



JPB Finance Committee
Meeting of September 23, 2024

Supplemental Reading File

Subject

1. Amendment 7 to Contract 16-J-P-031 Provision of Caltrain Mobile Ticketing Solution
Consultant: moovel North America, LLC DRAFT
2. DRAFT 24-J-P-105B Agreement CU with Exhibits
3. DRAFT 24-J-P-105A Agreement CBRE with Exhibits
4. On-Call Alternative Project Delivery Negotiation Support Services
5. On-Call Communication and Signal Services Update
6. Accept On-Call Construction Management Services Update
7. Accept On-Call General Engineering Consultant Design Services Update
8. On-Call Management of Soil, Hazardous Waste, and Other Environmental Compliance
Services Update
9. Accept On-Call Program Management Oversight Services Update
10. Accept On-Call Transportation Planning and Consultant Support Services Update



**Amendment 7
to
Contract 16-J-P-031
Provision of Caltrain Mobile Ticketing Solution
Consultant: moovel North America, LLC**

THIS SEVENTH AMENDMENT modifies the Agreement for Caltrain Mobile Ticketing Solution (Agreement), which was effective February 1, 2017, by and between the Peninsula Corridor Joint Powers Board (JPB) located at 1250 San Carlos Avenue, San Carlos, CA 94070 and moovel North America, LLC. (CONSULTANT), located at 209 NW 4th Ave, Suite 200, Portland, OR 97209.

WHEREAS, on January 5, 2017, pursuant to Board Resolution 2017-05, the JPB Board awarded a contract to CONSULTANT to provide the JPB with a Caltrain Mobile Ticketing Solution (App) to be delivered in three phases (Services), and

WHEREAS, Phase I is for development, deployment, evaluation, maintenance, hosting and payment processing; Phase II is for upgrades and/or enhancements (Optional Services); and Phase III is for ongoing maintenance, hosting, and payment processing; and

WHEREAS, the Agreement has been previously amended as follows:

AMENDMENT 1 – effective October 24, 2017, clarified the CONSULTANT's responsibilities regarding the App marketplace requirements and authorized the CONSULTANT'S subconsultant, Braintree, a division of PayPal, Inc., to deposit and debit funds in the JPB's bank account in limited circumstances. Additionally, both parties acknowledged and agreed that Braintree is not a party to or beneficiary of the Agreement or the first amendment.

AMENDMENT 2 – effective April 9, 2019, revised the scope to (1) upgrade the App to add parking and trip planning capabilities as part of Phase II at a negotiated total not-to-exceed cost of up to \$150,000 authorized by the Board; and (2) increase commission rates to take effect when the Phase II enhancements are completed, accepted and launched; and (3) amend the two-year base term end date from January 31, 2019 to October 31, 2019 and exercise the three, one-year option terms to begin November 1, 2019 and end October 31, 2022.

AMENDMENT 3 – effective August 10, 2020, (1) removed the addition of the trip planning feature, (2) replaced Exhibit C-1, CONSULTANT's Cost Proposal (negotiated Cost Proposal), and all references thereto, with Exhibit C-2, CONSULTANT's Cost Proposal Rev-5, and (3) replaced Exhibit D, Phase II Scope of Work, including Appendix A, and all references thereto, with Exhibit D-1, Phase II Scope of Work, excluding trip planning upgrade.

AMENDMENT 4 – effective March 22, 2022, revised the scope to add QR Code Validation work and licensing to allow TurboData to validate moovel's mobile ticket QR codes from the JPB at a total not-to-exceed cost of \$22,000 as set forth in Exhibit B-1,

CONSULTANT's Proposal to provide Caltrain QR Code Validation License, and Exhibit C-2, CONSULTANT's Cost Proposal Rev-5 (which replaced Exhibit C-1).

AMENDMENT 5 – effective May 18, 2022, revised the scope to clarify the cost of CONSULTANT's configuration changes to the JPB's long term fares and promotional fares.

AMENDMENT 6 – effective December 4, 2022, extended the term for 24 months through October 31, 2024 for ongoing maintenance, hosting, and payment processing services and to increase the total all-inclusive sum by \$152,873 for a new total all-inclusive sum of \$1,681,606.

WHEREAS, the parties now desire to amend the Agreement to extend the term for 12 months for ongoing maintenance, hosting, and payment processing services and to increase the total all-inclusive sum by \$574,245 for a new total all-inclusive sum of \$2,255,851.

The Agreement is hereby amended as follows:

1. Section 3 of the Agreement, Term of Agreement, is hereby deleted in its entirety and replaced with the following:

The term of this Agreement is from February 1, 2017, through October 31, 2025. This eight-year and nine-month term includes project implementation followed by a minimum 90-day warranty period commencing upon JPB issuance of Final Acceptance (Final Acceptance achieved on February 10, 2018), then followed for the remainder of the term with maintenance, hosting, and payment processing services. The CONSULTANT agrees to furnish the JPB with all the materials, equipment and services called for under this Agreement, and perform all services described in Exhibit A, as modified by Exhibits B, B-1 and D-1, except when inconsistent with Exhibit A.

It is understood that the term of the Agreement is subject to the JPB's right to terminate the Agreement in accordance with Section 22 of this Agreement.

2. Section 5 of the Agreement, Compensation, is deleted in its entirety and replaced with the following:

The CONSULTANT agrees to perform all of the services for a total all-inclusive sum not-to-exceed Two Million Two Hundred Fifty-Five Thousand Eight Hundred Fifty One Dollars (\$2,255,851) in accordance with Exhibits A, B, B-1, C-2 and D-1. The total all-inclusive sum shall include all labor, materials, taxes, profit, overhead, insurance, subcontractor or subconsultant costs, licensing, minimum 90-day warranty period commencing upon JPB issuance of Final Acceptance, hosting, maintenance, transition requirements and all other costs and expenses incurred by the CONSULTANT. The JPB will pay the CONSULTANT in accordance with Section 6.

Except for those changes expressly specified in this Seventh Amendment, all other provisions, requirements, conditions, and sections of the underlying Agreement, as previously amended, shall remain in full force and effect.

PENINSULA CORRIDOR JOINT POWERS BOARD:

Signature: _____

Print: Michelle Bouchard

Title: Executive Director

Date: _____

MOOVEL NORTH AMERICA, LLC:

Signature: _____

Print: Bram Granovsky

Title: Chief Executive Officer

Date: _____

APPROVED AS TO FORM:

By: _____

Julie A. Sherman

Attorney for the JPB

DRAFT

**AGREEMENT
BETWEEN
PENINSULA CORRIDOR JOINT POWERS BOARD (AGENCY)
AND
CENTURY URBAN, LLC (CONSULTANT)**

AGREEMENT SUMMARY*

Board of Directors' Date of Award: October 3, 2024

Resolution Number: 2024-XX

Effective Date of Agreement: October 4, 2024

Services to be Performed (Section 1): On-Call General Commercial
Real Estate Brokerage Services

Term of Agreement (Section 3): Base Term of 5 years; and
One Option Term of 5 years

Consultant's Key Representative (Section 4):

Name: Bryant Sparkman

Title: President & Managing Principal

Company: Century Urban, LLC

Address: 235 Montgomery Street, Suite 629
San Francisco, CA 94104

Phone: (415) 786-2675

Email: bsparkman@centuryurban.com

**This Summary is provided for convenience only and is qualified by the specific terms and conditions of the Agreement that will control any conflict between this Summary and the terms of the Agreement*

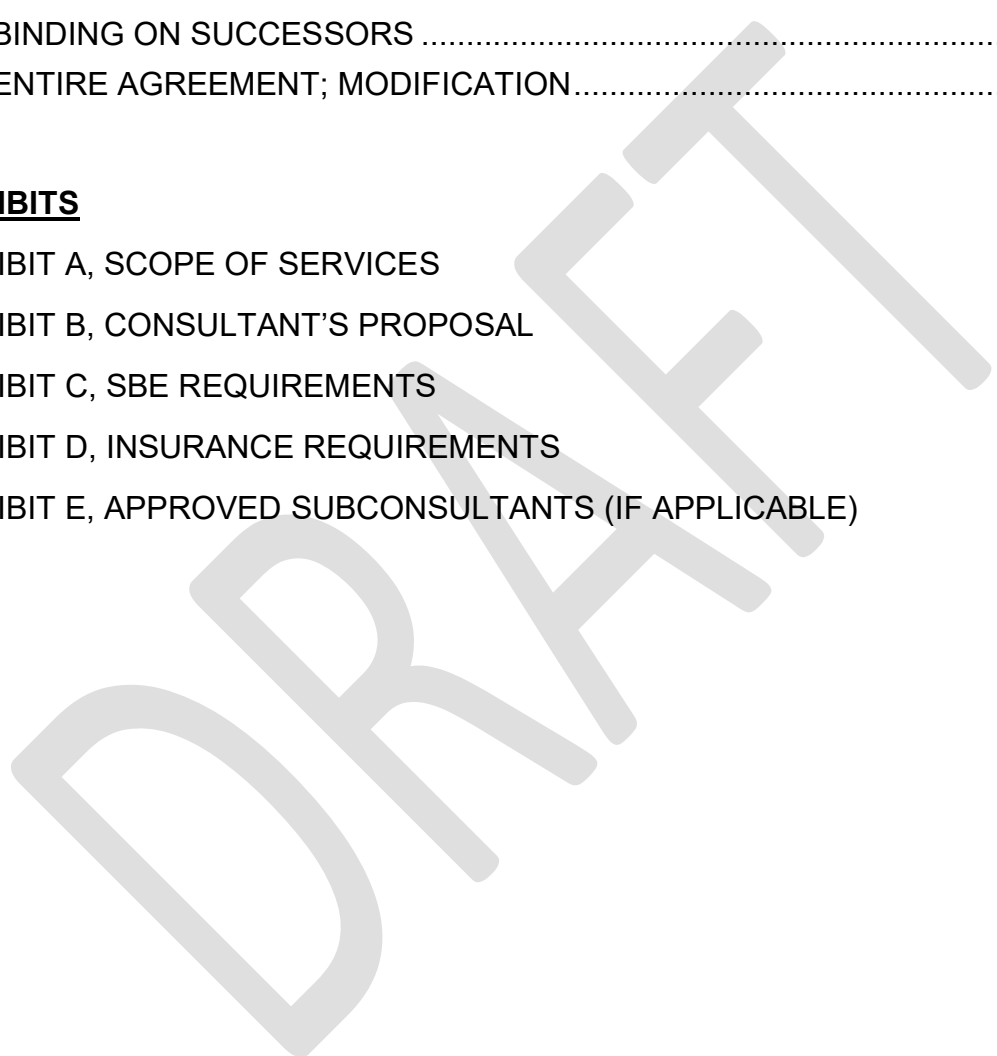
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EXHIBITS

- EXHIBIT A, SCOPE OF SERVICES
- EXHIBIT B, CONSULTANT’S PROPOSAL
- EXHIBIT C, SBE REQUIREMENTS
- EXHIBIT D, INSURANCE REQUIREMENTS
- EXHIBIT E, APPROVED SUBCONSULTANTS (IF APPLICABLE)



This AGREEMENT for On-Call General Commercial Real Estate Brokerage Services (Agreement) is entered into by and between the **Peninsula Corridor Joint Powers Board** (AGENCY) located at 1250 San Carlos Avenue, San Carlos, CA 94070 and **Century Urban, LLC** (CONSULTANT), a California corporation located at 235 Montgomery Street, Suite 629, San Francisco, CA 94104 (collectively referred to as “the Parties”).

1. SCOPE OF SERVICES

This is an Agreement to provide On-Call General Commercial Real Estate Brokerage Services. The CONSULTANT agrees to provide these services to the AGENCY in accordance with the terms and conditions of this Agreement. In the performance of its work, the CONSULTANT represents that it (1) has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing general commercial real estate brokerage services; (2) carries all applicable licenses, certificates, and registrations in current and good standing that may be required to perform the work; and (3) will retain all such licenses, certificates, and registrations in active status throughout the duration of this engagement.

The scope of the CONSULTANT’s services will consist of the services set forth in the Request for Proposals dated June 11, 2024, the Scope of Services of which is attached hereto and incorporated herein as **Exhibit A**, as supplemented by CONSULTANT’s written proposal dated July 8, 2024, attached hereto and incorporated herein as **Exhibit B**.

2. AGREEMENT DOCUMENTS

This Agreement consists of the following documents:

- A. This Agreement
- B. Exhibit A, Scope of Services
- C. Work Directives/Task Orders, if applicable
- D. Exhibit B, CONSULTANT’s Proposal, as accepted by the Agency.
- E. Exhibit C, SBE Requirements
- F. Exhibit D, Insurance Requirements
- G. Exhibit E, Approved Subconsultants

In the event of conflict between or among the terms of the Agreement documents, the order of precedence will be the order of documents listed above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence.

3. TERM OF AGREEMENT

The term of this Agreement will be for a **five (5) year** term commencing upon October 4, 2024, and ending on October 3, 2029. The CONSULTANT will furnish the AGENCY with all the materials, equipment and services called for under this Agreement, and perform all other work, if any, described in the Solicitation Documents.

The AGENCY reserves the right, in its sole discretion, to exercise up to one (1) five-year option term(s) to extend the Agreement, pursuant to the terms of this Agreement. If the AGENCY determines to exercise the option term(s), the AGENCY will give the CONSULTANT at least 30 days' written notice of its determination.

It is understood that the term of the Agreement and any option term granted thereto as specified herein are subject to the AGENCY's right to terminate the Agreement in accordance with Section 24 of this Agreement.

4. CONSULTANT'S REPRESENTATIVE

At all times during the term of this Agreement, **Bryant Sparkman**, will serve as the primary staff person of CONSULTANT to undertake, render, and oversee all of the services under this Agreement. Upon written notice by the CONSULTANT and approval by the AGENCY, which will not be unreasonably withheld, the CONSULTANT may substitute this person with another person, who will possess similar qualifications and experience for this position.

5. COMPENSATION

The AGENCY has awarded a contract to two (2) consultants for the Scope of Services generally described in Exhibit A and will determine how the maximum aggregate not-to-exceed amount will be divided among consultants. There is no guarantee of any particular amount of compensation to any consultant under this Agreement. However, the maximum aggregate compensation for the five (5)-year base term the AGENCY has authorized to be expended for this Contract shall not exceed **Nine Hundred Thousand Dollars (\$900,000)** plus a ten percent (10%) contingency amount, which may be used at the Agency's discretion if necessary for unforeseen work only, in accordance with Exhibits A and B. In the event the AGENCY, in its sole discretion, exercises its right to extend this Agreement the CONSULTANT agrees to perform the services for an additional five (5)-year option term. The total not-to-exceed amount will include all labor, materials, taxes, profit, overhead, insurance, subcontractor/subconsultant costs and all other costs and expenses incurred by the CONSULTANT. The commissions, fees, and hourly rate by personnel/service category will be as set forth in Exhibit B. The AGENCY will pay the CONSULTANT in accordance with Section 6.

The CONSULTANT agrees to perform the services to be specified in each Work Directive. Compensation for satisfactory performance of services performed under Work Directives will be as stated in each Work Directive and, unless specifically stated otherwise in the Work Directive, will be in accordance with the commission, non-commission fees, and hourly labor rates set forth in Exhibit B.

It is expressly understood and agreed that in no event will the CONSULTANT be compensated in an amount greater than the amount specified in any individual Work Directive for the services performed under such Work Directive. Any change order must be in writing and approved by the AGENCY's Project Manager and the Office of Contracts and Procurement.

On an annual basis, no later than 60 days before the start of a succeeding Agreement year, CONSULTANT may, upon written request, adjust prospectively its labor rates. Increases in future labor rates shall be limited, if requested, to the most recent Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco/Oakland/Hayward, CA area available to the AGENCY, or up to a maximum of 3.5 percent escalation, whichever is lower. The effective date of the CPI-U adjustment, if any, will commence either (1) the first day of the second and/or subsequent year(s) of the Agreement, or (2) the date of the CONSULTANT's request, whichever event is later. Upon written approval by the AGENCY, the negotiated changes shall remain in effect for the subsequent Agreement year. If the CONSULTANT does not submit a request at least 60 days before the start of the succeeding Agreement year, the CONSULTANT waives any CPI-U increase for that year.

6. MANNER OF PAYMENT

The CONSULTANT must submit monthly invoices/billing statements detailing the services performed during the billing period. Each invoice/billing statement must provide a description of the work performed during the invoice period, the contract number **24-J-P-105B**, purchase order number (**TBD**) and the AGENCY's **Brian Fitzpatrick**. The AGENCY will endeavor to pay approved invoices/billing statements within 30 calendar days of their receipt. The AGENCY reserves the right to withhold payment to the CONSULTANT if the AGENCY determines that the quantity or quality of the work performed is unacceptable. The AGENCY reserves the right to withhold payment for any invoice that does not match the PO lines until CONSULTANT resubmits a corrected invoice. The AGENCY will provide written notice to the CONSULTANT within 10 calendar days of the AGENCY's decision not to pay and the reasons for non-payment. Final payment will be withheld until CONSULTANT performs all required Agreement expiration or termination obligations. If CONSULTANT disagrees with the AGENCY's decision not to pay and the reasons for non-payment, it must provide written notice detailing the reasons why it disputes the AGENCY's decision to the AGENCY within 30 calendar days of the AGENCY's notice. If CONSULTANT does not provide written notice in accordance with this section, it waives all rights to challenge the AGENCY's decision.

Submit one copy of each invoice as a PDF file via email to:

AccountsPayable@SamTrans.com

9. NOTICES

All communications relating to the day-to-day activities of the provided services will be exchanged between the AGENCY's **Brian Fitzpatrick** or designee, and the CONSULTANT's **Bryant Sparkman**.

Notices informing CONSULTANT of the AGENCY's decision to exercise Agreement options (that were exercisable in the AGENCY's sole discretion) will be exchanged between the AGENCY's **Brian Fitzpatrick** or designee, and the CONSULTANT's **Bryant Sparkman** via electronic mail to: bsparkman@centuryurban.com.

