



JPB Board of Directors  
Meeting of October 3, 2024

Supplemental Reading File

- | <u>#</u> | <u>Subject</u>                                                                                 |
|----------|------------------------------------------------------------------------------------------------|
| 1.       | DRAFT 24-J-P-105A Agreement CBRE with Exhibits                                                 |
| 2.       | DRAFT 24-J-P-105B Agreement CU with Exhibits                                                   |
| 3.       | JPB Amendment 7 Mobile Ticketing Solution_DRAFT                                                |
| 4.       | On-Call Alternative Project Delivery Negotiation Support Services                              |
| 5.       | On-Call Communication and Signal Services Update                                               |
| 6.       | On-Call Construction Management Services Update                                                |
| 7.       | On-Call General Engineering Consultant Design Services Update                                  |
| 8.       | On-Call Management of Soil, Hazardous Waste and Other Environmental Compliance Services Update |
| 9.       | On-Call Program Management Oversight Services Update                                           |
| 10.      | On-Call Transportation Planning and Consultant Support Services Update                         |
| 11.      | Receive Fiscal Year 2024 Annual Ridership Report                                               |
| 12.      | Fiscal Year 2024 Caltrain Ridership Report 092524                                              |
| 13.      | Receive Update on Caltrain's Draft 10-Year Capital Improvement Plan                            |
| 14.      | Receive Update on Pass Forward Program                                                         |
| 15.      | Receive Update on Transit 2050+                                                                |
| 16.      | Contracts and Procurement Quarterly Reports                                                    |
| 17.      | Approval of Third Amendment to Ground Lease with HPS-San Mateo LLC                             |

**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](mailto: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*

## Table of Contents

1. SCOPE OF SERVICES .....	4
2. AGREEMENT DOCUMENTS .....	4
3. TERM OF AGREEMENT .....	4
4. CONSULTANT'S REPRESENTATIVE .....	5
5. COMPENSATION .....	5
6. MANNER OF PAYMENT .....	5
7. NOTICES .....	6
8. OWNERSHIP OF WORK .....	7
9. CONFIDENTIALITY .....	8
10. USE OF SUBCONTRACTORS/SUBCONSULTANTS .....	8
11. CHANGES .....	8
12. RESPONSIBILITY: INDEMNIFICATION .....	9
13. INSURANCE .....	9
14. CONSULTANT'S STATUS .....	9
15. ASSIGNMENT .....	9
16. OTHER GOVERNMENTAL AGENCIES .....	10
17. LITIGATION SUPPORT .....	10
18. AGENCY WARRANTIES .....	10
19. AGENCY REPRESENTATIVE .....	10
20. WARRANTY OF SERVICES .....	10
21. CLAIMS OR DISPUTES .....	11
22. REMEDIES .....	12
23. TEMPORARY SUSPENSION OF WORK .....	12
24. TERMINATION .....	12
25. LIQUIDATED DAMAGES .....	14
26. PREVAILING WAGE .....	14
27. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS .....	14
28. UKRAINE/RUSSIA RELATED SANCTIONS .....	14
29. NON-DISCRIMINATION ASSURANCE - TITLE VI OF THE CIVIL RIGHTS ACT ..	14
30. EQUAL EMPLOYMENT OPPORTUNITY (EEO) .....	15
31. SMALL BUSINESS ENTERPRISES (SBE) REQUIREMENTS .....	16
32. CONFLICT OF INTEREST .....	16
33. SUBSTANCE ABUSE PROGRAM .....	19

34. CALIFORNIA PUBLIC RECORD ACT REQUESTS (CPRA).....	19
35. ATTORNEYS' FEES.....	19
36. WAIVER .....	19
37. SEVERABILITY .....	20
38. NO THIRD PARTY BENEFICIARIES .....	20
39. APPLICABLE LAW .....	20
40. RIGHTS AND REMEDIES OF THE AGENCY.....	20
41. BINDING ON SUCCESSORS .....	20
42. ENTIRE AGREEMENT; MODIFICATION.....	20

**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 **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](mailto: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](mailto: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)

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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](mailto: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](mailto: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.

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**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:	<a href="mailto:bsparkman@centuryurban.com">bsparkman@centuryurban.com</a>

*\*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*



## Table of Contents

1. SCOPE OF SERVICES .....	4
2. AGREEMENT DOCUMENTS .....	4
3. TERM OF AGREEMENT .....	4
4. CONSULTANT'S REPRESENTATIVE .....	5
5. COMPENSATION .....	5
6. MANNER OF PAYMENT .....	5
7. NOTICES .....	6
8. OWNERSHIP OF WORK .....	7
9. CONFIDENTIALITY .....	8
10. USE OF SUBCONTRACTORS/SUBCONSULTANTS .....	8
11. CHANGES .....	8
12. RESPONSIBILITY: INDEMNIFICATION .....	9
13. INSURANCE .....	9
14. CONSULTANT'S STATUS .....	9
15. ASSIGNMENT .....	9
16. OTHER GOVERNMENTAL AGENCIES .....	10
17. LITIGATION SUPPORT .....	10
18. AGENCY WARRANTIES .....	10
19. AGENCY REPRESENTATIVE .....	10
20. WARRANTY OF SERVICES .....	10
21. CLAIMS OR DISPUTES .....	11
22. REMEDIES .....	12
23. TEMPORARY SUSPENSION OF WORK .....	12
24. TERMINATION .....	12
25. LIQUIDATED DAMAGES .....	14
26. PREVAILING WAGE .....	14
27. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS .....	14
28. UKRAINE/RUSSIA RELATED SANCTIONS .....	14
29. NON-DISCRIMINATION ASSURANCE - TITLE VI OF THE CIVIL RIGHTS ACT ..	14
30. EQUAL EMPLOYMENT OPPORTUNITY (EEO) .....	15
31. SMALL BUSINESS ENTERPRISES (SBE) REQUIREMENTS .....	16
32. CONFLICT OF INTEREST .....	16
33. SUBSTANCE ABUSE PROGRAM .....	19

34. CALIFORNIA PUBLIC RECORD ACT REQUESTS (CPRA).....	19
35. ATTORNEYS' FEES.....	19
36. WAIVER .....	19
37. SEVERABILITY .....	20
38. NO THIRD PARTY BENEFICIARIES .....	20
39. APPLICABLE LAW .....	20
40. RIGHTS AND REMEDIES OF THE AGENCY.....	20
41. BINDING ON SUCCESSORS .....	20
42. ENTIRE AGREEMENT; MODIFICATION.....	20

**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)

DRAFT

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](mailto: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](mailto: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](mailto: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](mailto: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.

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**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

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**Peninsula Corridor Joint Powers Board  
Staff Report**

To: JPB Finance Committee  
Through: Michelle Bouchard, Executive Director  
From: Connie Tung, Contract Administrator, Rail Contracts & Budget  
Mehdi Tavakolizadeh, Manager, Project Estimates, Capital Program Management

Subject: **Accept On-Call Alternative Project Delivery Negotiation 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 5<sup>th</sup>, 2024 thru September 6<sup>th</sup>, 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 the vendor. Table 5 describes each of the WDs and/or amendments issued since the last reporting period.

Two WDs to support the Broadway Burlingame Grade Separation Project (\$1.26M) and the Rengstorff Ave Grade Separation (\$1.14M) totaling \$2.40M have been issued, leaving a \$99k contract balance. Early and high expenditures were due to accelerated schedules of these two projects. Staff is working on a plan to address additional grade separation projects and the low capacity.

**Background**

Pursuant to Resolution No. 2023-75, the Board of Directors (Board) awarded contracts to Kelly McNutt Consulting LLC, consisting of a five-year base term for an aggregate not-to-exceed amount of \$2,500,000 with up to two (2), one (1)-year option terms for a total not-to exceed additional amount of \$1 million.

Prepared By: Connie Tung                          Contract Administrator, Rail                          650-508-6371  
                                                                                                 Contracts & Budget

                                                                                                 Mehdi Tavakolizadeh                          650-508-6273  
                                                                                                 Manager, Project Estimates, Capital                          Program Management

**Table 1**

<b>Contract Summary</b>	<b>Years</b>	<b>Amount</b>
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**

<b>Contract Days</b>	<b>Days Elapsed</b>	<b>% Time Elapsed</b>	<b>Capacity Used</b>
1823	250	14%	96%

**Table 3**

<b>Contract Information</b>	<b>Start</b>	<b>End</b>	<b>Years</b>	<b>Capacity</b>	<b>Resolution/ Authorized</b>
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					
<b>Total:</b>			<b>7.0</b>	<b>\$3,500,000</b>	

**Table 4**

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

**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 6<sup>th</sup>, 2024 thru September 6<sup>th</sup>, 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**

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

**Table 2**

<b>Contract Days</b>	<b>Days Elapsed</b>	<b>% Time Elapsed</b>	<b>Capacity Used</b>
1825	764	42%	65%

**Table 3**

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

**Table 4**

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

**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. <b>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.</b>	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. <b>A1 added \$428k to fully fund initial proposal and extended from 6/30/24 to 6/30/25.</b>	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. <b>A2 added \$200k out of the \$462k amendment proposal and extended from 6/30/24 to 6/30/25.</b>	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. <b>A1 added \$14k for additional support.</b>	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. <b>Closed w/186k balance.</b>	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. <b>A4 added \$36k for additional support. A5 added \$241k for additional support and extended to 12/31/24.</b>	RSE	6/27/2024	10/1/2022	12/31/2024	\$276,965
<b>TOTAL AMOUNT THIS PERIOD</b>							<b>\$2,139,921</b>



Alfred Darmousseh

Deputy Director, Construction  
Services

650-551-6120



**Table 1**

<b>Contract Summary</b>	<b>Years</b>	<b>Amount</b>
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**

<b>Contract Days</b>	<b>Days Elapsed</b>	<b>% Time Elapsed</b>	<b>Capacity Used</b>
2556	238	9%	3%

