices to the Project Manager for payment. The Consultant shall not commence work on any task until it receives a written NTP for the task.

Changes. Agreed lump sum prices and fixed profits for subtasks and tasks above cannot be modified unless there is a material change in the scope of work of the task. If there is a material change in the scope of work of a task, then a proposal, negotiations, and Record of Negotiations shall be required before changes to agreed lump sum prices and fixed profits can be approved. Certification by the Controller is required for changes that result in an increase to the total cost of a task.

Failure to Agree on Terms of Task. In the event that City and Consultant cannot reach agreement on the terms of the task order, City may either cancel the task order and have the work accomplished through other available sources, or City may direct the Consultant to proceed with the task under such conditions as City may require to assure quality and timeliness of the task performance. Under no circumstances may the Consultant refuse to undertake a City-ordered task.

Key Team Members. Work under this Agreement shall be performed only by competent personnel under the supervision of and/or in the employment of Consultant. The Consultant agrees that the following key team members shall be committed and assigned to work on the Project to the level required by SFMTA for the term of the Agreement and shall also be staffed at the local Consultant offices within the San Francisco Bay Area for all such time:

Bill Stewart: Project Manager

Ed Mortlock: Deputy Project Manager

Kevin Ma: Project Quality Assurance

Jeffrey Pringle: Rail Vehicle

Consultant shall advise SFMTA immediately any time one of the Key Team Members deviates from its committed role or time on the Project (e.g., is assigned to another project). SFMTA may in turn require Consultant to provide a remedy and/or corrective actions for such deviations.

Current Workload and Available Resources. The Consultant covenants that its current workload and the workload of its Subconsultants will not affect the commencement and the progress of the work under this Agreement. The Consultant shall have all the necessary professional, technical and support personnel, including those of the Subcontractors, available, ready and mobilized to perform actual work within two weeks of the receipt of NTP on a particular task. In addition, the Consultant shall make good faith efforts to have all contracts signed with Subcontractors within three weeks of NTP. Consultant shall provide copies of said subcontracts to the SFMTA upon request.

Information and Data. The Consultant shall request in writing any information and data it will require from the Agency for its work. The Consultant shall identify the timing and priority for which this information and data will be required in its draft Program Management/Implementation Plan. The Consultant and Agency shall reach agreement as to the availability and delivery time for this information and data prior to finalizing the Plan.

Transmittal of Work Product. When requested by Agency's Project Manager, and after completion of each task and subtask, the Consultant shall transmit to Agency all Work Product (duplicates and originals) produced or accumulated in the course of its and its Subconsultants' work on this Agreement. The Consultant's Project Manager and Key Personnel shall have thoroughly reviewed and approved all Work Product and signed off as such prior to transmitting them to Agency.

Reproduction of Work Product. The Consultant shall arrange and provide for all printing (or other required reproduction) of Work Product.

Agency's Responsibilities Regarding Submittals. Agency will review and comment on Consultant's submittals generally within two calendar weeks of submittal. The Agency and

Consultant will establish a timetable of submittals and reviews in the initial coordination meetings and include such a timetable in the Program Management/Implementation Plan. Agency's review and comments of Consultant submittals shall in no way relieve the Consultant of its independent responsibility to perform its own quality checks and review, nor shall any comment or review by the Agency relieve the Consultant of its independent responsibility to provide submittals and deliverables in full compliance with local, state and federal codes, regulations and standards.

If Consultant considers certain Agency review comments or directives, either written or oral, to require work efforts not included in approved Program Management/Implementation Plan, the Consultant shall provide Agency with either a written request for clarification of intended work or a proposal to proceed with additional work within five working days of discovering the perceived extra work, in strict accordance with the procedures specified subsection (g) above.

Compensation

Amount. Compensation under this Agreement shall be based on either a negotiated lump sum price per task or subtask, or actual direct costs plus a negotiated fixed profit per subtask and task. In no event shall the amount of this Agreement exceed Five Million Dollars (\$5,000,000).

Method of Computing Compensation.

Direct Labor Rates. The direct labor rates in Exhibit C shall be fixed at that level until 12 months after effective date of this Agreement. Direct Salary Rates in Exhibit C may be adjusted 12 months after the effective date of this Agreement but the average increase shall be no more than three percent with prior written approval of the SFMTA. For each direct labor rate paid by the City to the Consultant for a member of the Consultant's or Subconsultant's team that exceeds the actual rate paid to that individual by the Consultant or Subconsultant, the Consultant shall reimburse to the City the total difference between the rate paid by the City and the individual's actual rate. Consultant shall reimburse City within 30 days of written notice from City seeking reimbursement.

Overhead. The Consultant's compensation under this Agreement will be based on and shall not exceed the combined overhead and salary burden rates as shown on the Schedule of Overhead Rates attached as Exhibit D. The rates in Exhibit D may be adjusted annually with prior written approval from the SFMTA Project Manager. The Consultant's and Subconsultants' combined overhead and salary burden rates are subject to audit in compliance with Federal requirements.

The overhead rates attached as Exhibit D, including any adjustment to such rates as provided for above, are subject to reimbursement as described in this paragraph. Within 180 days of the end of Consultant's fiscal year that immediately follows the expiration or any earlier termination of this Agreement, Consultant shall submit to the Project Manager Consultant's and all Subconsultants' actual rates during the term of this Agreement. For each rate paid to the Consultant that exceeds the Consultant's or any Subconsultant's actual rate, the Consultant shall reimburse to the City the total difference between the rate paid and Consultant's or Subconsultant's actual rate during the term of this Agreement. Consultant shall reimburse City within 30 days of written notice from City seeking reimbursement. For each actual overhead rate of Consultant or Subconsultant that exceeds the rate paid to Consultant, City shall pay to Consultant the difference between the actual rate and the rate paid during the term of the Agreement. City shall reimburse Consultant within 60 days of City's receipt of all of

Consultant's actual rates. Nothing in this paragraph shall limit City's right to audit and inspect Consultant's rates as provided above.

Reimbursable Costs. The Consultant acknowledges that it is familiar with the provisions of Office of Management and Budget (OMB) Circular A-87, Cost Principles For State, Local, and Indian Tribal Governments; that it understands the City does not intend to pay the Consultant for costs under this Agreement that are not reimbursable to City from its funding agencies in accordance with Circular A-87; and that all payments under this Agreement are subject to audit and adjustment.

Out-of-Pocket Expenses. The SFMTA will reimburse Consultant for the actual cost of approved out-of-pocket expenses for the prime Consultant and subconsultants. Compensation for materials and expenses shall be at direct cost, without any mark-ups. All travel expenses are to be pre-approved by the SFMTA and Consultant must obtain the best air fare available in a timely fashion. All travel receipts must accompany the invoice.

Non-Reimbursable Expenses. Notwithstanding any other provision of this Agreement, computer usage, facsimile and telecommunication expenses will not be tracked or reimbursed separately as out-of-pocket costs. Consultant and subconsultant personnel relocation costs and entertainment or personal expenses of any kind will not be reimbursable under this Contract. Office and field supplies/equipment expenses will also not be reimbursable unless these supplies and equipment can be demonstrated to be out of the ordinary and used exclusively for this Project. Vehicle expenses calculated on a cost-per-mile basis for travel within a 100-mile radius of the City will not be reimbursable.

Use of Public Transportation. San Francisco is a transit-first city, and the SFMTA encourages Consultant and Subconsultants to use public transit in performance of its services to the maximum extent possible. The SFMTA will closely review the Consultant's requests for reimbursement of travel expenses. Travel from and to airports must be by public transit to the maximum extent possible. Taxicabs and hired cars are not considered public transit. The City reserves the right to refuse to reimburse travel expenses that are not in accord with these policies.

