

CAPITOL CORRIDOR JOINT POWERS AUTHORITY
REQUEST FOR STATEMENT OF QUALIFICATIONS (RFSOQ)
TO PROVIDE
CALIFORNIA INTEGRATED TRAVEL STAFFING SUPPORT SERVICES
RFSOQ201819-02

The Capitol Corridor Joint Powers Authority (“CCJPA” or the “Capitol Corridor”) intends to enter into an agreement (“Agreement”) with a consulting firm (“Consultant”) to provide staffing support and day-to-day program development oversight and management of the California Integrated Travel Program (Cal ITP), which is currently managed by the Capitol Corridor Joint Powers Authority. Accordingly, CCJPA is issuing this Request for Statement of Qualifications (“RFSOQ”) to prospective Consultants (“Proposers”) as specified herein.

A. Service Description

The selected Consultant shall provide professional staffing support, program development, and day to day oversight and management of the California Integrated Travel Program (Cal ITP), an effort led by the California State Transportation Agency, in partnership with the CCJPA as the current Cal ITP funding recipient and de facto administrator. The role of the Consultant is to be a partner to the Cal ITP development process and assign and/or acquire key personnel to dynamically develop a multi-faceted, modular, and complex program. While significant work is expected to be conducted under this contract, there will also be procurement development activities that are developed by the selected Consultant that will be separately procured and completed. The winning CONSULTANT for this RFSOQ will not be eligible under California law to bid upon these activities since they will have been integral in developing the procurement effort. In these cases, the CONSULTANT to this RFSOQ will be required to oversee and guide work products of other potential RFSOQ consultants. Until dedicated leadership is provided to Cal ITP and dedicated governance authority is established, authority and direction for Cal ITP development will come from CCJPA and via an external Cal ITP steering committee. The type of professional services to be provided by the CONSULTANT is set forth in Attachment A, Scope of Services.

B. Funding Sources

The funding sources will be identified by CCJPA for each Work Directive (“WD”). In general, CCJPA will be using funds controlled directly by CCJPA or using state, regional, or local grant funds awarded to CCJPA.

C. California Public Records Act

This RFSOQ and any material submitted by the Proposer are subject to public inspection under the California Public Records Act (California Government Code Section 6250 et seq.), unless exempted by law.

D. Service Duration and Amounts

CCJPA intends to make one (1) award resulting from this RFSOQ, however the Consultant will be expected to acquire and obtain subconsultant expertise that will be paid from this award. This is

expected to be a major part of this activity so accounting and inspecting the work of all subconsultants and timely payment will be a significant responsibility of the Consultant. Said costs are anticipated to be reimbursed on a time and materials basis. This program was awarded \$27M of State funding under the TIRCP program and more funding may be provided at the discretion of CalSTA or via other funding sources.

We estimate a range of possible use scenarios for the entirety of the funding. The funds supporting the contract with this RFSOQ's winning CONSULTANT are for an initial contract of \$3M that would be expected to cover services provided during the first two years of the project, with option years to go beyond that point. The CCJPA's initial request of \$6M was allocated by the California Transportation Commission (CTC) on August 16, 2018 and is intended to cover this contract, CCJPA staff time, and additional related contracts. On an ongoing basis, the Consultant and the CCJPA/Cal ITP authority and the overseeing policy body for Cal ITP (the Cal ITP Steering Committee) will dynamically work to establish and maintain a budget to develop Cal ITP with sufficient resources.

The term of the Agreement entered into pursuant to this RFSOQ will be for **two (2)** years from the date of execution of the Agreement with three option years initially beyond the initial two years. Additional option years may be pursued at the discretion of CCJPA or its successor Cal ITP implementation agency. CCJPA will be the initial lead agency for administering Cal ITP but anticipates that a dedicated governance body will be established for Cal ITP implementation and administration. When Cal ITP governance transactions are enacted, this contract may be assigned by CCJPA to that governance authority. CCJPA or successor governance authority reserves the right to annually extend this Agreement if Cal ITP staffing needs remain and the Consultant agrees to the terms. Attachment F contains an example agreement regarding the assignment of this Cal ITP staffing contract to a future authority that will oversee the project after CCJPA. A final contract will be developed from this example basis to capture the intentions of this RFSOQ and the selected Consultants particular details or requirements, provided they are in accordance with California procurement law, sound contracting practices, audit requirements of the State of California, and other required contracting arrangements.

E. Pre-submittal Meeting

A pre-submittal webinar meeting will be held on Monday, October 1, 2018. The meeting will convene at 10:00am local time. The details for this webinar will be posted in due course on the CCJPA 'Opportunities' website where the electronic version of this RFSOQ was located (<https://www.capitolcorridor.org/opportunities/>). This website location will be the basis for CCJPA and Cal ITP steering committee communications to prospective RFSOQ respondents.

F. CCJPA/BART Procedures

The CCJPA is a California joint powers authority with six member agencies. The San Francisco Bay Area Rapid Transit District ("BART", or the "District") is the managing agency of the CCJPA. The CCJPA models its administrative procedures upon those utilized by BART. Accordingly, reference may be made in this RFSOQ to certain BART administrative procedures which have been adopted as CCJPA administrative procedures.

G. CCJPA's Agreement

The selected Consultant will be expected to accept and comply with the terms and conditions contained in the *Example CCJPA Contract Agreement* included as Attachment B and the *Example Provisional Cost Reimbursement and Rate Agreement* ("Rate Agreement") included as Attachment C. CCJPA reserves the rights to assign this agreement and its provisions to a dedicated Cal ITP governance authority once it has been established.

H. Compensation

1. Cost Reimbursement

- a. Costs shall be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with the cost principles of the Federal Acquisition Regulations as set forth in Title 48 Code of Federal Regulations, Part 31.
- b. CCJPA is seeking a time and materials basis of working with the selected Consultant. Time is hourly rate for the Consultant staff and their subconsultants inclusive of the hourly labor rates, overhead rates, insurance rates, etc., i.e., the collected costs of supporting the staff charges. Material charges will be travel, print production, room rental, and other hard goods or services that become non-labor unique costs that may be incurred by the project through the course of its development. Material costs are not to be input in the reimbursement rate agreement details – they should be pass-through costs.

Reimbursement for Consultant and its subconsultants shall be further limited to that allowed by a separate Rate Agreement. CCJPA will enter into an Agreement with the Proposer selected for award which will be developed consistent with the terms of the Rate Agreement, based on financial information furnished by the Proposer, including but not limited to the PROVISIONAL COST REIMBURSEMENT AND RATE DATA (to be submitted by all short-listed Proposer(s)), government final audited rates for previous years, audited financial statements, and any overhead or fringe cost analyses furnished by the short-listed Proposer(s).

- 1) Consultant is requested to segregate indirect costs in the following separate groupings: payroll additives, overhead and, if applicable, general/ administrative expenses. If there is a reason to deviate from this, the Consultant shall make notation of that fact.
- 2) Reimbursement for the costs of providing insurance coverages as set forth in Article 6.0, INSURANCE, of the Agreement shall be allowable only as an indirect cost.
- 3) If there is Consultant cost role for reimbursement for the costs of employee incentive compensation (including cash bonuses, suggestion awards, safety awards and other forms of incentive compensation) shall be allowable only as indirect costs. Furthermore, such costs shall be allowable only to the extent that they are paid or accrued:
 - (i) Under an agreement (in effect for thirty-six (36) months prior to award of the Agreement resulting from this RFSOQ) entered into in good faith between Consultant and its employees, or;
 - (ii) Pursuant to an established organization-wide plan or policy followed by Consultant (for thirty-six (36) months prior to award of the Agreement resulting from this RFSOQ) so consistently as to imply an agreement for such incentive compensation, as determined by the CCJPA in its sole discretion.

In no event shall distribution of any profits be allowable as a form of incentive compensation.

- 4) The following shall be allowable costs only to the extent that they are treated as indirect costs:
 - (i) All labor costs and associated costs incurred in the preparation, submission and support of any WD or modifications thereto, and change orders whether or not accepted by CCJPA;
 - (ii) All labor costs and associated costs identified with financial administration (as described in Article 1.6, FINANCIAL ADMINISTRATION, of the Agreement), including but not limited to the preparation, submission and support of requests for reimbursement.

2. Fixed Fee Basis and Objectives

- a. The CCJPA will seek to establish a fair and reasonable fixed fee for Consultant in performing the Scope of Services associated with the Agreement. The CCJPA's objective in negotiating a fixed fee is not necessarily focused on Consultant's profit; rather its objective is to compensate Consultant for performance over and above allowable and allocable costs based on considerations described below based on their hourly time spent in service of Cal ITP.
- b. Consideration will be given to such factors as the complexity of the work to be performed, the risk borne by Consultant, Consultant's investment, the amount of subconsulting (which is expected to be extensive for Cal ITP), the quality of its record of past performance, and industry and Consultant's profit rates for similar work.
- c. The CCJPA's fixed fee objectives are set forth in the Rate Agreement. CCJPA's objective relative to the fee for services provided under the Agreement is as follows:
 - 1) The fixed fee applicable to services to be performed under the Agreement shall not exceed 8% above allowable and allocable costs. The fixed fee shall be applicable to Consultant's direct labor and overhead, subject to the further restrictions as set forth below:
 - (i) Consultant shall receive no fee on any overhead/indirect costs in excess of an equitable and audited rate as determined by CCJPA.
 - (ii) Consultant shall also receive an additional 2% fixed fee above allowable and allocable costs on subcontractor/subconsultant work performed under the Agreement.
 - 2) Consultant shall receive no fee for other direct costs, such as material costs.

3. Administrative Procedures

The administrative procedures for compensation and method of payment are set forth in Article 1.6, FINANCIAL ADMINISTRATION, Article 3.0, COMPENSATION AND PAYMENT, and Article 14.0, SUBCONTRACTS, of the Agreement.

I. Non-Discrimination in Subcontracting

It is the policy of the CCJPA to ensure that Consultants that contract with the CCJPA do not discriminate or give a preference in the work of their subconsultants on the basis of race, national origin, color, ethnicity, or gender.

J. Statements of Qualifications Submittal

Firms interested in being considered for award of the Agreement must submit the following as part of their SOQ:

1. Letter of Interest not exceeding two (2) single-sided, letter-sized pages summarizing the firm's understanding of the Project requirements and why the Proposer is most qualified to perform the requested services (as supported by the SF 330 and organization chart referred to below).
2. U.S. General Services Administration Standard Form 330 ("SF 330"), "Architect-Engineer Qualifications," which is available at the following web site: <http://www.gsa.gov/forms>. The CCJPA will utilize the SF 330 to obtain and evaluate information from a Proposer (or joint venture) and subconsultants ("Project Team") about their professional qualifications and experience. The SF 330 provides general and specific instructions that should be followed to complete both Part I and Part II, unless otherwise indicated herein. Part I shall include information for the Key Personnel identified as team participants. Part II shall include information for the Proposer or each firm of the joint venture and subconsultants. In the event that the firm submitting a SOQ is a joint venture, the joint venture agreement must also be submitted as part of the SOQ. While Architect- Engineer Qualification formats are not ideal for Cal ITP, they have been judged to be a suitable format basis for presenting information to the evaluators of this RFSOQ.
3. Part I, "Contract-Specific Qualifications." Part I presents the qualifications for a specific contract. All sections of the SF 330 are to be completed as instructed in the SF 330 instructions, with the following additional instructions:

- a. Section D - Organization Chart of Project Team. The development of Cal ITP is expected to require coordination across a broad range of modular but inter-related subject areas, not all of which can be fully explored and staffed by Key Personnel at the time of RFSOQ response. Initially, however, the Proposer should provide an organizational chart showing some of the known Key Personnel team members, including those in the firm or outside the firm who would have specific oversight over key modular and/or thematic categories as described in the SOW (Attachment A).

Proposer shall submit a 'current' proposed Organization Chart reflecting their present understanding of how relevant team members and Key Personnel will work together across the various modular or thematic categories. On the chart, the contractual and reporting relationship of each member and the firm with whom he or she is associated should be identified, and if there are roles that remain as of yet unfulfilled, the conceptual expertise category for that role should be identified.

CCJPA and the Cal ITP Steering Committee reserve the right to work with the selected Consultant to obtain experienced subconsultant specialists who may not yet be identified as subconsultants at the time of RFSOQ response submittal, thus it is not necessary, and it is actually not recommended that all anticipated organizational roles be completely filled at time of RFSOQ submittal. Instead, it is more critical to demonstrate in an organization chart how the selected Consultant Key Personnel in the SOQ will be used to manage subcontracts, identify, and build relationships with subconsultant firms or other personnel who are brought into the team during the course of Cal ITP development. As such, the selected Consultant will be expected to continually update this organization chart as reflected by Cal ITP development.