**Table 3**

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

**Table 4**

<b>Vendor</b>	<b>Ghirardelli Associates, Inc.</b>	<b>Gannett Fleming, Inc.</b>	<b>WSP USA, Inc.</b>	<b>TOTAL</b>
<b>Contract #</b>	24-J-P-003A	24-J-P-003B	24-J-P-003C	
<b>Total WDs Issued</b>	\$0	\$483,398	\$654,531	\$1,137,929
<b>Previous Reporting Period</b>	\$0	\$483,398	\$654,531	\$1,137,929
<b>Current Reporting Period</b>	\$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 5<sup>th</sup>, 2024 thru September 6<sup>th</sup>, 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**

<b>Contract Summary</b>	<b>Years</b>	<b>Amount</b>
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**

<b>Contract Days</b>	<b>Days Elapsed</b>	<b>% Time Elapsed</b>	<b>Capacity Used</b>
1826	208	11%	2%

**Table 3**

<b>Contract Information</b>	<b>Start</b>	<b>End</b>	<b>Years</b>	<b>Capacity</b>	<b>Resolution/ Authorized</b>
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					
<b>Total:</b>			<b>7.0</b>	<b>\$50,000,000</b>	

**Table 4**

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

**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 5<sup>th</sup>, 2024 thru September 6<sup>th</sup>, 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**

<b>Contract Summary</b>	<b>Years</b>	<b>Amount</b>
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**

<b>Contract Days</b>	<b>Days Elapsed</b>	<b>% Time Elapsed</b>	<b>Capacity Used</b>
1825	132	7%	3%

**Table 3**

<b>Contract Information</b>	<b>Start</b>	<b>End</b>	<b>Years</b>	<b>Capacity</b>	<b>Resolution/ Authorized</b>
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					
<b>Total:</b>			<b>7.0</b>	<b>\$5,600,000</b>	

**Table 4**

<b>Vendor</b>	<b>Millennium Consulting Associates</b>	<b>TOTAL</b>
<b>Contract #</b>	24-J-P-030	
<b>Total WDs Issued</b>	\$122,351	\$122,351
<b>Previous Reporting Period</b>	\$0	\$0
<b>Current Reporting Period</b>	\$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
<b>TOTAL AMOUNT THIS PERIOD</b>							<b>\$122,351</b>



**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 5<sup>th</sup>, 2024 thru September 6<sup>th</sup>, 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**

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

**Table 2**

<b>Contract Days</b>	<b>Days Elapsed</b>	<b>% Time Elapsed</b>	<b>Capacity Used</b>
2555	194	8%	21%

**Table 3**

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

**Table 4**

<b>Vendor</b>	<b>Ghirardelli Associates, Inc.</b>	<b>Jacobs Project Management Company</b>	<b>Conсор PMCM, Inc.</b>	<b>TOTAL</b>
<b>Contract #</b>	24-J-P-002A	24-J-P-002B	24-J-P-002C	
<b>Total WDs Issued</b>	\$0	\$8,824,493	\$2,603,842	\$11,428,335
<b>Previous Reporting Period</b>	\$0	\$8,831,553	\$2,222,684	\$11,054,237
<b>Current Reporting Period</b>	\$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. <b>A1 added \$4,814 for additional admin charges</b>	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. <b>Closed with a \$139K balance.</b>	Jacobs	9/4/24	4/18/24	12/31/24	\$(139,437)
<b>TOTAL AMOUNT THIS PERIOD</b>							<b>\$374,098</b>

**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 5<sup>th</sup>, 2024 thru September 6<sup>th</sup>, 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**

<b>Contract Summary</b>	<b>Years</b>	<b>Amount</b>
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**

<b>Contract Days</b>	<b>Days Elapsed</b>	<b>% Time Elapsed</b>	<b>Capacity Used</b>
1825	1528	84%	71%

**Table 3**

<b>Contract Information</b>	<b>Start</b>	<b>End</b>	<b>Years</b>	<b>Capacity</b>	<b>Resolution/ Authorized</b>
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
<b>Total:</b>			<b>5.5</b>	<b>\$52,500,000</b>	

**Table 4**

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

**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. <b>A4 extended from 6/30/24 to 12/31/24.</b>	Fehr & Peers	8/16/2024	3/8/2021	<b>12/31/2024</b>	\$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. <b>A5 added \$71k for additional support and extended from 6/30/24 to 6/30/25.</b>	Fehr & Peers	8/16/2024	10/10/2022	<b>6/30/2025</b>	<b>\$70,956</b>
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. <b>A6 added \$771k for additional support and extended from 4/30/24 to 12/31/25.</b>	Kimley-Horn	7/1/2024	3/1/2023	<b>12/31/2025</b>	<b>\$770,995</b>
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. <b>A2 extended from 6/30/24 to 9/30/24.</b>	ARUP	6/28/2024	6/1/2023	<b>9/30/2024</b>	\$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. <b>A1 added \$164k for additional support and extended to 9/30/24.</b>	HNTB	6/27/2024	9/3/2022	<b>9/30/2024</b>	<b>\$163,543</b>

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. <b>A5 extended from 6/30/24 to 12/31/24 and added \$38k for additional support.</b>	ARUP	6/13/2024	1/6/2021	<b>12/31/2024</b>	<b>\$38,201</b>
<b>TOTAL AMOUNT THIS PERIOD</b>							<b>\$2,166,771</b>



**Peninsula Corridor Joint Powers Board  
Staff Report**

To: Board of Directors  
Through: Michelle Bouchard, Executive Director  
From: Dahlia Chazan, Chief, Caltrain Planning  
Subject: **Receive Fiscal Year 2024 Annual Ridership Report**

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

**Purpose and Recommended Action**

Staff recommends the Technology, Operations, Planning, and Safety Committee receive the attached update on the Fiscal Year 2024 Annual Ridership Report.

This item is informational only.

**Executive Summary**

The Fiscal Year 2024 Annual Ridership Report provides a summary of Caltrain ridership over the past year, including comparisons to prior years. This is the first report published since 2019 due to the discontinuation of the Annual Count during the COVID-19 pandemic. Caltrain staff developed a new methodology to track ridership using a fare media-based ridership estimation model that has allowed for a more detailed analysis of ridership trends, which is the subject of this report.

Compared to FY2023, Caltrain’s total FY2024 ridership was up 20.6%. While it has yet to fully return to pre-pandemic levels, Caltrain’s ridership experienced significant gains over the course of FY2024. In July 2023, ridership was less than 30% of July 2019 ridership. By May 2024, ridership was up to nearly 39% of May 2019 ridership. Ridership was highest on mid-weekdays, with Tuesday, Wednesday, and Thursday making up 57% of total ridership. However, Saturday and Sunday ridership outpaced weekday ridership in terms of their FY2024 pandemic recovery rates, despite the twelve weekends that Caltrain operated partial or full bus bridge service. The other notable finding is that Giants games continued to be a significant driver of Caltrain’s ridership in FY2024, leading to increases of 15% to 46%, depending on the day of the week.

Finally, the new ridership estimation model allows staff to track other important data points, such as station-level ridership and ridership by fare product and fare type, that help make data-driven decisions regarding service planning and fare policy. Caltrain’s ridership reporting methodology will be even further refined once data from the Automated Passenger Counters (APC) on the new EMU fleet are incorporated in the near future.

## **Background**

Prior to the COVID-19 pandemic, Caltrain reported its annual ridership through a physical census of all passengers, known as the Annual Passenger Count. The Annual Passenger Count was paused at the beginning of the pandemic due to the region's shelter-in-place orders and has been discontinued indefinitely due to the nearly \$1M cost of the program.

The Fiscal Year 2024 Annual Ridership Report summarizes important trends in Caltrain's ridership as the region emerges from the COVID-19 pandemic and is Caltrain's first official annual ridership report since the Annual Passenger Count was discontinued. The report is a summary of the monthly ridership estimates that were reported in the Executive Director's Report for the calendar months of July 2023 through June 2024. From July 2023 through October 2023, ridership was estimated using a combination of limited conductor counts and data from the Clipper validators at Caltrain stations. In November 2023, the Caltrain Fare Media Sales-Based Ridership Estimation Model replaced this methodology. The Caltrain Fare Media Sales-Based Ridership Estimation Model uses data-informed assumptions to estimate the number of trips generated by the sale of each ticket and pass in the Caltrain system. Staff presented this model to the TOPS Committee in December 2023. This model provides new ridership estimates which were unavailable under the previous methodology, including origin station, pass type, fare distribution channel, and discount level.

## **Budget Impact**

There are no anticipated budget impacts associated with this update.