Payment

General. No charges shall be incurred under this Agreement nor shall any payments become due to Consultant until reports, services, or both, required under this Agreement are received from Consultant and approved by the SFMTA as being in accordance with this Agreement. City may withhold payment to Consultant in any instance in which Consultant has failed or refused to satisfy any material obligation provided for under this Agreement. If the evidence of production, the quality of the work, or relationship of labor and costs expended are not consistent with the budgets and the schedules for an assigned task, the Consultant shall justify to the Agency's Project Manager the time and expenses invoiced. The Project Manager will review the justification offered and adjust the monthly payment as deemed necessary. These requirements shall also apply to work by Subconsultants.

Invoices.

Form of Invoice. Invoices furnished by Consultant under this Agreement must be in a form acceptable to the Controller, and must include the Contract Progress Payment Authorization number. The Consultant shall submit invoices for all allowable charges incurred in the performance of the Agreement. No invoice shall be rendered if the total work done under this Agreement since the last invoice amounts to less than \$1,500, except that an invoice may be

submitted if three months have elapsed since the last invoice was submitted. No more than one invoice shall be submitted in a month.

Progress Payment Form. The Controller is not authorized to pay invoices submitted by Consultant prior to Consultant's submission of the SFMTA Progress Payment Form. If the Progress Payment Form is not submitted with Consultant's invoice, the Controller will notify the SFMTA and Consultant of the omission. If Consultant's failure to provide the SFMTA Progress Payment Form is not explained to the Controller's satisfaction, the Controller will withhold 20 percent of the payment due pursuant to that invoice until the SFMTA Progress Payment Form is provided.

Documentation for Payment. Invoices shall be submitted together with the Monthly Progress Reports, Monthly Cost Control Report and Monthly Update Schedule, and shall be submitted by the 21st day of each month for work performed in the preceding month. The Monthly Cost Control Report shall include the current completed percentages for each task and subtask, the current estimated labor hours and cost for each Discipline to complete each of the tasks, an itemized breakdown of dollars and hours by employee and by subtask for all prime and Subconsultant charges for the month being invoiced (accounting for a minimum of 28 calendar days of the month), and an itemized breakdown of out-of-pocket expenses by task incurred since the previous billing, along with copies of bills of materials and expenses incurred. Failure to submit a complete Monthly Cost Control Report, Monthly Updated Schedule and Monthly Progress Report by the due date shall constitute cause for suspension of invoice payments.

In addition to the above, the Agency's Project Manager may, prior to authorization for payment of invoices, require delivery of either a complete or partial set of current Work Products as evidence of the status of the Consultant's work.

Payment of Invoices.

Monthly Payments. Compensation shall be made in monthly payments on or before the last day of each month for work, as set forth in each Task Order under this Agreement. City shall make payment to Consultant at the address specified in the section entitled "Notices to the Parties." All amounts paid by City to Consultant shall be subject to audit by City.

Final Payment. Upon receipt of the final invoice for the completion of the services set forth in Section 4, and after services have been certified by Agency's Project Manager as having been satisfactorily performed, City shall promptly, but in no event later than 45 calendar days after the receipt of the last invoice, pay Consultant the balance of any allowable costs incurred in the performance of services of this Agreement.

No Interest on Late Payments. In no event shall City be liable for interest or late charges for any late payments.

Payment of Subconsultants. Following City's payment of an invoice, Consultant has 10 days to file an affidavit using SFMTA's Payment Affidavit verifying that all subconsultants have been paid and specifying the amount.

Guaranteed Maximum Costs

The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the

Consultant for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller.

The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code sections 6.80 to 6.83 and section 21.35, any Consultant or Subconsultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A Consultant or Subconsultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A Consultant or Subconsultant will be deemed to have submitted a false claim to the City if the Consultant or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

Disallowance. If Consultant claims or receives payment from City for a service, reimbursement for which is later disallowed by the State of California or United States Government, Consultant shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Consultant under this Agreement or any other Agreement.

Taxes

Obligation of Consultant. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Consultant.

Possessory Interest. Consultant recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Consultant to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

Consultant, on behalf of itself and any permitted successors and assigns, recognizes and understands that Consultant, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

Consultant, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement.

Consultant accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

Consultant, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Consultant accordingly agrees on behalf of it and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

Consultant further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

Consultant shall provide a San Francisco Business Tax Registration to the SFMTA in order for the City to certify this Agreement.

Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Consultant, shall in no way lessen the liability of Consultant to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Consultant without delay.

Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Consultant or its subconsultants. Consultant's personnel and subconsultants shall comply with the licensing requirements of the State of California in their respective professional fields. Persons employed by Consultant and its subconsultants who are not subject to licensing requirements of California law are exempt from the requirements of this Section. Consultant will comply with City's reasonable requests regarding assignment of personnel, but Consultant must supervise all personnel, including those assigned at City's request.

Equipment

Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Consultant, or by any of its employees, even though such equipment be furnished, rented or loaned to Consultant by City. The acceptance or use of such equipment by Consultant or any of its employees shall be construed to mean that Consultant accepts full responsibility for and agrees to exonerate, indemnify, defend and save harmless the City from and against any and all claims for any damage or injury of any type arising from the use, misuse or failure of such equipment, whether such damage be to Consultant, its employees, the City's employees, or third parties, or to property belonging to any of the above.

Ownership of Equipment. Any equipment vehicles, computer programs (software licenses and media), and the like, purchased by the Consultant or its subconsultants in connection with services to be performed under this Agreement shall become property of and will be transmitted to the SFMTA at the conclusion of the Consultant's services under the Agreement.

Independent Contractor; Payment of Taxes and Other Expenses

Independent Consultant. Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Consultant or any agent or employee of Consultant shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Consultant or any agent or employee of Consultant is liable for the acts and omissions of itself, its employees and its agents. Consultant shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Consultant's performing services and work, or any agent or employee of Consultant providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Consultant or any agent or employee of Consultant.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Consultant performs work under this Agreement.

Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Consultant is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Consultant which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Consultant for City, upon notification of such fact by City, Consultant shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Consultant under this Agreement (again, offsetting any amounts already paid by Consultant which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Consultant shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Consultant is an employee for any other purpose, then Consultant agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Consultant was not an employee.

Insurance

Coverages. Without in any way limiting Consultant's liability pursuant to the "Indemnification" section of this Agreement, Consultant must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident injury or illness; and

Commercial General Liability Insurance with limits not less than \$2,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

Professional liability insurance applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

Requirements of Insurance Policies. Commercial General Liability and Commercial Automobile Liability Insurance policies must provide the following:

Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

Notice. All policies shall provide 30 days' advance written notice to City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent via courier or U.S. Mail, first class, to the following persons:

Trinh Nguyen
Senior Program Manager
San Francisco Municipal Transportation Agency
Transit Operation Division
One South Van Ness, 7th Floor, Room 7086
San Francisco, CA 94103

Claims-Made Form. Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

General Annual Aggregate Limit. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

Lapse of Insurance. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

Proof of Insurance. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

No Decrease of Liability. Approval of the insurance by City shall not relieve or decrease the liability of Consultant hereunder.

Subconsultant Insurance. If a Subconsultant will be used to complete any portion of this agreement, the Consultant shall ensure that the Subconsultant shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Consultant listed as additional insureds.

Indemnification

General Indemnity. To the fullest extent permitted by law, Consultant shall assume the defense of, indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from any claim, loss, damage, injury (including, without limitation, injury to or death of an employee of the Consultant or its Subconsultants) and liabilities of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees and costs of investigation), (1) arising from the services under this Agreement, or any part of such services, and (2) to the extent caused by any negligent, reckless, or willful act or omission of the Consultant and Subconsultant to the Consultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities"), subject to the provisions set forth herein.