In addition, the selected Consultant should also anticipate developing a peer agency technical and policy advisory team (e.g., Transport for London, UK, Entur, Norway, SBB, Switzerland) that is comprised of foreign integrated travel professionals (this is not to be established for the RFSOQ response). Either through contract or other compensatory relationships with their peer agencies, the Consultant will be asked to be the contracting vehicle and handle payment terms for compensating peer agencies' personnel for travel and time. Contract relationships with non-profit think tanks, transportation advocacy organizations, research organizations, other convening bodies related to Cal ITP objectives are also anticipated.

For these peer organization or agency relationships, no prospective Consultant sub-contracting terms should be secured for any peer technical organization or agency or personnel for the SOQ. However, when presenting the organizational chart, the existence of a peer agency technical/policy advisory team can and should be shown if the prospective Consultant team believes it is valuable to convey a key role for a peer agency or organization (or even personnel) in the SOQ and any oral interview. The role of a peer organization, the frequency of utilization, and means of engagement (e.g. video conferencing, travel to/from meetings) should be described in the response narrative whether in written or oral form. CCJPA makes no commitment to work with any peer organization as a sub-contractor in the future but will certainly consider in advisement the role of a proposed peer organization.

- b. Section E - Resumes for Project Team for the Agreement. Of the known Key Personnel team members, resumes (2-page limit) are to be submitted for up to five (5) of the proposed Key Personnel to be utilized under the Agreement. Those selected should be those personnel proposed who play a key thematic or modular oversight or leadership role as a partner to CCJPA and the Cal ITP Steering Committee. Key Personnel shall not be replaced for the duration of the Project without prior written approval from CCJPA. Key Personnel need not be the most valuable for the mission of Cal ITP but they could play a key role in accounting,

communications, or back office, all of which will be important to supporting the more visible Cal ITP work.

- c. Section E-19 - Relevant Projects or Programs. For the five (5) Key Personnel from the project team, each Key Personnel should be linked with up to three (3) listings per person of organizationally relevant projects or programs that, in the prospective Consultant's viewpoint, best illustrates how each of the Key Personnel were involved in relevant projects or programs. The listing for each project shall include a brief description (scope, size, cost, etc.) and provide the performance period (beginning date and completion date) of each project. The project description shall also include the specific role/responsibility of the individual and the duration that the individual worked on the project. Narrative should highlight the role of development and/or project management or delivery by that key person. In addition, provide a point of contact, telephone number, and email address for each project listed, as the CCJPA may choose to contact these references.
 - d. Section F - Example Projects or Programs Which Best Illustrate Proposer's Qualifications for this Agreement. Projects or programs listed in Section F must be relevant projects/programs, which were completed or are on-going by the Proposer. Select no more than three (3) projects or programs per consultant firm (prime and subcontractor) that demonstrate the Proposer's experience and capability to perform work similar to that required for this Agreement. In addition, identify which projects, if any, for which Project Team members have worked together.
 - e. Section H – Additional Information. Include a narrative in this section that discusses the Proposer's approach for performing professional services as required by Attachment A, Scope of Services. Limit the narrative to two (2) pages.
4. Part II, "General Qualifications." Part II presents the general qualifications of a firm or a specific branch office of a firm. Part II shall be submitted as instructed for the Proposer including, if a joint venture, for each firm of the joint venture and for each subconsultant.

K. Conflict of Interest

1. Depending upon the nature of the services performed, CCJPA Consultants are subject to the same conflict of interest prohibitions which apply to CCJPA and BART employees. These include, but are not limited to, the applicable conflict prohibitions of the Federal government, and the requirements of California law (including Government Code Sections 1090 et seq. and 87100 et seq., and Title 2, Division 6 of the California Code of Regulations.) Notwithstanding subsection 2 below, the CCJPA reserves the right to disqualify any Proposer under this RFSOQ if the CCJPA, in its sole discretion, deems that the potential for conflicts of interest is likely to impair or restrict the Proposer's ability to furnish services contemplated within the Scope of Services.
2. A conflict of interest review will be performed by the CCJPA during evaluation of the SOQs.

L. Project Team – Proposers shall provide information concerning the Consultant Project Team, by completing and executing Exhibit 1 to this RFSOQ.

M. Statement of Qualifications and Business References - Proposers (or each firm of a joint venture) shall complete and execute Exhibit 2 - Statement of Qualifications and Business References.

N. Exceptions to the Agreement

1. In order to meet the CCJPA's schedule requirements, it is critical that the Agreement be executed immediately following selection of a Consultant. Proposer shall be prepared to accept the terms and conditions of the Agreement immediately (a Sample Agreement for Consulting Services is provided as Attachment B).
2. If a Proposer desires to propose any changes in the Agreement, refer to Attachment E, PROTEST PROCEDURES. The Proposer must clearly identify in its SOQ each and every proposed change, the reasons therefor and the specific alternative language proposed. These factors will be taken into account during the CCJPA's evaluation of SOQs and/or during negotiations of fair and reasonable compensation. The CCJPA may develop price-related factors to be applied to any exceptions taken. **SOQs that take substantial exceptions to the Agreement or proposed compensation terms may be determined by the CCJPA, in its sole discretion, to be unacceptable and no longer considered for award.**

O. SOQ Due Date and Submittal Requirements

SOQs must be received by 3:00 pm local time (PST), on November 2, 2018.

1. Proposer's SOQ and all required attachments and forms shall be submitted to either of the following address:

Jim Allison, Manager of Planning
Capitol Corridor Joint Powers Authority
300 Lakeside Drive, 14th Floor East
Oakland, CA 94612

Envelopes or boxes containing SOQs shall be labeled on the outside packaging as follows:

"CCJPA RFSOQ201819-02, California Integrated Travel Staffing Support Services"

2. The number of copies of the SOQs to be furnished shall be as follows:
 - a. One (1) (hardcopy) complete copy, marked "ORIGINAL"
 - b. One (1) additional copy, excluding Exhibit 2, CONFIDENTIAL STATEMENT OF QUALIFICATIONS AND BUSINESS REFERENCES. This copy shall be clearly marked "PUBLIC RECORDS COPY" in conspicuous letters.
 - c. One digital version (USB) of the complete SOQ in Portable Document Format (PDF).
 - d. An Email with the digital version of the complete SOQ in PDF as attached or shown in the email as a link (e.g., Dropbox or OneDrive) to download the file(s) sent to jima@capitolcorridor.org

P. Rejection of SOQs

SOQs may be rejected if they show such items as: alterations of form; additions not called for; conditional SOQs; incomplete SOQs; irregularities which make the SOQ incomplete, indefinite, or ambiguous; improper markings and identification; or a signature by other than an authorized person.

Q. Evaluation Procedure

SOQs will be first evaluated as to responsiveness to the requirements of the RFSOQ and responsibility of the Proposer.

1. A SOQ will be considered responsive only if it complies in all material respects to the requirements of the RFSOQ.
2. A Proposer's organization will be considered responsible only if it has, or has indicated that it can obtain, the financial resources to fulfill successfully the requirements of the awarded Agreement and possesses the ability to perform successfully under the terms and conditions of an awarded Agreement.
3. If a SOQ is determined to be non-responsive, or a Proposer's organization is determined to be not responsible for the purposes of the RFSOQ, such SOQ and/or Proposer will not be considered for award.
4. Only those SOQs that satisfy the foregoing requirements will be evaluated and scored on the basis of the qualifications and experience of the proposed Key Personnel and the firm(s). A competitive range will be established and used to determine those Proposers who will be "short-listed" and proceed to the oral presentation stage.
5. After the most qualified Proposer has been identified (by the evaluation procedure described herein) the CCJPA will, for the first time, review pricing information. A detailed cost analysis will be performed and utilized in negotiations in arriving at fair and reasonable compensation.

R. Evaluation Criteria and Selection Process

The CCJPA will utilize the data submitted in the SF 330, the Organization Chart and related supporting narratives to evaluate and score the qualifications, experience, and approach of the proposed Cal ITP Team (including subconsultants). The basis of selection will be on demonstrated competence and professional qualifications of the Key Personnel (see Exhibit 2. Confidential Statement of Qualifications and Business References, Section 7) and submitting firms, in accordance with the provisions of California Government Code Sections 4525-4529.5. Subsequent to these evaluations, the oral presentation phase will be conducted for the short-listed firms.

Project Team qualifications (including subconsultants) are weighted at 15%, experience of the firm(s) is weighted at 10%, and approach to the various complex relationships involved in the Cal ITP is weighted at 25%. The Oral Presentation will be weighted at 40% and comprise an evaluation of oral communication skills combined with how qualifications, experience, and approach to the Cal ITP are conveyed. The final 10%, which will only be applied to those who are interviewed, will be rate costs. The scoring will be as follows:

- a. Project Team Qualifications (including subconsultants). Evaluation based on written submittal with a weight of 15%. The following criteria will be evaluated. Subsections 1. and 2. below are of equal importance.
 - 1) Qualifications and relevant experience of the Key Personnel relative to the Scope of Services, including how that experience can be applied to a state-wide objective that has only a loose model of development to follow and no equivalent scale of deployment.
 - 2) Ability to identify and explain any qualification weakness of the existing Project Team relative to the SOW coupled with a well-reasoned approach to acquiring

future Project Team members over time who can, when found, address any qualification gaps.

- b. Experience. Evaluation based on written submittal with a weight of 10%. The following criteria will be evaluated:

1) Demonstrated experience and knowledge of fare payment systems, banking systems, market analysis, qualifications/experience assessment, procurement process, business case development, development of data standards, trip planning components, project management, market branding, data security, communications, governance, satisfying legal requirements, risk management, data organization, among other subjects listed in the Scope of Services.

- c. Approach (25%). Approach will be evaluated blending the Project Team's experience, qualifications, experience and qualification gaps, and skill sets of the Project Team to be innovative, insightful, responsive, flexible, yet strategically directed in achieving Cal ITP project objectives as described in the Scope of Services. This is the most highly rated of all the criteria because this is where the vision of the CONSULTANT's team and their perceived direction of Cal ITP must be conveyed by the CONSULTANT team. This should be based on the state of the objectives for Cal ITP (see Attachment 1, Scope of Work - where the Cal ITP May 1 & 2 conference materials are referenced and also the www.californiaintegratedtravel.gov website), insights the CONSULTANT has, and the role of the key team members, their understanding of the state of trip planning, fare payment, databases, project management, fare products, and the many other influencing factors should all come together. A conceptual, very draft, and flexible scope of work blending together factors of timing, order, and key considerations perceived for Cal ITP would a suitable focal point to consider responding to this section. We are not looking for a final scope of work in this section but well-argued considerations that give evaluators an insight into how a prospective CONSULTANT team sees progression of Cal ITP over the ensuing months and years. CalSTA, CCJPA, and the Cal ITP Steering Committee are acutely aware that nothing like this has been proposed as a role for the State of California. The uncharted territory this presents against a backdrop of rapid change to mobility and technology should be well considered in the written and oral presentations considering approach.

The above-described scoring for Project Team Qualifications, Experience, and Approach will be used for the purpose of determining those firms with the highest scores to be short-listed and invited to an oral interview. The short-listed firms will be provided with the format of the oral interview and the Agreement format. The short-listed firms will also be requested to submit in a separate, sealed envelope the Provisional Cost Reimbursement and Rate Data (including direct and indirect rate information), which will not be opened until after completion of the oral interviews. This is included as Attachment D to this RFSOQ. The Provisional Cost Reimbursement and Rate Data of the firm deemed most qualified will then be opened and evaluated as 10% of the overall scoring. Said cost and rate data shall be valid for a period of one hundred eighty (180) days from the submittal date.

- d. Oral Presentation (40%). If selected for interviews, the oral presentation will be weighted at 40% of the total score used by the CCJPA to rank the SOQs. The criteria to be used in scoring the oral interview will again focus on the qualifications and experience of the Project Team as well as the Proposer's approach to the Project together with its demonstrated technical knowledge of Project requirements.