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**Caltrain Ridership**  
**Fiscal Year 2024 Annual Report**

**Table of Contents**

- 1. Executive Summary..... 5
- 2. Introduction ..... 5
- 3. Background ..... 5
- 4. Methodology and Limitations..... 6
  - 4.1. July 2023 – October 2023 ..... 6
  - 4.2. November 2023 – June 2024 ..... 6
- 5. FY2024 Service Changes..... 7
- 6. FY2024 Fare Changes ..... 8
- 7. Ridership Summary ..... 9
  - 7.1. Total Monthly Ridership and Average Weekday Ridership ..... 9
  - 7.2. COVID-19 Pandemic Recovery Trends ..... 9
  - 7.3. Ridership by Day Type..... 12
  - 7.4. Ridership by Day of Week..... 13
  - 7.5. Ridership Impact of Giants Games..... 14
  - 7.6. Additional Ridership Data from Fare Media Model..... 14
    - 7.6.1. Ridership by Origin Station ..... 14
    - 7.6.2. Ridership by Fare Product and Fare Type ..... 16
  - 7.7. Passengers Needing Assistance Ridership ..... 17
- 8. Next Steps ..... 17

## Glossary of Acronyms

AC Transit	Alameda-Contra Costa Transit District
AMWR	Average Mid-Week Ridership
APC	Automated Passenger Counters
AWR	Average Weekday Ridership
COVID-19	Coronavirus Disease of 2019
EMU	Electric Multiple Unit
FY	Fiscal Year
JPB	Peninsula Corridor Joint Powers Board
Muni	San Francisco Municipal Railway
NTD	National Transit Database
PCEP	Peninsula Corridor Electrification Project
PNA	Passengers needing assistance
SamTrans	San Mateo County Transit District
TVMs	Ticket Vending Machines
VTA	Santa Clara Valley Transportation Authority

## List of Tables and Figures

Table 1: Fare Media Sales-Based Ridership Estimation Model Key Assumptions .....	7
Table 2: FY2024 Weekend Bus Bridges .....	8
Table 3: Average Monthly Pandemic Recovery Rate by Day Type, FY2024.....	12
Table 4: Average Ridership by Day Type & Giants Game Location, FY2024 .....	14
Table 5: Average Mid-Week Ridership by Station, FY2024 & 2019 Passenger Count.....	15
Table 6: Average Mid-Week Ridership by County, FY2024 & 2019 Passenger Count.....	16
Table 7: Fare Distribution Channel and Ticket Type, FY2024 .....	16
Figure 1: Total Monthly Ridership, FY2024 .....	9
Figure 2: Total Monthly Ridership, FY2019-FY2024.....	10
Figure 3: Total Monthly Ridership and Pandemic Recovery Rate, FY2024.....	11
Figure 4: Average Weekday, Saturday, and Sunday Ridership, FY2024 .....	12
Figure 5: Average Ridership by Day of Week, FY2024 .....	13
Figure 6: Total Monthly PNA Boardings, FY2024 .....	17

## **1. Executive Summary**

The Fiscal Year 2024 (FY2024) Annual Ridership Report provides a summary of Caltrain ridership over the past year, including comparisons to prior years. This is the first report published since 2019 due to the discontinuation of the Annual Count during the COVID-19 pandemic. Caltrain staff developed a new methodology to track ridership using a fare media-based ridership estimation model that has allowed for a more detailed analysis of ridership trends, which is the subject of this report.

Compared to FY2023, Caltrain's total FY2024 ridership was up 20.6%. While it has yet to fully return to pre-pandemic levels, Caltrain's ridership experienced significant gains over the course of FY2024. In July 2023, ridership was less than 30% of July 2019 ridership. By May 2024, ridership was up to nearly 39% of May 2019 ridership. Ridership was highest on mid-weekdays, with Tuesday, Wednesday, and Thursday making up 57% of total ridership. However, Saturday and Sunday ridership outpaced weekday ridership in terms of their FY2024 pandemic recovery rates, despite the twelve weekends that Caltrain operated partial or full bus bridge service. The other notable finding is that Giants games continued to be a significant driver of Caltrain's ridership in FY2024, leading to increases of 15% to 46%, depending on the day of the week.

Finally, the new ridership estimation model allows staff to track other important data points, such as station-level ridership and ridership by fare product and fare type, that help make data-driven decisions regarding service planning and fare policy. Caltrain's ridership reporting methodology will be even further refined once data from the Automated Passenger Counters (APC) on the new electric train fleet are incorporated in the near future.

## **2. Introduction**

The following report summarizes Caltrain ridership estimates for FY2024. FY2024 includes the calendar months of July 2023 through June 2024. The ridership estimates in this document have been reported monthly to the Board of Directors (Board) of the Peninsula Corridor Joint Powers Board (JPB) through the Executive Director's Report.

The ridership figures in this report are derived from methodologies that are distinct from ridership reports submitted to the National Transit Database (visit <https://www.transit.dot.gov/ntd/transit-agency-profiles/peninsula-corridor-joint-powers-board> for more information).

## **3. Background**

Without fare gates or systemwide Automated Passenger Counters (APCs) infrastructure, Caltrain is currently unable to monitor the actual number of passengers the system carries daily.

Prior to the COVID-19 pandemic, Caltrain's annual ridership reports were generated from physical counts conducted over several weeks each January/February, known as the Annual Passenger Count. These counts were a census of all passenger and bicycle boardings and alightings for every train, at every station. The Annual Passenger Count provided a detailed look at ridership by train, time of day, and station.

The Annual Passenger Count was paused at the beginning of the COVID-19 pandemic due to the region's shelter-in-place orders. Since then, Caltrain's ridership has experienced a period of rapid and continuous

change. Because the relevance of point-in-time surveys like the Annual Passenger Count is relatively limited during times of transition and growth, the nearly \$1M cost of the program no longer justify its benefits. For this reason, the Annual Passenger Count has been discontinued indefinitely.

In addition to annual ridership reports, Caltrain has long estimated monthly ridership from available fare media sales data. Fare media sales include purchases of any ticket type on any of the available platforms, including Clipper Card, Ticket Vending Machines (TVMs), and Caltrain Mobile. Caltrain also offers companies and schools the ability to purchase unlimited Caltrain rides for their employees and students through the GoPass program. Historically, GoPasses were distributed via physical stickers that riders could show conductors as proof-of-payment. By FY2024, the majority of GoPasses had been transitioned to Clipper. Once the next generation of Clipper Card (Clipper 2.0) is launched, the remaining Sticker GoPasses will be transitioned to Clipper.

Prior to the pandemic, Caltrain staff used a model to estimate monthly ridership that was partially based on data from the Annual Passenger Count. When the Annual Passenger Count was first discontinued, Caltrain staff developed a temporary estimation methodology which combined limited conductor counts with data from Clipper validators at Caltrain stations. In November 2023, Caltrain replaced the temporary estimation methodology with a new fare media sales-based ridership model. More details on the monthly ridership estimation methodologies used during FY2024 can be found in **Section 4.**

#### **Methodology and Limitations.**

While not included in this report, Caltrain collects a limited set of data from APCs at San Francisco Station, which count passengers as they enter and exit the doors to the platforms. This data is not robust enough for official ridership reporting and is only used for internal operational planning purposes.

#### **4. Methodology and Limitations**

Two distinct methodologies were used to estimate monthly Caltrain ridership during FY2024.

##### **4.1. July 2023 – October 2023**

For the first four months of FY2024, ridership was estimated using a combination of limited physical counts and available Clipper tap data. For a set group of fourteen stations, ridership was manually recorded by conductors. To estimate ridership at the remaining stations, these conductor counts were compared to Clipper tap data from validators at the same fourteen stations. This produced an estimate of the percentage of counted riders who tapped their Clipper cards on a given day. This percentage was then applied to the Clipper tap data at the remaining stations to estimate the ridership that was not counted by conductors.

During this time, ridership estimates were available for specific days, but only at the corridor-wide level. This methodology did not provide station-specific ridership estimates.

##### **4.2. November 2023 – June 2024**

Relying on conductor counts provided reasonably accurate data during the pandemic when ridership on each train was extremely low. However, once average daily ridership began to rebound, Caltrain determined that it was too difficult for conductors to complete accurate counts on the more crowded



trains. Therefore, in November 2023, Caltrain replaced the temporary conductor count estimation methodology with the new Fare Media Sales-Based Ridership Estimation Model (Fare Media Model). Rather than using physical counts, this model uses sales data of Caltrain’s various ticket/pass products (“fare media”) to estimate ridership. Based on the type of ticket or pass, the model uses data-informed assumptions to estimate the number of trips generated by the sale and assigns those trips to specific days and origin stations (see Table 1, below). The model does not estimate the number of trips that are made without the purchase of valid fare.

**Table 1: Fare Media Sales-Based Ridership Estimation Model Key Assumptions**

<b>Ticket Type</b>	<b>Key Assumptions</b>
<b>One-Way</b>	One trip per ticket sold
<b>Day Pass</b>	Two trips per ticket sold
<b>Monthly Pass</b>	Average of 26 trips per ticket sold (weighted by day of week)
<b>GoPass</b>	On average, Sticker GoPasses generate the same number of monthly trips as Clipper GoPasses

The Fare Media Model provides ridership estimates by specific day, origin station, fare distribution channel (Clipper, Ticket Vending Machine, Mobile App, and GoPass Sticker), pass type (One-Way, Day Pass, Monthly Pass, GoPass), and discount level (Adult fare, Eligible Discount fare).

Previous ridership reports from the Annual Passenger Count provided data on ridership by train, time of day, direction of travel, and bike boardings. Given the estimation methodologies available to Caltrain at the time, these data points were not available for FY2024.

**5. FY2024 Service Changes**

In FY2024, Caltrain’s regular service included 104 trains per day on weekdays and 32 trains per day on weekends.

The system underwent one regular weekday service change starting September 25, 2023. The weekday schedule was adjusted to better align Caltrain/BART transfers at Millbrae with BART’s September 11, 2023, schedule change. Additionally, a fourth daily round trip was added to the Southern Santa Clara County service based on feedback received from the South County Survey conducted in June 2023. Train 305 was adjusted to start at Gilroy Station departing at 7:29 a.m. and stop at all stations between Gilroy and San Jose Diridon. Trains 308 and 410 were adjusted to arrive at Gilroy at 5:40 p.m. and 6:17 p.m. respectively and stop at all stations between San Jose Diridon and Gilroy. Train 412 was adjusted to end at San Jose Diridon at 6:27 p.m. Train 310 was adjusted to be the last train of the day serving stops between Capitol and Gilroy. Service to Tamien Station was removed from Trains 107, 108, 112, 113, 116, 117, 120, 121, 125 and 313 to accommodate work on the Guadalupe Bridge Rehabilitation Project. Train 143 was also adjusted to depart San Jose Diridon Station at 10:30 p.m. to improve evening post-event service from the South Bay. Finally, all evening Local trains were adjusted to operate with improved run times.