All other notices and communications deemed by either party to be necessary or desirable to be given to the other party will be in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows:

If to the AGENCY: Board Secretary
Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070

With a copy to: Director, Contracts and Procurement
Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070

If to the CONSULTANT: Century Urban, LLC
Attn: Bryant Sparkman
235 Montgomery Street, Suite 629
San Francisco, CA 94104

The address to which mailings may be made may be changed from time to time by notice mailed as described above. Any notice given by mail will be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

10. OWNERSHIP OF WORK

All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared for the services to be performed by CONSULTANT will be and are the property of the AGENCY. The AGENCY will be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of the CONSULTANT or in the hands of any subconsultant upon completion or termination of the work will be immediately delivered to the AGENCY. If any materials are lost, damaged, or destroyed before final delivery to the AGENCY, the CONSULTANT will replace them at its own expense and the CONSULTANT assumes all risks of loss, damage, or destruction of or to such materials. The CONSULTANT may retain a copy of all material produced under this Agreement for its use in its general business activities.

Any and all rights, title, and interest (including without limitation copyright and any other intellectual-property or proprietary right) to materials prepared under this Agreement are hereby assigned to the AGENCY. The CONSULTANT agrees to execute any additional documents that may be necessary to evidence such assignment.

The CONSULTANT represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual property or proprietary right of any third party.

11. CONFIDENTIALITY

Any AGENCY materials that the CONSULTANT has access or materials prepared by the CONSULTANT during the course of this Agreement (“confidential information”) will be held in confidence by the CONSULTANT, which will exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the CONSULTANT as necessary to accomplish the rendition of services set forth in Section 1 of this Agreement.

The CONSULTANT, its employees, subconsultants and agents, will not release any reports, information, or other materials prepared in connection with this Agreement, whether deemed confidential or not, without the approval of the AGENCY’s **Executive Director** or designee.

12. USE OF SUBCONTRACTORS/SUBCONSULTANTS

The CONSULTANT must not subcontract any services to be performed by it under this Agreement without the prior written approval of the AGENCY, except for service firms engaged in drawing, reprographics, typing, and printing and subconsultants identified in Exhibit E.

Any subcontractors/subconsultants must be engaged under written contract with the CONSULTANT with provisions allowing the CONSULTANT to comply with all requirements of this Agreement, including without limitation the “Ownership of Work” provisions in Section 8. The CONSULTANT will be solely responsible for reimbursing any subcontractors/subconsultants and the AGENCY will have no obligation to them.

13. CHANGES

The AGENCY may at any time, by written order, make changes within the scope of work and services described in this Agreement. If such changes cause an increase or decrease in the budgeted cost of or the time required for performance of the agreed-upon work, an equitable adjustment as mutually agreed will be made in the limit on compensation as set forth in Section 5 or in the time of required performance as set forth in Section 3, or both. In the event that CONSULTANT encounters any unanticipated conditions or contingencies that may affect the scope of work or services and result in an adjustment in the amount of compensation specified herein, or identifies any AGENCY conduct (including actions, inaction, and written or oral communications other than a formal contract modification) that the CONSULTANT regards as a change to the contract terms and conditions, CONSULTANT will so advise the AGENCY immediately upon notice of such condition or contingency. The written notice will explain the circumstances giving rise to the unforeseen condition or contingency and will set forth the proposed adjustment in compensation. This notice will be given to the AGENCY prior to the time that CONSULTANT performs work or services related to the proposed adjustment in compensation. The pertinent changes will be expressed in a written supplement to this Agreement issued by the Contracts and Procurement Department prior to implementation of such changes. Failure to provide written notice and receive AGENCY approval for extra

work prior to performing extra work may, at the AGENCY's sole discretion, result in non-payment of the invoices reflecting such work.

14. RESPONSIBILITY: INDEMNIFICATION

The CONSULTANT will indemnify, keep and save harmless the AGENCY, the San Mateo County Transit District, the City and County of San Francisco, the Santa Clara Valley Transportation Authority, TransitAmerica Services, Inc. (TASI) or successor Operator of Record, the Union Pacific Railroad Company, and their directors, officers, agents and employees (Indemnitees) against any and all suits, claims or actions arising out of any of the following:

- A.** Any injury to persons or property that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by the CONSULTANT caused by a negligent act or omission or wilful misconduct of the CONSULTANT or its employees, subcontractors, subconsultants or agents; or
- B.** Any allegation that materials or services provided by the CONSULTANT under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

The CONSULTANT further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defense as they are incurred. If any judgment is rendered against the Indemnitees in any such action, the CONSULTANT will, at its expense, satisfy and discharge the same. This indemnification will survive termination or expiration of the Agreement.

15. INSURANCE

Refer to **Exhibit D**, appended hereto, for the Insurance Requirements.

16. CONSULTANT'S STATUS

Neither the CONSULTANT nor any party contracting with the CONSULTANT will be deemed to be an agent or employee of the AGENCY. The CONSULTANT is and will be an independent CONSULTANT and the legal relationship of any person performing services for the CONSULTANT will be one solely between that person and the CONSULTANT.

17. ASSIGNMENT

The CONSULTANT must not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of the AGENCY.

18. OTHER GOVERNMENTAL AGENCIES

In the event that one or more other governmental agencies may wish to utilize this Agreement to purchase services in accordance with the terms and costs indicated herein, the following provisions apply. Each public agency must formulate a separate contract with the CONSULTANT, incorporating the terms and conditions of this Agreement with the AGENCY. CONSULTANT shall invoice such public agencies as separate entities. The AGENCY will incur no liability in connection with such contracts or purchases by other public agencies thereunder. CONSULTANT will release, defend (with counsel reasonably satisfactory to AGENCY) and indemnify AGENCY and its directors, officers, employees and agents (collectively, "Indemnitees"), from and against all liability, cost, and expense for loss of or damage to property and for injuries to any person when arising or resulting from acts or omissions of CONSULTANT in connection with such contracts or purchases by other public agencies.

19. LITIGATION SUPPORT

The CONSULTANT must be willing to provide litigation support related to the performance of this Agreement, including serving as an expert witness if required by the AGENCY. In the event that litigation relating to the performance of this Agreement arises, the CONSULTANT will ensure that at least one individual has the appropriate expertise to act as an expert witness and will make that individual or individuals available to consult on issues related to litigation. The CONSULTANT may additionally be required to form expert opinions, draft expert witness reports, and provide expert witness testimony for depositions and other legal proceedings, including mediation, arbitration, and trials.

20. AGENCY WARRANTIES

The AGENCY makes no warranties, representations, or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

21. AGENCY REPRESENTATIVE

Except when approval or other action is required to be given or taken by the Board of Directors of the AGENCY, the AGENCY's **Executive Director**, or such person or persons as they will designate in writing from time to time, will represent and act for the AGENCY.

22. WARRANTY OF SERVICES

- A. CONSULTANT warrants that its professional services will be performed in accordance with the professional standards of practices of comparable commercial real estate brokerage service firms at the time the services are rendered. In addition, CONSULTANT will provide such specific warranties as may be set forth in each respective Work Directive as agreed upon by the Parties.
- B. In the event that any services provided by the CONSULTANT hereunder are deficient because of CONSULTANT's or subconsultants failure to

perform said services in accordance with the warranty standards set forth above, the AGENCY will report such deficiencies in writing to the CONSULTANT within a reasonable time. The AGENCY thereafter will have:

- i. The right to have the CONSULTANT re-perform such services at the CONSULTANT's expense; or
 - ii. The right to have such services done by others and the costs thereof charged to and collected from the CONSULTANT if, within 30 days after written notice to the CONSULTANT requiring such re-performance, CONSULTANT fails to give satisfactory evidence to the AGENCY that it has undertaken said re-performance.
 - iii. The right to terminate the Agreement for default.
- C. CONSULTANT will be responsible for all errors and omissions and is expected to pay for all work as a result of errors and omissions.

23. CLAIMS OR DISPUTES

The CONSULTANT will be solely responsible for providing timely written notice to AGENCY of any claims for additional compensation and/or time in accordance with the provisions of this Agreement. It is the AGENCY's intent to investigate and attempt to resolve any CONSULTANT claims before the CONSULTANT has performed any disputed work. Therefore, CONSULTANT's failure to provide timely notice will constitute a waiver of CONSULTANT's claims for additional compensation and/or time.

The CONSULTANT will not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by the AGENCY, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given the AGENCY due written notice of a potential claim. The potential claim will set forth the reasons for which the CONSULTANT believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

If based on an act or failure to act by the AGENCY, such notice will be given to the AGENCY prior to the time that the CONSULTANT has started performance of the work giving rise to the potential claim for additional compensation. In all other cases, notice will be given within 10 days after the happening of the event or occurrence giving rise to the potential claim.

If there is a dispute over any claim, the CONSULTANT will continue to work during the dispute resolution process in a diligent and timely manner as directed by the AGENCY and will be governed by all applicable provisions of the Agreement. The CONSULTANT will maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached that resolves the CONSULTANT claim, the parties will execute an Agreement modification to document the resolution of the claim. If the

parties cannot reach an agreement with respect to the CONSULTANT claim, they may choose to pursue a dispute resolution process or termination of the Agreement.

24. REMEDIES

In the event the CONSULTANT fails to comply with the requirements of this Agreement in any way, the AGENCY reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

25. TEMPORARY SUSPENSION OF WORK

The AGENCY, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as AGENCY may deem necessary. The suspension may be due to the failure on the part of the CONSULTANT to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of the CONSULTANT. The CONSULTANT will comply immediately with the written order of AGENCY to suspend the work wholly or in part. The suspended work will be resumed when the CONSULTANT is provided with written direction from AGENCY to resume the work.

If the suspension is due to the CONSULTANT's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of the CONSULTANT, all costs will be at CONSULTANT's expense and no schedule extensions will be provided by AGENCY.

In the event of a suspension of the work, the CONSULTANT will not be relieved of the CONSULTANT's responsibilities under this Agreement, except the obligations to perform the work that the AGENCY has specifically directed CONSULTANT to suspend under this section.

If the suspension is not the responsibility of the CONSULTANT, suspension of all or any portion of the work under this Section may entitle the CONSULTANT to compensation and/or schedule extensions subject to the Agreement requirements.

26. TERMINATION

A. Termination for Convenience

The AGENCY may terminate this Agreement for convenience at any time by giving sixty days written notice to the CONSULTANT. Upon receipt of such notice, the CONSULTANT may not commit itself to any further expenditure of time or resources, except for costs reasonably necessary to effect the termination. If the AGENCY terminates the Agreement for convenience, the AGENCY agrees to pay the CONSULTANT, in accordance with the provisions of Sections 5 and 6, all sums actually due and owing from the AGENCY upon the effective date of termination, plus any costs reasonably necessary to effect the termination. CONSULTANT

is not entitled to any payments for lost profit on work to be performed after the date of termination, including, without limitation, work not yet performed, and milestones not yet achieved. All finished or unfinished documents and any material procured for or produced pursuant to this Agreement as of the date of termination are the property of the AGENCY upon the effective date of the termination for convenience. CONSULTANT and its subcontractors must cooperate in good faith in any transition to other vendors or consultants as the AGENCY deems necessary. Failure to so cooperate is a breach of the Agreement and grounds for the termination for convenience to be treated as a termination for default.

B. Termination for Default

If the CONSULTANT fails to perform any of the provisions of this Agreement, the AGENCY may find the CONSULTANT to be in default. After delivery of a written notice of default AGENCY may terminate the Agreement for default if the CONSULTANT 1) does not cure such breach within seven calendar days; or 2) if the nature of the breach is such that it will reasonably require more than 7 days to commence curing, as determined in the AGENCY'S discretion, provide a plan to cure such breach which is acceptable to the AGENCY within 7 calendar days. If the CONSULTANT cures the default within the cure period but subsequently defaults again, the AGENCY may immediately terminate the Agreement without further notice or right to cure. In the event of the filing a petition for bankruptcy by or against the CONSULTANT or for appointment of a receiver for CONSULTANT'S property, AGENCY may terminate this Agreement immediately without the thirty-day cure period.

Upon receipt of a notice of termination for default, the CONSULTANT may not commit itself to any further expenditure of time or resources. The AGENCY agrees to remit final payment to the CONSULTANT in an amount to cover only those sums actually due and owing from the AGENCY for work performed in full accordance with the terms of the Agreement as of the effective date of termination. The AGENCY is not in any manner liable for the CONSULTANT's actual or projected lost profits had the CONSULTANT completed the services required by this Agreement, including, without limitation, services not yet performed, expenses not yet incurred, and milestones not yet achieved. All finished or unfinished documents, and any equipment or materials procured for or produced pursuant to this Agreement become the property of the AGENCY upon the effective date of the termination for default.

- C. The rights and remedies of the AGENCY provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

27. LIQUIDATED DAMAGES

Not Applicable

28. PREVAILING WAGE

Not Applicable

29. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS

All CONSULTANT and subcontractor/subconsultant costs incurred in the performance of this Agreement will be subject to audit. The CONSULTANT and its subcontractors/subconsultants will permit the AGENCY, the State Comptroller, and their authorized representatives, to inspect, examine, take excerpts from, transcribe, and copy the CONSULTANT's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices or bills submitted by the CONSULTANT pursuant to this Agreement. The CONSULTANT will also provide such assistance as may be required in the course of such audit. The CONSULTANT will retain these records and make them available for inspection hereunder for a period of four (4) years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined by the AGENCY's auditor or staff that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the CONSULTANT agrees to reimburse the AGENCY for those costs within sixty (60) days of written notification by the AGENCY.

30. UKRAINE/RUSSIA RELATED SANCTIONS

As a public agency with contracts with state and federal departments and agencies, the AGENCY is required to avoid transactions with any persons or entities subject to economic sanctions. For the purpose of this section, "Economic Sanctions" are defined as those imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. Accordingly, should the AGENCY determine CONSULTANT is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The AGENCY shall provide CONSULTANT advance written notice of such termination, allowing CONSULTANT at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the AGENCY.

31. NON-DISCRIMINATION ASSURANCE - TITLE VI OF THE CIVIL RIGHTS ACT

The CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT-assisted contracts. Further, the CONSULTANT agrees to comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the

Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. The CONSULTANT shall obtain the same assurances from its joint venture partners, subcontractors, and subconsultants by including this assurance in all subcontracts entered into under this Agreement. Failure by the CONSULTANT to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the AGENCY deems appropriate.

32. EQUAL EMPLOYMENT OPPORTUNITY (EEO)

In connection with the performance of this Agreement, the CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, citizenship, political activity or affiliation, national origin, ancestry, physical or mental disability, marital status, age, medical condition (as defined under California law), veteran status, sexual orientation, gender identity, gender expression, sex or gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), taking or requesting statutorily protected leave, or any other characteristics protected under federal, state, or local laws. The CONSULTANT shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability, national origin, or any other characteristic protected under state, federal, or local laws. Such actions 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. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause. The CONSULTANT further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

The CONSULTANT will, in all solicitations or advancements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The CONSULTANT will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONSULTANT's legal duty to furnish information.

The CONSULTANT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the AGENCY's Contract Officer, advising the labor union or workers' representative of the CONSULTANT's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The CONSULTANT will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor. The CONSULTANT will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the AGENCY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the CONSULTANT's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the CONSULTANT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The CONSULTANT will include the provisions of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

33. SMALL BUSINESS ENTERPRISES (SBE) AND PROMPT PAYMENT REQUIREMENTS

See **Exhibit C** for SBE AND prompt payment requirements.

34. CONFLICT OF INTEREST

A. General

Depending on the nature of the work performed, a CONSULTANT of the AGENCY may be subject to the same conflict of interest prohibitions established by California law that govern AGENCY's employees and

officials (Cal. Govt. Code Section 1090 et seq. and Cal. Govt. Code Section 87100 et seq.). During the proposal process or the term of the Agreement, CONSULTANT and its employees may be required to disclose their financial interests (Fair Political Practices Commission Form 700). Under Section 18700.3 of Title 2, Division 6, of the California Code of Regulations, an employee of CONSULTANT is required to disclose their financial interests on Form 700 if: (1) the person makes certain governmental decisions; or (2) the person serves in a staff capacity with the AGENCY and in that capacity participates in making governmental decisions or performs the same duties for the AGENCY that would typically be performed by an AGENCY employee who is required to file Form 700.

The CONSULTANT warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code §1090 et seq. or §87100 et seq. during the performance of services under this Agreement. The CONSULTANT further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, CONSULTANT may be required to publicly disclose financial interests under the AGENCY's Conflict of Interest Code. Upon receipt, the CONSULTANT agrees to promptly submit a Statement of Economic Interest on the form provided by AGENCY.

No person previously in the position of Director, Officer, employee or agent of the AGENCY during his or her tenure or for one (1) year after that tenure will have any interest, direct or indirect, in this Agreement or the proceeds under this Agreement, nor may any such person act as an agent or attorney for, or otherwise represent the CONSULTANT by making any formal or informal appearance, or any oral or written communication, before the AGENCY, or any Officer or employee of the AGENCY, for a period of one (1) year after leaving office or employment with the AGENCY if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant, or contract.

B. Organizational Conflicts of Interest

CONSULTANT will take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the AGENCY; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm

or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONSULTANT will not engage the services of any Subconsultant or independent consultant on any work related to this Agreement if the Subconsultant or independent consultant, or any employee of the Subconsultant or independent consultant, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONSULTANT becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONSULTANT immediately will provide the AGENCY with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONSULTANT's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest.

If at any time during the term of this Agreement, AGENCY becomes aware of an organizational conflict of interest in connection with CONSULTANT's performance of the work hereunder, AGENCY will similarly notify CONSULTANT.

In the event a conflict is presented, whether disclosed by CONSULTANT or discovered by AGENCY, the AGENCY will consider the conflict presented and any alternatives proposed and meet with the CONSULTANT to determine an appropriate course of action. The AGENCY's determination as to the manner in which to address the conflict will be final.

During the term of this Agreement, CONSULTANT must maintain lists of its employees, and the Subconsultants and independent consultants used and their employees. CONSULTANT must provide this information to the AGENCY upon request. However, submittal of such lists does not relieve the CONSULTANT of its obligation to assure that no organizational conflicts of interest exist. CONSULTANT will retain this record for five (5) years after the AGENCY makes final payment under this Agreement. Such lists may be published as part of future AGENCY solicitations.