Limitations

No insurance policy covering Consultant's performance under this Agreement shall operate to limit the Consultant's liability under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such liability.

Consultant assumes no liability whatsoever for the sole negligence or willful misconduct of any Indemnitee or the Consultants of any Indemnitee.

Consultant's indemnification obligations of claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) and "Economic Loss Only" (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the extent of the Consultant's negligence or other breach of duty.

Intellectual Property Infringement. Consultant shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in the performance of Consultant's services under this Agreement.

Incidental and Consequential Damages. Consultant shall be responsible for incidental and consequential damages resulting in whole or in part from Consultant's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

Liability of City. City's payment obligations under this Agreement shall be limited to the payment of the compensation provided for in Section 5 of this Agreement. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages,

including, but not limited to, lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

Standard of Performance. Consultant shall perform all of its services in accordance with generally accepted standards of professional practice in the design and construction administration of projects of similar size and complexity in the San Francisco Bay Area.

Default; Remedies

Event of Default. Each of the following shall constitute an event of default (“Event of Default”) under this Agreement:

Consultant fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 8, 10, 15, 24, 30, 37, 53, 55, 57, or 58.

Consultant fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of 10 days after written notice thereof from City to Consultant.

Consultant (i) is generally not paying its debts as they become due, (ii) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Consultant or of any substantial part of Consultant's property or (v) takes action for the purpose of any of the foregoing.

A court or government authority enters an order (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Consultant or with respect to any substantial part of Consultant's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of Consultant.

Remedies. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Consultant any Event of Default; Consultant shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Consultant under this Agreement or any other agreement between City and Consultant all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Consultant pursuant to the terms of this Agreement or any other agreement.

No Preclusion of Remedies. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

Termination for Convenience

Exercise of Option to Terminate for Convenience. City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Consultant written notice of termination. The notice shall specify the date on which termination shall become effective.

Duties of Consultant Upon Notice of Termination. Upon receipt of the notice, Consultant shall commence and perform, with diligence, all actions necessary on the part of Consultant to effect the termination of this Agreement on the date specified by City and to minimize the liability of Consultant and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

Halting the performance of all services and other work under this Agreement on the date(s) and in the manner specified by City.

Not placing any further orders or subcontracts for materials, services, equipment or other items.

Terminating all existing orders and subcontracts.

At City's direction, assigning to City any or all of Consultant's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

Completing performance of any services or work that City designates to be completed prior to the date of termination specified by City.

Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Consultant and in which City has or may acquire an interest.

Invoice for Services Performed. Within 30 days after the specified termination date, Consultant shall submit to City an invoice, which shall set forth each of the following as a separate line item:

The reasonable cost to Consultant, without profit, for all services and other work City directed Consultant to perform prior to the specified termination date, for which services or work City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Consultant's direct costs for services or other work. Any overhead allowance shall be separately itemized. Consultant may also recover the reasonable cost of preparing the invoice.

A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (i), provided that Consultant can establish, to the satisfaction of City, that Consultant would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

The reasonable cost to Consultant of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

A deduction for the cost of materials to be retained by Consultant, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the services or other work.

Non-Recoverable Costs. In no event shall City be liable for costs incurred by Consultant or any of its Subconsultants after the termination date specified by City, except for those costs specifically enumerated and described in the immediately preceding subsection (C). Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection (C).

Deductions. In arriving at the amount due to Consultant under this Section, City may deduct: (i) all payments previously made by City for work or other services covered by Consultant's final invoice; (ii) any claim which City may have against Consultant in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (D); and (iv) in instances in which, in the opinion of the City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

Survival of Payment Obligation. City's payment obligation under this Section shall survive termination of this Agreement.

Rights and Duties Upon Termination or Expiration

Survival of Provisions. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: 8 through 11, 13 through 18, 24, 26, 27, 28, 48 through 52, 57, and 58.

Duties Upon Termination. Subject to the immediately preceding subsection (A), upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. Consultant shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

Conflict of Interest. Through its execution of this Agreement, Consultant acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement. Consultant further acknowledges that it is aware of requirements concerning the filing of Statements of Economic Interest, California Fair Political Practices Commission Form 700, under the requirements of California Government Code section 7300 et seq. and the San Francisco Campaign and Governmental Code section 3.1-102, and that Consultant shall ensure that its employees and Subconsultants are aware of those requirements and comply with them.

Proprietary or Confidential Information of City. Consultant understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Consultant may have access to private or confidential information which may be owned, controlled by, or licensed to the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Consultant agrees that all information disclosed by City to Consultant shall be held in confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information, as a reasonably prudent consultant would use to protect its own proprietary data.

Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To SFMTA: John Haley
Director of Transit
Municipal Transportation Agency
One South Van Ness, 7th floor
San Francisco, CA 94103
Tel: 415-701-4588
john.haley@sfmta.com

Trinh Nguyen
Senior Program Manager
Municipal Transportation Agency
One South Van Ness Ave. 7th floor
San Francisco, CA 94102
Tel: 415-701-4602
Fax: 415-701-5328
trinh.nguyen@sfmta.com

To Consultant: Bill Stewart
Project Manager
Parsons Corporation
50 Fremont Street, Suite 1500
San Francisco, CA 94105
Tel: 415-490-2400
Cell: 443-676-8675
William.stewart@parsons.com

Any notice of default must be sent by registered mail.

Ownership of Work Product. Any interest of Consultant or its Subconsultants, in its Work Product shall become the property of and will be transmitted to City. However, Consultant may retain and use copies for reference and as documentation of its experience and capabilities. Contractor shall require its subcontractors, if any, to assign all rights, title and interest in and to the Intellectual Property to the extent prepared by subcontractors to City and to agree to provide any material and execute any documents necessary to allow City to claim sole ownership of the Intellectual Property.

Works for Hire. If, in connection with services performed under this Agreement, Consultant or its Subconsultants create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Consultant or its Subconsultants under this Agreement are not works for hire under U.S. law, Consultant hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Consultant and its Subconsultants may retain and use copies of such works for reference and as documentation of its experience and capabilities.

Audit and Inspection of Records

Access to Records. Consultant agrees to maintain and make available to the City accurate books and accounting records relative to its activities under this Agreement. Consultant shall permit the City to audit, examine and make excerpts and transcripts from such books and records and to make audits of all invoices, materials, payrolls, records or personnel and other data related to reimbursable expenses and additional services provided on an hourly basis, whether funded in whole or in part under this Agreement.

Maintenance of Records. Consultant shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later.

Flowdown to Subconsultants. Consultant shall include the provisions of this Section 28 in all sub-agreements between Consultant and its Subconsultants giving the City the same rights against the Subconsultants. Cancelled checks of payments to subconsultants must be maintained by Consultant and made available to the City upon request.

Audit. The City may initiate an audit under this Agreement by written notice, upon not fewer than seven calendar days.

Rights of State or Federal Agencies. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

Subcontracting

Approval of City. Consultant is permitted to subcontract portions of the services to be performed under this Agreement only after the prior written approval by the City. Consultant shall be responsible for its Subconsultants throughout the course of the work to be performed under this Agreement. Execution of this Agreement shall constitute approval of the firms and individuals listed in Exhibit G to this Agreement as Subconsultants on this Project.

Substitutions of Subconsultants. Substitutions may be made for any Subconsultants listed in Exhibit G, for: (i) failure to perform to a reasonable level of professional competence; (ii) inability to provide sufficient staff to meet the Project requirements and schedules; or (iii) unwillingness to negotiate reasonable contract terms or compensation.

Additions of Subconsultants. The City will reserve the right to request Subconsultants with specific expertise to be added to the team to provide services under this Agreement if the City determines that specific expertise is lacking in the project team.