Caltrain made one other change to its weekday schedule in FY2024, when service was temporarily modified for the weeks of August 7-11, 14-18, & 21-25, 2023 to accommodate testing and construction

efforts for the Peninsula Corridor Electrification Project (PCEP). During these weeks, two limited trains and all Baby Bullet trains were suspended. 31 of the remaining 90 trains were adjusted by two to six minutes from their typical schedules.

In addition to the weekday service changes listed above, Caltrain experienced several temporary modifications to its weekend service over the course of FY2024. On twelve different weekends, Caltrain operated “bus bridges”, where train service was removed from a section of the corridor and replaced by substitute bus service. Significant communications campaigns went out ahead of each weekend bus bridge to alert riders of the service impacts and encourage them to seek alternative means of transportation, due to the limited capacity of the bus bridge. During the weekend bus bridges, passengers were not required to purchase tickets for the bus portions of their trips. Therefore, passengers who only travelled within bus bridge sections of the corridor are not reflected in the Caltrain ridership estimates.

The following table summarizes the dates and locations of the FY2024 weekend bus bridges:

**Table 2: FY2024 Weekend Bus Bridges**

	<b>Date</b>	<b>Bus Bridge Section</b>	<b>Notes</b>
1	7/15/23 - 7/16/23	Palo Alto - Hillsdale	
2	7/22/23 - 7/23/23	Palo Alto - Hillsdale	
3	8/12/23 - 8/13/23	Millbrae - San Francisco	
4	8/19/23 - 8/20/23	Millbrae - San Francisco	
5	8/26/23 - 8/27/23	Millbrae - San Francisco	
6	10/07/23 - 10/08/23	Millbrae - San Francisco	
7	10/14/23 - 10/15/23	Millbrae - San Francisco	
8	10/21/23 - 10/22/23	Menlo Park - Millbrae	
9	3/9/24 - 3/10/24	Mountain View - San Francisco	AM Bus Bridge Only
10	4/13/24 - 4/14/24	Mountain View - San Francisco	AM Bus Bridge Only
11	4/20/24 - 4/21/24	Mountain View - San Francisco	AM Bus Bridge Only
12	6/8/24 - 6/9/24	San Jose - Millbrae	No train service, full corridor shutdown

## 6. FY2024 Fare Changes

Beginning September 1, 2023, Caltrain launched the following four promotional fare products. All promotional fare products were available for the remainder of the fiscal year.

- **3-Day Pass** – Allowed pass holder to take unlimited trips for three consecutive days from the date the pass is purchased.
- **\$1 Youth Rides** – Fare for one-way rides for all Clipper Youth Card holders was set to \$1.
- **Family Day Pass** - Allowed two adults and up to four youth (18 and under) to ride together for the cost of two adults and one youth.
- **Group Day Pass** – Allowed four riders to purchase day passes for the price of three.

In addition to the above fare products, Caltrain offered 50% off parking from September 2023 through February 2024.

The one-way youth rides promotion resulted in a 43% increase in ridership compared to the prior year. Due to this success, Caltrain expanded this youth program to offer \$1 one-way fares for youth riders through all payment methods, and a new \$2 youth day pass available on ticket vending machines and the Caltrain mobile app beginning in September 2024.

## 7. Ridership Summary

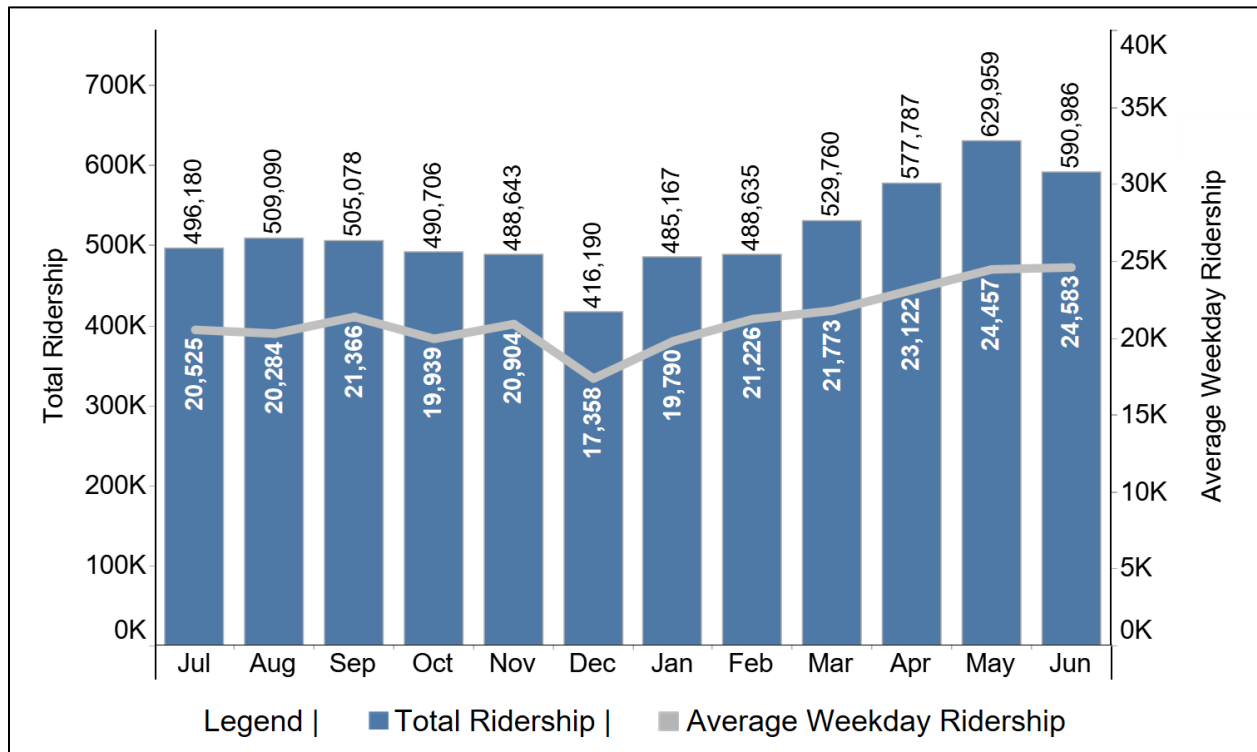
### 7.1. Total Monthly Ridership and Average Weekday Ridership

Caltrain’s average monthly total ridership in FY2024 was 517,349. The average weekday ridership (AWR) for the whole of FY2024 was 21,784. The month with the highest AWR in FY2024 was June, with 24,583.

During winter months, ridership is historically lower due to factors like holidays and cold and rainy weather. As shown in Figure 1, total monthly ridership in December 2023 was 20% lower than the fiscal year’s annual average. Conversely, ridership tends to peak in the summer, driven in part by popular events like sports games and festivals.

Total monthly ridership was also impacted by the number of weekdays and/or total days in a given month.

**Figure 1: Total Monthly Ridership, FY2024**



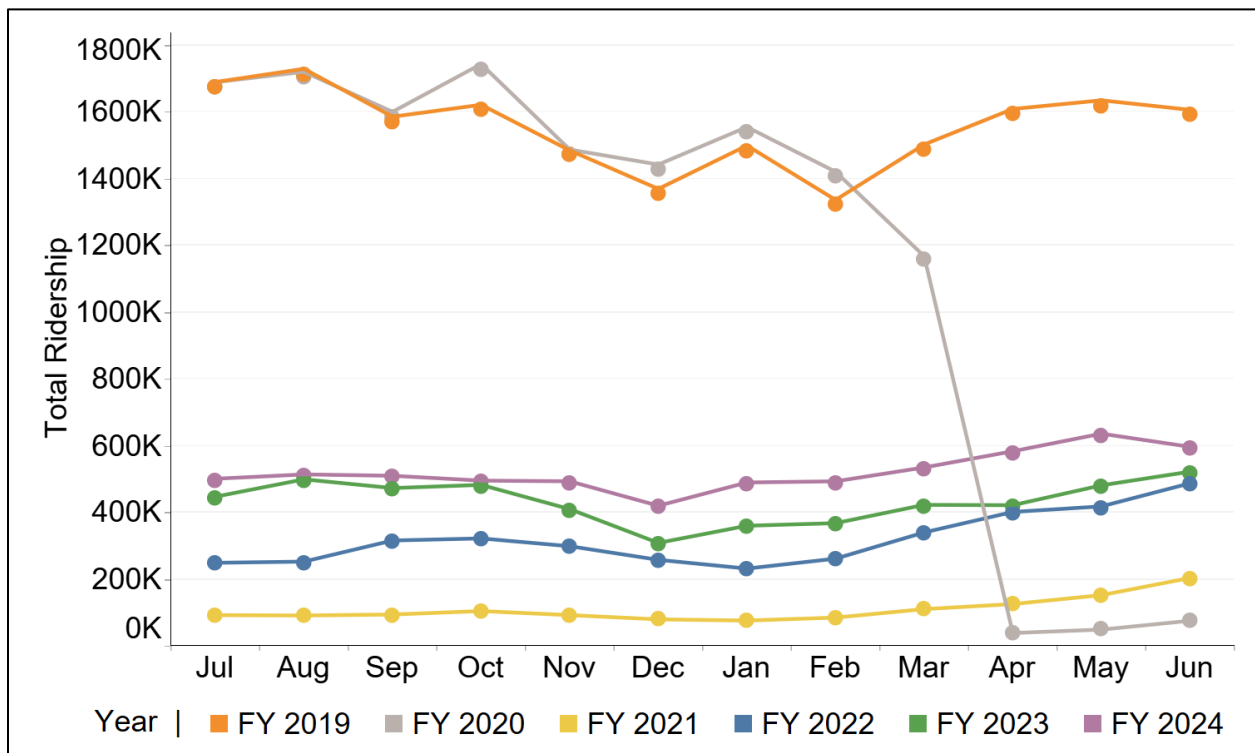
### 7.2. COVID-19 Pandemic Recovery Trends

In response to growing cases of COVID-19 in the region, a shelter-in-place order was instituted in San Francisco, San Mateo, and Santa Clara counties on March 16, 2020. Due to these lockdowns, Caltrain ridership in April 2020 fell to just 2.4% of what it had been in April 2019.