- e. Provisional Cost Reimbursement and Rate Data (10%). For those that are interviewed, proposed compensation rate sheets will be required for the key proposed consultants and/or their key subconsultants as conveyed in the written and oral presentations. These cost rate sheets (this is the term that will be used for this in the document unless noted) for

key personnel we be combined with the evaluating team's scoring of the written and orally presented qualifications/experience/approach to determine the best value for Cal ITP advancement. Best value is a subjective impression that will form for the evaluating team members based on their individual assessment of value from all they have seen written and seen and heard when it was presented. Cost rates will only be required from prospective CONSULTANTS if requested for an Oral Presentation.

f. Consultant Selection. All short-listed firms will be considered qualified. The SOQs will be ranked in relation to the cumulative total of scores from a) the written statement of the Project Team Qualifications, Experience, and Approach, and b) the oral interview and cost rate review. The highest scoring Proposer, on the basis of the cumulative total of scores from the written SOQ and the oral interview and cost rate sheet, will be deemed to be most qualified, and that Proposer will be selected to enter into negotiations regarding Agreement terms and conditions and fair and reasonable compensation. Failure to reach agreement on terms and conditions and fair and reasonable compensation will result in the formal conclusion of negotiations and the CCJPA will then undertake negotiations with the next most qualified firm.

g. Anticipated Selection Schedule. The tentative selection process schedule is as follows:

1. Release Date	September 21, 2018
2. Pre-Submittal Meeting	October 1, 2018
3. SOQ Submission Date	November 2, 2018
4. Notification - Short-list for Oral Interviews	November 16, 2018
5. Oral Interviews	November 30, 2018
6. Firm Selected for Negotiations	November 30 or December 3, 2018

The dates above are subject to change so please be mindful of the CCJPA's opportunities website (<https://www.capitolcorridor.org/opportunities/>) where postings about any changes to this RFSOQ will be conveyed.

S. Notification of Award and Debriefing

Proposers that submit a SOQ shall be notified in writing regarding the firm to be awarded the Agreement. Said notification shall be made within five (5) days of the date the CCJPA's Managing Director authorizes Award of the Agreement.

Firms that were not awarded the Agreement and desire a debriefing must request the debriefing in writing. Said request must be received by the CCJPA within five (5) days of the above-described notification of award.

T. Protest Procedures

Any protest or objection to this RFSOQ or other procurement procedures must be submitted in accordance with CCJPA's Protest Procedure, included herein as Attachment E.

U. Questions Regarding the RFSOQ

Questions regarding this RFSOQ or requests for additional information shall be directed in writing to the CCJPA's Contract Administrator. Official responses will be posted to the CCJPA Opportunities website and updated as necessary so please do check versions.

The members of the Cal ITP Steering Committee are identified in various documents found on the www.californiaintegratedtravel.gov website and a subset of them will be involved in award selection. Members of the Cal ITP Steering Committee have been asked to refer all inquiries

about Cal ITP or the RFSOQ to CCJPA's Contract Administrator. If a line of questioning is pursued by any member of a prospective RFSOQ response team with any Cal ITP Steering Committee member of than the CCJPA Contract Administrator, the Steering Committee member will report the conversation to the CCJPA Contract Administrator and the prospective vendor will be excluded from further consideration as a successful RFSOQ respondent. All inquiries shall be made to the CCJPA at least ten (10) calendar days before the SOQ submission date. Inquiries received less than ten (10) calendar days prior to such date may, at the CCJPA's sole option, not be responded to.

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This RFSOQ does not commit CCJPA to award an Agreement, to pay any costs incurred in the preparation of a submittal, or to procure or contract for any services. CCJPA reserves the right to reject any and all submittals received from this RFSOQ and reserves the right to negotiate with all qualified firms or to cancel this RFSOQ in whole or in part.

Documents Included in this RFSOQ are as follows:

- Attachment A Scope of Services
- Attachment B Sample Agreement for Consulting Services
- Attachment C Example Provisional Cost Reimbursement and Rate Agreement
- Attachment D Provisional Cost Reimbursement and Rate Data (to be completed by all consultant(s) only if selected for an oral interview)
- Attachment E Protest Procedure
- Attachment F Example Assignment of Contract

- Exhibit 1 Project Consultant Team
- Exhibit 2 Statement of Qualifications and Business References

ATTACHMENT A

SCOPE OF SERVICES

for the

CALIFORNIA INTEGRATED TRAVEL STAFFING SUPPORT SERVICES

1.0 INTRODUCTION

The Capitol Corridor Joint Powers Authority (“CCJPA” or the “Capitol Corridor”) is requesting consulting services to support development of the California Integrated Travel Program (Cal ITP). The consulting services will be utilized on a Work Directive basis to accomplish specific tasks or objectives of Cal ITP as administered at this time by CCJPA. It is anticipated that there will be an assignment of this contract to a future Cal ITP agency that is not yet established.

The Cal ITP is an effort to develop a statewide trip planning and fare payment system eventually incorporating all non-single occupancy vehicles (transit, bikeshare, ride-hailing, etc.). What must be considered and developed to support this effort were discussed at the California Integrated Travel Conference (see www.californiaintegratedtravel.gov) in May 2018. The website has key referential material including video links of the presentations and the presentations themselves. CCJPA worked as a partner with CalSTA and Caltrans to support this conference. A report from the conference is finalized and it is posted to the Cal ITP website (above). Between the materials on the above referenced website, the contents of this RFSOQ, and the opportunity for the pre-submittal webinar, the Cal ITP Steering Committee feel that the information available and presented will provide a reasonable opportunity to develop a SOQ, which may lead to an interview and selection of a CONSULTANT to enter into contract negotiations.

The CCJPA was awarded \$27M in funding from the Transit and Intercity Rail Capital Program (TIRCP) to carry forward from the conference into a pilot program that will involve the three intercity passenger rail services (the Capitol Corridor, the San Joaquin, and Pacific Surfliner) plus five or six key transit service locations (e.g., LA Metro, Coaster, Sacramento RT) where there are connections with the State’s Intercity Passenger Rail services. Of this \$27M, CCJPA has secured \$6M to initiate the next phase of the project. This will be a phased approach from early analysis, research, and an iterative scope development process through pilot testing and implementation. A strategic modular approach that builds towards celebratory milestones toward a time when modules will eventually work together is a suggested approach to project development is recommended from peer agencies such as Transport for London who have faced many similar challenges. It is working through these modular steps that the winning consulting team is expected to be involved. The expectation is that this contract will provide support as an extension of staff to the Cal ITP oversight team with an emphasis on the development of an approach to the analysis, consensus building, outreach to potential partners, project communications, oversight of product development, review of final products, and oversight of implementation. While numerous distinct contracts will be executed through the course of the project, the expectation is that the team will play a programmatic oversight role through the entire course of the project.

We anticipate an initial contract for \$3M to support at least the first two years of project development with option years with additional funds that may be applied as budget capacity is identified and created. CCJPA will reserve the right to add more funding from the overall \$27M as development of the Cal ITP program progresses and as such, the Consultant will be supplemented as funding needs arise and are justified. One additional cost that will be supported by the \$27M will be eventual establishment of a Cal ITP governance agency.

This RFSOQ is to obtain a core consulting team to serve as full-time staff of the Cal ITP effort. The team will bring their own expertise, qualifications, and experiences, but will notably serve as a conduit for other consultant specialists across a variety of disciplines. This core team should know the core Cal ITP overall objectives, organize themselves to develop and lead the effort with a variety of partners involved across the variety of disciplines. The team should be prepared to work in a collaborative manner, to take direction, suggest direction, and, when necessary, ask for direction from the already formed Cal ITP Steering Committee (see below for a description of the Cal ITP Steering Committee) and eventually, under direction of a California based governance body, e.g., an agency, that will assume the leadership role for developing Cal ITP. The team should fill a role the way staff would at a conceptual Cal ITP agency, where, by adhering to the Cal ITP principles and objectives, they eventually bring together the proper experts to shape, develop, test, and roll-out the pilot Cal ITP.

2.0 CALIFORNIA INTEGRATED TRAVEL STAFFING SERVICES

The subject areas to be addressed via Cal ITP development are extensive. The Cal ITP Steering Committee considers the various topics to be approached in a modular fashion, adhering to organizing principles that will bring the related topics together when strategically important. In an order of no importance and in a non-exhaustive listing, the following are brief descriptions of various important topics that would initially/eventually require some expertise either as consultants, procured expertise, and/or within the governance developed for Cal ITP (as mentioned before, building a team to address all areas of expertise initially is not a SOQ requirement):

- 1. Identification of Current Case - Survey California's public mobility services and operators, including existing trip data structures (trip planning, fare payment, right of way use, permits, etc), applications, transaction costs, etc. Costs of existing transactions should be expressly understood.*
- 2. Communications Strategies and Outreach – strategic coordination of communications and messaging across topics for communication to various inter-agency and external groups.*
- 3. Brand Awareness – Build branding strategy of the Cal ITP products themselves, and as a complement to existing mobility and transaction brands.*
- 4. Data Standards Development – for trip planning, fare payment, right of way use permit data models, establishing a strategy and building the basis on which data exchange standards will be developed, adopted, or advanced.*
- 5. Data Security Strategies and Implementation – Building and implementing a best in class data security strategy and system and communicating the data security elements.*
- 6. Business Case Analysis and Business Plan Development – Development and testing of potential revenue models, rough costs, feasibility analysis, identification of risks, evaluation of opportunities for commercial investment and private sector investment, and implementation actions necessary to effectuate the Cal ITP vision of reduction transaction costs and increasing non-single automobile use.*
- 7. Identifying/Recruiting Expertise – Researching, interviewing, vetting, and matching personnel or firm expertise to Cal ITP personnel needs including subcontracting, procuring, and/or seeking key staffing roles to be filled.*
- 8. Program Management – Skills at managing modular topics and delivery according to their developed schedules, developing manageable deliverables that relate to overall Cal ITP objectives and keeping the modularity the program on an overall strategic delivery schedule.*

9. *Survey and Analysis – Developing and administering surveys, analyzing and communicating survey results, and translating results into implementable actions.*
10. *Working with Global ITP Experts – Creating and sustaining participation from global ITP Policy and Program Review expertise from peer mobility or other agencies that are analogs for various aspects of the Cal ITP development.*
11. *Technology Analysis/Evaluation – assessment of existing and potential hardware and software ecosystems that could be required for implementation.*
12. *Banking and Payment Processing Analysis, Strategies, and Relationships – A complete assessment of payment processing instruments, technologies, and conducting negotiations with the banking and payment processing industries fulfilling Cal ITP objectives including consideration of related State coordination on other banking objectives (e.g. across the health and social services delivery spectrum).*
13. *Equity and Disadvantaged Community Strategies and Integration – Research and communications related to all Cal ITP aspects that develop policy and delivery responses to resolve equity and disadvantaged communities for Cal ITP integration.*
14. *Governance Development and Implementation – Assist with establishing a permanent governing authority for Cal ITP leadership and implementation.*
15. *Fare Payment and Policy Analysis – Research and analysis related to the variety of fare policy options and how they can be integrated and implemented over time within the Cal ITP framework*
16. *Public Mobility Service Partner Innovations and Relationship – Suggesting a process of partnering, integrating with, or building from California public agencies, private operators and/or regional transportation planning agencies, or metropolitan planning organizations that have built or are working towards robust local or regional integration platforms that should inform or be incorporated into Cal ITP.*
17. *Commercial Partnerships – Developing relationships, negotiations, data exchange relationships, with the variety of emerging private mobility partners that are part of the integration landscape for the pilot and past the pilot stage.*
18. *Marketing Strategies and Implementation – Working with the Cal ITP communication experts in developing and implementing a marketing strategy for Cal ITP.*
19. *Consensus Building – Developing and conducting a team that is both technical and adept at building agreement across a broad range of stakeholders and skilled at engaging across multiple partnerships throughout all phases of program development and implementation. Sensitivity to interpersonal, political, interagency, and regulatory/inclusionary considerations coupled with a strong sense of adherence to the principles of Cal ITP working with partners and stakeholders is vital, but one that can be considered with policy leadership and direction from governmental partners.*

Other considerations as part of these services include:

- Project Management. The CONSULTANT's project manager for the proposed work must possess exceptional communication as well as technical skills. The project manager must be easily accessible, responsive, and a problem-solver.
- Ensure that the accuracy and the quality of the work products are provided for by way of CONSULTANT procedures and controls.
- A diversity of professional opinions is welcomed related to aspects of the above referenced subject areas including ones that may have differing opinions, We are aiming to have the winning CONSULTANT team as well as any future identified subconsultants to have

productive, timely, and professionally conducted discourse and, in the process, take strategic actions to achieve milestones in modular delivery across the vast disciplines involved. An overlap in skill sets, expertise, and experience of any member of the future Cal ITP team is a possibility, to ensure a richer source of expert opinions and advice are brought to bear on any aspect of the subject areas.