CONSULTANT will maintain written policies prohibiting organizational conflicts of interest and will ensure that its employees are fully familiar with these policies. CONSULTANT will monitor and enforce these policies and will require any subconsultants and affiliates to maintain, monitor, and enforce policies prohibiting organizational conflicts of interest.

Failure to comply with this section may subject the CONSULTANT to damages incurred by the AGENCY in addressing organizational conflicts

that arise out of work performed by CONSULTANT, or to termination of this Agreement for breach.

35. SUBSTANCE ABUSE PROGRAM

Not Applicable

36. CALIFORNIA PUBLIC RECORD ACT REQUESTS (CPRA)

CONSULTANT consents to the release of this Agreement, the redacted version of its proposal, and the release of any portion of its proposal not included in its confidentiality index, and waives all claims against the AGENCY, its directors, officers, employees, and agents, for the disclosure of such information. If the CONSULTANT did not include a confidentiality index in its proposal, the AGENCY will have no obligation to withhold any information from disclosure and may release the information sought without liability to the AGENCY.

Upon receipt of a request pursuant to the CPRA seeking this Agreement, proposal material relating to this RFP, the AGENCY may provide the Agreement, redacted version of the proposal, or may withhold material designated in the confidentiality index that is exempt from disclosure. If the AGENCY determines that information in the confidentiality index is not exempt from disclosure, the AGENCY will give reasonable notice to the Proposer prior to releasing any material listed in the confidentiality index.

CONSULTANT agrees to indemnify, defend, and hold harmless the AGENCY, its directors, officers, employees, and agents, from any and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the proposer information), and pay any and all cost and expenses, including attorneys' fees, related to the withholding of the information included in the confidentiality index or in the redacted version of the proposal or in this Agreement. If CONSULTANT fails to accept a tender of a defense, the AGENCY reserves the right to resolve all claims at its sole discretion, without limiting any rights stated herein.

37. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding will recover reasonable attorneys' fees, in addition to all court costs.

38. WAIVER

Any waiver of any breach or covenant of this Agreement must be in a writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the parties of a breach or covenant of this Agreement will not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

39. SEVERABILITY

If any provision of this Agreement is deemed invalid or unenforceable, that provision will be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event, the remaining provisions of this Agreement will remain in full force and effect.

40. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

41. APPLICABLE LAW

This Agreement, its interpretation, and all work performed under it will be governed by the laws of the State of California. The CONSULTANT must comply with all Federal, State, and Local Laws, rules, and regulations applicable to the Agreement and to the work to be done hereunder, including all rules and regulations of the AGENCY.

42. RIGHTS AND REMEDIES OF THE AGENCY

The rights and remedies of the AGENCY provided herein will not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

43. BINDING ON SUCCESSORS

All of the terms, provisions, and conditions of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors, assigns, and legal representatives.

44. ENTIRE AGREEMENT; MODIFICATION

This Agreement for Services, including any exhibits, constitutes the complete Agreement between the parties and supersedes any prior written or oral communications. This Agreement may be modified or amended only by written instrument signed by both the CONSULTANT and the AGENCY. In the event of a conflict between the terms and conditions of this Agreement and the exhibits, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the Effective Date.

PENINSULA CORRIDOR JOINT POWERS BOARD:

CONSULTANT:

Signature: _____

Signature _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTEST:

Signature: _____

By: _____
Agency Secretary

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Attorney for the Agency

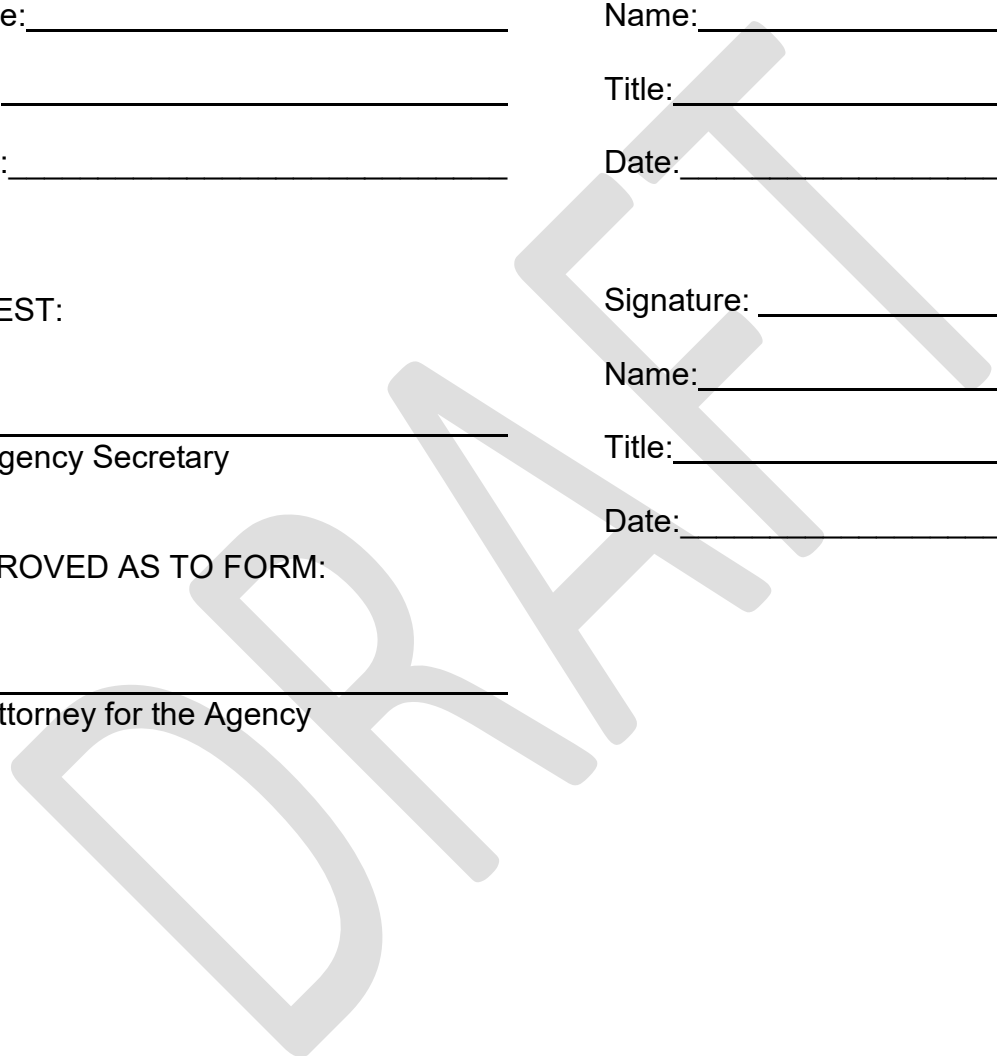


EXHIBIT A SCOPE OF SERVICES

The Agencies are seeking proposals from licensed commercial real estate brokerage firms with experience in providing commercial real estate brokerage and advisory services on small, medium and large commercial leasing and purchase transactions. The selected Brokers will assist the Agencies with professional and technical Real Estate brokerage, and other, services on an as-needed basis.

Brokerage Service Categories:

Category 1: Assistance Buying or Leasing New Property

Anticipated Brokerage Services related to Buying or Leasing new property that may be required throughout the course of the Agreement:

- **Sourcing Prospective Locations:** Locating available facilities for purchase or lease/rent based on Agency's needs and desired parameters (to be defined in future Work Directives)
- **Develop Marketing Materials:** Prepare draft marketing materials to solicit property owners or property management firms interested in leasing or selling property to the Agency, as based on Agency-approved requirements. Broker will conduct any pre-proposal conferences and shall be responsible for responding to all inquiries.
- **Negotiations and Final Recommendations:** Upon approval to proceed, Broker will develop, present and obtain pre-approval of the real estate negotiation strategies and principles from the Agency. Working in concert with staff and legal counsel, Broker will conduct negotiations to secure the best possible real estate transaction with maximum incentives and concessions consistent with professional ethics and the market conditions. Broker must provide written documentation of the negotiation process, terms of agreements, Letters of Intent, etc.
- **Lease or Purchase Documentation:** Broker, working in concert with Agency staff and legal counsel, will prepare and/or coordinate the completion of required lease or purchase documentation to finalize approved real estate transactions.
- **Representing the Agency/Consultation:** Tenant representation and/or real estate consulting/advisory services (in scenarios when Agency is considered to be a tenant).
- **Board Presentations:** Broker, working in concert with Agency staff and legal counsel, will prepare and/or present reports to Agency's Board of Directors to finalize approval of real estate transactions.
- **Space Planning/Confirm Real Estate Requirements:** Review existing plans, space needs, and other documentation and re-confirm Agency's major real estate

assumptions and requirements that will be incorporated into site searches, as needed.

- **Proposal Evaluation and Short List Recommendation:** Broker will review and evaluate all submitted proposals and conduct due diligence to confirm the merits of any proposal received.

Category 2: Assist Agency in Leasing Agency-Owned Property

Anticipated Brokerage Services related to Leasing Agency-owned property that may be required throughout the course of the Agreement:

- **Marketing of Agency Property:** Market real estate opportunities in Agency owned or leased properties to brokers and other resources with property listings in the market. Properties may include vacant sites, commercial properties in Agency facilities, office space with agency owned, or leased space.
- Ad-Hoc Negotiations with current or prospective tenants
- Reporting on market and economic conditions and fiscal analysis
- Providing recommendations on appropriate rental rates for Agency-owned properties

Category 3: General Property Management Services

Anticipated Brokerage Services related to General Property Management that may be required throughout the course of the Agreement:

- **Additional General Property Management services (Optional):** Broker will have the capacity on staff, or via subcontract, to provide facilities management services including but not limited to interior building construction and maintenance and any other emergency services needed arising through the property management process.

Category 4: Additional Potential Miscellaneous Services:

- Identifying Joint Development Opportunities
- Advisory services related to encroachments, entitlements, leasing and licensing, acquisitions and dispositions
- (Optional/As applicable to proposers) Management, architectural, and other project management services as needed

EXHIBIT B
CONSULTANT'S PROPOSAL, AS ACCEPTED BY THE AGENCY

DRAFT

[CONSULTANT'S PROPOSAL WILL BE INSERTED HERE]

DRAFT

EXHIBIT C

SBE AND PROMPT PAYMENT REQUIREMENTS

It is the policy of the Agencies to ensure non-discrimination in the award and administration of all contracts and to create a level playing field on which SBEs and DBEs can compete fairly for contracts and subcontracts relating to construction, procurement, and services activities. To this end, the Agencies have developed procedures to remove barriers to participation in the bidding and award process and to assist small and disadvantaged businesses to develop and compete successfully outside of the DBE Program. In connection with the performance of this Agreement, the Proposer will cooperate with the Agencies in meeting these SBE commitments and objectives.

The DISTRICT and the JPB implement their DBE programs in accordance with U.S. Department of Transportation (U.S. DOT) regulations, and no contract-specific DBE participation goal has been established for this Agreement. However, CONSULTANT must cooperate with the Agencies in meeting its commitments and objectives with regard to ensuring nondiscrimination in the award and administration of contracts and must use its best efforts to ensure that barriers to DBE's participation do not exist.

1. SBE POINT PREFERENCE

The DISTRICT and the JPB have established a contract specific SBE point preference of five points. The point preference will be granted to Proposers that are either (1) an SBE self-performing at least 30% of the contract; or (2) committed to subcontracting with one or more certified SBEs.

Points received through the SBE preference will be added to each Proposer's total evaluation score. Preference points will be aggregated with proposal evaluation scoring to determine the highest ranked Proposer. Each Proposer must provide the **Form 6 SBE Preference Form** with their proposal to receive a point preference. If a Proposal fails to submit this form, no SBE preference points will be added to the evaluation of the proposal.

2. SBE EVALUATION

The Office of Civil Rights (OCR) shall review all the information submitted by Proposers in accordance with the solicitation documents to determine a recommendation regarding compliance with the SBE point preference requirements for award of a contract to the Proposer. The Proposers shall cooperate with OCR if a request for additional information is made during this evaluation process.

3. ASSURANCE

Pursuant to 49 CFR §26.13, and as a material term of any Agreement with the Agencies, the CONSULTANT hereby makes the following assurance and agrees to include this assurance in any contracts it makes with Subconsultants in the performance of this Agreement:

“The Consultant or Subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted Contracts. Failure by the CONSULTANT or sub-consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Agencies deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the CONSULTANT from future bidding as non-responsible.”

By entering into the Agreement, the CONSULTANT is deemed to have made the foregoing assurance and to be bound by its terms.

4. RECOGNIZED SBE CERTIFICATIONS

The DISTRICT and the JPB recognize SBE certifications performed by the following:

- A. DBE pursuant to U.S. DOT regulations, 49 CFR Part 26. This includes DBE certifications performed by the California Unified Certification Program, or any other state Unified Certification Program. A statewide directory of DBEs is available at <https://caltrans.dbesystem.com>.
- B. Small Business Administration (SBA) 8(a) provided that a firm's average annual gross receipts do not exceed the cap of \$30.72 million.
- C. Small Business (SB), Micro Business (MB), and SB-PW certifications by the California Department of General Services (DGS).
- D. SBE certification by the Santa Clara Valley Transportation Authority.
- E. SBE certification by the Los Angeles County Metropolitan Transportation Authority.

Even if your firm meets the above requirement, your firm's (including affiliates') average annual gross receipts over the previous three years cannot exceed a maximum cap of \$30.72 million.

Note: SBA size standards vary by industry and certain industries, such as general construction contracting, exceed the cap of \$30.72 million. A general construction contractor meeting the SBA size standard but exceeding the cap of \$30.72 million, for example, is ineligible to participate as a small business on Agency contracts. Please verify a firm's industry size standard by visiting SBA at: <http://www.sba.gov/content/determining-size-standards>.

5. COUNTING SBE PARTICIPATION

SBE participation shall be counted and enforced in accordance with Title 49 CFR Part 26 and the Agency's DBE Program. SBE participation includes that portion of the Agreement actually performed by a certified SBE with its own

forces. SBEs may participate as a consultant, subconsultant, joint venture partner, vendor or supplier of materials or services required by the Agreement. An SBE's participation can only be counted if it performs a commercially useful function on the Agreement. An SBE performs 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.

6. CONTRACT COMPLIANCE

A. Substitution of Subconsultants

The CONSULTANT shall not terminate an SBE Subconsultant at any tier without prior written consent from the Agencies. The CONSULTANT shall notify OCR in writing of its intention to substitute an SBE Subconsultant before any substitution of an SBE Subconsultant takes place. The CONSULTANT must provide appropriate documentation to substantiate the request for substitution as defined by applicable federal and/or state law.

The CONSULTANT shall utilize the specific SBEs listed to perform the work and supply the materials for which each is listed unless the CONSULTANT obtains prior written consent. Unless prior consent is given, the CONSULTANT shall not be entitled to any payment for work or materials unless it is performed or supplied by the listed SBE.

B. Change to a Firm's SBE Status

If an SBE Subconsultant is either decertified as an SBE or a Subconsultant is certified as an SBE during the life of the Contract, such Subconsultant shall notify the CONSULTANT in writing with the date of decertification or certification. The CONSULTANT shall notify the Agencies of such an event and shall furnish the written documentation to the Agencies.

C. Prompt Payment to Subconsultants

The CONSULTANT shall pay any Subconsultants approved by the Agencies for work that has been satisfactorily performed no later than seven calendar days from the date of CONSULTANT's receipt of progress payments by the Agencies.

The Agencies shall withhold retainage from the CONSULTANT, make prompt and regular incremental inspections and approvals of portions of the work and, promptly release retainage to the CONSULTANT based on these inspections and approvals. The Agencies' incremental approvals and release of a portion of the retainage under this section does not constitute Acceptance of the work.

Within seven (7) calendar days after the Agencies have made a retainage payment to the CONSULTANT, the CONSULTANT shall release to any Subconsultant, who has satisfactorily completed work covered by the Agencies' inspection and approval, the retainage owed to the Subconsultant for such work. For purposes of this section, a Subconsultant's work is satisfactorily completed when the CONSULTANT certifies to the Agencies that all the tasks called for in the subcontract related to the work covered by the Agencies' incremental inspection and approval have been satisfactorily completed.

Any delay or postponement of payment by the CONSULTANT to a Subconsultant may take place only for good cause and with the Agencies' prior written approval. Any violation of these provisions shall subject the CONSULTANT to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or Subconsultants in the event of a dispute involving late payment or nonpayment by the CONSULTANT; deficient Subconsultant performance; and/or noncompliance by a Subconsultant. This clause applies to all Subconsultants. In the event CONSULTANT does not make progress payments or release retentions to the Subconsultant in accordance with the time periods specified herein, the CONSULTANT will be subject to a charge of 2% per month on the untimely or improperly withheld payment.

The CONSULTANT shall cooperate with the Project Manager or the Resident Engineer and OCR to identify, report and effectuate the prompt and regular approvals of the work.

D. Monthly Electronic Reporting Requirements

The CONSULTANT shall maintain records of all subcontractor participation in the performance of the contract. This includes subcontracts entered into with both certified SBEs and non-SBEs and all materials purchased from both certified SBEs and non-SBEs.

The CONSULTANT is required to report payments to all subcontractors, sub-consultants, suppliers, manufacturers, and truckers (Subconsultants) in the Diversity Management and Compliance System (System) on a monthly basis. The System, a web-based electronic reporting system, is designed to record Agency payments made to the CONSULTANT and prompt payments made by the CONSULTANT to its Subconsultants. The CONSULTANT and every Subconsultant will receive payment notifications via email. The CONSULTANT must report a payment made to Subconsultant(s) within five calendar days of an email notification. The Subconsultant(s) must confirm receipt of payment from the CONSULTANT within five calendar days of an email notification.

It is the CONSULTANT's responsibility to ensure that Subconsultant(s) confirm payments in the System in accordance with the requirements set forth above.

If the CONSULTANT fails to comply with the monthly electronic reporting requirements within the time period required in this section and has not received written approval for an extension, the CONSULTANT agrees to pay a sum of \$50 each day the monthly report is late as liquidated damages. The amount of liquidated damages is not a penalty and covers reasonable damages that the Agencies will sustain and which are impractical to determine in advance. The Agencies may deduct the amount of liquidated damages from monies due to the CONSULTANT.