In the two years following the initial pandemic shutdowns, Caltrain service levels were adjusted to match the changing levels of demand from riders. Weekday service was reduced from 92 trains per day to 42 on March 30, 2020, but then increased to 70 on June 15, 2020. On December 14, 2020, total weekday daily trains dropped slightly to 68, but off-peak service was increased to better fit the needs of essential workers. Weekday service returned to 70 trains per day on March 22, 2021. Finally, weekday service was increased to 104 trains per day on August 30, 2021.

As shown in Figure 2, Caltrain ridership has grown each year since the start of the COVID-19 pandemic. Between FY2023 and FY2024, total Caltrain ridership increased by 20.6%. However, lasting impacts of the pandemic, like the widespread transition to remote work, continued to affect Caltrain ridership.

**Figure 2: Total Monthly Ridership, FY2019-FY2024**



**Figure 3: Total Monthly Ridership and Pandemic Recovery Rate, FY2024**

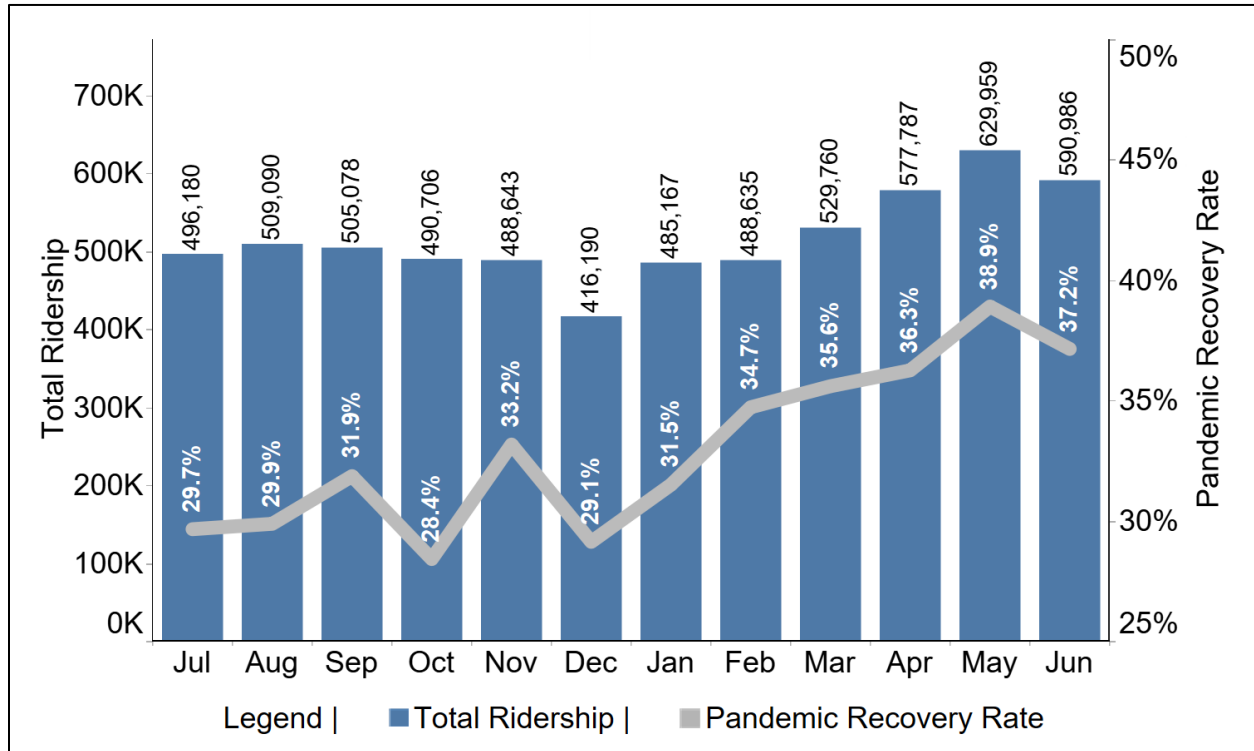
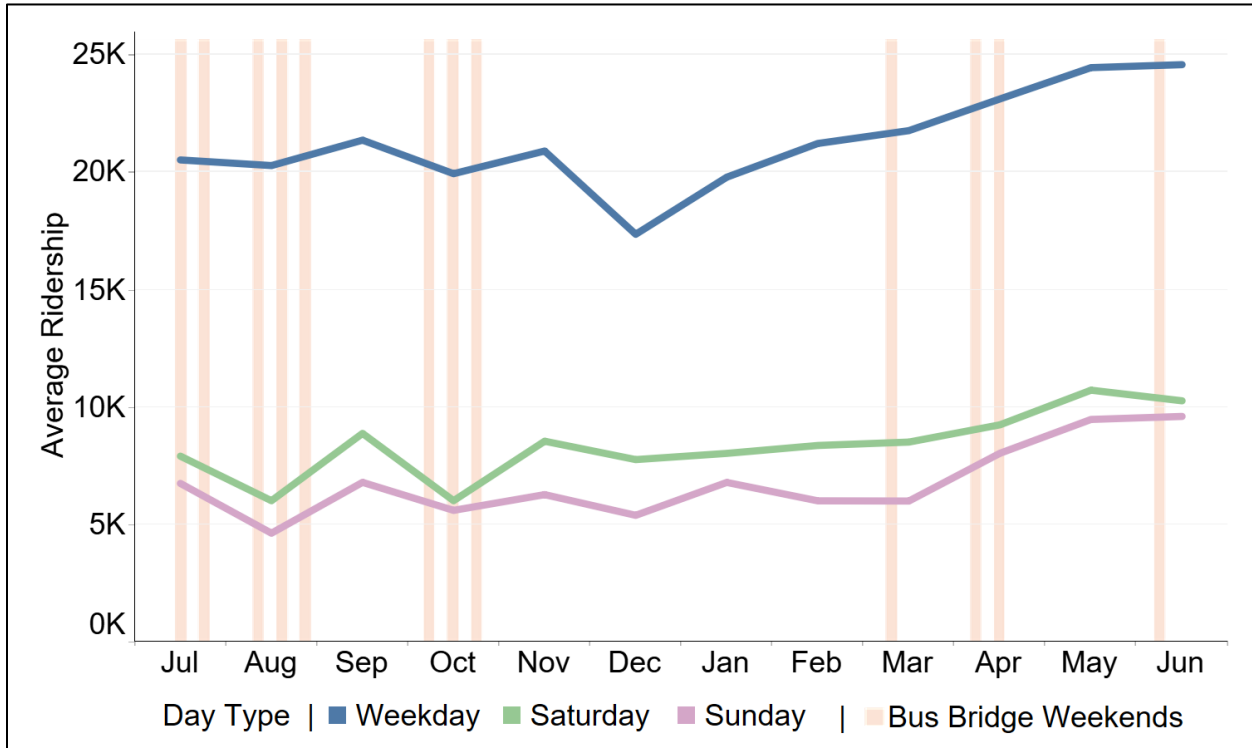


Figure 3 shows Caltrain's pandemic recovery rate for each month of FY2024. The pandemic recovery rate is calculated by comparing the month's total ridership to that of the same pre-pandemic month (March 2019 – February 2020). The pandemic recovery rate increased from less than 30% at the start of FY2024 to a peak of nearly 39% in May 2024.

### 7.3. Ridership by Day Type

As in previous years, weekday ridership was significantly higher than Saturday and Sunday ridership in FY2024. Figure 4, below, summarizes average ridership by day type for each month in the fiscal year. Bus bridge weekends are highlighted by the orange vertical bands. August and October both had three bus bridge weekends and consequently experienced significant decreases in their average Saturday and Sunday ridership.

**Figure 4: Average Weekday, Saturday, and Sunday Ridership, FY2024**



Despite the multitude of weekend bus bridges that occurred in FY2024 (see **Section 5. FY2024 Service Changes**), Saturday and Sunday ridership experienced better pandemic recovery rates than weekday ridership.

**Table 3: Average Monthly Pandemic Recovery Rate by Day Type, FY2024**

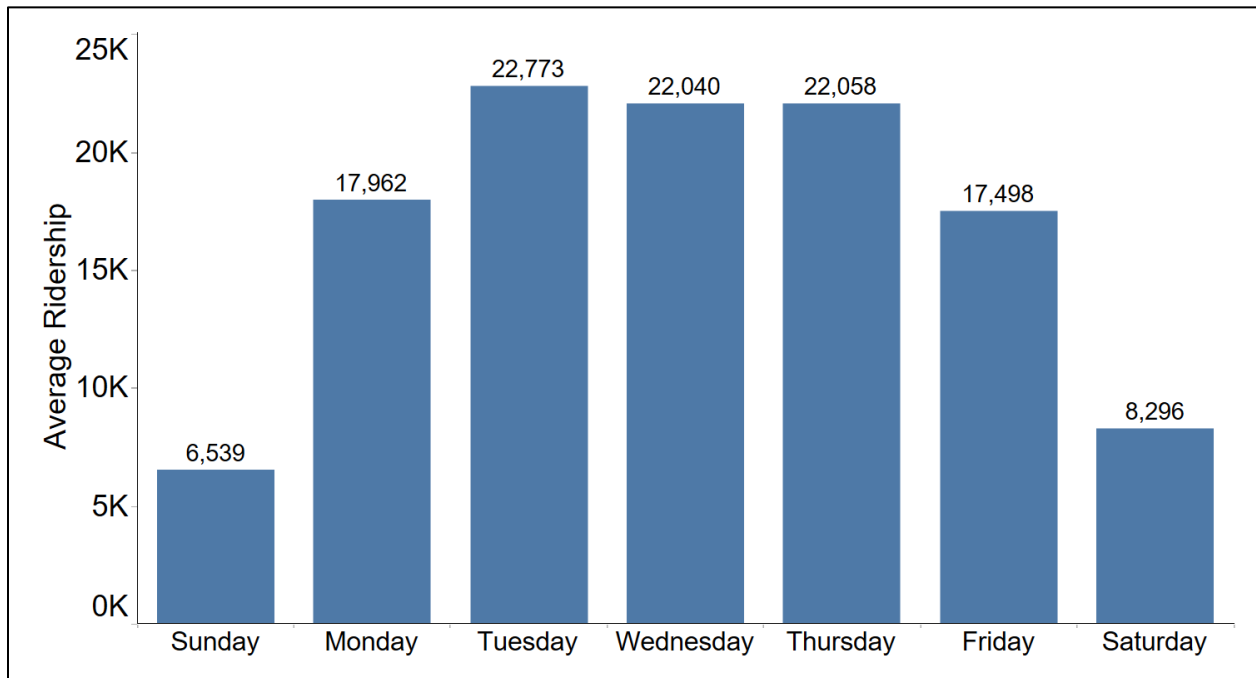
Day Type	Average Monthly Pandemic Recovery Rate
Weekday	31.1%
Saturday	54.1%
Sunday	61.6%