SBE Firms. The Consultant shall not terminate an SBE Subconsultant or supplier for convenience and then perform the work with its own forces. The Consultant shall make good faith efforts to substitute another SBE for an original SBE Subconsultant or supplier when the original SBE Subconsultant or supplier is terminated or fails to complete the work on the contract. The Consultant shall notify SFMTA in writing of any request to substitute a SBE Subconsultant or supplier and provide the CCO with any documentation requested to support the substitution. The CCO must approve the request in writing in order for the substitution to be valid. The substitution may also have to be approved by the SFMTA Board of Directors.

Assignment. The services to be performed by Consultant are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Consultant unless first approved by City by written instrument executed and approved as required by SFMTA policy and City ordinance. Consultant and the partners of any joint venture or association that Consultant may establish for the Project, or any of the Consultant's Subconsultants may incorporate or change their business names; provided such incorporation or change does not decrease their obligation or liability under this Agreement. This Agreement shall be binding upon the City and the Consultant and their respective successors and assigns. Neither the performance of this Agreement nor any part thereof, nor any funds due or to become due under the Agreement, may be assigned by the Consultant without the prior written consent and approval of the City.

Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

Small Business Enterprise Program

General. The SFMTA is committed to a Small Business Enterprise Program ("SBE Program") for the participation of SBEs in contracting opportunities. In addition, the Consultant must comply with all applicable federal regulations regarding Disadvantaged Business Enterprise (DBE) participation, as set out in Title 49, Part 26 of the Code of Federal Regulations, with respect to DBEs performing work under this Agreement. More information on federal DBE requirements can be found on the internet at: <http://www.fta.dot.gov/civilrights/12326.html>.

Compliance with SBE Program. Consultant shall comply with the SBE provisions contained in Exhibit F attached to this Agreement and incorporated by reference as though fully set forth, including, but not limited to, achieving and maintaining the SBE goal set for the total dollar amount awarded for the services to be performed under this Agreement. Failure of Consultant to comply with any of these requirements shall be deemed a material breach of this Agreement.

Non-Discrimination in Hiring. Pursuant to City and SFMTA policy, Consultant is encouraged to recruit actively minorities and women for its workforce and take other steps within the law, such as on-the-job training and education, to ensure non-discrimination in Consultant's employment practices.

Nondiscrimination; Penalties

Consultant Shall Not Discriminate. In the performance of this Agreement, Consultant agrees not to discriminate against any employee, City and County employee working with such Consultant or subconsultant, applicant for employment with such Consultant or subconsultant, or against any person seeking accommodations, advantages, facilities, privileges, services, or

membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

Subcontracts. Consultant shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from the SFMTA) and shall require all subconsultants to comply with such provisions. Consultant's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

Nondiscrimination in Benefits. Consultant does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

Condition to Contract. As a condition to this Agreement, Consultant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Consultant shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Consultant understands that pursuant to §12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Consultant and/or deducted from any payments due Consultant.

Drug-Free Workplace Policy. Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns will be deemed a material breach of this Agreement.

Resource Conservation. Chapter 5 of the San Francisco Environment Code ("Resource Conservation") is incorporated herein by reference. Failure by Consultant to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

Compliance with Americans with Disabilities Act. Consultant acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a Consultant, must be accessible to the disabled public. Consultant shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Consultant agrees not to discriminate against disabled persons in the provision

of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Consultant, its employees, agents or assigns will constitute a material breach of this Agreement.

Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, Consultants' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (A) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (B) a candidate for the office held by such individual, or (C) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor must inform each such persons of the prohibitions contained in Section 1.126 and provide the names of the persons required to be informed to the City.

Requiring Minimum Compensation for Covered Employees. Contractor agrees to pay covered employees no less than the minimum compensation required by San Francisco's Minimum Compensation Ordinance (MCO), and shall otherwise comply with the MCO as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P). The provisions of Chapter 12P, including but not limited to the penalties for noncompliance provided therein, are incorporated herein by this reference, and made part of this Agreement as though fully set forth herein.

Requiring Health Benefits for Covered Employees. Contractor agrees to choose and perform one of the Health Care Accountability options set forth in Section 12Q.3 of the Health Care Accountability Ordinance (HCAO), and agrees to otherwise comply with the HCAO as set forth in San Francisco Administrative Code Chapter 12Q. The provisions of Chapter 12Q, including but not limited to the penalties for noncompliance provided therein, are incorporated herein by this reference, and made part of this Agreement as though fully set forth herein.

First Source Hiring Program. Contractor shall comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, including but not limited to the remedies for noncompliance provided therein. The provisions of Chapter 83 are incorporated herein by this reference, and made part of this Agreement as though fully set forth herein.

Prohibition on Use of Public Funds for Political Activity. In performing the Services, Contractor shall comply with San Francisco Administrative Code Chapter 12.G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. The provisions of Chapter 12.G, including but not limited to the penalties for noncompliance provided therein are incorporated by reference and made a part of this Agreement as though fully set forth herein.

Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved as required by law.

Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action, including but not limited to the Dispute Resolution Procedures set out in the Agreement, or resort to any other legal remedy, be referred to the SFMTA's Director of Transportation (or designee), for final administrative interpretation of the Agreement.

Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 43.

Compliance with Laws. Consultant shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subconsultants of Consultant, will be paid unless the provider received advance written approval from the City Attorney.

Prompt Payment of Subconsultants

Progress Payments. In accordance with SFMTA's SBE Program, no later than three working days from the date of Consultant's receipt of progress payments by the City, the Consultant shall pay any Subconsultants for work that has been satisfactorily performed by said Subconsultants, unless the prime consultant notifies the CCO Director in writing within 10 working days prior to receiving payment from the City that there is a bona fide dispute between Consultant and the Subconsultant. Within five working days of such payment, Consultant shall provide City with a declaration under penalty of perjury that it has promptly paid such Subconsultants for the work they have performed. Failure to provide such evidence shall be cause for City to suspend future progress payments to Consultants.

Retention. Consultant may withhold retention from Subconsultants if City withholds retention from Consultant. Should retention be withheld from Consultant, within 30 days of City's payment of retention to Consultant for satisfactory completion of all work required of a Subconsultant, Consultant shall release any retention withheld to the Subconsultant. Satisfactory completion shall mean when all the tasks called for in the subcontract with Subconsultant have been accomplished and documented as required by City. Within 30 days of satisfactory completion of all work required of the Subconsultant, Consultant should release any retention withheld to the Subconsultant.

Interest on Unpaid Amounts. If the Consultant does not pay its Subconsultant as required under the above paragraphs, it shall pay interest to the Subconsultant at the legal rate set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure.

Disputes

Notice of Dispute For any dispute involving a question of fact that does not involve a claim for additional compensation, the aggrieved party shall furnish the other party with a notice of dispute within 15 days of the determination of the dispute. The party receiving a notice of dispute shall submit a written reply with 14 days of delivery of the notice. The notice and response shall contain the following: (i) a statement of the party's position and a summary of the arguments supporting that position, and (ii) any evidence supporting the party's position.

Resolution of Disputes. Disputes arising in the performance of this Agreement that are not resolved by negotiation between the SFMTA Liaison and Consultant's shall be decided in writing by the SFMTA Program Manager. The decision shall be administratively final and conclusive unless within 10 days from the date of such decision, the Consultant mails or otherwise furnishes a written appeal to the Director of Transit or his/her designee. In connection with such an appeal, the Consultant shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Director of Transit shall be administratively final and conclusive. This section applies to all disputes unless a specific provision of this Agreement provides that the SFMTA Liaison's decision as to a particular dispute is final.