7. ADMINISTRATIVE REMEDIES

In the event the CONSULTANT fails to comply with the SBE or prompt payment requirements of this Agreement in any way, the Agencies reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and Agreement retentions, imposition of liquidated damages, and termination of the Agreement in whole or in part.

END OF SBE AND PROMPT PAYMENT REQUIREMENTS

EXHIBIT D
INSURANCE REQUIREMENTS

Exhibit D-2 – Insurance requirements for Peninsula Corridor Joint Powers Board (JPB)

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EXHIBIT D-2
INSURANCE REQUIREMENTS (JPB)

The insurance requirements specified in this Section shall cover CONTRACTOR's own liability and any liability arising out of work or services performed under this Agreement by any subcontractors, subconsultants, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations (hereinafter collectively referred to as "Agents") that CONTRACTOR authorizes to work under this Agreement. CONTRACTOR is required to procure and maintain at its sole cost and expense the insurance coverages subject to all of the requirements set forth below. Such insurance shall remain in full force and effect throughout the term of this Agreement. CONTRACTOR is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverages with appropriate limits and endorsements to cover such risks; the limit for the Commercial General Liability insurance in each subcontract shall not be less than \$2 million. To the extent that any Agent does not procure and maintain such insurance coverage, CONTRACTOR shall assume any and all costs and expenses that may be incurred in fulfilling CONTRACTOR's indemnity obligation as to itself or any of its Agents in the absence of coverage. In the event CONTRACTOR or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that the CONTRACTOR's insurance be primary without any right of contribution from the JPB. Prior to beginning work under this Agreement, CONTRACTOR shall provide the JPB's authorized insurance consultant, Insurance Tracking Services, Inc. (ITS), with satisfactory evidence of compliance with the insurance requirements of this Section, by submitting such evidence of compliance to the address indicated in C.1. below.

A. MINIMUM TYPES AND SCOPE OF INSURANCE

1. Workers' Compensation and Employer's Liability Insurance
 - a. Workers' Compensation with Statutory Limits and/or Federal Employer's Liability ("FELA") coverage (whichever is applicable) to its employees, as required by the Federal Employer's Liability Act of 1908, applying to Interstate railroad employees, or, as required by Section 3700 et seq. of the California Labor Code, or any subsequent amendments or successor acts thereto, governing the liability of employers to their employees.
 - b. If FELA applies, it shall be in accordance with federal statutes and have minimum limits of \$10,000,000 per occurrence.
 - c. If the California Labor Code requiring Workers' Compensation applies, the CONTRACTOR shall also maintain Employer's Liability coverage with minimum limits of \$2 million.

d. Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:

- Waiver of Subrogation.

2. Commercial General Liability Insurance

Commercial General Liability insurance for bodily injury and property damage coverage of at least **\$2 million** per occurrence or claim and a general aggregate limit of at least **\$2 million**. Such insurance shall cover all of CONTRACTOR's operations both at and away from the project site. Such insurance shall not have any exclusion for Cross Liability or Cross-Suits. In addition, for any construction and public works projects, the insurance shall not have any exclusion for Explosion, Collapse and Underground perils (xcu) and for construction or demolition work within 50 feet of railroad tracks, the contractual liability exclusion for liability assumed shall be deleted.

a. This insurance shall include coverage for, but not be limited to:

- Premises and operations.
- Products and completed operations.
- Personal injury.
- Advertising injury.

b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- Additional Insured.
- Separation of Insureds Clause.
- Primary and Non-Contributory wording.
- Waiver of Subrogation.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

3. Business Automobile Liability Insurance

Business Automobile Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least **\$2 million** per accident or loss.

a. This insurance shall include coverage for, but not be limited to:

- All owned vehicles.
- Non-owned vehicles.
- Hired or rental vehicles.

b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- Additional Insured.
- Primary and Non-Contributory wording.
- Waiver of Subrogation.

4. Property Insurance

Property insurance with Special Form coverage including theft, but excluding earthquake, with limits at least equal to the replacement cost of the property described below.

a. This insurance shall include coverage for, but not be limited to:

- CONTRACTOR's own business personal property and equipment to be used in performance of this Agreement.
- Materials or property to be purchased and/or installed on behalf of the JPB, if any.
- Builders risk for property in the course of construction.

b. Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:

- Waiver of Subrogation.

5. Professional Liability Insurance

A Professional Liability insurance policy covering errors and omissions and the resulting damages including, but not limited to, economic loss to the JPB and having minimum limits of liability of **\$2** million per claim or occurrence and **\$2** million annual aggregate. The policy shall include coverage for all services and work performed under this Agreement.

B. ENDORSEMENTS

1. Additional Insured

The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, and the Union Pacific Railroad Company and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors

or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

2. Waiver of Subrogation

The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, and the Union Pacific Railroad Company and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

3. Primary Insurance

The referenced policies and any Excess and Umbrella policies shall indicate that they are primary to any other insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim, up to and including the total limit of liability, without right of contribution from any of the insurance effected or which may be effected by the JPB.

4. Separation of Insureds

The referenced policies and any Excess or Umbrella policies shall contain a Separation of Insureds Clause and stipulate that inclusion of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, and the Union Pacific Railroad Company as Additional Insureds shall not in any way affect the JPB's rights either as respects any claim, demand, suit or judgment made, brought or recovered against the CONTRACTOR. The purpose of this coverage is to protect CONTRACTOR and the JPB in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

C. EVIDENCE OF INSURANCE

1. All Coverages

Prior to commencing work or entering onto the Property, CONTRACTOR shall provide to Insurance Tracking Services, Inc. (ITS), the JPB's

authorized insurance consultant, a Certificate of Insurance with respect to each required policy to be provided by the CONTRACTOR under the Agreement. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate. **The JPB Contract number and Project name shall be clearly stated on the face of each Certificate of Insurance.**

Submit Certificates of Insurance to:

Peninsula Corridor Joint Powers Board
C/O Insurance Tracking Services, Inc. (ITS)
P.O. Box 198
Long Beach, CA 90801

OR

Email Address: smt.certificates@instracking.com

OR

Fax: (562) 435-2999

In addition, the CONTRACTOR shall promptly deliver to ITS a certificate of insurance with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the terms specified herein. Such certificate shall be delivered to ITS not less than three business days after the expiration date of any policy.

D. GENERAL PROVISIONS

1. Notice of Cancellation

Each insurance policy supplied by the CONTRACTOR shall provide at least 30 days' written notice to CONTRACTOR of cancellation or non-renewal. CONTRACTOR must then provide at least 30 days' prior written notice to the JPB's authorized insurance consultant, Insurance Tracking Services, Inc. (ITS), if any of the above policies are non-renewed or cancelled.

Submit written notice to:

Peninsula Corridor Joint Powers Board
C/O Insurance Tracking Services, Inc. (ITS)
P.O. Box 198
Long Beach, CA 90801

OR

Email Address: smt.certificates@instracking.com

OR

Fax: (562) 435-2999

2. Acceptable Insurers

All policies will be issued by insurers acceptable to the JPB (generally with a Best's Rating of A- 10 or better).

3. Self-insurance

Upon evidence of financial capacity satisfactory to the JPB and CONTRACTOR's agreement to waive subrogation against the JPB respecting any and all claims that may arise, CONTRACTOR's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance.

4. Failure to Maintain Insurance

All insurance specified above shall remain in force until all work to be performed is satisfactorily completed, all of CONTRACTOR's personnel and equipment have been removed from the JPB property, and the work has been formally accepted. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

5. Claims Made Coverage

If any insurance specified above shall be provided on a claim-made basis, then in addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the CONTRACTOR's start of work (including subsequent policies purchased as renewals or replacements).
- b. CONTRACTOR shall make every effort to maintain similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds.
- c. If insurance is terminated for any reason, CONTRACTOR agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from work performed in connection with this Agreement.

- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

6. Deductibles and Retentions

CONTRACTOR shall be responsible for payment of any deductible or retention on CONTRACTOR's policies without right of contribution from the JPB. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that the policy of the CONTRACTOR or any subcontractor contains a deductible or self-insured retention, and in the event that the JPB seeks coverage under such policy as an additional insured, CONTRACTOR shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy for a lawsuit arising from or connected with any alleged act or omission of CONTRACTOR, subcontractor, or any of their officers, directors, employees, agents, or suppliers, even if CONTRACTOR or subcontractor is not a named defendant in the lawsuit.

**AGREEMENT
BETWEEN
PENINSULA CORRIDOR JOINT POWERS BOARD (AGENCY)
AND
CBRE, INC. (CONSULTANT)**

AGREEMENT SUMMARY*

Board of Directors' Date of Award: October 3, 2024

Resolution Number: 2024-XX

Effective Date of Agreement: October 4, 2024

Services to be Performed (Section 1): On-Call General Commercial
Real Estate Brokerage Services

Term of Agreement (Section 3): Base Term of 5 years; and
One Option Term of 5 years

Consultant's Key Representative (Section 4):

Name: Brian Hutcherson

Title: Western Regional Manager, PIES

Company: CBRE, Inc.

Address: 4301 La Jolla Village Drive, Suite 3000
San Diego, CA 92122

Phone: (858) 546-2639

Email: brian.hutcherson@cbre.com

**This Summary is provided for convenience only and is qualified by the specific terms and conditions of the Agreement that will control any conflict between this Summary and the terms of the Agreement*

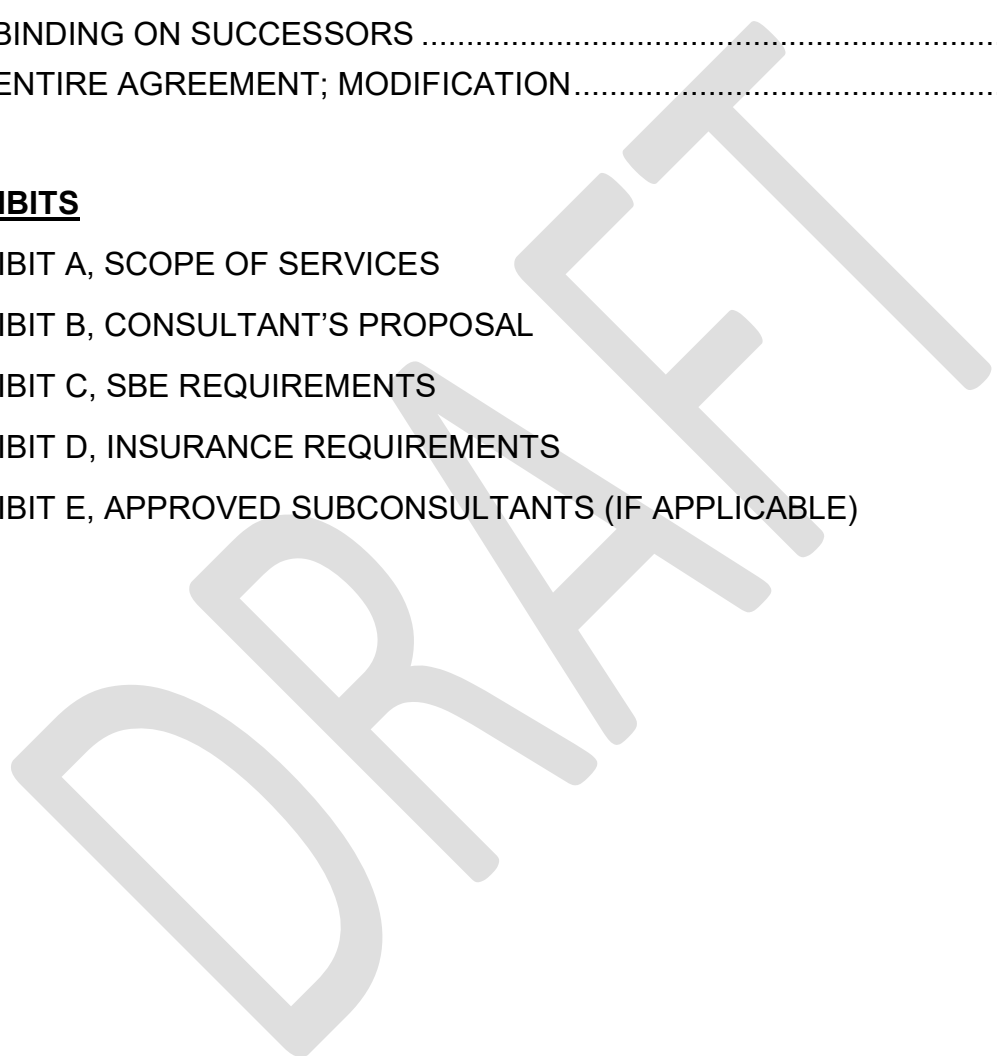
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- EXHIBIT E, APPROVED SUBCONSULTANTS (IF APPLICABLE)



This AGREEMENT for On-Call General Commercial Real Estate Brokerage Services (Agreement) is entered into by and between the **Peninsula Corridor Joint Powers Board** (AGENCY) located at 1250 San Carlos Avenue, San Carlos, CA 94070 and **CBRE, Inc.** (CONSULTANT), a California corporation located at 4301 La Jolla Village Drive, Suite 3000, San Diego, CA 92122 (collectively referred to as “the Parties”).

1. **SCOPE OF SERVICES**

This is an Agreement to provide On-Call General Commercial Real Estate Brokerage Services. The CONSULTANT agrees to provide these services to the AGENCY in accordance with the terms and conditions of this Agreement. In the performance of its work, the CONSULTANT represents that it (1) has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing general commercial real estate brokerage services; (2) carries all applicable licenses, certificates, and registrations in current and good standing that may be required to perform the work; and (3) will retain all such licenses, certificates, and registrations in active status throughout the duration of this engagement.

The scope of the CONSULTANT’s services will consist of the services set forth in the Request for Proposals dated June 11, 2024, the Scope of Services of which is attached hereto and incorporated herein as **Exhibit A**, as supplemented by CONSULTANT’s written proposal dated July 8, 2024, attached hereto and incorporated herein as **Exhibit B**.

2. **AGREEMENT DOCUMENTS**

This Agreement consists of the following documents:

- A. This Agreement
- B. Exhibit A, Scope of Services
- C. Work Directives/Task Orders, if applicable
- D. Exhibit B, CONSULTANT’s Proposal, as accepted by the Agency.
- E. Exhibit C, SBE Requirements
- F. Exhibit D, Insurance Requirements
- G. Exhibit E, Approved Subconsultants

In the event of conflict between or among the terms of the Agreement documents, the order of precedence will be the order of documents listed above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence.

3. **TERM OF AGREEMENT**

The term of this Agreement will be for a **five (5) year** term commencing upon October 4, 2024, and ending on October 3, 2029. The CONSULTANT will furnish the AGENCY with all the materials, equipment and services called for under this Agreement, and perform all other work, if any, described in the Solicitation Documents.

The AGENCY reserves the right, in its sole discretion, to exercise up to one (1) five-year option term(s) to extend the Agreement, pursuant to the terms of this Agreement. If the AGENCY determines to exercise the option term(s), the AGENCY will give the CONSULTANT at least 30 days' written notice of its determination.

It is understood that the term of the Agreement and any option term granted thereto as specified herein are subject to the AGENCY's right to terminate the Agreement in accordance with Section 24 of this Agreement.

4. CONSULTANT'S REPRESENTATIVE

At all times during the term of this Agreement, **Brian Hutcherson**, will serve as the primary staff person of CONSULTANT to undertake, render, and oversee all of the services under this Agreement. Upon written notice by the CONSULTANT and approval by the AGENCY, which will not be unreasonably withheld, the CONSULTANT may substitute this person with another person, who will possess similar qualifications and experience for this position.

5. COMPENSATION

The AGENCY has awarded a contract to two (2) consultants for the Scope of Services generally described in Exhibit A and will determine how the maximum aggregate not-to-exceed amount will be divided among consultants. There is no guarantee of any particular amount of compensation to any consultant under this Agreement. However, the maximum aggregate compensation for the five (5)-year base term the AGENCY has authorized to be expended for this Contract shall not exceed **Nine Hundred Thousand Dollars (\$900,000)** plus a ten percent (10%) contingency amount, which may be used at the Agency's discretion if necessary for unforeseen work only, in accordance with Exhibits A and B. In the event the AGENCY, in its sole discretion, exercises its right to extend this Agreement the CONSULTANT agrees to perform the services for an additional five (5)-year option term. The total not-to-exceed amount will include all labor, materials, taxes, profit, overhead, insurance, subcontractor/subconsultant costs and all other costs and expenses incurred by the CONSULTANT. The commissions, fees, and hourly rate by personnel/service category will be as set forth in Exhibit B. The AGENCY will pay the CONSULTANT in accordance with Section 6.

The CONSULTANT agrees to perform the services to be specified in each Work Directive. Compensation for satisfactory performance of services performed under Work Directives will be as stated in each Work Directive and, unless specifically stated otherwise in the Work Directive, will be in accordance with the commission, non-commission fees, and hourly labor rates set forth in Exhibit B.

It is expressly understood and agreed that in no event will the CONSULTANT be compensated in an amount greater than the amount specified in any individual Work Directive for the services performed under such Work Directive. Any change order must be in writing and approved by the AGENCY's Project Manager and the Office of Contracts and Procurement.

On an annual basis, no later than 60 days before the start of a succeeding Agreement year, CONSULTANT may, upon written request, adjust prospectively its labor rates. Increases in future labor rates shall be limited, if requested, to the most recent Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco/Oakland/Hayward, CA area available to the AGENCY, or up to a maximum of 3.5 percent escalation, whichever is lower. The effective date of the CPI-U adjustment, if any, will commence either (1) the first day of the second and/or subsequent year(s) of the Agreement, or (2) the date of the CONSULTANT's request, whichever event is later. Upon written approval by the AGENCY, the negotiated changes shall remain in effect for the subsequent Agreement year. If the CONSULTANT does not submit a request at least 60 days before the start of the succeeding Agreement year, the CONSULTANT waives any CPI-U increase for that year.