#### 7.4. Ridership by Day of Week

Prior to the pandemic, Caltrain’s ridership was slightly higher on mid-weekdays (Tuesday, Wednesday, and Thursday) than Monday or Friday. Data from the 2013-2017 Annual Passenger Counts found that, on average, Monday and Friday ridership was 1% and 9% lower than mid-week ridership, respectively. The 2018 and 2019 Annual Passenger Counts did not record Monday or Friday ridership.

In FY2024, the discrepancy between mid-weekday ridership and Monday/Friday ridership was much higher than pre-pandemic levels. As seen in Figure 5, average mid-week ridership was 27.4% higher than average ridership on Monday and Friday. This trend is likely a reflection of the growing transition toward hybrid remote work schedules. A survey<sup>1</sup> from November 2023 of individuals living within a few miles of the Caltrain corridor found that over 50% of people report working remotely at least one day a week.

**Figure 5: Average Ridership by Day of Week, FY2024**



<sup>1</sup> EMC Research, “Caltrain Q4 2023 Ridership Recovery Survey”

## 7.5. Ridership Impact of Giants Games

Because Oracle Park is located less than a quarter mile from San Francisco Station, Caltrain is a popular option for attendees of San Francisco Giants home games. During the Major League Baseball season (typically April-October), Giants game attendees make up a significant portion of Caltrain’s ridership. While there are no data on exactly which passengers attend events at Oracle Park, Caltrain ridership is significantly higher on days with Giants games. Table 4 compares average ridership for the entire Caltrain system on days during the Giants season when they play at home and average ridership when they play on the road. In FY2024, the most significant impact to ridership occurred on Sundays, with ridership nearly doubling on days when the Giants played home games.

**Table 4: Average Ridership by Day Type & Giants Game Location, FY2024**

Day Type	Giants Game Location		Difference	
	Away	Home	Absolute	Percent
<b>Weekday</b>	20,546	23,571	+3,025	+14.7%
<b>Saturday</b>	7,666	10,610	+2,944	+38.4%
<b>Sunday</b>	5,960	8,705	+2,745	+46.1%

## 7.6. Additional Ridership Data from Fare Media Model

This section includes summaries of datapoints that are only available from the Fare Media Model. *Data for FY2024 in this section and tables includes only the months of November 2023 through June 2024.*

### 7.6.1. Ridership by Origin Station

Prior to the release of the Fare Media Model, the most recent station-specific ridership data Caltrain reported was from the 2019 Annual Passenger Count. Because the 2019 count reported Average Mid-Week Ridership (AMWR), station-specific ridership for FY2024 is also presented as AMWR.

In FY2024, Baby Bullet service stopped at the following stations: San Francisco, 22<sup>nd</sup> Street, Millbrae, Hillsdale, Redwood City, Palo Alto, Mountain View, and San Jose Diridon. Boardings at these eight stations accounted for 67.8% of overall AMWR in FY2024 (for the months which station-level data was available), down slightly from 70.3% in the 2019 Annual Passenger Count.

Caltrain’s Southern Santa Clara County service includes peak-direction service to Capitol, Blossom Hill, Morgan Hill, San Martin, and Gilroy stations. Total estimated AMWR at these stations was 319 in FY2024, down from 752 in 2019. Note that FY2024’s station level ridership data was collected in the months after the addition of a fourth daily round trip to the Southern Santa Clara County service.



Table 5, below, summarizes AMWR by station from the 2019 Annual Passenger Count and the available months of FY2024.

**Table 5: Average Mid-Week Ridership by Station, FY2024 & 2019 Passenger Count**

Origin Station	2019 Count Rank	2019 Count AMWR	FY2024 Rank	FY2024 AMWR	Difference in Rank
San Francisco	1	15,027	1	4,803	0
Palo Alto	2	7,384	2	2,889	0
Mountain View	4	4,560	3	1,703	+1
Redwood City	5	4,220	4	1,624	+1
San Jose Diridon	3	4,795	5	1,547	-2
Millbrae	8	3,194	6	1,222	+2
Hillsdale	6	3,217	7	1,212	-1
Sunnyvale	7	3,208	8	1,140	-1
San Mateo	9	2,324	9	914	0
22nd Street	10	1,872	10	854	0
Menlo Park	11	1,639	11	646	0
Santa Clara	16	1,074	12	595	+4
Lawrence	18	1,004	13	513	+5
Burlingame	15	1,131	14	474	+1
San Carlos	14	1,341	15	471	-1
California Ave	12	1,634	16	458	-4
Belmont	20	718	17	454	+3
South San Francisco	22	453	18	418	+4
San Antonio	17	1,017	19	414	-2
San Bruno	19	751	20	233	-1
Hayward Park	21	506	21	225	0
Tamien	13	1,422	22	211	-9
Morgan Hill	24	251	23	100	+1
Gilroy	25	187	24	95	+1
Bayshore	23	260	25	95	-2
Blossom Hill	26	159	26	57	0
College Park	27	103	27	43	0
Capitol	29	71	28	38	+1
San Martin	28	84	29	29	-1

In addition to the stations listed in the above table, Caltrain operated weekend-only service at Broadway station in the city of Burlingame. Broadway averaged 43 boardings per weekend day in FY2024.

Table 6, below, compares Average Mid-Week Ridership by the three counties Caltrain serves, Santa Clara County, San Mateo County, and San Francisco County. Santa Clara County had the highest share of total AMWR in both 2019 and FY2024. San Mateo County's share of total AMWR from 2019 to FY2024

increased from 30.6% to 32.8%, while San Francisco County’s share of total AMWR from 2019 to FY2024 decreased from 27.0% to 24.5%.

**Table 6: Average Mid-Week Ridership by County, FY2024 & 2019 Passenger Count**

County	2019 Count AMWR	% of Total AMWR	FY2024 AMWR	% of Total AMWR
San Francisco	17,159	27.0%	5,752	24.5%
San Mateo	19,491	30.6%	7,705	32.8%
Santa Clara	26,948	42.4%	10,020	42.7%
<b>TOTAL</b>	<b>63,597</b>	<b>100.0%</b>	<b>23,477</b>	<b>100.0%</b>

**7.6.2. Ridership by Fare Product and Fare Type**

Fare Type refers to the two classifications of fares available to Caltrain riders: Adult (full price) and Eligible Discount. Eligible Discount tickets are available to seniors, persons with disabilities, youth, and Medicare cardholders, at approximately 50 percent of the full-fare price. In FY2024, an estimated 12% of trips were taken using Eligible Discount Tickets and the remaining 88% of trips were taken using Adult fare tickets.

Fare Distribution Channel refers to the platform that Caltrain fare is purchased and/or stored. As shown in Table 7, the most popular Fare Distribution Channel was the Clipper card, which accounted for an estimated 68.3% of trips in FY24. Compared to paper tickets purchased from Ticket Vending Machines (TVM), Clipper one-way tickets are discounted at 55 cents for Adult fare and 15 cents for Eligible Discount fare. Additionally, Clipper cardholders can get free or discounted rides when transferring from Caltrain to a connecting service with AC Transit’s Route M, Muni, SamTrans and VTA.

Also shown in Table 7, the One-Way pass was the most popular Ticket Type, at 53%. The next most popular pass type is the GoPass, at 20.4%, which is exclusively available through partnerships with companies, schools, and cities for their employees and/or students.