2.1 Administrative tasks:

CONSULTANT shall efficiently perform the tasks that are generally associated with the consulting services provided. This is expected to include record keeping, documentation of work progress, progress reports, correspondence and conducting communications with CCJPA and other agencies as required:

2.1.1 Communications/Meetings/Record Keeping:

- CONSULTANT shall maintain a communication tracking system, approved by CCJPA, which identifies all formal communications between CONSULTANT and CCJPA.
- CONSULTANT shall maintain a reasonable level of consulting team staff who attends meetings with the project team. CCJPA expects prudent management of the CONSULTANT's sub-consultant team so that project costs are minimized and tailored for the meeting tasks at hand.
- CONSULTANT shall be required to meet with CCJPA staff and members of the project team on a schedule to be determined by CCJPA and in consultation with the project team for each subproject. CONSULTANT will prepare and distribute a record of these meetings satisfactory to CCJPA within two (2) working days after the meeting.

2.1.2 Progress Reporting:

CONSULTANT shall prepare and submit to CCJPA monthly progress reports and invoices that include financial data in a format jointly developed with CCJPA for all active work directives. The report shall be submitted as an attachment to the invoice submittal. The report shall be submitted within ten (10) days following the end of each month unless otherwise specified by CCJPA.

2.1.3 Scheduling/Cost Management:

CONSULTANT shall develop schedules with deliverables and milestones for each subproject or task.

2.1.4. Quality Control/Quality Assurance ("QC/QA"):

CONSULTANT shall provide to CCJPA a QC/QA program to ensure the accuracy and quality of the work products provided to CCJPA for approval. The QC/QA program should focus on effectiveness with minimum cost to the Project.

3.0 PROJECT SUBMITTALS

CONSULTANT shall submit its Scope of Services and Project Submittals to CCJPA for review and comment. List of Project Submittals shall be determined by sub-project after discussions between CONSULTANT and CCJPA.

ATTACHMENT B

SAMPLE AGREEMENT FOR CONSULTING SERVICES

AGREEMENT

Between

CAPITOL CORRIDOR JOINT POWERS AUTHORITY

And

TO PROVIDE

CALIFORNIA INTEGRATED TRAVEL STAFFING SUPPORT SERVICES

CCJPA AGREEMENT NO. _____

2018

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Example Attachments

This is an example contract – as such the attachment references below are for illustrative purposes only. References within this Example Contract Agreement will be modified pursuant to the final form of the contract entered into with the selected consultant.

ATTACHMENT A: SCOPE OF SERVICES

(CCJPA intends to utilize the Scope of Services included as Attachment A to this RFSOQ)

ATTACHMENT B: KEY PERSONNEL LIST

(No example provided but this would list the Key Personnel for the environmental, initial design, and project management work)

ATTACHMENT C: COMPENSATION LIMITS, FIXED FEE AND ALLOCATION OF FUNDS

(No example provided but this will be based off of the Provisional Cost Reimbursement and Rate Data included as Attachment D and Cost Disclosure Statement D-1 of the RFSOQ)

ATTACHMENT D: PROJECT CONSULTANT TEAM

(No example provided but this would mirror the information required in Exhibit 1)

**TO PROVIDE
CALIFORNIA INTEGRATED TRAVEL STAFFING SUPPORT SERVICES**

CCJPA AGREEMENT NO. _____

Between

CAPITOL CORRIDOR JOINT POWERS AUTHORITY

And

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20__, by and between CAPITOL CORRIDOR JOINT POWERS AUTHORITY, a California authority for the joint exercise of power ("CCJPA") and _____("CONSULTANT"), with offices at _____.

RECITALS

This Agreement is made with reference to the following facts:

1. CCJPA proposes to obtain professional services for the on-call railroad service planning services of the Capitol Corridor intercity passenger rail service;
2. The operations service planning services provided in this Agreement cannot be performed satisfactorily by the officers and employees of CCJPA;
3. The parties hereto now wish to enter into this Agreement pursuant to which CONSULTANT will furnish on-call railroad service planning professional services as hereinafter provided.

* * *

A G R E E M E N T

In consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1.0 WORK TO BE PERFORMED

The parties agree that the work to be performed by the CONSULTANT under this Agreement shall be as hereinafter set forth in this Article 1.0;

1.1 SCOPE OF SERVICES

CONSULTANT's services are described in Attachment A, SCOPE OF SERVICES, incorporated herein and by this reference made a part hereof. CONSULTANT shall be responsible to perform or secure the performance of all requested services in their entirety subject to the prior written approval of work plan(s) ("Work Directive(s)" or "WD(s)") by a designated representative ("Project Director"). The Project Director may designate a different representative for each WD.

1.2 WORK DIRECTIVES

CONSULTANT shall provide services to CCJPA for the tasks as described in each WD subject to prior approval in accordance with the following procedures.

A. Work Directive Proposal Request

CCJPA will initiate a WD by transmitting to the CONSULTANT a Work Directive Proposal Request ("WDPR") that describes an initial task description and implementation schedule.

B. Work Directive Proposal

CONSULTANT will then prepare a detailed Work Directive Proposal ("WDP") and transmit it to CCJPA within the time specified in the WDPR. The WDP shall specify the following:

1. Services to be performed by the CONSULTANT (see Article 1.1 above and Attachment A);
2. Management Plan that includes a list of Key Personnel (see Article 1.5 below);
3. Budget Plan including a detailed cost estimate and a cost-loaded schedule;
4. Work Breakdown Structure;
5. Schedule;
6. List of subconsultants, their scope of work and estimated value of work;
7. Work products (see Article 1.1 above and Attachment A); and
8. WD project specific procedures (see Article 1.4, below).

C. WDP Evaluation

CCJPA will evaluate the WDP. In its discretion, CCJPA may request CONSULTANT to revise and resubmit the WDP.

D. Acceptance of WDP

CCJPA will notify CONSULTANT in writing whether a WDP has been accepted. A WDP not accepted in writing shall be deemed rejected.

E. Rejection of WDP

If a WDP or its revision is rejected, neither party shall have any rights or obligations arising out of the WDP or WDPR.

F. Acceptance of WD

Each WD shall be placed into effect by the Project Director and by the acceptance of the CONSULTANT. In addition, at any time during the course of the WD performance, the Project Director may revise the WD by project direction, subject to acceptance by CONSULTANT.

G. Conflict of Interest

Each WD shall incorporate the provisions of this Agreement by reference. A conflict of interest review will be performed by CCJPA prior to issuing project direction under a WD.

1.3 MANAGEMENT PLAN AND PROCEDURES

A. Management Plan

In response to a WDPR from CCJPA, at a minimum, CONSULTANT shall submit with each WDP a list of Key Personnel assigned as defined by Article 1.5 below.

CONSULTANT agrees not to make any substitution of subconsultants without prior approval of the Project Director after a WDP has been accepted in writing by the Project Director.

B. Management Procedures

Apart from any specific WDs, CONSULTANT and those subconsultants at any tier that CCJPA at its discretion may identify, shall develop, implement and maintain procedures, all subject to approval by CCJPA's Project Director, who gives direction as to the performance of the work by CONSULTANT or subconsultant personnel, including, but not limited to, performance of WDs.

The intention of the parties is for CONSULTANT or its subconsultants, to develop, implement and maintain clear, concise, and project specific procedures to give CCJPA reasonable assurances that all charges for direct labor and other direct costs are relevant and necessary to accomplish the WD scope.

1.4 PROJECT AND ORGANIZATIONAL PROCEDURES

A. Modification of Procedures

At the direction of the Project Director, pursuant to a WD, CONSULTANT shall develop or modify previously proposed WD project specific procedures in accordance with a schedule and in a form approved by the Project Director. Such procedures as developed or modified shall be specifically related to activities performed for the WD project and basic CONSULTANT functions including, but not limited to, the process of budgeting, invoicing, and submitting reports to CCJPA hereunder. The intention of the parties is for CONSULTANT to develop, implement and maintain clear and concise WD project specific procedures.

B. Additional Modifications

In addition to any specific WD project procedures as described immediately above, and apart from any specific WDs, CCJPA may require CONSULTANT to revise its WD project procedures other than those set forth immediately above in Article 1.3 that are used throughout its organization if they conflict with the requirements of this Agreement.

1.5 PERSONNEL

A. Key Personnel

CONSULTANT and CCJPA agree that the personnel listed in Attachment B, KEY PERSONNEL LIST, incorporated herein and by this reference made a part hereof, shall be designated as Key Personnel. CONSULTANT shall also make every effort to insure that the key personnel maintain, at a minimum, _____ percent (___%) of their proportionate share of the estimated number of hours for a WD.

CONSULTANT shall not remove any such Key Personnel prior to the completion of his/her assignment under the Project without the prior written approval of the Project Director, which approval will not be unreasonably withheld. CONSULTANT shall nominate a replacement individual to CCJPA and shall not remove any individual from the Project until his/her replacement has been approved by the Project Director.

B. Notice of Temporary Assignment

CONSULTANT shall provide the Project Director with written notice of the temporary assignment of any personnel to an individual WD Project.

C. Removal of Personnel

CCJPA's Project Director reserves the right to direct removal of any CONSULTANT or subconsultant personnel assigned to the Project when in CCJPA's opinion the individual's performance is unsatisfactory.

1.6 FINANCIAL ADMINISTRATION

Apart from any specific WDs, CONSULTANT and its subconsultants at any tier shall establish and maintain records pertaining to the fiscal activities of the Project. CONSULTANT's and subconsultants' accounting systems shall conform to generally accepted accounting principles and the following requirements:

A. Cost Breakdown

All such records shall provide, at a minimum, a breakdown of total costs charged to the Project, including properly executed payrolls, time records, invoices and vouchers.

B. Labor Charging Procedures

For work performed on a basis other than fixed price, CONSULTANT and those subconsultants at any tier that CCJPA at its discretion may require, shall develop, implement and maintain labor charging (i.e. time card, or payroll) procedures that meet the following criteria:

1. All time records shall be in writing, recorded by the employee and verified by the immediate supervisor. Such records shall (i) be complete, (ii) record all employee's activities, Project and non-Project related, within a given accounting period and (iii) identify by means of cost codes what activities were being performed.
2. All charges for labor (direct/indirect or hourly as appropriate) by personnel for the Project shall be identifiable to the nearest half-hour.

C. "California Public Employees" Retirement System (CalPERS) Compliance

To ensure compliance with state laws and regulations related to membership in CalPERS, CONSULTANT shall comply with the following requirements:

1. Written verifications regarding prior service at a CalPERS agency:
 - a. Prior to assigning an additional consultant to this Agreement, CONSULTANT shall request that the individual verify in writing:
 1. Whether or not the individual has previously worked for a CalPERS employer; and
 2. Whether or not the individual is a CalPERS retired annuitant.
2. CalPERS members - Employee contribution to CalPERS:
 - a. If the individual to be assigned to the position verifies that he or she has previously worked for a CalPERS employer and is not a retired annuitant, CONSULTANT shall require the individual to acknowledge in writing that if he or she is a CalPERS member, the employee contribution to CalPERS shall be deducted from each paycheck while performing work under this Agreement.
3. Limitations on Hours:
 - a. Retired annuitant: If the individual to be assigned to this Agreement verifies that he or she has previously worked for a CalPERS employer and is a CalPERS retired annuitant, CONSULTANT shall monitor the individual's work hours to ensure that the individual does not exceed 960 hours per fiscal year. CONSULTANT shall inform the Project Director in writing as soon as the individual accrues 900 hours, in order to allow for timely replacement.
 - b. No previous service at a CalPERS employer: If the individual to be assigned to perform work under this Agreement verifies that he or she

has not previously worked for a CalPERS employer, CONSULTANT shall monitor the individual's work hours to ensure that the individual does not exceed 1000 hours per fiscal year. CONSULTANT shall inform the Project Director in writing as soon as an individual accrues 900 hours, in order to allow for timely replacement.

4. CONSULTANT Certification

- a. CONSULTANT shall certify in writing that the hours of the individual performing work under this Agreement does not exceed the limitations set forth above (i.e., 960 hours per fiscal year if the individual is a CalPERS retired annuitant, or 1000 hours per fiscal year if the individual has not previously worked for a CalPERS employer). Such certification shall be submitted monthly with each invoice.