No Cessation of Work. Pending final resolution of a dispute hereunder, the Consultant shall proceed diligently with the performance of its obligations under this Agreement in accordance with the written directions of the SFMTA Liaison.

Alternative Dispute Resolution. If agreed to by both parties, disputes may be resolved by a mutually agreed to alternative dispute resolution process.

Claims for Additional Compensation. For disputes involving a claim for additional compensation, parties involved shall attempt to resolve such disputes expediently and in good faith so as not to impact the performance or schedule of the Project. Under no circumstances shall the Consultant or its Subconsultants stop work due to an unresolved dispute.

Disputes among Consultant Partners. The resolution of any contractual disputes related to Consultant's Joint Venture or Association partners (if any) shall be the sole responsibility of the Consultant. Each party of the Joint Venture or Association shall resolve all such disputes within 30 calendar days of when the dispute first surfaced so as not to impact the performance of the contract with the City. Any such disputes that impact the Project and that are left unresolved for more than one month shall be cause for the City to withhold and/or reduce invoice payments to the Consultant's Joint Venture or Association firms until the dispute is resolved.

Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, “Nondisclosure of Private Information,” and 12M.3, “Enforcement” of Administrative Code Chapter 12M, “Protection of Private Information,” which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

Sole Benefit. This Agreement is intended for the sole benefit of the City and the Consultant, and is not intended to create any third-party rights or benefits.

FTA Requirements. The provisions contained in “FTA Requirements for Personal Services Contracts,” attached as Exhibit E are incorporated into this Agreement. If there is any conflict between the FTA terms and conditions and any other terms and conditions of this Agreement, the FTA terms and conditions shall take precedence.

MacBride Principles—Northern Ireland. Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Consultant acknowledges and agrees that he or she has read and understood this section.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

CONSULTANT

San Francisco Municipal Transportation Agency

Edward D. Reiskin
Director of Transportation

Authorized Signature

Approved as to Form:

Printed Name

Dennis J. Herrera
City Attorney

Title

By _____
Robin M. Reitzes
Deputy City Attorney

Company Name

Address:

San Francisco Municipal Transportation Agency
Board of Directors
Resolution No.: _____

City Vendor ID No: _____

Federal Employer ID Number: _____

Dated: _____

Attest:

Roberta Boomer, Secretary

EXHIBITS

- A. Services To Be Performed by Consultant
- B. Task Order Form
- C. Direct Salary Rates by Position or Class for Consultant and Subconsultants
- D. Overhead Rates for Consultant and all Subconsultants
- E. FTA Requirements for Personal Services Contracts
- F. Small Business Enterprise (SBE) Program for Professional and Technical Services
- G. Directory of Subconsultants

EXHIBIT A

Services to Be Provided by Consultant

1. Description of Services

Consultant agrees to perform the services described below. Services shall be provided in conformance with the Request for Proposals, submitted by the Consultant on **[insert date]**, and as required under this Agreement.

The Consultant must be able to provide a broad range of specialized services and staff to complete task orders issued by SFMTA, either by direct assignment of its own personnel or through Subconsultants. Task orders may include, but are not limited to:

- A. Performing detailed design and structural finite element analysis, calculation and investigation of the various sub-systems of the vehicle to enable the SFMTA project team to make sound decisions regarding the reliability and feasibility of the products being offered by the vehicle manufacturer.
- B. Drafting, reviewing and/or making recommendations on designs specifications, including, but not limited to, preliminary and final design reviews.
- C. Reviewing, coordinating and recommending approval of submittals including:
 - 1. Overall vehicle design documents (including hardware and software functionality and performance)
 - 2. Test plans, procedures and reports
 - 3. Training plans and materials
 - 4. Shop drawings
- D. Performing Pre-Award and Post-Delivery audits for FTA's Buy America Requirements
- E. Performing cost/price analysis in accordance with the FTA's Best Practices Manual.
- F. Performing quality control and resident inspection during production, including witnessing First Article inspection and testing at the Contractor's facilities and at SFMTA.
- G. Ensuring all required tests, operations, measurements and inspections are satisfactorily performed and documented.
- H. Providing daily inspection reports, weekly progress reports and meeting minutes.
- I. Witnessing, reviewing and conducting acceptance tests of every vehicle delivered to SFMTA.
- J. Ensuring that all O&M manuals, as-built drawings, warranties and other closeout documents are obtained and accepted by the appropriate parties.

- K. Ensuring that all training, spare parts and other deliverables are properly provided to the appropriate parties.
- L. Assist SFMTA engineers in reviewing the following contract deliverables:
 - 1. Redlined design documents
 - 2. Redlined test plans, procedures and reports
 - 3. Redlined training plans and materials
- M. Preparing the Final Project Report summarizing the entire project process, including a discussion of the successes and aspects of the project requiring improvements.
- N. Providing a document control system for all in-coming and out-going documents between SFMTA and the vehicle manufacturer.
- O. Providing administrative support related to warranty and/or materials management.
- P. Reviewing plans, checklists and procedures related to vehicle preventive maintenance.
- Q. Preventive maintenance and inspection audits and reporting.
- R. Evaluating and assisting with the implementation of modern and cost-effective maintenance methods for vehicles.
- S. Providing data analysis to identify spikes and shortfalls in vehicle performance.
- T. Reviewing and updating operating procedures as necessary.
- U. Evaluation and improvement program development of operating practices and procedures
- V. Technical evaluations and assistance with the implementation of emerging technologies to improve operations and service delivery.
- W. Risk assessments and risk mitigation analyses.
- X. Asset management of transit equipment.
- Y. Assessing procurement options, timing and strategy and review of long term fleet planning/replacement.
- Z. Performing strategic long-term planning of key operations issues.
- AA. Transit Operations support, including scheduling analyses and service improvement analyses.
- BB. Technical and project management assistance implementing operating improvement safety initiatives.
- CC. Providing other services deemed necessary by the Director of Transit or the project manager for the implementation and completion of the projects named above.

2. Reports

Consultant shall submit written reports as requested by the SFMTA. Format for the content of such reports shall be determined by the SFMTA. The timely submission of all reports is a

necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

3. SFMTA Liaison

In performing the services provided for in this Agreement, Consultant's liaison with the SFMTA will be: Trinh Nguyen.

APPROVALS

Requested by: _____ **Date** _____
Provide Name, Task Manager

Reviewed by: _____ **Date** _____
Virginia Harmon, Senior Manager, Equal Opportunity Office

Approved: _____ **Date** _____
Trinh Nguyen, Senior Program Manager, Operations

Approved: _____ **Date** _____
John Haley, Director of Transit

Proposed Staff and Budget:

Name	Hours	Loaded Rate	Labor Cost	ODCs	Totals
Prime					
Prime Total:					
Subconsultant					
Subconsultant Total:					

GRAND TOTAL THIS TASK:\$XXXX.XX

Notes:

Approved:

Signature:

Date:

EXHIBIT C

Direct Salary Rates By Positions or Class for Consultant and all Subconsultants

Name	Title	Direct Salary Hourly Rate	Billing Office Rate	Billing Field Rate
PARSONS				
William Stewart	Project Manger	\$68.59	\$144.03	\$133.75
Ed Mortlock	Deputy PM	\$106.47	\$223.59	\$207.62
Kevin Ma	Project Quality Manager	\$57.72	\$121.21	\$112.56
Robert Spadafora	QC/QA	\$59.32	\$124.57	\$115.67
Andrew Vagasi	Electrical Engineer	\$60.83	\$127.75	\$118.62
Edwin Hutsell	Electrical Engineer	\$75.64	\$158.85	\$147.50
Matt Ercolino	Mechanical Engineer	\$57.69	\$121.15	\$112.50
Carl Wood	O&M Support	\$75.26	\$158.05	\$146.76
Kyle Nicholson	Asset Management	\$54.48	\$114.40	\$106.23
Jesse Cumberlander	Cost Analysis	\$93.49	\$196.33	\$182.31
Chukwuma Umolu	Rail Support	\$76.81	\$161.29	\$149.77
Ray Paice	Signaling Support	\$80.47	\$169.00	\$156.92
Frank Delizza	OCS Support	\$105.98	\$222.55	\$206.65
John Grantham	OCS Support	\$80.81	\$169.71	\$157.59
Barry Sam	Communications	\$74.93	\$157.36	\$146.12
Zheng Lui	Communications	\$59.09	\$124.09	\$115.23
Frank Hsieh	Admin Support/Doc Control	\$50.62	\$106.30	\$98.71
Lem Proctor	O&M Management Support	\$175.00 ****	\$175.00	\$175.00 ****
Frank Wilson	O&M Management Support	\$175.00 ****	\$175.00	\$175.00 ****
TAG				
Robert James	O&M Support	\$95.08	\$199.67	\$389.35
RVB+A				
John Mellor	Structural Engineer	\$87.55	\$183.86	\$170.72
Theresa Zemelman	Structural Engineer	\$43.75	\$91.88	\$85.32
Lance Vallieres	QA/QC Inspector	\$36.05	\$75.71	\$70.30
Paul Van Der Wey	Mechanical Engineer	\$59.42	\$124.78	\$115.87
Robin Hazy	QA/QC BA Auditor	\$67.91	\$142.61	\$132.42
Kurt Alberson	QA/QC Inspector	\$56.65	\$118.97	\$110.47
KKCS				
Stan Tomlinson	Risk Assessment	\$93.49	\$188.56	\$182.31
Robert Klym	O&M Support	\$74.26	\$149.77	\$144.81
Arie Ravid	Claims Analyst	\$86.71	\$174.87	\$169.08
Roberta Manshell	Cost Estimator	\$79.78	\$160.91	\$155.58
CMH				
Clementine Clark	SDP Manager	\$75.40	\$146.27	\$147.02
Gladys Soto	Bilingual Assistant I	\$30.39	\$58.95	\$59.25
Saudia Lawrence	Admin Assistant II	\$31.25	\$60.63	\$60.94
Melanie Anderson - Stampley	Admin Assistant I	\$27.73	\$53.79	\$54.07
Theodore Lawrence	Sr Compliance Manager	\$80.63	\$156.42	\$157.23
Star Perez/Nicole Rodriguez	Compliance Specialist II	\$44.53	\$86.38	\$86.83
Kelenia Olsen	Document Control	\$34.12	\$66.20	\$66.54
Robert Soto	DBA System Administrator	\$69.37	\$134.58	\$135.27

**** Fully burdened rate - No overhead will applies to these employees.

EXHIBIT D

Schedule of Overhead Rates for Consultants and all Subconsultants

Company	Home	Field	Home Multipliers	Field Multipliers
Parsons	110.00%	95.00%	2.100	1.95
The Allen Group	110.00%	95.00%	2.100	1.95
Raul V. Bravo & Associates	110.00%	95.00%	2.100	1.95
CMH & Associates	94.00%	95.00%	1.940	1.95
KKCS	101.68%	95.00%	2.017	1.95

Field Rates to be used for work assignments of a duration of at least 90 days and when consultant works over 50% of the time at SFMTA site.

EXHIBIT E

FTA REQUIREMENTS FOR PERSONAL SERVICES CONTRACTS

I. DEFINITIONS

- A. **Approved Project Budget** means the most recent statement, approved by the FTA, of the costs of the Project, the maximum amount of Federal assistance for which the City is currently eligible, the specific tasks (including specified contingencies) covered, and the estimated cost of each task.
- B. **Contractor** means the individual or entity awarded a third party contract financed in whole or in part with Federal assistance originally derived from FTA.
- C. **Cooperative Agreement** means the instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project or Program, and in which FTA takes an active role or retains substantial control.
- D. **Federal Transit Administration (FTA)** is an operating administration of the U.S. DOT.
- E. **FTA Directive** includes any FTA circular, notice, order or guidance providing information about FTA's programs, application processing procedures, and Project management guidelines. In addition to FTA directives, certain U.S. DOT directives also apply to the Project.
- F. **Grant Agreement** means the instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project, and in which FTA does not take an active role or retain substantial control, in accordance with 31 U.S.C. § 6304.
- G. **Government** means the United States of America and any executive department or agency thereof.
- H. **Project** means the task or set of tasks listed in the Approved Project Budget, and any modifications stated in the Conditions to the Grant Agreement or Cooperative Agreement applicable to the Project. In the case of the formula assistance program for urbanized areas, for elderly and persons with disabilities, and non-urbanized areas, 49 U.S.C. §§ 5307, 5310, and 5311, respectively, the term "Project" encompasses both "Program" and "each Project within the Program," as the context may require, to effectuate the requirements of the Grant Agreement or Cooperative Agreement.
- I. **Recipient** means any entity that receives Federal assistance directly from FTA to accomplish the Project. The term "Recipient" includes each FTA "Grantee" as well as each FTA Recipient of a Cooperative Agreement. For the purpose of this Agreement, Recipient is the City.
- J. **Secretary** means the U.S. DOT Secretary, including his or her duly authorized designee.
- K. **Third Party Contract** means a contract or purchase order awarded by the Recipient to a vendor or contractor, financed in whole or in part with Federal assistance awarded by FTA.
- L. **Third Party Subcontract** means a subcontract at any tier entered into by Contractor or third party subcontractor, financed in whole or in part with Federal assistance originally derived from FTA.

- M. **U.S. DOT** is the acronym for the U.S. Department of Transportation, including its operating administrations.

II. FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

III. ACCESS TO RECORDS

- A. The Contractor agrees to provide the City and County of San Francisco, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. The Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the City, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. 49 CFR 18.36(i)(11).

IV. DEBARMENT AND SUSPENSION

See Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

V. NO FEDERAL GOVERNMENT OBLIGATIONS TO CONTRACTOR

- A. The City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- B. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VI. CIVIL RIGHTS

- A. **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 41 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor

agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

1. **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOT) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
2. **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

C. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

VII. DBE/SBE ASSURANCES

Pursuant to 49 C.F.R. Section 26.13, the Contractor is required to make the following assurance in its agreement with SFMTA and to include this assurance in any agreements it makes with subcontractors in the performance of this contract:

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the

Contractor or Subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as SFMTA deems appropriate.

VIII. PATENT RIGHTS (*applicable to contracts for experimental, research, or development projects financed by FTA*)

- A. **General.** If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the City and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the FTA.
- B. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual), the City and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.
- C. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

IX. RIGHTS IN DATA AND COPYRIGHTS (*Applicable to contracts for planning, research, or development financed by FTA*)

- A. **Definition.** The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
- B. **Federal Restrictions.** The following restrictions apply to all subject data first produced in the performance of this Agreement.
 - 1. **Publication of Data.** Except for its own internal use in conjunction with the Agreement, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
 - 2. **Federal License.** In accordance with 49 CFR §§ 18.34 and 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, "for Federal Government purposes," any subject data or copyright described below. As used in

the previous sentence, “for Federal Government purposes” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party:

- a. Any subject data developed under this Agreement, whether or not a copyright has been obtained; and
 - b. Any rights of copyright purchased by City or Contractor using Federal assistance in whole or in part provided by FTA.
3. **FTA Intention.** When FTA awards Federal assistance for a experimental, research or developmental work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in the work. Therefore, unless FTA determines otherwise, the Contractor performing experimental, research, or developmental work required by the underlying Agreement agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Agreement, or a copy of the subject data first produced under the Agreement for which a copyright has not been obtained. If the experimental, research, or developmental work which is the subject of this Agreement is not completed for any reason whatsoever, all data developed under this Agreement shall become subject data as defined in Subsection a. above and shall be delivered as the Federal Government may direct. This subsection does not apply to adaptations of automatic data processing equipment or programs for the City’s use the costs of which are financed with Federal transportation funds for capital projects.
4. **Hold Harmless.** Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties, against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful acts of employees or agents of the Federal Government.
5. **Restrictions on Access to Patent Rights.** Nothing contained in this section on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
6. **Application to Data Incorporated into Work.** The requirements of Subsections (2), (3) and (4) of this Section do not apply to data developed by the City or Contractor and incorporated into the work carried out under this Agreement, provided that the City or Contractor identifies the data in writing at the time of delivery of the work.
7. **Application to Subcontractors.** Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

- C. **Flow Down.** The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
- D. **Provision of Rights to Government.** Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the City and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

X. CONTRACT WORK HOURS AND SAFETY STANDARDS (*applicable to nonconstruction contracts in excess of \$100,000 that employ laborers or mechanics on a public work*)

- A. **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph A of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph A of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph A of this section.
- C. **Withholding for unpaid wages and liquidated damages** - The City and County of San Francisco shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- D. **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

XI. ENERGY CONSERVATION REQUIREMENTS

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

XII. CLEAN WATER REQUIREMENTS (*applicable to all contracts in excess of \$100,000*)

- A. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor agrees to report each violation of these requirements to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA regional office.
- B. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

XIII. CLEAN AIR (*applicable to all contracts and subcontracts in excess of \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.*)

- A. Contractor agrees to comply with applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

XIV. PRIVACY

If Contractor or its employees administer any system of records on behalf of the Federal Government, Contractor and its employees agree to comply with the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a (the Privacy Act). Specifically, Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Government. Contractor acknowledges that the requirements of the Privacy Act, including the civil and criminal penalties for violations of the Privacy Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of this Agreement. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

XV. DRUG AND ALCOHOL TESTING

To the extent Contractor, its subcontractors or their employees perform a safety-sensitive function under the Agreement, Contractor agrees to comply with, and assure compliance of its subcontractors, and their employees, with 49 U.S.C. § 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655.

XVI. TERMINATION FOR CONVENIENCE OF CITY (*required for all contracts in excess of \$10,000*)

See Agreement Terms and Conditions.

XVII. TERMINATION FOR DEFAULT *(required for all contracts in excess of \$10,000)*

See Agreement Terms and Conditions.

XVIII. FALSE OR FRAUDULENT STATEMENTS AND CLAIMS

- A. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- C. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

XIX. FLY AMERICA

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

XX. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated

terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

XXI. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS *(applicable to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator)*

A. The Contractor agrees to the comply with applicable transit employee protective requirements as follows:

1. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection A, however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (2) and (3) of this clause.
2. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.
3. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

- B. The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

XXII. NATIONAL ITS ARCHITECTURE POLICY (*Applicable to contracts for ITS projects*)

If providing Intelligent Transportation Systems (ITS) property or services, Contactor shall comply with the National ITS Architecture and standards to the extent required by 23 U.S.C. § 512, FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455, et seq., January 8, 2001, and later published policies or implementing directives FTA may issue.

XXIII. TEXTING WHILE DRIVING; DISTRACTED DRIVING

Consistent with Executive Order 13513 "Federal Leadership on Reducing Text Messaging While Driving", Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.10 "Text Messaging While Driving", Dec. 30, 2009, SFMTA encourages Contractor to promote policies and initiatives for employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to include this provision in each third party subcontract involving the project.

XXIV. SEAT BELT USE

In compliance with Executive Order 13043 "Increasing Seat Belt Use in the United States", April 16, 1997 23 U.S.C. Section 402 note, the SFMTA encourages Contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

EXHIBIT F

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

SBE REQUIREMENTS

Architects, Engineers, Planners, and Environmental Scientists and Other Professional Services

I. POLICY

The San Francisco Municipal Transportation Agency (SFMTA), recipient of federal financial assistance from the Federal Transit Administration (FTA), is committed to and has adopted, a Small Business Enterprise (SBE) Program to implement the Disadvantaged Business Enterprise regulations in 49 C.F.R. Part 26 (the "Regulations"), issued by the Department of Transportation (DOT).

It is the policy of the SFMTA to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which SBEs can compete fairly for contracts and subcontracts relating to SFMTA's construction, procurement and professional services activities. To this end, SFMTA has developed procedures to remove barriers to SBE participation in the bidding and award process and to assist SBEs to develop and compete successfully outside of the SBE program. In connection with the performance of this contract, the Contractor will cooperate with SFMTA in meeting these commitments and objectives.

Pursuant to 49 C.F.R. Section 26.13, the Contractor is required to make the following assurance in its agreement with SFMTA and to include this assurance in any agreements it makes with subcontractors in the performance of this contract:

The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor or Subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as SFMTA deems appropriate.

A. Applicability

Pursuant to 49 C.F.R. Sections 26.3 and 26.21, the SFMTA, a recipient of federal financial assistance from the FTA, is required to implement an SBE Program in accordance with the Regulations. The Regulations are incorporated into this Program as though fully set forth herein. This Program applies to all SFMTA contracts that are funded, in whole or in part, by DOT federal financial assistance.

B. Objectives

The objectives of this program are to:

1. Remove barriers to SBE participation in the bidding, award and administration of SFMTA contracts;
2. Assist SBEs to develop and compete successfully outside of the Program;
3. Ensure that the Program is narrowly tailored in accordance with 49 C.F.R. Part 26;
4. Ensure that only SBEs meeting the eligibility requirements are allowed to participate as SBEs;
5. Identify business enterprises that are qualified as SBEs and are qualified to provide SFMTA with required materials, equipment, supplies and services; and to develop a good rapport with the owners, managers and sales representatives of those enterprises;
6. Develop communications programs and procedures which will acquaint prospective SBEs with SFMTA's contract procedures, activities and requirements and allow SBEs to provide SFMTA with feedback on existing barriers to participation and effective procedures to eliminate those barriers; and
7. Administer the Program in close coordination with the various divisions within SFMTA so as to facilitate the successful implementation of this Program.

C. Administration of Program

The Director of Transportation is responsible for adherence to this policy. The Director of the SFMTA Contract Compliance Office (CCO) shall be responsible for the development, implementation and monitoring of this program. It is the expectation of the Municipal Transportation Board of Directors and the Director of Transportation that all SFMTA personnel shall adhere to the provisions and the spirit of this program.

D. Prohibited Discrimination

SFMTA shall not exclude persons from participation in, deny benefits to, or otherwise discriminate against any persons in connection with the award and performance of any contract governed by the Regulations on the basis of race, color, sex or national origin. The City and County of San Francisco also prohibits discrimination on the basis of (the fact or perception of a person's) race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status).

SFMTA shall not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of this program with respect to individuals in the groups or categories or having the characteristics listed above.

SFMTA has signed the federal assurances regarding non-discrimination required under 49 C.F.R. Section 26.13. See Exhibit E, Section VII (DBE Assurances) for requirements of Contractor and Subconsultants.

II. DEFINITIONS

Any terms used in SFMTA's SBE Program that are defined in 49 C.F.R. Section 26.5 or elsewhere in the Regulations shall have the meaning set forth in the Regulations. An SBE is defined as follows:

Small Business Enterprise (SBE): An SBE is a for-profit, small business concern with a three- (3-) year average gross revenue not exceeding \$12 million and is certified under any of the following programs: the State of California's Small Business Program with the Department of General Services, the California Unified Certification Program with a U.S. Department of Transportation recipient, or the City and County of San Francisco's LBE program with the Human Rights Commission.