**Table 7: Fare Distribution Channel and Ticket Type, FY2024**

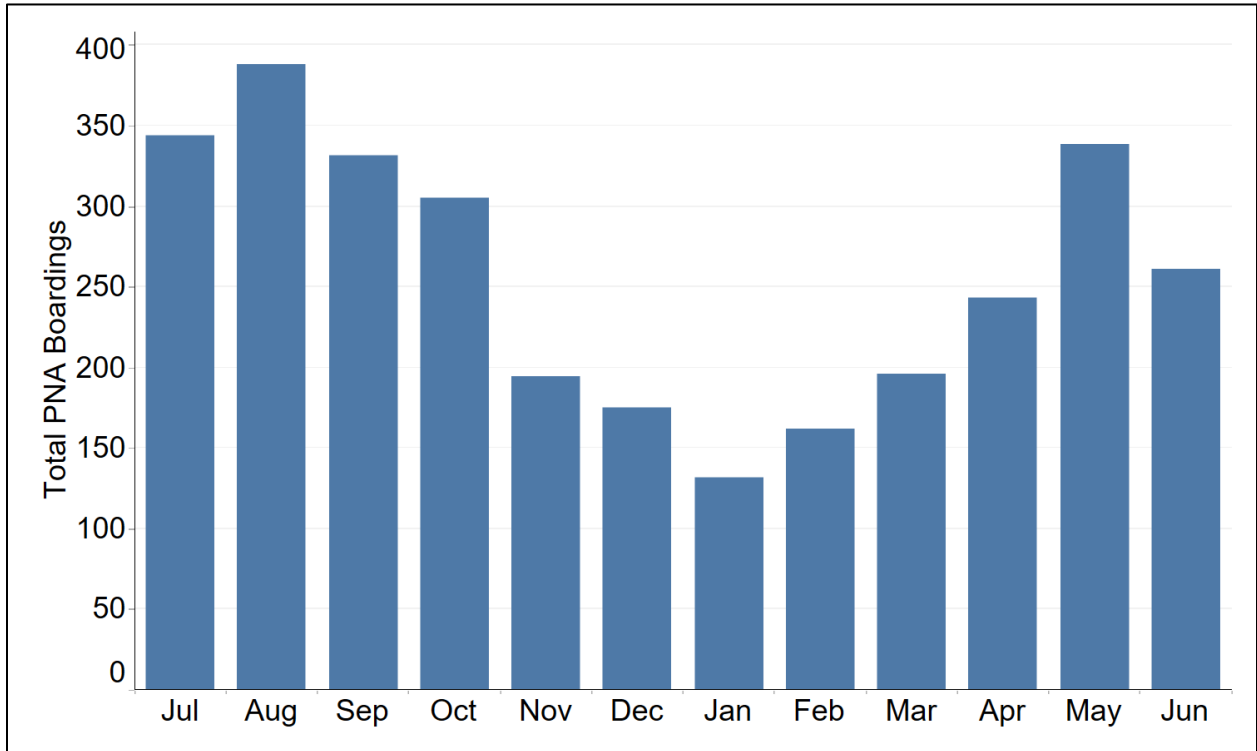
Ticket Type	Fare Distribution Channel				TOTAL*
	Clipper	Mobile App	Sticker	Ticket Vending Machine	
Day Pass	-	3.9%	-	6.1%	<b>10.2%</b>
GoPass	12.8%	-	7.6%	-	<b>20.4%</b>
Monthly Pass	16.4%	-	-	-	<b>16.4%</b>
One-Way	39.0%	5.7%	-	8.2%	<b>53.0%</b>
<b>TOTAL*</b>	<b>68.3%</b>	<b>9.7%</b>	<b>7.6%</b>	<b>14.3%</b>	<b>100.0%</b>

\*Percentages may not sum due to rounding.

### 7.7. Passengers Needing Assistance Ridership

Although the implementation of the Fare Media Model removed the need for on-board conductors to collect counts for system-level ridership estimates, they have continued to collect data on PNA boardings. A PNA boarding is determined by use of the mechanical lift (on Gallery cars), bridge plate in conjunction with the mini-high platform (on Bombardier cars), or manual lift which are stored at the stations. The average total monthly PNA boardings in FY2024 was 256.

Figure 6: Total Monthly PNA Boardings, FY2024



### 8. Next Steps

Caltrain will continue to use the Fare Media Model for its monthly ridership reporting in FY2025. However, the railroad is scheduled to begin operation of fully electrified service between San Francisco and San Jose in September 2024. Caltrain’s new Electric Multiple Unit (EMU) trains will be equipped with APCs at each door and will provide the agency with detailed station-specific ridership counts. Once the EMU APC system has been thoroughly validated, it will take the place of the Fare Media Model for reporting purposes. The model may still be maintained for internal planning purposes, as it provides valuable ridership estimates by fare distribution channel, fare type, and ticket type.

**Peninsula Corridor Joint Powers Board  
Staff Report**

To: Board of Directors  
Through: Michelle Bouchard, Executive Director  
From: Dahlia Chazan, Chief, Caltrain Planning  
Subject: **Receive Update on Caltrain’s Draft 10-Year Capital Improvement Plan (CIP)**



Finance Committee  
Recommendation



Technology, Operations, Planning,  
and Safety Committee  
Recommendation



Advocacy and Major Projects  
Committee Recommendation

**Purpose and Recommended Action**

This item is for information only and does not require action by the Board of Directors (“Board”) of the Peninsula Corridor Joint Power Board (“JPB”).

The presentation will describe the intent of the CIP and introduce the components of the 10-Year CIP Document.

Staff will come back in November for the adoption of the CIP by the Board and to request delegation of limited authority to the Executive Director or designee to make regular updates to the portfolio of capital projects and programs (Appendix A and B).

**Discussion**

**Background** – In May 2024, Staff provided an update on Caltrain’s 10-Year Capital Improvement Plan (“CIP”) Development Project, the progress made in the development of the Caltrain’s portfolio of capital projects and programs and introduced the foundations of the DRAFT Prioritization Framework (the decision support tool developed alongside the CIP). Since then, the team has made significant progress in the development of the 10-Year CIP itself and is presented for information.

**Intent of the CIP** – Caltrain’s CIP provides an aspirational roadmap of capital projects and programs to help achieve its mission, realize its vision, and reinforce its core values.

The CIP includes the following key features:

- Streamlines processes, such as the capital budget and provides essential information for pursuit of grant funding: the CIP provides an inclusive repository of all Caltrain’s capital needs and the basis of the capital budget. It helps identify preliminary information regarding each project. This enables the agency to develop a grant strategy for its capital program.
- Provides tools to identify, evaluate, and advance capital projects that yield the most benefits for Caltrain: the CIP includes a prioritization tool that help align capital projects with the agencies mission and values.

- Communicates Caltrain’s capital needs and priorities to its funding partners: The Caltrain CIP is a collaboratively developed document that serves as a reference for member agencies and local communities. It offers a transparent overview of upcoming projects and programs, highlighting Caltrain’s priority initiatives.
- Helps Caltrain plan ahead for capital project delivery: By understanding the pipeline of capital projects, the agency is able to staff its teams to respond to the needs in coming years.

**Engagement** – As one of the main audiences for the CIP, Caltrain's member agencies reviewed the document before its public release. The transportation authorities offered valuable feedback on the information they wished to see included and how it should be presented. Additionally, they participated in a series of workshops to help define what constitutes a systemwide project for future funding. Their insights have been incorporated into the CIP.

The CIP will also serve as a key foundation for our ongoing discussions with member agencies regarding funding allocation and a renewed capital budget process. To facilitate this, staff are currently planning additional workshops with the member agencies to evaluate the eligibility of Caltrain's priority projects for funding. The outcomes of these workshops will be incorporated into the constrained version of the CIP, the 4-Year Rolling Program, which will identify the projects Caltrain has the capacity to deliver. This process will also ultimately feed in the two-year capital budget.

**The Portfolio of Capital Projects and Programs** – Over the past year, staff from all departments at Caltrain have been working together to document the railroad's capital needs and contributed their expertise to assess and evaluate these projects.

This collaborative effort led to the creation of the portfolio of capital projects and programs, listed in the tables in *Appendix A* of the CIP and described in greater detail in *Appendix B*. It includes more than 140 capital projects and programs that Caltrain expects to undertake over the next ten years. Those projects are organized in seven Strategic Initiatives, each serving a specific purpose and telling the story of what Caltrain intends to accomplish. Those initiatives were presented at the TOPS Committee of May 2024.

Among the 140 projects, more than 110 capital projects and programs are initiated and sponsored by Caltrain and divided into five Strategic Initiatives:

- Mandate, Compliance and Emergency Projects: Projects that Caltrain must carry out due to regulatory requirements or state and federal laws, which are typically time sensitive.
- Provide a Safe and Secure Railroad: Safety is Caltrain’s core value. This program of projects enables a safe and secure operating environment for all: the communities, our passengers, and our employees.
- Maintain Core Services: This initiative includes capital projects and programs critical to providing core service levels. This encompasses the ongoing state of good repair programs that allow Caltrain to proactively prevent asset failures, capital projects to replace outdated or obsolete assets, and crucial planning functions.

- Enhance Service and Customer Experience: These projects involve acquiring new assets or upgrading existing ones. They enhance system performance, improve customer experience, and enable operational improvements that offer greater flexibility.
- Deliver on the Long-Range Service Vision: The Caltrain Business Plan identifies these essential projects for implementing the Board- Adopted Moderate Growth Service Vision of eight trains per hour per direction in the peak period.

Caltrain is also committed to advancing local and regional projects by collaborating with local communities and supporting regional efforts, as outlined in two additional Strategic Initiatives that comprise the remaining 30 projects:

- Partner with Local Communities: This initiative includes projects developed in partnership with local jurisdictions, such as the grade separation projects.
- Contribute to the Region's Economic Vitality: Projects and programs of regional significance developed through a multi-agency's partnership are included in this initiative.

The funding needed to deliver the program varies over time and among the Strategic Initiatives. The 10-Year CIP is not financially constrained. New funding strategies and sources will need to be identified to support the recurring SOGR needs and to advance enhancement and expansion projects identified in the 10-Year CIP.

**The Prioritization Tool** – The CIP introduces a new methodology for evaluating, scoring, and ranking Caltrain-owned capital projects and programs against its mission statement, using four pillars: Safety, Reliability, Accessibility, and Sustainability.

The tool scores capital projects and programs on the magnitude of the benefit they provide for each pillar. The prioritization tool reflects the agency's priorities of today:

- Safety as one of Caltrain's core values is given the highest weight.
- Reliability, which focuses on maintaining SOGR and improving service reliability, is given the second highest weight since it is essential to a world-class passenger travel experience and to regain ridership.
- Following the electrification and related service disruptions throughout the past years, the Inclusive Passenger Experience is essential to attract new and keep existing riders.
- To address the operating deficit, the financial sustainability of capital projects, which refers to operations and maintenance (O&M) costs and potential revenue generation, is given the highest weight within the Sustainability pillar.