D. Cost Reimbursement Services

For those services performed on a cost reimbursable basis by CONSULTANT and those subconsultants at any tier that CCJPA at its discretion may require, the following shall apply:

1. For all indirect cost groupings, budgets shall be developed on an annual basis which coincide with the entity's fiscal year.
2. The system of accounting shall at a minimum, (i) report on a quarterly basis, a comparison between the actual indirect costs incurred to that budgeted, and (ii) reconcile all compensation for direct costs including, but not limited to, payroll, inventory and accounts payable against incurred cost, as set forth in Article 3.1, COMPENSATION.

E. Approval of Procedures

CCJPA's Project Director (i) may approve existing procedures that meet these criteria as well as waive certain specific requirements of this Article (provided that such approvals or waivers are made in writing); or (ii) may require copies of any of this accounting material, records, reports or procedures.

2.0 TIME OF PERFORMANCE AND DELAYS

2.1 TIME OF PERFORMANCE

A. Performance of Scope of Service

CONSULTANT's performance of Scope of Services as described in Attachment A shall commence upon receipt of a Notice to Proceed issued by CCJPA for each respective WD and shall be completed within the number of calendar days specified in such WD, unless terminated earlier in accordance with Article 5.0, TERMINATION, or if the limit on maximum compensation established in Article 3.1, COMPENSATION, is reached.

B. Term of Agreement

The term of this Agreement will be two (2) years from the date of execution of this Agreement, subject to termination as provided for in the Agreement.

2.2 DELAYS

Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of God, acts of the public enemy and governmental acts beyond the control and without fault or negligence of the affected party.

Each party hereto shall give notice promptly to the other of the nature and extent of any such circumstances claimed to delay, hinder or prevent performance of any obligations under this Agreement.

3.0 COMPENSATION AND PAYMENT

3.1 COMPENSATION

A. Basis

The compensation for each WD performed under this Agreement will be on a fixed price basis, an incurred cost reimbursement basis plus a fixed fee, or some combination thereof. Such compensation will be allowable only to the extent that costs incurred or cost estimates included in negotiated, or otherwise established prices, are consistent with the Federal Cost Principles (Title 48, Code of Federal Regulations, Chapter 1, Part 31).

B. Requirements

Such compensation shall be further subject to the following requirements:

1. Conform with:
 - a. the work to be performed pursuant to an accepted WD;
 - b. any compensation limits or sub-limits set forth in such WD(s), and this Agreement; and
 - c. all other terms of this Agreement.
2. Be necessary in order to accomplish the work.
3. Be reasonable for the services to be performed or goods to be purchased in connection with the performance of services hereunder.
4. Be actual net costs or prices to the CONSULTANT or its subconsultants at any tier, (e.g. the cost or price less any refunds, rebates, or other items of value received by CONSULTANT or its subconsultants at any tier, that have the effect of reducing the cost or price actually incurred).

As used herein, the term "costs" shall include the following:

- a. Those costs recorded by CONSULTANT that result, at the time of the request for reimbursement, from payment by cash, check, or other form of actual payment for items or services purchased directly for the work.
 - b. When CONSULTANT is not delinquent in payment of costs of agreement performance in the ordinary course of business, costs incurred, but not necessarily paid, for:
 - (1) Direct labor;
 - (2) Other direct costs that are not subcontracted;
 - (3) Indirect costs.
 - c. The amount of reimbursement that has been paid by CONSULTANT for subcontracted services under similar cost standards.
5. Be for direct costs or prices incurred for work performed after the effective date of this Agreement, and presented for payment within one hundred eighty days (180) days of the incurrence.

C. Rate Agreement

In addition to these requirements, the parties will negotiate in good faith and enter into a Provisional Cost Reimbursement and Rate Agreement ("Rate Agreement") on an annual or multi-year basis for the work to be performed for each CONSULTANT fiscal year(s). At the end of the annual or multi-year period, either party may request a rate adjustment subject to negotiation between the parties and modification to the Rate Agreement. Should the parties fail to negotiate a new Rate Agreement, CONSULTANT agrees to accept the provisions of the previous Rate Agreement until such time as a new Rate Agreement is executed. If neither party requests a rate adjustment, the rates contained therein shall remain in effect until completion of Agreement No. ____ - ____.

D. Notification

The CONSULTANT shall inform the Project Director when total expenditures for all approved WDs exceed ____ percent (___%) of the maximum compensation for this Agreement.

E. CONSULTANT Costs

All CONSULTANT costs associated with providing services that are identified in this Agreement as being apart and separate from any individual WD, are considered to be either indirect costs or a portion of the CONSULTANT fee, as the case may be.

F. Compensation Limits

Subject only to changes made in conformance with Article 4.0, CHANGES AND MODIFICATIONS, below, it is expressly understood and agreed that:

- 1. In no event shall CONSULTANT be compensated in an amount greater than the amount in an individual WD, for services performed under such WD; and
- 2. In no event will the total compensation and reimbursement for expenses to be paid CONSULTANT for services described in Article 1.1, SCOPE OF

SERVICES, above and services described in Attachment A hereto, exceed One Million Dollars (\$1,000,000).

3.2 DISALLOWED OR OTHERWISE UNRECOGNIZED COSTS

CONSULTANT understands and agrees to the following:

A. Waiver

Any compensation or reimbursement received under this Agreement does not constitute a final decision by the CCJPA as to the allowability of such compensation or reimbursement and does not constitute a waiver of any violation by CONSULTANT of the terms of this Agreement (including, but not limited to, requirements of the Agreement to be included in CONSULTANT's subcontracts).

B. Final Determination

Unless approved otherwise by the Project Director, the CCJPA will not make final determination about the allowability of compensation or reimbursement of cost received under this Agreement until an audit of this work performed under this Agreement has been completed.

C. Notification

If the CCJPA determines that CONSULTANT or its subconsultant(s) is not entitled to either the compensation or reimbursement requested or received, the CCJPA will notify CONSULTANT stating the reasons therefor.

D. Return of Funds

Completion of the work under this Agreement will not alter CONSULTANT's or its subconsultant(s)' obligation to return any funds due the CCJPA as a result of later refunds, corrections, or other transactions, nor alter the CCJPA's right to disallow or otherwise not recognize costs on the basis of a later audit or other review.

3.3 METHOD OF PAYMENT

A. Monthly Invoices/Subconsultant Payment

Unless approved otherwise by the Project Director, CONSULTANT's services shall be invoiced on a monthly basis and payment will be made within thirty (30) calendar days of receipt of an acceptable invoice with satisfactory backup documentation, approved by the Project Director, provided a completed form W-9 is on file with CCJPA. As used herein, the term "invoice" shall include the CONSULTANT's bill or written request for payment under this Agreement for services performed. All invoices shall be made in writing and submitted with two duplicates at a minimum.

CONSULTANT shall promptly pay any and all subconsultants by an instrument that guarantees availability of funds immediately upon deposit of said instrument. The CONSULTANT shall include in its monthly invoice submission to CCJPA, amounts to pay for all subconsultants' acceptable invoices, no later than thirty (30) days after receipt of such invoices. Unless otherwise approved in writing by the Project Director, CONSULTANT shall, within ten (10) calendar days after receipt of the payment made by CCJPA, pay to each of its immediate subconsultants (or their respective assignees), for satisfactory performance of its contract, the amounts to which each is

entitled, after deducting any prior payments and any amounts due and payable to CONSULTANT by those subconsultants. Any delay or postponement of payment among the parties may take place only for good cause and with the CCJPA's prior written approval. If the CONSULTANT determines the work of the subconsultant to be unsatisfactory, the CONSULTANT must immediately notify in writing the Project Director and state the reasons therefor. Failure by CONSULTANT to comply with this requirement will be construed to be a breach of contract and may result in sanctions as specified in this Agreement.

In addition, the CONSULTANT must promptly return any retentions withheld to a subconsultant within thirty (30) days after the subconsultant's work is satisfactorily completed.

B. Invoice Procedures

CONSULTANT shall invoice for the then current WD in conformance with procedures approved by the Project Director and the then current Rate Agreement.

1. Such invoices shall segregate current costs from other costs. Current costs are those costs which have been paid within the last sixty (60) calendar days and not previously submitted to CCJPA for reimbursement. Other costs shall include, but not be limited to, the following:
 - a. Costs for which the CCJPA has requested additional justification for allowance;
 - b. Costs which have been recorded by CONSULTANT in the current accounting period and not incurred as an obligation within the last ninety (90) calendar days.
2. Costs for individual labor shall be identified by activity and product in a manner consistent with that of the detailed cost estimate submitted with CONSULTANT's WDP.
3. Notwithstanding the above, in no case shall CONSULTANT invoice for costs which CCJPA has disallowed or otherwise indicated that it will not recognize.

C. Invoice Requirements

Such invoices shall be, at a minimum, (i) mechanically accurate, (ii) substantially vouchered and properly supported and (iii) in compliance with the specific requirements of Article 1.6, FINANCIAL ADMINISTRATION above.

D. Certification

CONSULTANT shall also certify, for each invoice, that (i) the hourly rates for direct labor, whether for CONSULTANT or its subconsultant(s), to be reimbursed under this Agreement are not in excess of the actual hourly rates in effect for CONSULTANT or subconsultant employees engaged in the performance of services under this Agreement at that time, and (ii) that such hourly rates are in conformance with the then current Rate Agreement.

E. Fixed Fee

The fixed fee for CONSULTANT or any of its subconsultants shall be billed monthly on a percent complete basis as approved by the Project Director.

CCJPA in its sole discretion may make any of the remaining fixed fee payments due CONSULTANT, or any of its subconsultants, in full; or may withhold any amount up to one hundred percent (100%) thereof as CCJPA may find appropriate, based on the progress of CONSULTANT and/or any of its subconsultants.

F. Invoice Submittal Address

All invoices, indicating this Agreement name and number, shall be made in writing and delivered or mailed to CCJPA as follows:

By email (preferred): ap_supplier@bart.gov

By US mail: Capitol Corridor Joint Powers Authority
300 Lakeside Drive
14th Floor East
Oakland, CA 94612

G. Taxpayer Identification Number

CONSULTANT represents that CONSULTANT's taxpayer identification number (TIN) is evidenced by a completed Federal Form W-9 on file with CCJPA on the date of execution of this Agreement. CONSULTANT agrees to file such tax forms as may be reasonably requested by CCJPA to implement Internal Revenue Code Section 3406 and to accept as a part of any compensation due, any payments made by CCJPA to the Internal Revenue Service pursuant to that Section.

3.4 WITHHOLDING OF PAYMENT

CCJPA reserves the right to withhold payment(s) otherwise due CONSULTANT in the event of CONSULTANT's material non-compliance with any of the provisions of this Agreement, including, but not limited to, the requirements imposed upon CONSULTANT in Article 6.0, INSURANCE; Article 8.0, INDEMNIFICATION; and Article 9.1, WARRANTY OF SERVICES, below. CCJPA shall provide notice of withholding, and may continue the withholding until CONSULTANT has provided evidence of compliance which is acceptable to CCJPA.

4.0 CHANGES AND MODIFICATIONS

CCJPA reserves the right to order changes to this Agreement, and modifications to WDs, to be performed pursuant to this Agreement, as set forth below.

4.1 CHANGES

A. Services

CCJPA reserves the right to order changes to this Agreement including but not limited to, the services to be performed by CONSULTANT. All such changes shall be incorporated in written change orders duly executed by CCJPA and CONSULTANT, which shall specify the changes ordered and the adjustment of compensation and completion time required therefor.

B. Execution

Any such services added to the scope of this Agreement by a change order shall be executed under all applicable conditions of this Agreement. No claim for additional

compensation or extension of time shall be recognized unless contained in a duly executed change order.

4.2 MODIFICATIONS

A. Work Directive Modifications

CCJPA reserves the right to order modifications to WDs, including but not limited to, the services to be performed by CONSULTANT pursuant to an accepted WD. All such modifications to a WD shall be incorporated in written WDMs, executed by the Project Director and the CONSULTANT, which shall specify the modifications ordered and the adjustment of compensation and completion time required therefor.

B. Additional Compensation

Any such services added to the scope of this Agreement by a Work Directive Modification ("WDM") shall be executed under all applicable conditions of this Agreement. No claim for additional compensation or extension of time with respect to a WD shall be recognized unless contained in a duly executed WDM. The parties also understand and agree that CONSULTANT will not be reimbursed for costs incurred prior to the effective date of a duly executed WDM.