III. SBE PARTICIPATION AND SUBCONTRACTING REQUIREMENTS

A. SBE Participation Goal

A goal of 25 percent SBE participation has been established for this contract. This SBE goal will apply to the following types of contracts or scope of work in the contract: Construction – Building, Heavy; Construction-Dredging and Surface Cleanup; Construction (specialty trades); General Freight Trucking; Hazardous Waste Collection, Trucking; Remediation; Testing Labs; Computer Programming and Design; Architecture & Engineering services (to include professional and technical services); Surveying and Mapping; Drafting (Design Services); Landscape Architecture; Building Inspection; Machinery and Equipment Rental (Construction); Merchant Wholesalers, Durable Goods; Public Relations; and Telecommunications.

B. Determining the Amount of SBE Participation

The SFMTA strongly encourages the prime contractor to make every good faith effort to include SBEs to perform meaningful work in all aspects of the projects. To accomplish this goal, the following guidance is provided:

1. SBE Participation

SBE participation includes contracts (other than employee contracts) with SBEs for any goods or services specifically required for the completion of the work under the Agreement. An SBE may participate as a prime contractor/consultant, subcontractor/consultant, joint venture partner with a prime or consultant, vendor of

material or supplies incorporated or expended in the work, or a supplier of other services such as shipping, transportation, testing, equipment rental, insurance services and other support services necessary to fulfill the requirements of the Agreement.

2. Function

An SBE must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of work and must carry out its responsibility by actually performing, managing and supervising the work. However, an SBE may contract out a portion of the work if it is considered to be a normal industry practice. If an SBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the SBE shall be presumed not to be performing a commercially useful function.

3. Determining the amount of SBE Participation

SBE participation includes that portion of the contract work actually performed by a certified SBE with its own forces. An SBE may participate as a prime contractor, subcontractor, joint venture partner, or vendor or supplier of materials or services required by the contract.

An SBE's participation can only be counted if it is performing a commercially useful function.. An SBE is performing a commercially useful function when it actually performs, manages and supervises a portion of the work involved. There is a rebuttable presumption that if the SBE is not responsible for at least 30% of the work with its own forces, or subcontracts a greater portion of the work than the normal industry standard, it is not performing a commercially useful function.

The Contractor shall determine the amount of SBE participation for each SBE performing work on the contract in terms of both the total value of the work in dollars and the percentage of the total contract bid price. The Contractor shall also determine the total amount of SBE participation for the entire contract. The Contractor shall count SBE participation according to the following guidelines:

SBE Prime Contractor

Count the entire dollar amount of the work performed or services provided by the SBE's own forces, including the cost of materials and supplies obtained for the work and the reasonable fees and commissions charged for the services. Do not count any work subcontracted to another firm as SBE participation by the SBE Prime Contractor.

SBE Subcontractor

Count the entire amount of the work performed or services provided by the SBE's own forces, including the cost of materials and supplies obtained for the work (except for materials and supplies purchased or leased from the Prime Contractor) and

reasonable fees and commissions charged for the services. Do not count any work subcontracted by an SBE subcontractor to another firm as SBE participation by said SBE subcontractor. If the work has been subcontracted to another SBE, it will be counted as SBE participation by that other SBE.

SBE Joint Venture Partner

Count the portion of the work that is performed solely by the SBE's forces or if the work is not clearly delineated between the SBE and the joint venture partner, count the portion of the work equal to the SBE's percentage of ownership interest in the joint venture.

SBE Regular Dealer

Count 60% of the costs of materials and supplies obtained from an SBE regular dealer that owns, operates or maintains a store or warehouse in which the materials and supplies are regularly bought, kept in stock and sold or leased to the public in the usual course of business (except regular dealers of bulk items such as petroleum, cement and gravel who own and operate distribution equipment in lieu of maintaining a place of business). This applies whether an SBE is a prime contractor or subcontractor.

Other SBEs

Count the entire amount of fees or commissions charged for assistance in procuring or delivering materials and supplies when purchased from an SBE that is not a manufacturer or regular dealer. Do not count the cost of the materials and supplies.

C. Submission of Certification for SBEs

All firms wishing to work for the City and County of San Francisco must be certified as bona fide SBEs with the SFMTA. This requires submission of the completed certification applications for either SBEs, DBEs, or LBEs. For information where to obtain applications for these certifications, please contact the SFMTA Contract Compliance at:

San Francisco Municipal Transportation Agency
Contract Compliance Office
One South Van Ness Avenue
San Francisco, California 94103
(415) 701-4362

D. Prompt Payment to Subcontractors

In accordance with SFMTA's SBE Program, no later than three days from the date of Contractor's receipt of progress payments by SFMTA, the Contractor shall pay any

subcontractors for work that has been satisfactorily performed by said subconsultants. Unless the prime consultant notifies the CCO Director in writing within 10 working days prior to receiving payment from the City that there is a bona fide dispute between the prime consultant and the subconsultant. Within five working days of such payment, Consultant shall provide City with a declaration under penalty of perjury that it has promptly paid such subconsultants for the work they have performed. Failure to provide such evidence shall be cause for City to suspend future progress payments to Consultants.

Consultant may withhold retention from subconsultants if City withholds retention from Consultant. Should retention be withheld from Consultant, within 30 days of City's payment of retention to Consultant for satisfactory completion of all work required of a subconsultant, Contractor shall release any retention withheld to the subconsultant. Satisfactory completion shall mean when all the tasks called for in the subcontract with subconsultant have been accomplished and documented as required by City.

If the Consultant does not pay its subconsultant as required under the above paragraph, it shall pay interest to the subconsultant at the legal rate set forth in subdivision (a) of Section 685.010 of the California Code of Civil Procedure.

IV. MONITORING AND COMPLIANCE

A. SBE Records; Reporting Requirements

The Contractor shall maintain records of all SBE participation in the performance of the contract including subcontracts entered into with certified SBEs and all materials purchased from certified SBEs.

The Contractor shall submit SBE participation reports to SFMTA on a monthly basis, or as otherwise directed by the CCO. The reports shall identify the name and address of each SBE performing work on the project, and show the total dollar amount requested for payment and the total dollar amount actually paid to each SBE. Within thirty (30) days of completion of the contract, or as otherwise directed by the CCO, the Contractor shall submit a final summary SBE report to the CCO.

B. Noncompliance; Administrative Remedies

SFMTA will implement appropriate mechanisms to ensure that its prime contractors and subcontractors comply with SBE Program regulatory requirements. SFMTA will apply legal and contractual remedies available under federal, state and local law.

SFMTA will also include a monitoring and enforcement mechanism to verify that the work committed to SBEs at contract award is actually performed by the SBEs. This mechanism will provide for a running tally of actual SBE attainments and include a provision ensuring that SBE participation is credited toward overall or contract goals only when payments are actually made to SBE firms.

EXHIBIT G

Directory of Subconsultants

Subconsultant's Name	Contact Person/Title	Contact Information
The Allen Group (TAG)	Schatzie Jefferson	5638 Martin Luther King Junior Way Oakland, CA 94609 415-538-1830 schatzie@the-allen-group.com
Kal Krishnan Consulting Services, Inc. (KKCS)	Kal Krishnan	344 Thomas L. Berkeley Way, Suite 302 Oakland CA 94612 510-893-3500 kal.krishnan@kkcsworld.com
Raul V. Bravo & Associates, Inc. (RVB+A)	Claudio Bravo	1889 Preston White Dr., Suite 202 Reston, VA 20191 703-326-9092 claudiobravo@rvba.com
CMH & Associates	Clementine Clarke	2010 Pine Street, San Francisco, CA 94115 415-572-0890 clemetineclarke@yahoo.com