6. MANNER OF PAYMENT

The CONSULTANT must submit monthly invoices/billing statements detailing the services performed during the billing period. Each invoice/billing statement must provide a description of the work performed during the invoice period, the contract number **24-J-P-105A**, purchase order number (**TBD**) and the AGENCY's **Brian Fitzpatrick**. The AGENCY will endeavor to pay approved invoices/billing statements within 30 calendar days of their receipt. The AGENCY reserves the right to withhold payment to the CONSULTANT if the AGENCY determines that the quantity or quality of the work performed is unacceptable. The AGENCY reserves the right to withhold payment for any invoice that does not match the PO lines until CONSULTANT resubmits a corrected invoice. The AGENCY will provide written notice to the CONSULTANT within 10 calendar days of the AGENCY's decision not to pay and the reasons for non-payment. Final payment will be withheld until CONSULTANT performs all required Agreement expiration or termination obligations. If CONSULTANT disagrees with the AGENCY's decision not to pay and the reasons for non-payment, it must provide written notice detailing the reasons why it disputes the AGENCY's decision to the AGENCY within 30 calendar days of the AGENCY's notice. If CONSULTANT does not provide written notice in accordance with this section, it waives all rights to challenge the AGENCY's decision.

Submit one copy of each invoice as a PDF file via email to:

AccountsPayable@SamTrans.com

9. NOTICES

All communications relating to the day-to-day activities of the provided services will be exchanged between the AGENCY's **Brian Fitzpatrick** or designee, and the CONSULTANT's **Brian Hutcherson**.

Notices informing CONSULTANT of the AGENCY's decision to exercise Agreement options (that were exercisable in the AGENCY's sole discretion) will be exchanged between the AGENCY's **Brian Fitzpatrick** or designee, and the CONSULTANT's **Brian Hutcherson** via electronic mail to: brian.hutcherson@cbre.com.

All other notices and communications deemed by either party to be necessary or desirable to be given to the other party will be in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows:

If to the AGENCY: Board Secretary
Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070

With a copy to: Director, Contracts and Procurement
Peninsula Corridor Joint Powers Board
1250 San Carlos Avenue
San Carlos, CA 94070

If to the CONSULTANT: CBRE, Inc.
Attn: Brian Hutcherson
4301 La Jolla Village Drive, Suite 3000
San Diego, CA 92122

The address to which mailings may be made may be changed from time to time by notice mailed as described above. Any notice given by mail will be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

10. OWNERSHIP OF WORK

All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared for the services to be performed by CONSULTANT will be and are the property of the AGENCY. The AGENCY will be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of the CONSULTANT or in the hands of any subconsultant upon completion or termination of the work will be immediately delivered to the AGENCY. If any materials are lost, damaged, or destroyed before final delivery to the AGENCY, the CONSULTANT will replace them at its own expense and the CONSULTANT assumes all risks of loss, damage, or destruction of or to such materials. The CONSULTANT may retain a copy of all material produced under this Agreement for its use in its general business activities.

Any and all rights, title, and interest (including without limitation copyright and any other intellectual-property or proprietary right) to materials prepared under this Agreement are hereby assigned to the AGENCY. The CONSULTANT agrees to execute any additional documents that may be necessary to evidence such assignment.

The CONSULTANT represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual property or proprietary right of any third party.

11. CONFIDENTIALITY

Any AGENCY materials that the CONSULTANT has access or materials prepared by the CONSULTANT during the course of this Agreement (“confidential information”) will be held in confidence by the CONSULTANT, which will exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the CONSULTANT as necessary to accomplish the rendition of services set forth in Section 1 of this Agreement.

The CONSULTANT, its employees, subconsultants and agents, will not release any reports, information, or other materials prepared in connection with this Agreement, whether deemed confidential or not, without the approval of the AGENCY’s **Executive Director** or designee.

12. USE OF SUBCONTRACTORS/SUBCONSULTANTS

The CONSULTANT must not subcontract any services to be performed by it under this Agreement without the prior written approval of the AGENCY, except for service firms engaged in drawing, reprographics, typing, and printing and subconsultants identified in Exhibit E.

Any subcontractors/subconsultants must be engaged under written contract with the CONSULTANT with provisions allowing the CONSULTANT to comply with all requirements of this Agreement, including without limitation the “Ownership of Work” provisions in Section 8. The CONSULTANT will be solely responsible for reimbursing any subcontractors/subconsultants and the AGENCY will have no obligation to them.

13. CHANGES

The AGENCY may at any time, by written order, make changes within the scope of work and services described in this Agreement. If such changes cause an increase or decrease in the budgeted cost of or the time required for performance of the agreed-upon work, an equitable adjustment as mutually agreed will be made in the limit on compensation as set forth in Section 5 or in the time of required performance as set forth in Section 3, or both. In the event that CONSULTANT encounters any unanticipated conditions or contingencies that may affect the scope of work or services and result in an adjustment in the amount of compensation specified herein, or identifies any AGENCY conduct (including actions, inaction, and written or oral communications other than a formal contract modification) that the CONSULTANT regards as a change to the contract terms and conditions, CONSULTANT will so advise the AGENCY immediately upon notice of such condition or contingency. The written notice will explain the circumstances giving rise to the unforeseen condition or contingency and will set forth the proposed adjustment in compensation. This notice will be given to the AGENCY prior to the time that CONSULTANT performs work or services related to the proposed adjustment in compensation. The pertinent changes will be expressed in a written supplement to this Agreement issued by the Contracts and Procurement Department prior to implementation of such changes. Failure to provide written notice and receive AGENCY approval for extra

work prior to performing extra work may, at the AGENCY's sole discretion, result in non-payment of the invoices reflecting such work.

14. RESPONSIBILITY: INDEMNIFICATION

The CONSULTANT will indemnify, keep and save harmless the AGENCY, the San Mateo County Transit District, the City and County of San Francisco, the Santa Clara Valley Transportation Authority, TransitAmerica Services, Inc. (TASI) or successor Operator of Record, the Union Pacific Railroad Company, and their directors, officers, agents and employees (Indemnitees) against any and all suits, claims or actions arising out of any of the following:

- A.** Any injury to persons or property that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by the CONSULTANT caused by a negligent act or omission or wilful misconduct of the CONSULTANT or its employees, subcontractors, subconsultants or agents; or
- B.** Any allegation that materials or services provided by the CONSULTANT under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

The CONSULTANT further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defense as they are incurred. If any judgment is rendered against the Indemnitees in any such action, the CONSULTANT will, at its expense, satisfy and discharge the same. This indemnification will survive termination or expiration of the Agreement.

15. INSURANCE

Refer to **Exhibit D**, appended hereto, for the Insurance Requirements.

16. CONSULTANT'S STATUS

Neither the CONSULTANT nor any party contracting with the CONSULTANT will be deemed to be an agent or employee of the AGENCY. The CONSULTANT is and will be an independent CONSULTANT and the legal relationship of any person performing services for the CONSULTANT will be one solely between that person and the CONSULTANT.

17. ASSIGNMENT

The CONSULTANT must not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of the AGENCY.

18. OTHER GOVERNMENTAL AGENCIES

In the event that one or more other governmental agencies may wish to utilize this Agreement to purchase services in accordance with the terms and costs indicated herein, the following provisions apply. Each public agency must formulate a separate contract with the CONSULTANT, incorporating the terms and conditions of this Agreement with the AGENCY. CONSULTANT shall invoice such public agencies as separate entities. The AGENCY will incur no liability in connection with such contracts or purchases by other public agencies thereunder. CONSULTANT will release, defend (with counsel reasonably satisfactory to AGENCY) and indemnify AGENCY and its directors, officers, employees and agents (collectively, "Indemnitees"), from and against all liability, cost, and expense for loss of or damage to property and for injuries to any person when arising or resulting from acts or omissions of CONSULTANT in connection with such contracts or purchases by other public agencies.

19. LITIGATION SUPPORT

The CONSULTANT must be willing to provide litigation support related to the performance of this Agreement, including serving as an expert witness if required by the AGENCY. In the event that litigation relating to the performance of this Agreement arises, the CONSULTANT will ensure that at least one individual has the appropriate expertise to act as an expert witness and will make that individual or individuals available to consult on issues related to litigation. The CONSULTANT may additionally be required to form expert opinions, draft expert witness reports, and provide expert witness testimony for depositions and other legal proceedings, including mediation, arbitration, and trials.

20. AGENCY WARRANTIES

The AGENCY makes no warranties, representations, or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

21. AGENCY REPRESENTATIVE

Except when approval or other action is required to be given or taken by the Board of Directors of the AGENCY, the AGENCY's **Executive Director**, or such person or persons as they will designate in writing from time to time, will represent and act for the AGENCY.

22. WARRANTY OF SERVICES

- A. CONSULTANT warrants that its professional services will be performed in accordance with the professional standards of practices of comparable commercial real estate brokerage service firms at the time the services are rendered. In addition, CONSULTANT will provide such specific warranties as may be set forth in each respective Work Directive as agreed upon by the Parties.
- B. In the event that any services provided by the CONSULTANT hereunder are deficient because of CONSULTANT's or subconsultants failure to

perform said services in accordance with the warranty standards set forth above, the AGENCY will report such deficiencies in writing to the CONSULTANT within a reasonable time. The AGENCY thereafter will have:

- i. The right to have the CONSULTANT re-perform such services at the CONSULTANT's expense; or
 - ii. The right to have such services done by others and the costs thereof charged to and collected from the CONSULTANT if, within 30 days after written notice to the CONSULTANT requiring such re-performance, CONSULTANT fails to give satisfactory evidence to the AGENCY that it has undertaken said re-performance.
 - iii. The right to terminate the Agreement for default.
- C. CONSULTANT will be responsible for all errors and omissions and is expected to pay for all work as a result of errors and omissions.

23. CLAIMS OR DISPUTES

The CONSULTANT will be solely responsible for providing timely written notice to AGENCY of any claims for additional compensation and/or time in accordance with the provisions of this Agreement. It is the AGENCY's intent to investigate and attempt to resolve any CONSULTANT claims before the CONSULTANT has performed any disputed work. Therefore, CONSULTANT's failure to provide timely notice will constitute a waiver of CONSULTANT's claims for additional compensation and/or time.

The CONSULTANT will not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by the AGENCY, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given the AGENCY due written notice of a potential claim. The potential claim will set forth the reasons for which the CONSULTANT believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

If based on an act or failure to act by the AGENCY, such notice will be given to the AGENCY prior to the time that the CONSULTANT has started performance of the work giving rise to the potential claim for additional compensation. In all other cases, notice will be given within 10 days after the happening of the event or occurrence giving rise to the potential claim.

If there is a dispute over any claim, the CONSULTANT will continue to work during the dispute resolution process in a diligent and timely manner as directed by the AGENCY and will be governed by all applicable provisions of the Agreement. The CONSULTANT will maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached that resolves the CONSULTANT claim, the parties will execute an Agreement modification to document the resolution of the claim. If the

parties cannot reach an agreement with respect to the CONSULTANT claim, they may choose to pursue a dispute resolution process or termination of the Agreement.

24. REMEDIES

In the event the CONSULTANT fails to comply with the requirements of this Agreement in any way, the AGENCY reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

25. TEMPORARY SUSPENSION OF WORK

The AGENCY, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as AGENCY may deem necessary. The suspension may be due to the failure on the part of the CONSULTANT to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of the CONSULTANT. The CONSULTANT will comply immediately with the written order of AGENCY to suspend the work wholly or in part. The suspended work will be resumed when the CONSULTANT is provided with written direction from AGENCY to resume the work.

If the suspension is due to the CONSULTANT's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of the CONSULTANT, all costs will be at CONSULTANT's expense and no schedule extensions will be provided by AGENCY.

In the event of a suspension of the work, the CONSULTANT will not be relieved of the CONSULTANT's responsibilities under this Agreement, except the obligations to perform the work that the AGENCY has specifically directed CONSULTANT to suspend under this section.

If the suspension is not the responsibility of the CONSULTANT, suspension of all or any portion of the work under this Section may entitle the CONSULTANT to compensation and/or schedule extensions subject to the Agreement requirements.

26. TERMINATION

A. Termination for Convenience

The AGENCY may terminate this Agreement for convenience at any time by giving sixty days written notice to the CONSULTANT. Upon receipt of such notice, the CONSULTANT may not commit itself to any further expenditure of time or resources, except for costs reasonably necessary to effect the termination. If the AGENCY terminates the Agreement for convenience, the AGENCY agrees to pay the CONSULTANT, in accordance with the provisions of Sections 5 and 6, all sums actually due and owing from the AGENCY upon the effective date of termination, plus any costs reasonably necessary to effect the termination. CONSULTANT

is not entitled to any payments for lost profit on work to be performed after the date of termination, including, without limitation, work not yet performed, and milestones not yet achieved. All finished or unfinished documents and any material procured for or produced pursuant to this Agreement as of the date of termination are the property of the AGENCY upon the effective date of the termination for convenience. CONSULTANT and its subcontractors must cooperate in good faith in any transition to other vendors or consultants as the AGENCY deems necessary. Failure to so cooperate is a breach of the Agreement and grounds for the termination for convenience to be treated as a termination for default.

B. Termination for Default

If the CONSULTANT fails to perform any of the provisions of this Agreement, the AGENCY may find the CONSULTANT to be in default. After delivery of a written notice of default AGENCY may terminate the Agreement for default if the CONSULTANT 1) does not cure such breach within seven calendar days; or 2) if the nature of the breach is such that it will reasonably require more than 7 days to commence curing, as determined in the AGENCY'S discretion, provide a plan to cure such breach which is acceptable to the AGENCY within 7 calendar days. If the CONSULTANT cures the default within the cure period but subsequently defaults again, the AGENCY may immediately terminate the Agreement without further notice or right to cure. In the event of the filing a petition for bankruptcy by or against the CONSULTANT or for appointment of a receiver for CONSULTANT'S property, AGENCY may terminate this Agreement immediately without the thirty-day cure period.

Upon receipt of a notice of termination for default, the CONSULTANT may not commit itself to any further expenditure of time or resources. The AGENCY agrees to remit final payment to the CONSULTANT in an amount to cover only those sums actually due and owing from the AGENCY for work performed in full accordance with the terms of the Agreement as of the effective date of termination. The AGENCY is not in any manner liable for the CONSULTANT's actual or projected lost profits had the CONSULTANT completed the services required by this Agreement, including, without limitation, services not yet performed, expenses not yet incurred, and milestones not yet achieved. All finished or unfinished documents, and any equipment or materials procured for or produced pursuant to this Agreement become the property of the AGENCY upon the effective date of the termination for default.

- C. The rights and remedies of the AGENCY provided in this section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

27. LIQUIDATED DAMAGES

Not Applicable

28. PREVAILING WAGE

Not Applicable

29. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS

All CONSULTANT and subcontractor/subconsultant costs incurred in the performance of this Agreement will be subject to audit. The CONSULTANT and its subcontractors/subconsultants will permit the AGENCY, the State Comptroller, and their authorized representatives, to inspect, examine, take excerpts from, transcribe, and copy the CONSULTANT's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices or bills submitted by the CONSULTANT pursuant to this Agreement. The CONSULTANT will also provide such assistance as may be required in the course of such audit. The CONSULTANT will retain these records and make them available for inspection hereunder for a period of four (4) years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined by the AGENCY's auditor or staff that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the CONSULTANT agrees to reimburse the AGENCY for those costs within sixty (60) days of written notification by the AGENCY.

30. UKRAINE/RUSSIA RELATED SANCTIONS

As a public agency with contracts with state and federal departments and agencies, the AGENCY is required to avoid transactions with any persons or entities subject to economic sanctions. For the purpose of this section, "Economic Sanctions" are defined as those imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. Accordingly, should the AGENCY determine CONSULTANT is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The AGENCY shall provide CONSULTANT advance written notice of such termination, allowing CONSULTANT at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the AGENCY.

31. NON-DISCRIMINATION ASSURANCE - TITLE VI OF THE CIVIL RIGHTS ACT

The CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT-assisted contracts. Further, the CONSULTANT agrees to comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the

Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. The CONSULTANT shall obtain the same assurances from its joint venture partners, subcontractors, and subconsultants by including this assurance in all subcontracts entered into under this Agreement. Failure by the CONSULTANT to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the AGENCY deems appropriate.

32. EQUAL EMPLOYMENT OPPORTUNITY (EEO)

In connection with the performance of this Agreement, the CONSULTANT shall not discriminate against any employee or applicant for employment because of race, color, religion, citizenship, political activity or affiliation, national origin, ancestry, physical or mental disability, marital status, age, medical condition (as defined under California law), veteran status, sexual orientation, gender identity, gender expression, sex or gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), taking or requesting statutorily protected leave, or any other characteristics protected under federal, state, or local laws. The CONSULTANT shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability, national origin, or any other characteristic protected under state, federal, or local laws. Such actions 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. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause. The CONSULTANT further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

The CONSULTANT will, in all solicitations or advancements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The CONSULTANT will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONSULTANT's legal duty to furnish information.

The CONSULTANT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the AGENCY's Contract Officer, advising the labor union or workers' representative of the CONSULTANT's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The CONSULTANT will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor. The CONSULTANT will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the AGENCY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the CONSULTANT's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the CONSULTANT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The CONSULTANT will include the provisions of this section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

33. SMALL BUSINESS ENTERPRISES (SBE) AND PROMPT PAYMENT REQUIREMENTS

See **Exhibit C** for SBE AND prompt payment requirements.

34. CONFLICT OF INTEREST

A. General

Depending on the nature of the work performed, a CONSULTANT of the AGENCY may be subject to the same conflict of interest prohibitions established by California law that govern AGENCY's employees and

officials (Cal. Govt. Code Section 1090 et seq. and Cal. Govt. Code Section 87100 et seq.). During the proposal process or the term of the Agreement, CONSULTANT and its employees may be required to disclose their financial interests (Fair Political Practices Commission Form 700). Under Section 18700.3 of Title 2, Division 6, of the California Code of Regulations, an employee of CONSULTANT is required to disclose their financial interests on Form 700 if: (1) the person makes certain governmental decisions; or (2) the person serves in a staff capacity with the AGENCY and in that capacity participates in making governmental decisions or performs the same duties for the AGENCY that would typically be performed by an AGENCY employee who is required to file Form 700.

The CONSULTANT warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code §1090 et seq. or §87100 et seq. during the performance of services under this Agreement. The CONSULTANT further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, CONSULTANT may be required to publicly disclose financial interests under the AGENCY's Conflict of Interest Code. Upon receipt, the CONSULTANT agrees to promptly submit a Statement of Economic Interest on the form provided by AGENCY.