5.0 TERMINATION

5.1 TERMINATION FOR CONVENIENCE

CCJPA may, at any time prior to completion of the work under any WD or the work under this Agreement, terminate any such WD, or this Agreement whenever CCJPA determines that such termination is in its best interest, by written notice to CONSULTANT. CCJPA's written notice to CONSULTANT shall state in detail the extent of such termination with respect to WD, or this Agreement. Effective on receipt of such notice of termination from CCJPA, no new work or obligation with respect to such WDs, or this Agreement will be undertaken by CONSULTANT unless so directed by CCJPA in writing. Upon such termination, CONSULTANT shall submit an invoice or invoices to CCJPA in amounts which represent the compensation specified herein for services actually performed to the date of such termination and for which CONSULTANT has not been previously compensated. Upon payment of the amount due, CCJPA shall be under no further obligation to CONSULTANT, financial or otherwise, with respect to terminated WDs, or this Agreement if it is terminated.

5.2 TERMINATION FOR CAUSE

If CONSULTANT should be in default and fails to remedy this default within five (5) calendar days after receipt from CCJPA of notice of such default, CCJPA may in its discretion terminate this Agreement or such portion thereof as CCJPA determines is most directly affected by the default.

The term "default" for purposes of this provision includes, but is not limited to, the performance of work in violation of the terms of this Agreement; abandonment, assignment or subletting of the Agreement without approval of CCJPA; bankruptcy or appointment of a receiver for CONSULTANT's property; failure of CONSULTANT to perform the services or other required acts within the time specified for this Agreement or any extension thereof; refusal or failure to provide proper workmanship; failure to take effective steps to end a prolonged labor dispute; and the performance of this Agreement in bad faith.

Upon CCJPA's termination of this Agreement or any portion thereof for default by CONSULTANT, CCJPA reserves the right to complete the work by whatever means it deems expedient and the expense of completing such work as well as any and all damages proximately caused by the default shall be charged to CONSULTANT.

5.3 FORCE MAJEURE

The performance of work under this Agreement may be terminated by CCJPA, in its discretion, upon application therefor by CONSULTANT for unforeseen causes beyond the control and without the fault or negligence of CONSULTANT, including acts of God, acts of the public enemy, governmental acts, fires and epidemics if such causes irrevocably disrupt or render impossible CONSULTANT's performance hereunder. An "act of God" shall mean an earthquake, flood, cyclone, or other cataclysmic phenomenon of nature beyond the power of CONSULTANT to foresee or make preparation in defense against.

6.0 INSURANCE

At all times during the life of this Agreement to acceptance of the work covered by the Agreement, or as may be further required by the Agreement, CONSULTANT, at its own cost and expense, shall provide the insurance specified in this Article 6.0, unless otherwise approved in advance and in writing by the Project Director.

A. Evidence Required

At or before execution of this Agreement and at such other times as the CCJPA may request, CONSULTANT shall provide the CCJPA with Certificate(s) of Insurance executed by an authorized representative of the insurer(s) evidencing the CONSULTANT's compliance with the insurance requirements in this Article 6.0. The Certificate(s) shall reference the CCJPA's Agreement Number and Title to which the Certificate relates. In addition, a copy of all required endorsements shall be included with and attached to the Certificate(s) of Insurance.

B. Notice of Cancellation, Reduction or Material Change in Coverage

All policies shall be endorsed to provide the CCJPA with thirty (30) calendar days prior written notice of any cancellation, reduction, or material change in coverage. The San Francisco Bay Area Rapid Transit District ("BART") is the managing agency of the CCJPA. Accordingly, all notices shall be sent to BART's Department Manager, Insurance, San Francisco Bay Area Rapid Transit District, P.O. Box 12688, Oakland, California, 94604-2688. The CONSULTANT shall annually submit to the BART's Department Manager, Insurance, certifications confirming that the insurance required has been renewed and continues in place.

C. Qualifying Insurers

Policies shall be issued by California admitted companies which hold a current policyholders alphabetic and financial size category rating of not less than A:VIII according to Best's Insurance Reports.

D. Insurance Provided by CONSULTANT

1. Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) annual general aggregate.

- a. Coverage shall include:
 - (1) Premises and Operations;
 - (2) Broad Form Property Damage;
 - (3) Products and Completed Operations;
 - (4) Broad Form Contractual liability, expressly including liability assumed under the Agreement;
 - (5) Personal Injury Liability;
 - (6) Independent Contractors Liability;
 - (7) Cross Liability and Severability of Interest.

 - b. Such insurance shall include the following endorsements, copies of which shall be provided to the BART's Department Manager, Insurance:
 - (1) Inclusion of the CCJPA and BART as managing agency and their directors, officers, representatives, agents and employees as additional insured as respects to CONSULTANT's operations under this Agreement; and
 - (2) Stipulation that the insurance is primary insurance and that no insurance or self-insurance of the CCJPA will be called upon to contribute to a loss.
2. Automobile Liability Insurance for bodily injury (including death) and property damage which provides limits of liability of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence applicable for all owned, non-owned and hired vehicles.
 3. Workers' Compensation/Employers' Liability Insurance for Statutory Workers' Compensation and Employers' Liability Insurance for not less than One Million Dollars (\$1,000,000) per accident applicable to Employers' Liability coverage for all employees engaged in services or operations under this Agreement. The policy shall include Broad Form All States/Other States coverage. Coverage shall be specifically endorsed to include the insurer's waiver of subrogation in favor of the CCJPA and BART as managing agency and their directors, officers, representatives, agents and employees; a copy of which shall be provided to the BART's Department Manager, Insurance. Should any such work be subcontracted, CONSULTANT shall require each subconsultant of any tier to similarly comply with this Article 6.0, all in strict compliance with Federal and State law.
 4. Professional Liability Insurance for damages arising out of CONSULTANT's acts, errors or omissions. The policy shall provide a coverage limit of not less than Five Million Dollars (\$5,000,000) per claim/aggregate as respects CONSULTANT's services provided under this Agreement. Such insurance shall be maintained for a period of not less than two (2) years following completion of services.

E. Special Provisions

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT, and any approval of said insurance by the CCJPA is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement including but not limited to the provisions concerning indemnification.
2. The CCJPA acknowledges that some insurance requirements contained in this article may be fulfilled by a funded self-insurance program of CONSULTANT. However, this shall not in any way limit liabilities assumed by CONSULTANT under this Agreement. Any self-insurance program must be approved in writing by the BART's Department Manager, Insurance.
3. Should any of the work under this Agreement be subcontracted, CONSULTANT shall require each of its subconsultant(s) of any tier to provide the aforementioned coverage's, or CONSULTANT may insure subconsultants(s) under its own policies.
4. CCJPA reserves the right to withhold payments to CONSULTANT in the event of material noncompliance with the insurance requirements of this Article 6.0.
5. CCJPA reserves the right to terminate this Agreement in the event of material noncompliance with the insurance requirements of this Article 6.0.

7.0 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor and not an employee or agent of CCJPA and has no authority to contract or enter into any other agreement in the name of CCJPA. CONSULTANT has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by CONSULTANT who are assisting in the performance of services under this Agreement. CONSULTANT shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. CONSULTANT shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

In its capacity as an independent contractor, CONSULTANT shall comply with any and all CCJPA operations rules and procedures which relate to the performance of its services on CCJPA property.

7.1 CONFLICT OF INTEREST

CONSULTANT, its subconsultants and suppliers shall perform all work under this Agreement in conformance with all applicable statutes and regulations pertaining to conflicts of interest, including but not limited to, the financial reporting requirements and the conflict prohibitions of federal law (see, e.g., Federal Transit Administration Circular 4220.1F, Third Party Contracting Requirements) and California law (see, e.g., Government Code Section 1090 et seq., Government Code Section 87100 et seq. and Title 2, Division 6 of the California Code of Regulations).

When, in the judgment of CCJPA, it is necessary in order to avoid any potential conflicts of interest, CONSULTANT, its subconsultants and suppliers may be precluded from subsequently participating as a vendor or contractor on projects for which they are providing services under this Agreement.

7.2 CONSULTANT PERSONNEL

CONSULTANT shall ensure that any person employed by CONSULTANT, whose duties include work on matters involving CCJPA, is made aware that he or she is required to disclose immediately to CONSULTANT any offer of employment from any person or entity currently doing business with CCJPA or proposing to do business with CCJPA. CONSULTANT shall immediately so notify the Project Director, and ensure that unless, and until the offer of employment is unequivocally rejected by CONSULTANT's employee in writing and a copy of this rejection is transmitted to the Project Director, CONSULTANT shall remove such employee from any projects or services relating to CCJPA. Failure of CONSULTANT to comply with the provisions of this section may result in termination of this Agreement by CCJPA for default upon written notice to CONSULTANT.

8.0 INDEMNIFICATION

CONSULTANT to the extent permitted by law, shall defend, indemnify and hold harmless CCJPA and BART as managing agency and their directors, officers, agents and employees from all claims, demands, suits, loss, damages, injury and liability, direct or indirect (including reasonable attorney's fees, and any and all costs and expenses in connection therewith), incurred by reason of any act, or failure to act, of CONSULTANT, its officers, agents, employees and subconsultants or any of them, under or in connection with this Agreement; and CONSULTANT agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against CCJPA and BART as managing agency and their directors, officers, agents and employees, or any of them, arising out of CONSULTANT's services, and to pay and satisfy any resulting judgments.

Such indemnification includes without limitation any violation of proprietary rights, copyrights and rights of privacy, arising out of the publication, translation, reproduction, delivery, use or disposition of any data furnished under this Agreement.

9.0 WARRANTY OF SERVICES AND MATERIAL NONCOMPLIANCE BY CONSULTANT

9.1 WARRANTY OF SERVICES

A. Warranty

CONSULTANT warrants that its consulting services will be performed in accordance with the standards imposed by law upon professional engineering service firms performing engineering services of a similar nature at the time such services are rendered. In addition CONSULTANT shall provide such specific warranties as may be set forth in individual WDs as agreed upon by the parties.

B. Re-performance

In the event that any services provided by CONSULTANT hereunder are deficient because of CONSULTANT's or a subconsultant's failure to perform said services in accordance with the warranty standards set forth above, CCJPA shall report such deficiencies in writing to CONSULTANT within a reasonable time. CCJPA thereafter shall have:

1. The right to have CONSULTANT re-perform such services at CONSULTANT's own expense, or

2. The right to have such services done by others and the costs thereof charged to and collected from CONSULTANT if, within thirty (30) calendar days after written notice to CONSULTANT requiring such reperformance, CONSULTANT fails to give evidence satisfactory to CCJPA that it has undertaken such reperformance.

C. Re-performed Services

If CONSULTANT is required to correct or re-perform any services as provided in Article 9.1 B.1. (immediately above), any services corrected or re-performed by CONSULTANT shall be subject to this Article 9.1 to the same extent as work initially performed.

9.2 MATERIAL NONCOMPLIANCE BY CONSULTANT

CCJPA reserves the right to withhold payments to CONSULTANT in the event of CONSULTANT's material noncompliance with Articles 8.0, INDEMNIFICATION and 9.0, WARRANTY OF SERVICES AND MATERIAL NONCOMPLIANCE BY CONSULTANT, above.

10.0 DATA TO BE FURNISHED BY CCJPA

All data, reports, surveys, studies, drawings, and any other documents and materials made available to CONSULTANT by CCJPA for use by CONSULTANT in the performance of its services under this Agreement shall be made available for information only and shall be returned to CCJPA at the completion or termination of this Agreement.

11.0 OWNERSHIP OF WORK PRODUCTS

11.1 DOCUMENTS

All drawings, designs, specifications, manuals, reports, studies, surveys, models, software (including source code), and any other documents, materials, data and products ("Work Products") prepared or assembled by CONSULTANT or obtained from others ("Subcontractors") by CONSULTANT in connection with the services under this Agreement shall be the property of CCJPA; and copies shall be delivered to CCJPA promptly upon the completion of the work or upon an earlier termination of this Agreement. CONSULTANT shall be responsible for the preservation of any and all Work Products prior to transmittal to CCJPA; and CONSULTANT shall replace any such Work Products as are lost, destroyed or damaged while in its possession without additional cost to CCJPA.

11.2 ASSIGNMENT OF RIGHTS

CONSULTANT hereby assigns to CCJPA all right, title and interest including, but not limited to, copyright, patent, trademark and trade dress rights, in and to the Work Products. CONSULTANT acknowledges CCJPA's exclusive rights to reproduce, publish, display, create derivative works from, sell, transfer or otherwise exploit ("Use"), and permit others to Use all or any part of the Work Products, and to obtain and hold in its own name patents, copyright and/or trademark registrations for the Work Products. CONSULTANT shall provide all documentation, information and assistance reasonably required by CCJPA to obtain such registrations or patents, or with respect to claims that third parties have infringed the Work Products.