Projects included in the *Partner with Local Communities* and *Contribute to the Region's Economic Vitality* are not evaluated and prioritized along with Caltrain-owned and led projects and programs. Still, the latter are prioritized in the Rolling Program to determine Caltrain's involvement and resource allocation over the next four years. Prioritization of these projects considers the project's development stage and its impact on Caltrain's main line and operations. *Mandate, Compliance, and Emergency Projects* are evaluated depending on the timing of their implementation.

The Portfolio of Capital Projects and Programs (Appendix A) is organized by priorities within each strategic initiative showing projects ranking higher first. *Appendix B* of the CIP provides information regarding the benefits of each project related to the four pillars.

**CIP Integration** - Staff work internally to integrate with existing and new processes to ensure the CIP is a living tool and stays relevant for the agency. This includes on-boarding new projects, updating existing projects and collecting additional information to improve future iteration of the CIP.

**Next Steps** – Staff are presenting to the Local Policy Makers Group (LPMG) in October. As this is an informational item, staff will come back next month for the adoption of the CIP and delegation of authority to regularly update the appendices. Once adopted, the CIP will be used to develop a strategic funding plan. The strategic funding plan will provide the framework for long-term funding strategy discussions with Caltrain’s funding partners. As Caltrain policies are updated and developed they will be reflected in the CIP, including the Access Policy, Adopted Service Vision, and Transit-Oriented Development Policy.

In parallel, staff are actively working on the development of the 4-Year Rolling Program and to prepare for engagement with the member agencies regarding funding allocation. The Rolling-Program outlines the projects that Caltrain has the capacity to deliver and is developed alongside a renewed Capital Budget Process. Staff plan to bring an informational item on the 4-Year Rolling Program in early 2025.

**Budget Impact**

The development of the CIP does not have a direct impact on the budget. The 10-Year CIP provides a roadmap for capital investment and an evaluation tool for the agency to invest its resource in projects that yield the most benefits to the agency.

Prepared By: Lyne-Marie Bouvet      Principal Planner, Capital      650-508-6446  
Improvement Plan

**Peninsula Corridor Joint Powers Board  
Staff Report**

To: Board of Directors  
Through: Michelle Bouchard, Executive Director  
From: Navdeep Dhaliwal, Government and Community Affairs Officer  
Bella Conferti, Government and Community Affairs Specialist  
Liliam Perez, Government and Community Affairs Specialist  
Subject: **Receive Update on Pass Forward Program**

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

**Purpose and Recommended Action**

The purpose of this report is to provide an update on the accomplishments of the Pass Forward Program in Fiscal Year (FY) 2023 and a preview of the program strategy for FY24. This report is for informational purposes only. It requires no action.

**Discussion**

Staff will provide a summary of the accomplishments and developments of the Pass Forward Program for Fiscal Years 2023-2024. The report will highlight FY24 enrollment statistics, the program's marketing rebrand, and continued growth strategies planned for FY25.

The Pass Forward Program is a key Caltrain initiative designed to enhance diversity and expand ridership across the system.

**Budget Impact**

The Pass Forward Program operates with an annual budget of \$60,000, which is currently sufficient. Staff is not seeking Board approval for any additional costs.

Prepared By:	Bella Conferti	Government and Community Affairs Specialist	650-647-3498
	Liliam Perez	Government and Community Affairs Specialist	650-399-5981



**Peninsula Corridor Joint Powers Board  
Staff Report**

To: Board of Directors  
Through: Michelle Bouchard, Executive Director  
From: Dahlia Chazan, Chief, Caltrain Planning  
**Subject: Receive Update on Transit 2050+**

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

**Purpose and Recommended Action**

The purpose of this update is to provide information on Transit 2050+, including a background of the project, and present the Draft Transit 2050+ Network, which outlines how to make trips faster and more frequent at all times of day and how to connect more communities by bus, train or ferry.

Staff proposes the Committee recommend the Board:

1. Receive the attached Draft Transit 2050+ Network Updates

**Discussion**

Transit 2050+ is a parallel long-range planning effort to Plan Bay Area 2050+ (a limited and focused update to Plan Bay Area 2050, the region’s visionary long-range plan, adopted in October 2021) that is developing a first-of-its-kind plan to re-envision the future of the public transit network in the nine-county Bay Area. Staff from MTC and the region’s transit agencies (including Caltrain) have worked closely together to identify a series of improvements and investments that could be made over the next 25 years to keep the Bay Area’s transit system operating while expanding it for the future. Transit 2050+, as part of Plan Bay Area 2050+, neither funds specific infrastructure projects nor requires transit agencies to provide the final Network. However, project inclusion in the Transit 2050+ Network (as part of Plan Bay Area) ultimately has implications for funding eligibility and project advancement as it identifies a potential path forward for future investments and will serve as the Bay Area’s Regional Transportation Plan (RTP).

**Budget Impact**

There is no budget impact, however, Plan Bay Area 2050+ includes policies and investments to be implemented in the Bay Area at the city, county, regional or state level over the next 30 years.

Prepared By:	Andy Metz	Principal Planner, Regional Plans AC Transit Co-PM of Transit 2050+	206.992.6330
	Kara Vuicich	Principal Planner, Regional Planning Program Metropolitan Transportation Commission Co-PM of Transit 2050+	510.684.3377
	David Pape	Policy and Programming Manager, Caltrain	650.418.6025



DATE: OCTOBER 3, 2024

TO: PENINSULA CORRIDOR JOINT POWERS BOARD OF DIRECTORS

FROM: KATE JORDAN STEINER  
CHIEF FINANCIAL OFFICER

SUBJECT: CONTRACTS AND PROCUREMENT QUARTERLY REPORTS

Contracts and Procurement submits the following report to the Board of Directors (Board) on a quarterly basis:

- Pursuant to Resolution 2024-53: Contracts and Amendments for Information Technology Hardware, Software, Licenses, Maintenance Services, Professional Services and Technology-related Products and Services through Cooperative Purchasing Programs greater than \$250,000.

The report for the last quarter (July 2024 to September 2024) is attached.

**FY25 JPB POs for Cooperatives, Sole Source & Recurring IT Procurements >\$250K**

**JPB**

The purchases listed below are for Information Technology Licenses, License Renewals, Maintenance Service, and Professional Services

<b>Board Approved Authority</b>	
<b>Resolution #2024-53</b>	<b>\$3,000,000</b>
	<b>\$3,000,000</b>

**July 1, 2024 - September 30, 2024**

**1st Quarter**

PO Date	PO# or Contract#	Vendor	PO Description	PO Amount	Remaining Authority
				\$ -	
				\$ -	\$ 3,000,000.00

**October 1, 2024 - December 31, 2024**

**2nd Quarter**

PO Date	PO# or Contract#	Vendor	PO Description	PO Amount	Remaining Authority
				\$ -	\$ 3,000,000.00

**January 1, 2025 - March 31, 2025**

**3rd Quarter**

PO Date	PO# or Contract#	Vendor	PO Description	PO Amount	Remaining Authority
				\$ -	\$ 3,000,000.00

**April 1, 2025 - June 30, 2025**

**4th Quarter**

PO Date	PO# or Contract#	Vendor	PO Description	PO Amount	Remaining Authority
TBD	04-SAMTR-L-021	Giro			
			<b>TOTAL PO AMT TO DATE</b>	<b>\$ -</b>	<b>\$ 3,000,000.00</b>



**BOARD OF DIRECTORS 2024**

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MONIQUE ZMUDA

MICHELLE BOUCHARD  
EXECUTIVE DIRECTOR

**Date:** September 27, 2024

**To:** JPB Board of Directors

**Through:** Michelle Bouchard, Executive Director

**From:** James Harrison, General Counsel  
Nadine Fogarty, Director, Real Estate and TOD

**Subject:** Approval of Third Amendment to Ground Lease with HPS-San Mateo LLC

In December 2022, the Peninsula Corridor Joint Powers Board (JPB) entered into a long-term ground lease with HPS - San Mateo, LLC (HPS) for development of a residential transit-oriented development (TOD) at the Hayward Park Caltrain Station. The ground lease provisions include an early termination option, which allowed the developer to terminate the lease if it is unable to obtain financing for the project within nine months of the effective date of the ground lease (September 2023).

In August 2023, HPS requested an extension to the early termination option to provide the developer additional time to assemble financing for their project, given challenging financial market conditions. The JPB authorized the Executive Director, or designee, to approve a first Ground Lease Amendment (First Amendment) to provide a six-month extension to the early termination option. This First Amendment was approved in September 2023. The JPB also approved the potential for three additional six-month extensions, if requested by HPS and approved by the Executive Director in the Executive Director's discretion. As part of each amendment, the ground lease milestones are adjusted to allow HPS to continue to pay the Preliminary Term rent until the early termination option period has passed. In addition, the ground lease rents are to be adjusted upward at the time of each extension based on the Consumer Price Index (CPI), to account for the time value of money. Per the JPB resolution, in the event that additional extensions are requested, staff will develop a recommendation to the Executive Director based on an independent assessment of market conditions and information about the status of comparable planned apartment projects and shall provide a report to the

Board if any additional extensions are requested including the staff recommendation and the Executive Director's decision regarding the request.

In February 2024, HPS requested a second extension to the early termination option, which was granted in March 2024 based on a staff recommendation that was informed by an independent assessment of market conditions prepared by Colin Elliott of C.H. Elliott & Associates.

In August 2024, HPS requested a third extension to the early termination option. Staff again commissioned Colin Elliott to conduct an independent assessment of the request. His evaluation concludes that given that most comparable development projects continue to be on hold as developers wait for interest rates to come down and for market conditions to improve, it is reasonable for HPS to request the extension. Furthermore, he suggests that if the JPB were to solicit a new development partner the timeline for development would likely be extended.

Based on the analysis and conclusions described above, staff recommended that the Executive Director approve a third Ground Lease Amendment (Third Amendment) extending the early termination option for an additional 6 months. This amendment includes a 1.2 percent increase to the ground lease rents based on the CPI. The C.H. Elliott assessment is attached, and a copy of the agreement is available upon your request.