No person previously in the position of Director, Officer, employee or agent of the AGENCY during his or her tenure or for one (1) year after that tenure will have any interest, direct or indirect, in this Agreement or the proceeds under this Agreement, nor may any such person act as an agent or attorney for, or otherwise represent the CONSULTANT by making any formal or informal appearance, or any oral or written communication, before the AGENCY, or any Officer or employee of the AGENCY, for a period of one (1) year after leaving office or employment with the AGENCY if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant, or contract.

B. Organizational Conflicts of Interest

CONSULTANT will take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the AGENCY; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm

or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONSULTANT will not engage the services of any Subconsultant or independent consultant on any work related to this Agreement if the Subconsultant or independent consultant, or any employee of the Subconsultant or independent consultant, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONSULTANT becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONSULTANT immediately will provide the AGENCY with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONSULTANT's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest.

If at any time during the term of this Agreement, AGENCY becomes aware of an organizational conflict of interest in connection with CONSULTANT's performance of the work hereunder, AGENCY will similarly notify CONSULTANT.

In the event a conflict is presented, whether disclosed by CONSULTANT or discovered by AGENCY, the AGENCY will consider the conflict presented and any alternatives proposed and meet with the CONSULTANT to determine an appropriate course of action. The AGENCY's determination as to the manner in which to address the conflict will be final.

During the term of this Agreement, CONSULTANT must maintain lists of its employees, and the Subconsultants and independent consultants used and their employees. CONSULTANT must provide this information to the AGENCY upon request. However, submittal of such lists does not relieve the CONSULTANT of its obligation to assure that no organizational conflicts of interest exist. CONSULTANT will retain this record for five (5) years after the AGENCY makes final payment under this Agreement. Such lists may be published as part of future AGENCY solicitations.

CONSULTANT will maintain written policies prohibiting organizational conflicts of interest and will ensure that its employees are fully familiar with these policies. CONSULTANT will monitor and enforce these policies and will require any subconsultants and affiliates to maintain, monitor, and enforce policies prohibiting organizational conflicts of interest.

Failure to comply with this section may subject the CONSULTANT to damages incurred by the AGENCY in addressing organizational conflicts

that arise out of work performed by CONSULTANT, or to termination of this Agreement for breach.

35. SUBSTANCE ABUSE PROGRAM

Not Applicable

36. CALIFORNIA PUBLIC RECORD ACT REQUESTS (CPRA)

CONSULTANT consents to the release of this Agreement, the redacted version of its proposal, and the release of any portion of its proposal not included in its confidentiality index, and waives all claims against the AGENCY, its directors, officers, employees, and agents, for the disclosure of such information. If the CONSULTANT did not include a confidentiality index in its proposal, the AGENCY will have no obligation to withhold any information from disclosure and may release the information sought without liability to the AGENCY.

Upon receipt of a request pursuant to the CPRA seeking this Agreement, proposal material relating to this RFP, the AGENCY may provide the Agreement, redacted version of the proposal, or may withhold material designated in the confidentiality index that is exempt from disclosure. If the AGENCY determines that information in the confidentiality index is not exempt from disclosure, the AGENCY will give reasonable notice to the Proposer prior to releasing any material listed in the confidentiality index.

CONSULTANT agrees to indemnify, defend, and hold harmless the AGENCY, its directors, officers, employees, and agents, from any and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the proposer information), and pay any and all cost and expenses, including attorneys' fees, related to the withholding of the information included in the confidentiality index or in the redacted version of the proposal or in this Agreement. If CONSULTANT fails to accept a tender of a defense, the AGENCY reserves the right to resolve all claims at its sole discretion, without limiting any rights stated herein.

37. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding will recover reasonable attorneys' fees, in addition to all court costs.

38. WAIVER

Any waiver of any breach or covenant of this Agreement must be in a writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the parties of a breach or covenant of this Agreement will not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

39. SEVERABILITY

If any provision of this Agreement is deemed invalid or unenforceable, that provision will be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event, the remaining provisions of this Agreement will remain in full force and effect.

40. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

41. APPLICABLE LAW

This Agreement, its interpretation, and all work performed under it will be governed by the laws of the State of California. The CONSULTANT must comply with all Federal, State, and Local Laws, rules, and regulations applicable to the Agreement and to the work to be done hereunder, including all rules and regulations of the AGENCY.

42. RIGHTS AND REMEDIES OF THE AGENCY

The rights and remedies of the AGENCY provided herein will not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

43. BINDING ON SUCCESSORS

All of the terms, provisions, and conditions of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors, assigns, and legal representatives.

44. ENTIRE AGREEMENT; MODIFICATION

This Agreement for Services, including any exhibits, constitutes the complete Agreement between the parties and supersedes any prior written or oral communications. This Agreement may be modified or amended only by written instrument signed by both the CONSULTANT and the AGENCY. In the event of a conflict between the terms and conditions of this Agreement and the exhibits, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the Effective Date.

PENINSULA CORRIDOR JOINT POWERS BOARD:

CONSULTANT:

Signature: _____

Signature _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTEST:

Signature: _____

By: _____
Agency Secretary

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Attorney for the Agency



EXHIBIT A SCOPE OF SERVICES

The Agencies are seeking proposals from licensed commercial real estate brokerage firms with experience in providing commercial real estate brokerage and advisory services on small, medium and large commercial leasing and purchase transactions. The selected Brokers will assist the Agencies with professional and technical Real Estate brokerage, and other, services on an as-needed basis.

Brokerage Service Categories:

Category 1: Assistance Buying or Leasing New Property

Anticipated Brokerage Services related to Buying or Leasing new property that may be required throughout the course of the Agreement:

- **Sourcing Prospective Locations:** Locating available facilities for purchase or lease/rent based on Agency's needs and desired parameters (to be defined in future Work Directives)
- **Develop Marketing Materials:** Prepare draft marketing materials to solicit property owners or property management firms interested in leasing or selling property to the Agency, as based on Agency-approved requirements. Broker will conduct any pre-proposal conferences and shall be responsible for responding to all inquiries.
- **Negotiations and Final Recommendations:** Upon approval to proceed, Broker will develop, present and obtain pre-approval of the real estate negotiation strategies and principles from the Agency. Working in concert with staff and legal counsel, Broker will conduct negotiations to secure the best possible real estate transaction with maximum incentives and concessions consistent with professional ethics and the market conditions. Broker must provide written documentation of the negotiation process, terms of agreements, Letters of Intent, etc.
- **Lease or Purchase Documentation:** Broker, working in concert with Agency staff and legal counsel, will prepare and/or coordinate the completion of required lease or purchase documentation to finalize approved real estate transactions.
- **Representing the Agency/Consultation:** Tenant representation and/or real estate consulting/advisory services (in scenarios when Agency is considered to be a tenant).
- **Board Presentations:** Broker, working in concert with Agency staff and legal counsel, will prepare and/or present reports to Agency's Board of Directors to finalize approval of real estate transactions.
- **Space Planning/Confirm Real Estate Requirements:** Review existing plans, space needs, and other documentation and re-confirm Agency's major real estate

assumptions and requirements that will be incorporated into site searches, as needed.

- **Proposal Evaluation and Short List Recommendation:** Broker will review and evaluate all submitted proposals and conduct due diligence to confirm the merits of any proposal received.

Category 2: Assist Agency in Leasing Agency-Owned Property

Anticipated Brokerage Services related to Leasing Agency-owned property that may be required throughout the course of the Agreement:

- **Marketing of Agency Property:** Market real estate opportunities in Agency owned or leased properties to brokers and other resources with property listings in the market. Properties may include vacant sites, commercial properties in Agency facilities, office space with agency owned, or leased space.
- Ad-Hoc Negotiations with current or prospective tenants
- Reporting on market and economic conditions and fiscal analysis
- Providing recommendations on appropriate rental rates for Agency-owned properties

Category 3: General Property Management Services

Anticipated Brokerage Services related to General Property Management that may be required throughout the course of the Agreement:

- **Additional General Property Management services (Optional):** Broker will have the capacity on staff, or via subcontract, to provide facilities management services including but not limited to interior building construction and maintenance and any other emergency services needed arising through the property management process.

Category 4: Additional Potential Miscellaneous Services:

- Identifying Joint Development Opportunities
- Advisory services related to encroachments, entitlements, leasing and licensing, acquisitions and dispositions
- (Optional/As applicable to proposers) Management, architectural, and other project management services as needed

EXHIBIT B
CONSULTANT'S PROPOSAL, AS ACCEPTED BY THE AGENCY

DRAFT

[CONSULTANT'S PROPOSAL WILL BE INSERTED HERE]

DRAFT

EXHIBIT C

SBE AND PROMPT PAYMENT REQUIREMENTS

It is the policy of the Agencies to ensure non-discrimination in the award and administration of all contracts and to create a level playing field on which SBEs and DBEs can compete fairly for contracts and subcontracts relating to construction, procurement, and services activities. To this end, the Agencies have developed procedures to remove barriers to participation in the bidding and award process and to assist small and disadvantaged businesses to develop and compete successfully outside of the DBE Program. In connection with the performance of this Agreement, the Proposer will cooperate with the Agencies in meeting these SBE commitments and objectives.

The DISTRICT and the JPB implement their DBE programs in accordance with U.S. Department of Transportation (U.S. DOT) regulations, and no contract-specific DBE participation goal has been established for this Agreement. However, CONSULTANT must cooperate with the Agencies in meeting its commitments and objectives with regard to ensuring nondiscrimination in the award and administration of contracts and must use its best efforts to ensure that barriers to DBE's participation do not exist.

1. SBE POINT PREFERENCE

The DISTRICT and the JPB have established a contract specific SBE point preference of five points. The point preference will be granted to Proposers that are either (1) an SBE self-performing at least 30% of the contract; or (2) committed to subcontracting with one or more certified SBEs.

Points received through the SBE preference will be added to each Proposer's total evaluation score. Preference points will be aggregated with proposal evaluation scoring to determine the highest ranked Proposer. Each Proposer must provide the **Form 6 SBE Preference Form** with their proposal to receive a point preference. If a Proposal fails to submit this form, no SBE preference points will be added to the evaluation of the proposal.

2. SBE EVALUATION

The Office of Civil Rights (OCR) shall review all the information submitted by Proposers in accordance with the solicitation documents to determine a recommendation regarding compliance with the SBE point preference requirements for award of a contract to the Proposer. The Proposers shall cooperate with OCR if a request for additional information is made during this evaluation process.

3. ASSURANCE

Pursuant to 49 CFR §26.13, and as a material term of any Agreement with the Agencies, the CONSULTANT hereby makes the following assurance and agrees to include this assurance in any contracts it makes with Subconsultants in the performance of this Agreement:

“The Consultant or Subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted Contracts. Failure by the CONSULTANT or sub-consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the Agencies deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the CONSULTANT from future bidding as non-responsible.”

By entering into the Agreement, the CONSULTANT is deemed to have made the foregoing assurance and to be bound by its terms.

4. RECOGNIZED SBE CERTIFICATIONS

The DISTRICT and the JPB recognize SBE certifications performed by the following:

- A. DBE pursuant to U.S. DOT regulations, 49 CFR Part 26. This includes DBE certifications performed by the California Unified Certification Program, or any other state Unified Certification Program. A statewide directory of DBEs is available at <https://caltrans.dbesystem.com>.
- B. Small Business Administration (SBA) 8(a) provided that a firm's average annual gross receipts do not exceed the cap of \$30.72 million.
- C. Small Business (SB), Micro Business (MB), and SB-PW certifications by the California Department of General Services (DGS).
- D. SBE certification by the Santa Clara Valley Transportation Authority.
- E. SBE certification by the Los Angeles County Metropolitan Transportation Authority.

Even if your firm meets the above requirement, your firm's (including affiliates') average annual gross receipts over the previous three years cannot exceed a maximum cap of \$30.72 million.

Note: SBA size standards vary by industry and certain industries, such as general construction contracting, exceed the cap of \$30.72 million. A general construction contractor meeting the SBA size standard but exceeding the cap of \$30.72 million, for example, is ineligible to participate as a small business on Agency contracts. Please verify a firm's industry size standard by visiting SBA at: <http://www.sba.gov/content/determining-size-standards>.

5. COUNTING SBE PARTICIPATION

SBE participation shall be counted and enforced in accordance with Title 49 CFR Part 26 and the Agency's DBE Program. SBE participation includes that portion of the Agreement actually performed by a certified SBE with its own

forces. SBEs may participate as a consultant, subconsultant, joint venture partner, vendor or supplier of materials or services required by the Agreement. An SBE's participation can only be counted if it performs a commercially useful function on the Agreement. An SBE performs 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.

6. CONTRACT COMPLIANCE

A. Substitution of Subconsultants

The CONSULTANT shall not terminate an SBE Subconsultant at any tier without prior written consent from the Agencies. The CONSULTANT shall notify OCR in writing of its intention to substitute an SBE Subconsultant before any substitution of an SBE Subconsultant takes place. The CONSULTANT must provide appropriate documentation to substantiate the request for substitution as defined by applicable federal and/or state law.

The CONSULTANT shall utilize the specific SBEs listed to perform the work and supply the materials for which each is listed unless the CONSULTANT obtains prior written consent. Unless prior consent is given, the CONSULTANT shall not be entitled to any payment for work or materials unless it is performed or supplied by the listed SBE.

B. Change to a Firm's SBE Status

If an SBE Subconsultant is either decertified as an SBE or a Subconsultant is certified as an SBE during the life of the Contract, such Subconsultant shall notify the CONSULTANT in writing with the date of decertification or certification. The CONSULTANT shall notify the Agencies of such an event and shall furnish the written documentation to the Agencies.

C. Prompt Payment to Subconsultants

The CONSULTANT shall pay any Subconsultants approved by the Agencies for work that has been satisfactorily performed no later than seven calendar days from the date of CONSULTANT's receipt of progress payments by the Agencies.

The Agencies shall withhold retainage from the CONSULTANT, make prompt and regular incremental inspections and approvals of portions of the work and, promptly release retainage to the CONSULTANT based on these inspections and approvals. The Agencies' incremental approvals and release of a portion of the retainage under this section does not constitute Acceptance of the work.

Within seven (7) calendar days after the Agencies have made a retainage payment to the CONSULTANT, the CONSULTANT shall release to any Subconsultant, who has satisfactorily completed work covered by the Agencies' inspection and approval, the retainage owed to the Subconsultant for such work. For purposes of this section, a Subconsultant's work is satisfactorily completed when the CONSULTANT certifies to the Agencies that all the tasks called for in the subcontract related to the work covered by the Agencies' incremental inspection and approval have been satisfactorily completed.

Any delay or postponement of payment by the CONSULTANT to a Subconsultant may take place only for good cause and with the Agencies' prior written approval. Any violation of these provisions shall subject the CONSULTANT to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or Subconsultants in the event of a dispute involving late payment or nonpayment by the CONSULTANT; deficient Subconsultant performance; and/or noncompliance by a Subconsultant. This clause applies to all Subconsultants. In the event CONSULTANT does not make progress payments or release retentions to the Subconsultant in accordance with the time periods specified herein, the CONSULTANT will be subject to a charge of 2% per month on the untimely or improperly withheld payment.

The CONSULTANT shall cooperate with the Project Manager or the Resident Engineer and OCR to identify, report and effectuate the prompt and regular approvals of the work.

D. Monthly Electronic Reporting Requirements

The CONSULTANT shall maintain records of all subcontractor participation in the performance of the contract. This includes subcontracts entered into with both certified SBEs and non-SBEs and all materials purchased from both certified SBEs and non-SBEs.

The CONSULTANT is required to report payments to all subcontractors, sub-consultants, suppliers, manufacturers, and truckers (Subconsultants) in the Diversity Management and Compliance System (System) on a monthly basis. The System, a web-based electronic reporting system, is designed to record Agency payments made to the CONSULTANT and prompt payments made by the CONSULTANT to its Subconsultants. The CONSULTANT and every Subconsultant will receive payment notifications via email. The CONSULTANT must report a payment made to Subconsultant(s) within five calendar days of an email notification. The Subconsultant(s) must confirm receipt of payment from the CONSULTANT within five calendar days of an email notification.

It is the CONSULTANT's responsibility to ensure that Subconsultant(s) confirm payments in the System in accordance with the requirements set forth above.

If the CONSULTANT fails to comply with the monthly electronic reporting requirements within the time period required in this section and has not received written approval for an extension, the CONSULTANT agrees to pay a sum of \$50 each day the monthly report is late as liquidated damages. The amount of liquidated damages is not a penalty and covers reasonable damages that the Agencies will sustain and which are impractical to determine in advance. The Agencies may deduct the amount of liquidated damages from monies due to the CONSULTANT.

7. ADMINISTRATIVE REMEDIES

In the event the CONSULTANT fails to comply with the SBE or prompt payment requirements of this Agreement in any way, the Agencies reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and Agreement retentions, imposition of liquidated damages, and termination of the Agreement in whole or in part.

END OF SBE AND PROMPT PAYMENT REQUIREMENTS

EXHIBIT D
INSURANCE REQUIREMENTS

Exhibit D-2 – Insurance requirements for Peninsula Corridor Joint Powers Board (JPB)

DRAFT

EXHIBIT D-2
INSURANCE REQUIREMENTS (JPB)

The insurance requirements specified in this Section shall cover CONTRACTOR's own liability and any liability arising out of work or services performed under this Agreement by any subcontractors, subconsultants, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations (hereinafter collectively referred to as "Agents") that CONTRACTOR authorizes to work under this Agreement. CONTRACTOR is required to procure and maintain at its sole cost and expense the insurance coverages subject to all of the requirements set forth below. Such insurance shall remain in full force and effect throughout the term of this Agreement. CONTRACTOR is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverages with appropriate limits and endorsements to cover such risks; the limit for the Commercial General Liability insurance in each subcontract shall not be less than \$2 million. To the extent that any Agent does not procure and maintain such insurance coverage, CONTRACTOR shall assume any and all costs and expenses that may be incurred in fulfilling CONTRACTOR's indemnity obligation as to itself or any of its Agents in the absence of coverage. In the event CONTRACTOR or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that the CONTRACTOR's insurance be primary without any right of contribution from the JPB. Prior to beginning work under this Agreement, CONTRACTOR shall provide the JPB's authorized insurance consultant, Insurance Tracking Services, Inc. (ITS), with satisfactory evidence of compliance with the insurance requirements of this Section, by submitting such evidence of compliance to the address indicated in C.1. below.