11.3 WARRANTY OF WORK PRODUCT

CONSULTANT warrants and represents that the Work Products are original to CONSULTANT or its Subcontractors and shall not infringe the copyright, trademark, trade secret, privacy, publicity, patent or other intellectual property or proprietary rights of any third party; CONSULTANT will not attempt to license or transfer to any person or entity any interest in the Work Products; and CONSULTANT shall obtain from all Subcontractors written assignment of all rights, title and interest, including copyright and other intellectual property rights, in their contributions to the Work Products.

12.0 PATENTS

CONSULTANT agrees to communicate promptly to CCJPA full particulars with respect to any and all improvements and inventions (whether or not patentable) conceived by it in connection with work performed by it hereunder. Subject to rights due to the United States Government under a grant of the FTA, if any, assisting the financing under this Agreement, such improvements and inventions shall become the property of CCJPA and CONSULTANT agrees to assign to CCJPA, upon CCJPA's request, all of its right, title and interest in and to ideas and inventions and in and to any and all patents and applications for patents based thereon, including both United States and foreign patents and applications for patents. CONSULTANT further agrees, upon CCJPA's request and at CCJPA's expense, to execute such proper instruments and to perform such proper acts as may be deemed by CCJPA necessary to evidence CCJPA's title to said improvements and inventions, and to enable CCJPA to obtain such patents and any continuations, reissues or extensions thereof.

13.0 MATTERS CONFIDENTIAL AND PRIVILEGED

All of the drawings, designs, specifications, manuals, reports, studies, surveys, models, or other data and products prepared or assembled by CONSULTANT, obtained from others by CONSULTANT or made available to CONSULTANT by CCJPA in connection with the services under this Agreement, shall be treated as confidential by CONSULTANT. At no time shall CONSULTANT use or disclose or make available, other than in the performance of CONSULTANT's services for CCJPA, confidential information gained in the course of or by reason of CONSULTANT's retention by CCJPA and/or performance of services for CCJPA, nor shall CONSULTANT permit such use or disclosure, without prior written approval by CCJPA. It is the intention of CCJPA to preserve and make use of all applicable legal privileges, and CONSULTANT shall make all reasonable efforts to cooperate with CCJPA in this regard.

14.0 SUBCONTRACTS

A. Approved Subcontracts

CONSULTANT shall use approved subconsultants as shown in Attachment PCT (Project Consultant Team) hereto and as listed in each WD. CONSULTANT shall not further subcontract all or any portion of its services under this Agreement or a WD without the prior written approval of the Project Director and any attempt to do so shall be void and unenforceable. Written approval by the Project Director of use of a subconsultant for specified services in connection with one WD or project shall not constitute approval for any other purpose. In the event that CONSULTANT enters into one or more subcontracts pursuant to this Article, it is understood and agreed that the participating subconsultants shall be solely and directly responsible to CONSULTANT, and CCJPA shall have no obligation to them.

B. Subcontract Provisions

CONSULTANT agrees that the requirements in: Articles 1.3 B, 1.4, 1.5, 1.6, 3.1A, 3.1B, 3.2 and 4.0 through 31.0, inclusive, of this Agreement, will be included in every subcontract entered into relating to services under this Agreement. Upon request, the CONSULTANT shall provide CCJPA with copies of all such subcontracts, with changes and amendments thereto.

15.0 ASSIGNMENT OF AGREEMENT

CONSULTANT shall not assign this Agreement, or any part thereof, without the prior express written consent of the Project Director, and any attempt to do so shall be void and unenforceable.

16.0 RECORDS

CONSULTANT shall maintain full and adequate records to show the actual time devoted and the cost incurred by CONSULTANT with respect to the performance of services under this Agreement.

CONSULTANT and its subconsultants shall establish and maintain records pertaining to the fiscal activities of the Project. CONSULTANT's and subconsultants' accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged to the Project, including properly executed payrolls, time records, invoices and vouchers.

17.0 AUDIT

CONSULTANT and its subconsultants shall permit CCJPA and its authorized representatives to inspect, examine, make excerpts from, transcribe, and copy CONSULTANT's and subconsultant's books, work, documents, papers, materials, payrolls, records, accounts, and any and all data relevant to this Agreement at any reasonable time for the purpose of auditing and verifying statements, invoices or bills submitted by CONSULTANT pursuant to this Agreement, and shall provide such assistance as may be reasonably required in the course of such inspection including, but not limited to, the following:

A. Audit Interviews

CONSULTANT shall arrange audit entrance and exit interviews in which CONSULTANT and/or its subconsultants and CCJPA and/or its authorized representatives will participate.

B. Accessing Documents

CONSULTANT's and its subconsultants' accounting divisions shall provide instruction to CCJPA on accessing documents.

C. Letter of Representation

CONSULTANT's management, or the management of a subconsultant, as well as the management of their appropriate units, will provide at CCJPA's request a letter of representation concerning such matters as CCJPA determines appropriate.

CCJPA further reserves the right, for itself and its authorized representatives, to examine and re-examine said books, work, documents, papers, materials, payrolls, records, accounts and data during the three-year period following the final payment under this Agreement and until all pending matters are closed; and CONSULTANT and its subconsultants shall in no event dispose of, destroy, alter or mutilate said books, work, documents, papers, materials, payrolls, records, accounts and any and all data in any manner whatsoever for three (3) years after the final payment under this Agreement, or until all pending matters are closed, whichever is later.

Pursuant to California Government Code Section 8546.7, the parties to this Agreement shall be subject to the examination and audit of the State Auditor, at the request of CCJPA or as part of any audit of CCJPA by the State Auditor, for a period of three (3) years after final payment under this Agreement. The examination and audit shall be confined to those matters connected with the performance of this Agreement, including, but not limited to, the cost of administering this Agreement.

18.0 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

If any price, including profit or fee, negotiated in connection with, or any reimbursement of cost including profit or fee, under this Agreement, any WD, modifications thereto, Rate Agreement or change order to this Agreement was increased because CONSULTANT furnished cost or pricing data that were not complete, accurate, and current at such time as the price was determined, the price or cost shall be reduced accordingly and the Agreement, WD(s), Rate Agreement(s), or change order(s) and any applicable invoice(s) shall be modified to reflect the reduction.

If CCJPA determines that a price or cost reduction should be made, CONSULTANT agrees not to raise the following matters as a defense:

A. Bargaining Position

CONSULTANT was the sole source supplier or otherwise was in a superior bargaining position and thus the price would not have been modified even if accurate, complete and current costs or pricing data had been submitted;

B. Cost and Pricing Data

CCJPA should have known that the cost or pricing data in issue were defective even though CONSULTANT took no affirmative action to bring the character of the data to the attention of CCJPA;

C. Item Cost

The price was based on an agreement about the total cost of the work and there was no agreement about the cost of each item procured under the Agreement.

19.0 NOTICES

Except for invoices submitted by CONSULTANT pursuant to Article 3.0, COMPENSATION AND PAYMENT, above, and insurance notices submitted pursuant to Article 6.0 B., Notice of Cancellation, Reduction or Material Change in Coverage, above, all notices required hereunder or other communications to either party by the other may be given by personal delivery, U.S. Mail, courier service (such as Federal Express) or facsimile transmission. Notices shall be effective upon receipt at the following addresses:

To CCJPA by US Mail: District Secretary
San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, California 94604-2688

Attention: CCJPA Contract Administrator

To CCJPA by Personal Delivery or Courier District Secretary
San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 21st Floor
Oakland, CA 94612

Attention: CCJPA Contract Administrator

To CONSULTANT: To be determined
Attention: To be determined
Project Manager

Facsimile Transmission:
To CCJPA: (510) 464-6501
To CONSULTANT: To be determined

Either party may change its address for notices by giving written notice of the new address as provided above.

20.0 NONDISCRIMINATION

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. Department of Transportation-assisted contracts. 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 CCJPA deems appropriate.

In connection with the performance of services under this Agreement, CONSULTANT shall not, on the grounds of race, religious creed, color, national origin, ancestry, handicap, medical condition, marital status, sex, sexual orientation or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State or local laws.

For purposes of this Article "sexual orientation" shall mean a preference for heterosexuality, homosexuality or bisexuality; or having a history of, or being identified with, any such preference.

21.0 LAWS AND REGULATIONS

CONSULTANT shall comply with any and all laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state or local government, and of any agency of such government, including CCJPA, which relate to or in any manner affect the performance of this Agreement. This Agreement and any documents supplied hereunder are subject to public inspection of the California Public Records Act, California Government Code Section 6250 et seq., unless exempted by law.

22.0 ADDITIONAL FUNDING AGREEMENT REQUIREMENTS

This Agreement is subject to any additional restrictions, limitations or conditions that may be required by any local, State or Federal funding agreements applicable to this Agreement.

23.0 CHOICE OF LAW

All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State, without reference to conflicts of law principles.

24.0 SEVERABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

25.0 COVENANT AGAINST CONTINGENT FEES

CONSULTANT warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, CCJPA will have the right to annul this Agreement without liability, or at its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

26.0 COVENANT AGAINST GRATUITIES

CONSULTANT warrants that it will not and has not offered or given gratuities in the form of entertainment, gifts or otherwise, to any director, officer or employee of CCJPA to secure favorable treatment in the awarding, amending or evaluating performance of the Agreement.

27.0 CAPTIONS

The captions of the Articles and paragraphs in this Agreement are for purposes of reference only, and shall not be construed to affect the meaning of any provision hereof.

28.0 BENEFIT OF AGREEMENT

This Agreement shall bind and benefit the parties hereto and their successors and permitted assigns.

29.0 ENTIRE AGREEMENT

This Agreement is the entire agreement of the parties, and supersedes and replaces all prior communications, written and oral, regarding the subject matter hereof. CONSULTANT

represents that in entering into this Agreement, it has not relied on any previous representations, inducements, or understandings, written or oral, of any kind or nature.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

CAPITOL CORRIDOR JOINT POWERS AUTHORITY

(NAME OF CONSULTANT)

By Executive Director
(or designee)

By (Signature)

Name
and
Title _____
Print or Type

Name
and
Title _____
Print or Type

ATTACHMENT C

EXAMPLE PROVISIONAL COST REIMBURSEMENT AND RATE AGREEMENT

PROVISIONAL COST REIMBURSEMENT AND RATE AGREEMENT

[through (Month) (Day), (Year)]

Pursuant to Agreement No. ____ - ____ between the parties and the Cost Principles contained in Title 48 Code of Federal Regulations Part 31 , _____ ("CONSULTANT") and the CAPITOL CORRIDOR JOINT POWERS AUTHORITY ("CCJPA") agree as follows:

I. BASIS FOR REIMBURSEMENT OF CONSULTANT DIRECT LABOR COSTS:

A. Hourly Salary Ranges

The individual direct labor cost rates, exclusive of any burden or markups, shall be within the salary ranges as set forth in Attachment A hereto, "Hourly Salary Ranges." (NOTE: the Attachment A would be provided by the selected consultant and does not refer to Attachment A of the RFSOQ)

B. Salary Administration

The individual direct labor cost rates are subject to Salary Administration by CONSULTANT (Ref. 48 CFR 31.205-6), but in no case are they to be adjusted more than 3% annually without the prior approval of the CCJPA Project Director. Hourly salary ranges may, with the prior approval of the Project Director, be increased annually in accordance with CONSULTANT'S normal salary administration procedures.

C. Individual Direct Labor Rate

Notwithstanding the above, at no time will any individual direct labor rate exceed \$100.00 per hour.

D. Unallowable Direct Labor Costs

The following direct labor costs are not allowable unless authorized in an accepted Work Directive or by prior written approval of CCJPA's Project Director:

1. Principal or Partner costs;
2. Project Management and Administrative costs;
3. Premium costs incurred as a result of working overtime or holidays.

II. BASIS FOR REIMBURSEMENT OF CONSULTANT INDIRECT COSTS:

A. CONSULTANT'S Indirect Costs Rates

The reimbursement rates for CONSULTANT's indirect costs are based primarily on CONSULTANT's submission dated [month/day/year], together with supporting information, submitted by CONSULTANT and reviewed by CCJPA. The following provisional rates will

apply: (as applicable in accordance with CONSULTANT's established accounting procedures):

1. Fringe Rate - The provisional rate for CONSULTANT fringe benefits expense applied to CONSULTANT project direct labor is _____%.
2. Home Office Overhead Rate - The provisional home office cost rate for CONSULTANT overhead expense applied to CONSULTANT project direct labor performed in CONSULTANT facilities is _____%.
3. Field Office Overhead Rate - The provisional field office rate for overhead expense as applied to CONSULTANT's project direct labor performed by seconded or other personnel assigned to CCJPA facilities is _____%.
4. General and Administrative Rate – The provisional general and administrative expense as applied in accordance with CONSULTANT accounting procedures is _____%.