A. MINIMUM TYPES AND SCOPE OF INSURANCE

1. Workers' Compensation and Employer's Liability Insurance
 - a. Workers' Compensation with Statutory Limits and/or Federal Employer's Liability ("FELA") coverage (whichever is applicable) to its employees, as required by the Federal Employer's Liability Act of 1908, applying to Interstate railroad employees, or, as required by Section 3700 et seq. of the California Labor Code, or any subsequent amendments or successor acts thereto, governing the liability of employers to their employees.
 - b. If FELA applies, it shall be in accordance with federal statutes and have minimum limits of \$10,000,000 per occurrence.
 - c. If the California Labor Code requiring Workers' Compensation applies, the CONTRACTOR shall also maintain Employer's Liability coverage with minimum limits of \$2 million.

d. Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:

- Waiver of Subrogation.

2. Commercial General Liability Insurance

Commercial General Liability insurance for bodily injury and property damage coverage of at least **\$2 million** per occurrence or claim and a general aggregate limit of at least **\$2 million**. Such insurance shall cover all of CONTRACTOR's operations both at and away from the project site. Such insurance shall not have any exclusion for Cross Liability or Cross-Suits. In addition, for any construction and public works projects, the insurance shall not have any exclusion for Explosion, Collapse and Underground perils (xcu) and for construction or demolition work within 50 feet of railroad tracks, the contractual liability exclusion for liability assumed shall be deleted.

a. This insurance shall include coverage for, but not be limited to:

- Premises and operations.
- Products and completed operations.
- Personal injury.
- Advertising injury.

b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- Additional Insured.
- Separation of Insureds Clause.
- Primary and Non-Contributory wording.
- Waiver of Subrogation.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

3. Business Automobile Liability Insurance

Business Automobile Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least **\$2 million** per accident or loss.

a. This insurance shall include coverage for, but not be limited to:

- All owned vehicles.
- Non-owned vehicles.
- Hired or rental vehicles.

b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- Additional Insured.
- Primary and Non-Contributory wording.
- Waiver of Subrogation.

4. Property Insurance

Property insurance with Special Form coverage including theft, but excluding earthquake, with limits at least equal to the replacement cost of the property described below.

a. This insurance shall include coverage for, but not be limited to:

- CONTRACTOR's own business personal property and equipment to be used in performance of this Agreement.
- Materials or property to be purchased and/or installed on behalf of the JPB, if any.
- Builders risk for property in the course of construction.

b. Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:

- Waiver of Subrogation.

5. Professional Liability Insurance

A Professional Liability insurance policy covering errors and omissions and the resulting damages including, but not limited to, economic loss to the JPB and having minimum limits of liability of **\$2** million per claim or occurrence and **\$2** million annual aggregate. The policy shall include coverage for all services and work performed under this Agreement.

B. ENDORSEMENTS

1. Additional Insured

The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, and the Union Pacific Railroad Company and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors

or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

2. Waiver of Subrogation

The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, and the Union Pacific Railroad Company and their respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

3. Primary Insurance

The referenced policies and any Excess and Umbrella policies shall indicate that they are primary to any other insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim, up to and including the total limit of liability, without right of contribution from any of the insurance effected or which may be effected by the JPB.

4. Separation of Insureds

The referenced policies and any Excess or Umbrella policies shall contain a Separation of Insureds Clause and stipulate that inclusion of the Peninsula Corridor Joint Powers Board, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the City and County of San Francisco, TransitAmerica Services, Inc. or any successor Operator of the Service, and the Union Pacific Railroad Company as Additional Insureds shall not in any way affect the JPB's rights either as respects any claim, demand, suit or judgment made, brought or recovered against the CONTRACTOR. The purpose of this coverage is to protect CONTRACTOR and the JPB in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

C. EVIDENCE OF INSURANCE

1. All Coverages

Prior to commencing work or entering onto the Property, CONTRACTOR shall provide to Insurance Tracking Services, Inc. (ITS), the JPB's

authorized insurance consultant, a Certificate of Insurance with respect to each required policy to be provided by the CONTRACTOR under the Agreement. The required certificates must be signed by the authorized representative of the Insurance Company shown on the certificate. **The JPB Contract number and Project name shall be clearly stated on the face of each Certificate of Insurance.**

Submit Certificates of Insurance to:

Peninsula Corridor Joint Powers Board
C/O Insurance Tracking Services, Inc. (ITS)
P.O. Box 198
Long Beach, CA 90801

OR

Email Address: smt.certificates@instracking.com

OR

Fax: (562) 435-2999

In addition, the CONTRACTOR shall promptly deliver to ITS a certificate of insurance with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the terms specified herein. Such certificate shall be delivered to ITS not less than three business days after the expiration date of any policy.

D. GENERAL PROVISIONS

1. Notice of Cancellation

Each insurance policy supplied by the CONTRACTOR shall provide at least 30 days' written notice to CONTRACTOR of cancellation or non-renewal. CONTRACTOR must then provide at least 30 days' prior written notice to the JPB's authorized insurance consultant, Insurance Tracking Services, Inc. (ITS), if any of the above policies are non-renewed or cancelled.

Submit written notice to:

Peninsula Corridor Joint Powers Board
C/O Insurance Tracking Services, Inc. (ITS)
P.O. Box 198
Long Beach, CA 90801

OR

Email Address: smt.certificates@instracking.com

OR

Fax: (562) 435-2999

2. Acceptable Insurers

All policies will be issued by insurers acceptable to the JPB (generally with a Best's Rating of A- 10 or better).

3. Self-insurance

Upon evidence of financial capacity satisfactory to the JPB and CONTRACTOR's agreement to waive subrogation against the JPB respecting any and all claims that may arise, CONTRACTOR's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance.

4. Failure to Maintain Insurance

All insurance specified above shall remain in force until all work to be performed is satisfactorily completed, all of CONTRACTOR's personnel and equipment have been removed from the JPB property, and the work has been formally accepted. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

5. Claims Made Coverage

If any insurance specified above shall be provided on a claim-made basis, then in addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the CONTRACTOR's start of work (including subsequent policies purchased as renewals or replacements).
- b. CONTRACTOR shall make every effort to maintain similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds.
- c. If insurance is terminated for any reason, CONTRACTOR agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from work performed in connection with this Agreement.

- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

6. Deductibles and Retentions

CONTRACTOR shall be responsible for payment of any deductible or retention on CONTRACTOR's policies without right of contribution from the JPB. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that the policy of the CONTRACTOR or any subcontractor contains a deductible or self-insured retention, and in the event that the JPB seeks coverage under such policy as an additional insured, CONTRACTOR shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy for a lawsuit arising from or connected with any alleged act or omission of CONTRACTOR, subcontractor, or any of their officers, directors, employees, agents, or suppliers, even if CONTRACTOR or subcontractor is not a named defendant in the lawsuit.

Table 1

Contract Summary	Years	Amount
Total Capacity:	7.0	\$3,500,000
Exercised:	5.0	\$2,500,000
Work Directives Issued:		\$2,400,515
Remaining Exercised Capacity:		\$99,485

Table 2

Contract Days	Days Elapsed	% Time Elapsed	Capacity Used
1823	250	14%	96%

Table 3

Contract Information	Start	End	Years	Capacity	Resolution/ Authorized
Base	1/4/2024	12/31/2028	5.0	\$2,500,000	2023-75
Option #1	1/1/2029	12/31/2029	1.0	\$500,000	2023-75
Option #2	1/1/2030	12/31/2030	1.0	\$500,000	2023-75
Amendment					
Total:			7.0	\$3,500,000	

Table 4

Vendor	Kelly McNutt Consulting LLC	TOTAL
Contract #	24-J-P-016	
Total WDs Issued	\$2,400,515	\$2,400,515
Previous Reporting Period	\$1,257,527	\$1,257,527
Current Reporting Period	\$1,142,988	\$1,142,988

Table 5

WD#	Title	Description (Updates in Bold)	Vendor	Updated	Start	(Revised) End	Amount This Period
11473	Alternative Project Delivery Support for Rengstorff Avenue Grade Separation Project	Alternative Project Delivery Support Consultant to provide cost estimating, constructability review, scheduling, risk analysis and negotiation support.	Kelly McNutt Consulting, LLC	8/26/24	8/26/24	12/31/28	\$1,142,988
TOTAL AMOUNT THIS PERIOD							\$1,142,988

**Peninsula Corridor Joint Powers Board
Staff Report**

To: JPB Finance Committee
Through: Michelle Bouchard, Executive Director
From: Tomisha Young, Contract Administrator, Rail Contracts & Budget
Bin Zhang, Director, Caltrain Engineering
Subject: **Accept On-Call Communication and Signal Services Update**

Finance Committee Recommendation Technology, Operations, Planning, and Safety Committee Recommendation Advocacy and Major Projects Committee Recommendation

Purpose and Recommended Action

This report is for information only. No Board action is required.

Discussion

This informational item is presented quarterly to the Board and reports on the following:

- Total amount of work directives (WDs) issued to each firm since contract inception
- List of WDs and amendments issued since the last reporting period with the WD number, title, description, JPB project manager, vendor, issuance date, start date, end date, and value

The tables below provide an update of contract activities from June 6th, 2024 thru September 6th, 2024. Table 1 summarizes the contract capacity status. Table 2 updates the percentage of capacity used against the percent time elapsed. Table 3 shows the Board approved dates and amounts. Table 4 aggregates the WD amounts issued to each of the vendors. Table 5 describes each of the WDs issued since the last reporting period.

Background

Pursuant to Resolution No. 2022-37, the Board of Directors (Board) awarded contracts to RSE Corporation, STV Incorporated, WSP USA, Inc., and Xorail, Inc., consisting of a five-year base term for an aggregate not-to-exceed amount of \$18,000,000.

Budget Impact

There is no impact on the budget.

Prepared By:	Tomisha Young	Contract Administrator, Rail Contracts & Budget	650-508-7968
	Bin Zhang	Director, Caltrain Engineering	650-508-7999

Table 1

Contract Summary	Years	Amount
Total Capacity:	5.0	\$18,000,000
Work Directives Issued:		\$11,658,658
Remaining Exercised Capacity:		\$6,341,342

Table 2

Contract Days	Days Elapsed	% Time Elapsed	Capacity Used
1825	764	42%	65%

Table 3

Contract Information	Start	End	Years	Capacity	Resolution/ Authorized
Base	8/4/2022	8/3/2027	5.0	\$18,000,000	2022-37
Amendment			0.0		
Total:			5.0	\$18,000,000	

Table 4

Vendor	RSE	STV	WSP	Xorail	TOTAL
Contract #	22-J-P-024A	22-J-P-024B	22-J-P-024C	22-J-P-024D	
Total WDs Issued	\$10,758,164	\$900,495	\$0	\$0	\$11,658,658
Previous Reporting Period	\$8,818,243	\$700,495	\$0	\$0	\$9,518,737
Current Reporting Period	\$1,929,921	\$200,000	\$0	\$0	\$2,139,920

Table 5

WD#	Title	Description (Updates in Bold)	Vendor	Updated	Start	(Revised) End	Amount This Period
10927	Charleston Grade Separation	Design Grade Crossing improvements at Charleston Grade Crossing in Palo Alto	RSE	9/5/2024	4/1/2024	12/31/2024	\$249,956
24091 11000	PCEP Utility Coordinator and Field Support Services FY24	To provide utility coordinator and utility field support services for the Peninsula Corridor Electrification Project (PCEP) under the guidance/direction of JPB staff. A1 added \$183k for additional support. A2 added \$75k and extended from 6/30/24 to 7/31/24. A3 extended from 7/31/24 to 8/31/24. A4 added \$18k and extended from 8/31/24 to 12/31/24.	RSE	8/19/2024	7/1/2023	12/31/2024	\$93,391
10922	Railroad Signal Systems	Support to provide services for complying with all FRA and CPUC regulations by maintaining accurate InService signal plans, up to date software files, maintain the File Request CheckOut/CheckIn plan, provide on-call engineering support, and design service as needed. A1 added \$428k to fully fund initial proposal and extended from 6/30/24 to 6/30/25.	RSE	8/16/2024	8/10/2023	6/30/2025	\$427,652
10872	Lead Fiber Optic Engineer	Seconded staff support to help with the management of Caltrain’s communication infrastructure, specifically, Caltrain’s fiber optic network. The consultant key personnel shall serve as the Agency’s Fiber Optic Engineer Lead. A1 added \$420k to fully fund the base proposal and extended from 6/30/23 to 6/30/24. A2 added \$200k out of the \$462k amendment proposal and extended from 6/30/24 to 6/30/25.	STV	8/14/2024	11/4/2022	6/30/2025	\$200,000
10928	Signal and PTC System & Field Engineering Support FY25	To continue to acquire signal and PTC systems engineering and field support services.	RSE	7/31/2024	8/1/2024	6/30/2025	\$1,099,928
10923	Systems Engineering Support FY24	Support to provide systems engineering support services for Caltrain’s signal and I-ETMS PTC system. A1 added \$14k for additional support.	RSE	7/25/2024	7/1/2023	6/30/2024	\$13,630
23091 11000	PCEP Utility Coordinator and Field Support Services FY23	To provide utility coordinator and utility field support services for the Peninsula Corridor Electrification Project (PCEP) under the guidance/direction of JPB staff. A1 added \$183k for additional support. Closed w/186k balance.	RSE	7/24/2024	10/1/2022	6/30/2023	\$(185,946)
10859	Crossing Optimization	Support to acquire dedicated signal system engineering support services for Caltrain’s Crossing Optimization Project and PCEP Signal, 2 speed check implementation. A2 added \$405k for additional support. A3 added \$88k for additional support. A4 added \$36k for additional support. A5 added \$241k for additional support and extended to 12/31/24.	RSE	6/27/2024	10/1/2022	12/31/2024	\$276,965
TOTAL AMOUNT THIS PERIOD							\$2,139,921

Alfred Darmousseh

Deputy Director, Construction
Services

650-551-6120

Table 1

Contract Summary	Years	Amount
Total Capacity:	7.0	\$40,000,000
Exercised:	7.0	\$40,000,000
Work Directives Issued:		\$1,137,929
Remaining Exercised Capacity:		\$38,862,071

Table 2

Contract Days	Days Elapsed	% Time Elapsed	Capacity Used
2556	238	9%	3%

Table 3

Contract Information	Start	End	Years	Capacity	Resolution/ Authorized
Base	1/17/2024	1/16/2031	7.0	\$40,000,000	2024-05
Option #1					
Option #2					
Amendment					
Total:			7.0	\$40,000,000	

Table 4

Vendor	Ghirardelli Associates, Inc.	Gannett Fleming, Inc.	WSP USA, Inc.	TOTAL
Contract #	24-J-P-003A	24-J-P-003B	24-J-P-003C	
Total WDs Issued	\$0	\$483,398	\$654,531	\$1,137,929
Previous Reporting Period	\$0	\$483,398	\$654,531	\$1,137,929
Current Reporting Period	\$0	\$0	\$0	\$0

Table 5

No WDs issued this reporting period

**Peninsula Corridor Joint Powers Board
Staff Report**

To: JPB Finance Committee
Through: Michelle Bouchard, Executive Director
From: Connie Tung, Contract Administrator, Rail Contracts & Budget
Bin Zhang, Director, Caltrain Engineering
Subject: **Accept On-Call General Engineering Consultant Design Services Update**



Finance Committee
Recommendation



Technology, Operations, Planning,
and Safety Committee
Recommendation



Advocacy and Major Projects
Committee Recommendation

Purpose and Recommended Action

This report is for information only. No Board action is required.

Discussion

This informational item is presented quarterly to the Board and reports on the following:

- Total amount of work directives (WDs) issued to each firm since contract inception
- List of WDs and amendments issued since the last reporting period with the WD number, title, description, JPB project manager, vendor, issuance date, start date, end date, and value

The tables below provide an update of contract activities from June 5th, 2024 thru September 6th, 2024. Table 1 summarizes the contract capacity status. Table 2 updates the percentage of capacity used against the percent time elapsed. Table 3 shows the Board approved dates and amounts. Table 4 aggregates the WD amounts issued to each of the vendors. Table 5 describes each of the WDs and/or amendments issued since the last reporting period.

Background

Pursuant to Resolution No. 2024-06, the Board of Directors (Board) awarded contracts to AECOM Technical Services, Inc., HDR Engineering, Inc., and T.Y. Lin International, consisting of a five-year base term for an aggregate not-to-exceed amount of \$50,000,000 with two additional, one-year option terms.

Budget Impact

There is no impact on the budget.

Prepared By:	Connie Tung	Contract Administrator, Rail Contracts & Budget	650-508-6371
	Bin Zhang	Director, Caltrain Engineering	650-508-7999

Table 1

Contract Summary	Years	Amount
Total Capacity:	7.0	\$50,000,000
Exercised:	5.0	\$50,000,000
Work Directives Issued:		\$813,439
Remaining Exercised Capacity:		\$49,186,561

Table 2

Contract Days	Days Elapsed	% Time Elapsed	Capacity Used
1826	208	11%	2%

Table 3

Contract Information	Start	End	Years	Capacity	Resolution/ Authorized
Base	2/15/2024	2/14/2029	5.0	\$50,000,000	2024-06
Option #1	2/15/2029	2/14/2030	1.0	\$0	2024-06
Option #2	2/15/2030	2/14/2031	1.0	\$0	2024-06
Amendment					
Total:			7.0	\$50,000,000	

Table 4

Vendor	AECOM Technical Services, Inc.	HDR Engineering, Inc.	T.Y. Lin International	TOTAL
Contract #	24-J-P-010A	24-J-P-010B	24-J-P-010C	
Total WDs Issued	\$654,780	\$158,659	\$0	\$813,439
Previous Reporting Period	\$451,768	\$0	\$0	\$451,768
Current Reporting Period	\$203,012	\$158,659	\$0	\$361,671

Table 5

WD#	Title	Description (Updates in Bold)	Vendor	Updated	Start	(Revised) End	Amount This Period
11415	San Francisquito Creek Emergency Bank Stabilization	To provide design and construct stabilization measures to prevent erosion from undermining the JPB rail bridge, the Alma Street Bicycle Bridge, and the drain outfall located between the two bridges.	AECOM	7/24/24	7/1/24	3/31/26	\$203,012
11416	Passenger Information Systems Expert	To support Caltrain's Systems Engineering department with development of a final Concept of Operations and technical/functional specifications to support preparation for a forthcoming capital project request for proposal (RFP) for a modern Predictive Arrival Departure System (PADS).	HDR	8/12/24	8/12/24	9/16/24	\$158,659
TOTAL AMOUNT THIS PERIOD							\$361,671

**Peninsula Corridor Joint Powers Board
Staff Report**

To: JPB Finance Committee
Through: Michelle Bouchard, Executive Director
From: Connie Tung, Contract Administrator, Rail Contracts & Budget
Bonny O'Connor, Manager,
Capital Projects and Environmental Planning
Subject: **Accept On-Call Management of Soil, Hazardous Waste, and Other
Environmental Compliance Services Update**

Finance Committee
Recommendation

Technology, Operations, Planning,
and Safety Committee
Recommendation

Advocacy and Major Projects
Committee Recommendation

Purpose and Recommended Action

This report is for information only. No Board action is required.

Discussion

This informational item is presented quarterly to the Board and reports on the following:

- Total amount of work directives (WDs) issued to each firm since contract inception
- List of WDs and amendments issued since the last reporting period with the WD number, title, description, JPB project manager, vendor, issuance date, start date, end date, and value

The tables below provide an update of contract activities from June 5th, 2024 thru September 6th, 2024. Table 1 summarizes the contract capacity status. Table 2 updates the percentage of capacity used against the percent time elapsed. Table 3 shows the Board approved dates and amounts. Table 4 aggregates the WD amounts issued to each of the vendors. Table 5 describes each of the WDs and/or amendments issued since the last reporting period.

Background

Pursuant to Resolution No. 2024-28, the Board of Directors (Board) awarded contracts to Millennium Consulting Associates, consisting of a five-year base term for an aggregate not-to-exceed amount of \$4,800,000 with up to two, one (1)-year option terms.

Budget Impact

There is no impact on the budget.

Prepared By:	Connie Tung	Contract Administrator, Rail Contracts & Budget	650-508-6371
	Bonny O'Connor	Manager, Capital Projects and Environmental Planning	650-508-7944

Table 1

Contract Summary	Years	Amount
Total Capacity:	7.0	\$5,600,000
Exercised:	5.0	\$4,800,000
Work Directives Issued:		\$122,351
Remaining Exercised Capacity:		\$4,677,649

Table 2

Contract Days	Days Elapsed	% Time Elapsed	Capacity Used
1825	132	7%	3%

Table 3

Contract Information	Start	End	Years	Capacity	Resolution/ Authorized
Base	5/1/2024	4/30/2029	5.0	\$4,800,000	2024-28
Option #1	5/1/2029	4/30/2030	1.0	\$400,000	2024-28
Option #2	5/1/2030	4/30/2031	1.0	\$400,000	2024-28
Amendment					
Total:			7.0	\$5,600,000	

Table 4

Vendor	Millennium Consulting Associates	TOTAL
Contract #	24-J-P-030	
Total WDs Issued	\$122,351	\$122,351
Previous Reporting Period	\$0	\$0
Current Reporting Period	\$122,351	\$122,351

Table 5

WD#	Title	Description (Updates in Bold)	Vendor	Updated	Start	(Revised) End	Amount This Period
11555	Environmental Engineer/Geologist Consultant Support Services	Provide technical and staff support to JPB Operations in soil management and hazardous waste planning and compliance.	Millennium Consulting Associates	6/21/24	6/21/24	12/31/24	55,928
11556	Guadalupe River Bridge Replacement Project (GRBR) GRBR Soil, Hazardous Waste, and Other Environmental Compliance Services	Provide soil and hazardous waste compliance services to the Guadalupe River Bridge Replacement Project.	Millennium Consulting Associates	7/3/24	6/26/24	11/30/25	66,423
TOTAL AMOUNT THIS PERIOD							\$122,351

**Peninsula Corridor Joint Powers Board
Staff Report**

To: JPB Finance Committee
Through: Michelle Bouchard, Executive Director
From: Connie Tung, Contract Administrator, Rail Contracts & Budget
Robert Tam, Manager, Tech Research & Dev. Technology
Subject: **Accept On-Call Program Management Oversight Services Update**

Finance Committee Recommendation Technology, Operations, Planning, and Safety Committee Recommendation Advocacy and Major Projects Committee Recommendation

Purpose and Recommended Action

This report is for information only. No Board action is required.

Discussion

This informational item is presented quarterly to the Board and reports on the following:

- Total amount of work directives (WDs) issued to each firm since contract inception
- List of WDs and amendments issued since the last reporting period with the WD number, title, description, JPB project manager, vendor, issuance date, start date, end date, and value

The tables below provide an update of contract activities from June 5th, 2024 thru September 6th, 2024. Table 1 summarizes the contract capacity status. Table 2 updates the percentage of capacity used against the percent time elapsed. Table 3 shows the Board approved dates and amounts. Table 4 aggregates the WD amounts issued to each of the vendors. Table 5 describes each of the WDs and/or amendments issued since the last reporting period.

Background

Pursuant to Resolution No. 2024-07, the Board of Directors (Board) awarded contracts to Ghirardelli Associates, Inc., Jacobs Project Management Company & Consor PMCM, Inc., consisting of a seven-year base term for an aggregate not-to-exceed amount of \$55,000,000 with no options.

Budget Impact

There is no impact on the budget.

Prepared By:	Connie Tung	Contract Administrator, Rail Contracts & Budget	650-508-6371
	Robert Tam	Manager, Tech Research & Dev. Technology	650-508-7969

Table 1

Contract Summary	Years	Amount
Total Capacity:	7.0	\$55,000,000
Work Directives Issued:		\$11,428,335
Remaining Capacity:		\$43,571,665

Table 2

Contract Days	Days Elapsed	% Time Elapsed	Capacity Used
2555	194	8%	21%

Table 3

Contract Information	Start	End	Years	Capacity	Resolution/ Authorized
Base	3/1/2024	2/28/2031	7.0	\$55,000,000	2024-07
Amendment					
Total:			7.0	\$55,000,000	

Table 4

Vendor	Ghirardelli Associates, Inc.	Jacobs Project Management Company	Conсор PMCM, Inc.	TOTAL
Contract #	24-J-P-002A	24-J-P-002B	24-J-P-002C	
Total WDs Issued	\$0	\$8,824,493	\$2,603,842	\$11,428,335
Previous Reporting Period	\$0	\$8,831,553	\$2,222,684	\$11,054,237
Current Reporting Period	\$0	\$(7,060)	\$381,158	\$374,098

Table 5

WD#	Title	Description (Updates in Bold)	Vendor	Updated	Start	(Revised) End	Amount This Period
11422	Sr. Scheduler	Consultant services to provide scheduling expertise to support the administration of the capital project schedules. A1 added \$4,814 for additional admin charges	Conсор	7/17/24	4/1/24	3/31/25	\$4,814
11459	Project Delivery Assessment for Rengstorff Avenue & Middle Avenue Grade Separations	Consultant services to complete the CMGC-related tasks for (1) Rengstorff Avenue Grade Separation Project: The Project proposes to eliminate the existing at-grade crossing at Rengstorff Avenue and Central Expressway through grade separation by depressing the intersection while maintaining the Caltrain railroad at its approximate existing elevation. (2) the Middle Avenue Grade Separation Project: To implement a pedestrian/bicycle undercrossing at the Middle Avenue.	Jacobs	6/20/24	4/1/24	4/1/25	\$132,377
11462	Contract Administration Services	Consultant services to administer contracts and maintain contract records. Monitor consultant performance to ensure compliance with contractual requirements. Coordinate with internal and external stakeholders on procurements, audits, change orders, amendments, and payments. Analyze budgets for contracted services; identify and address budget issues.	Conсор	8/16/24	8/26/24	7/31/25	\$376,344
24114 52000	CalMod/PCEP Scheduler	Consultant Scheduler to support Peninsula Corridor Electrification Project (PCEP) for the remaining project work through completion. Closed with a \$139K balance.	Jacobs	9/4/24	4/18/24	12/31/24	\$(139,437)
TOTAL AMOUNT THIS PERIOD							\$374,098

**Peninsula Corridor Joint Powers Board
Staff Report**

To: JPB Finance Committee
Through: Michelle Bouchard, Executive Director
From: Tomisha Young, Contract Administrator, Rail Contracts & Budget
Melissa Reggiardo, Manager, Caltrain Planning
Dahlia Chazan, Chief, Rail Planning
Subject: **Accept On-Call Transportation Planning and Consultant Support Services Update**

Finance Committee
Recommendation

Technology, Operations, Planning,
and Safety Committee
Recommendation

Advocacy and Major Projects
Committee Recommendation

Purpose and Recommended Action

This report is for information only. No Board action is required.

Discussion

This informational item is presented quarterly to the Board and reports on the following:

- Total amount of work directives (WDs) issued to each firm since contract inception
- List of WDs and amendments issued since the last reporting period with the WD number, title, description, JPB project manager, vendor, issuance date, start date, end date, and value

The tables below provide an update of contract activities from June 5th, 2024 thru September 6th, 2024. Table 1 summarizes the contract capacity status. Table 2 updates the percentage of capacity used against the percent time elapsed. Table 3 shows the Board approved dates and amounts. Table 4 aggregates the WD amounts issued to each of the vendors. Table 5 describes each of the WDs and/or amendments issued since the last reporting period.

Background

Pursuant to Resolution No. 2020-18, the Board of Directors (Board) awarded contracts to Fehr & Peers, HNTB Corporation, Kimley-Horn & Associates, Inc., Arup North America Ltd., Mott MacDonald Group Inc., and WSP USA, Inc., consisting of a five-year base term for an aggregate not-to-exceed amount of \$25,000,000 with two additional, one-year option terms in an aggregate not-to-exceed amount of \$5,000,000 for each option year.

Pursuant to Resolution No. 2023-26, the Board authorized amendments to the contracts with the Consultants to increase the contract amount by \$10,000,000, from \$25,000,000 to \$35,000,000, to be shared in the aggregate amongst the six firms.

Pursuant to Resolution 2024-24, the Board authorized amendments to 1) exercise both options early (on July 1, 2024, rather than July 1, 2025, and July 1, 2026), to access the additional \$10 million in capacity remaining on the options before the current option period; 2) Extend the

contract duration through December 31, 2025; and 3) increase the not-to-exceed contract capacity amount by \$7,500,000, from \$35,000,000 to \$42,500,000 (for a total of \$52,500,000 with the options), and to be shared as a pool for authorized tasks amongst the consultant firms.

Budget Impact

There is no impact on the budget.

Prepared By:	Tomisha Young	Contract Administrator, Rail Contracts & Budget	650-508-7968
	Melissa Reggiardo	Manager, Caltrain Planning	650-868-9925
	Dahlia Chazan	Chief, Rail Planning	650-508-6225

Table 1

Contract Summary	Years	Amount
Total Capacity:	5.5	\$52,500,000
Exercised:	5.5	\$52,500,000
Work Directives Issued:		\$37,294,958
Remaining Exercised Capacity:		\$15,205,042

Table 2

Contract Days	Days Elapsed	% Time Elapsed	Capacity Used
1825	1528	84%	71%

Table 3

Contract Information	Start	End	Years	Capacity	Resolution/ Authorized
Base	7/1/2020	6/30/2025	5.0	\$25,000,000	2020-18
Option #1	7/1/2024	12/31/2025		\$5,000,000	2024-24
Option #2	7/1/2024	12/31/2025		\$5,000,000	2024-24
Amendment #1				\$10,000,000	2023-26
Amendment #2	7/1/2025	12/31/2025	0.5	\$7,500,000	2024-24
Total:			5.5	\$52,500,000	

Table 4

Vendor	Fehr & Peers	HNTB	Kimley-Horn	ARUP	Mott	WSP	TOTAL
Contract #	20-J-P-006A	20-J-P-006B	20-J-P-006C	20-J-P-006D	20-J-P-006E	20-J-P-006F	
Total WDs Issued	\$4,880,093	\$ 7,581,242	\$12,732,350	\$ 2,656,385	\$ 7,925,088	\$ 1,563,719	\$37,338,878
Previous Reporting Period	\$4,765,218	\$7,070,859	\$11,708,857	\$2,138,365	\$7,925,088	\$1,563,719	\$35,172,106
Current Reporting Period	\$114,875	\$510,383	\$1,023,493	\$518,020	\$0	\$0	\$2,166,771

Table 5

WD#	Title	Description (Updates in Bold)	Vendor	Updated	Start	(Revised) End	Amount This Period
10307	DSAP Development Support Services	Development support services associated with commercial development on the Caltrain-owned parcels within the Diridon Station Area Plan (DSAP) area in the City of San Jose. Specifically, the development team will be responsible for developing planning, land use, economic, environmental and development strategy associated with the City of San Jose’s preliminary review application and formal planning application. \$573k budgeted thru FY24 but \$98k authorized for FY21 and \$254k authorized for FY22. Added \$117k for environmental review services in order to meet CEQA requirements; total budget now \$691k and total authorization remains at \$352k. A3 authorized \$100k; total authorization is \$453k with a remaining \$238k unauthorized. A4 extended from 6/30/24 to 12/31/24.	Fehr & Peers	8/16/2024	3/8/2021	12/31/2024	\$0
10877	Caltrain Go Pass Program Management Support	Consultant program management support for Caltrain’s Go Pass Program. A1 extended from 1/31/23 to 4/30/23 and added \$8k for additional support. A2 added \$114k for additional support and extended from 4/30/23 to 6/30/23. A3 added \$30k for additional support and extended from 6/30/23 to 12/31/23. A4 added \$57k for additional support and extended from 12/31/23 to 6/30/24. A5 added \$71k for additional support and extended from 6/30/24 to 6/30/25.	Fehr & Peers	8/16/2024	10/10/2022	6/30/2025	\$70,956
11546	Caltrain Planning Support	Support for the initiation, project management and general coordination of potential capital planning initiatives, including initiatives that are currently being managed by the Planning Department. A1 added \$25k for additional support.	Kimley-Horn	8/6/2024	7/1/2024	6/30/2025	\$225,016
11291	Caltrain Climate Change Vulnerability Study	Support for completion of a comprehensive assessment of the risks and climate impacts presented by climate change to its system.	ARUP	7/31/2024	8/1/2024	10/31/2025	\$479,818
10472	Diridon Business Case Strategic Advisory Services	Support for project management and strategic advisory services to facilitate the planning process for the Diridon Station Business Case. More specifically, Caltrain is looking for support in managing the Business Case technical work as well as associated strategic communications and outreach with Business Case Partner Agencies (including the City of San Jose, Santa Clara Valley Transportation Authority, California High Speed Rail Authority and Metropolitan Transportation Commission) and electeds. A1 extended from 6/30/23 to 8/31/23. A2 extended from 8/31/23 to 10/31/23. A3 added \$298k for additional support and extended from 10/31/23 to 12/31/23. A4 added \$54k for additional support and extended from 12/31/23 to 4/30/24. A5 added \$132k for additional support. A6 added \$771k for additional support and extended from 4/30/24 to 12/31/25.	Kimley-Horn	7/1/2024	3/1/2023	12/31/2025	\$770,995
10343	Capital Planning Support	Consultant support for potential capital planning initiatives, including potential capital projects that are currently being managed by the Planning Department and potential planning activities related to the lifecycle of rail capital projects including the implementation of processes to track and monitor stages of development of capital planning initiatives. A1 extended from 12/31/23 to 6/30/24 and added \$94k for additional support. A2 extended from 6/30/24 to 9/30/24.	ARUP	6/28/2024	6/1/2023	9/30/2024	\$0
23107 01000	Rail Operations and Maintenance Planning Manager	Seconded staff support for Rail Operations and Maintenance (O&M) Planning for electrified service. The service request includes one full time Rail O&M Planning Manager to manage all work related to railroad readiness for electrified service. A1 added \$164k for additional support and extended to 9/30/24.	HNTB	6/27/2024	9/3/2022	9/30/2024	\$163,543

WD#	Title	Description (Updates in Bold)	Vendor	Updated	Start	(Revised) End	Amount This Period
25085 32000	Communications and Outreach Program Support for PCEP FY25	Support to develop a comprehensive marketing and communications program for the Peninsula Corridor Electrification Project (PCEP) that will help build support and maintain goodwill with riders, corridor communities and key stakeholders.	HNTB	6/27/2024	7/1/2024	10/31/2024	\$346,839
11511	FY25 Service Alternatives Analysis	Consultant providing technical & Cost proposal for reduced services scenarios for Electrified Caltrain Corridor.	Fehr & Peers	6/24/2024	07/09/24	12/31/24	\$43,919
11545	BART Silicon Valley Coordination Support	Project management coordination support to monitor and track the BART Silicon Valley Phase II Extension Program (BSV) progress and items requiring action, information, or opinion from Caltrain staff.	Kimley-Horn	6/18/2024	6/1/2024	6/1/2025	\$27,482.00
10342	DSAP Architectural Services	Development support services including planning, land use, economic, environmental and development strategy associated with commercial development on the Caltrain-owned parcels within the Diridon Station Area Plan area in the City of San Jose. A1 \$1.085M initially budgeted but \$578k authorized for FY21, so A1 authorized another \$411k and extended from 6/30/21 to 6/30/22. A2 authorized remaining \$96k to fully fund initial budget of \$1.085M, authorized \$54k of 5% contingency in initial budget for a total of \$150k, and extended from 6/30/22 to 6/30/23. A3 extended from 6/30/23 to 12/31/23. A4 extended from 12/31/23 to 6/30/24. A5 extended from 6/30/24 to 12/31/24 and added \$38k for additional support.	ARUP	6/13/2024	1/6/2021	12/31/2024	\$38,201
TOTAL AMOUNT THIS PERIOD							\$2,166,771