B. CONSULTANT's Treatment of Indirect Costs

The indirect costs rates are based on the consistent treatment by CONSULTANT and its subconsultants at any tier, of the following types of items as direct costs throughout the CONSULTANT's company and subconsultant's company (or subconsultant companies):

1. The cost of materials purchased directly for the performance of this Provisional Cost Reimbursement and Rate Agreement ("Rate Agreement").
2. Subcontract cost in direct support of performance.
3. Expenditures for salaries and wages of direct labor employees involved in the performance of the agreement work.
4. Travel costs incurred directly for performance of Agreement No. ____ - ____ work.

C. CONSULTANT's Allowable and Unallowable Indirect Costs

The indirect cost rates are also based on the treatment of certain costs as fully allowable, allowable subject to limit, or unallowable for purposes of this Rate Agreement, by CONSULTANT and its subconsultants at any tier, as follows:

1. No provision has been made for reimbursement of Facilities Capital Cost of Money (as provided for in 48 CFR 31.205-10) and such costs shall be unallowable.
2. Reimbursement for all costs associated with indirect labor are allowable only to the extent that they do not exceed 40% of the direct labor for the same organizational entity. Individual indirect labor cost rates are subject to Salary Administration by CONSULTANT in accordance with 48 CFR 31.205-6.

D. Fringe, Overhead and General and Administrative Costs

The indirect cost rates are also based on the treatment of certain costs as a part of the fringe benefit, overhead or general and administrative expense cost groupings, or any combination thereof, (as set forth in Article II.A. above) by CONSULTANT and its subconsultants at any tier, as follows:

1. All costs incurred in preparing, submitting and supporting any Work Directive Proposal (“WDP”), whether or not accepted by CCJPA;
2. All costs incurred in preparing, submitting and supporting any Work Directive Modification or change order to Agreement No. ____ - ____ or this Rate Agreement, whether or not accepted by CCJPA;
3. All costs of financial administration (including but not limited to establishing final rates, invoicing, reporting, budgeting, and auditing);
4. All costs incurred in complying with Article 1.4 of Agreement No. ____ - ____ concerning organizational procedures;
5. All costs associated with direct labor fringe, including but not limited to employee compensated personal absence, payroll taxes and payroll additives.
6. All costs associated with the costs of employee incentive compensation (including cash bonuses, suggestion awards, safety awards and other forms of incentive compensation) shall be allowable only as indirect costs. Furthermore, such costs shall be allowable only to the extent that they are paid or accrued:
 - a. Under an agreement (in effect for twelve months prior to award of this Rate Agreement) entered into in good faith between CONSULTANT and the employees, or;
 - b. Pursuant to an established organization wide plan or policy followed by the CONSULTANT (for twelve months prior to award of this Rate Agreement) so consistently as to imply, in effect, an agreement for such incentive compensation.

In no event shall distribution of any profits be allowable as a form of incentive compensation.
7. All costs associated with providing insurance coverage’s as set forth in Article 6.0, INSURANCE, of Agreement No. ____ - ____ other than those provided by the CCJPA.

E. Other Direct Costs

There shall be no provisional rate applied to Other Direct Costs (“ODCs”) for either the CONSULTANT or any of its subconsultants at any tier.

F. Subcontractor Indirect Costs

The following applies only to the extent CONSULTANT or its subconsultant(s) identify a separate indirect cost grouping that is applied to subcontracted costs:

- All indirect costs associated with providing subcontracted services are allowable only to the extent that such costs do not exceed 5% of the associated subcontracted costs.

III. BASIS FOR REIMBURSEMENT OF SUBCONTRACTOR COSTS:

CCJPA requires that CONSULTANT perform a cost or price analysis of subconsultant data acceptable to CCJPA which will be incorporated into WDPs submitted to CCJPA.

A. Reimbursement on a Cost Reimbursable Basis

The parties intend that CONSULTANT obtain subcontracted services primarily on a cost reimbursable basis. For subconsultants performing services on a cost reimbursable basis:

1. CONSULTANT will be reimbursed for subcontracted or subconsultant direct labor costs at any tier in accordance with the requirements of Article I.B. through D. above.
2. Reimbursement for subconsultant indirect costs at any tier shall be in conformance with the provisional rates for subconsultant fringe benefits, overhead or general and administrative expense, or any combination thereof, in accordance with the requirements of Article II.B. through II.F. above and Article VI below.
3. Unless approved otherwise by CCJPA's Project Director, the aggregate product (i.e. "multiplier") of the rates referred to in the immediately preceding sentence shall not exceed 150%.
4. Reimbursement for subcontracted other direct costs at any tier, other than subconsultant costs (i.e. subconsultant furnished materials and supplies) shall be in conformance with the requirements of Article IV below.
5. Subconsultant fixed fee, at any tier, shall be in conformance with the requirements of Article V below.

B. Reimbursement on a Time and Materials Basis

Subject to approval by CCJPA's Project Director, subconsultant(s) may perform, or be obligated to perform, services on a "time and material" basis when the following conditions have been met:

1. CONSULTANT has identified at least three subconsultants for any specific services to be performed on this basis or if this is not possible, then CONSULTANT has furnished a written justification acceptable to CCJPA, as to why the recommended subconsultant represents the most advantageous offer to the CCJPA, considering qualifications, cost or price factors as may be appropriate.
2. Total compensation for subconsultant labor will not, in aggregate, exceed \$100,000 per CONSULTANT fiscal year.
3. Total reimbursement per individual, per day does not exceed eight hours or eight times the approved rate and forty hours in one week.
4. For services performed on a time and material basis, the following costs shall be allowable only to the extent that they are a part of the overhead portion of the subconsultant's labor rate:
 - a. All subconsultant costs including, but not limited to subconsultant labor, associated with automobile travel within a 100 mile radius of the CCJPA's Administrative Offices at 300 Lakeside Drive, in Oakland, California;
 - b. All subconsultant costs associated with providing insurance as set forth in Agreement No. ____ - ____ other than CCJPA-furnished coverages, if any.

As used herein the term "time and material" is defined as a subcontract that provides for acquiring supplies or services on the basis of (i) direct labor hours at specified fixed hourly

rates that include wages, overhead, general and administrative expenses, and profit and (ii) materials or supplies at direct cost only with no overhead, profit or fee allowed.

C. Reimbursement on a Fixed Price Basis

Notwithstanding subarticles III.A. and B. above, and subject to approval by CCJPA's Project Director, subconsultants may perform services on a basis other than a cost reimbursable or time and material basis, when one of the following conditions exists:

1. The subconsultant's priced offer is based upon evidence of adequate price competition. As used herein the term "adequate price competition" is deemed to exist if (i) offers are solicited by CONSULTANT in writing subject to CCJPA's prior approval, (ii) at least three or more responsible offerors that can satisfy CCJPA's requirements submit written, priced offers, responsive to the solicitation's expressed requirements and (iii) the responsive offers compete independently on the basis of price and responsibility.
2. The subconsultant's priced offer is based upon evidence of established catalog prices or established market prices of commercial items sold in substantial quantities to the general public. As used in the foregoing sentence, terms are defined or described as set forth below.
 - a. "Established catalog prices" must be recorded in a form regularly maintained by the manufacturer or vendor. This form may be a catalog, price list, schedule, or other verifiable and established record. The record must be published or otherwise available for customer inspection and state current or last sales price to a significant number of buyers constituting the general public.
 - b. "Established market prices" are current prices that are established in the course of ordinary and usual trade between buyers and sellers free to bargain and can be substantiated by data from sources independent of the contractor or vendor.
 - c. "Commercial items" are supplies or services regularly used for other than CCJPA purposes and sold or traded to the general public in the course of normal business operations.
 - d. An item is "sold in substantial quantities" only when the quantities regularly sold are sufficient to constitute a real commercial market. Nominal quantities, such as models, samples, prototypes, or experimental units, do not meet this requirement. For services to be sold in substantial quantities, they must be customarily provided by the offeror, using personnel regularly employed and equipment (if any is necessary) regularly maintained solely or principally to provide the services.
 - e. The "general public" is a significant number of buyers other than the CCJPA or affiliates of the offeror.
 - f. A price is "based upon" a catalog or market price only if the item being purchased is sufficiently similar to the catalog- or market-priced commercial item to ensure that any difference in prices can be identified.

D. Approved Subconsultant's Services

In the event the CCJPA Project Director gives approval for specific subconsultant services pursuant to the above subarticles III.B. and C. above, CONSULTANT shall thereafter obtain such subconsultant services accordingly.

E. Subconsultant's Obligation

A subconsultant currently performing, or obligated to perform, services pursuant to the above subarticle III.A. shall not be eligible to perform services pursuant to the above subarticle III.B or C. until the services to be performed pursuant to the above subarticle III.A. have been completed. Once a subconsultant undertakes to perform services pursuant to the above subarticle III.B or C., such subconsultant shall thereafter be ineligible to perform any services pursuant to the above subarticle III.A., unless otherwise approved by CCJPA's Project Director.

F. Subconsultant's Services on a Basis Other Than Cost Reimbursement

In the event one of the conditions set forth in subarticles III.B. or III.C. exists and CCJPA's Project Director approves subconsultant services on a basis other than cost reimbursement, the cost reimbursable provisions of this Rate Agreement shall be deemed inapplicable to such services.

IV. BASIS FOR REIMBURSEMENT OF OTHER DIRECT COSTS:

A. Restriction on Reimbursement for Other Direct Costs ("ODCs")

CONSULTANT will be reimbursed for ODCs for either the CONSULTANT or any of its subconsultants at any tier, on the following basis: Unless otherwise authorized by CCJPA's Project Director, such reimbursement will be restricted to those ODC costs whose individual costs are in excess of \$25.

B. Reimbursement of CONSULTANT's Other Direct Costs

Reimbursement for CONSULTANT ODCs is based upon the CONSULTANT's consistent treatment of these types of costs over CONSULTANT'S company as a whole.

C. Treatment of CONSULTANT's Other Direct Costs As Unallowable

The following ODCs are not allowable without the prior written approval of CCJPA's Project Director:

1. Relocation, travel and/or subsistence related to travel into or out of the CCJPA area where the work under this Rate Agreement is to be performed.
 - When travel is approved, Federal Acquisition Regulation ("FAR") Part 31.205-46, sections (1) and (2), and Federal Travel Regulations (41 CFR 301-304) for the county in which the majority of the work is performed shall apply.]
2. Tuition for training, seminars, technical associations meetings, or other similar events.
3. Cost of any equipment, tools, or vehicles hired, leased or purchased for the performance of services, provided further, that the depreciated value of such items purchased by CONSULTANT shall be credited to CCJPA at the completion of the work hereunder.

4. Meal costs.

D. Standard Costs

ODCs may be charged at standard costs only to the extent that such costs are properly adjusted for applicable variances according to procedures developed by CONSULTANT and approved by CCJPA's Project Director. (As used herein, the term "standard costs" shall include any cost computed with the use of pre-established measures. The term "variance" shall include any difference between a pre-established measure and an actual measure.)

V. FIXED FEE

A. CONSULTANT's Fixed Fee

CONSULTANT's fixed fee will be proposed and negotiated as a percentage of the estimated direct labor cost, associated direct labor indirect costs and subcontracted costs; thereafter the negotiated fee shall be fixed. On this basis, CONSULTANT's fixed fee shall be as follows:

1. For CONSULTANT direct labor costs and indirect costs as applied to CONSULTANT direct labor costs, a fixed fee not to exceed 8%., subject to the further restrictions as set forth below:
 - a. CONSULTANT's fixed fee shall not exceed 5% of direct labor and overhead associated with services provided on a seconded basis. For the purposes of this Agreement, the term "seconded personnel" shall mean any CONSULTANT or subconsultants' employee physically located at the site of the work under the Rate Agreement working under the direction of CCJPA personnel and whose work products shall be the responsibility of CCJPA.
 - b. CONSULTANT shall receive no fee on any overhead/indirect costs in excess of 150%.
2. For CONSULTANT subcontracted costs, a fixed fee, not to exceed 2%.
3. For CONSULTANT ODCs, no fee shall be allowed.

B. Subconsultant's Fixed Fee

For subconsultant services performed on a cost reimbursable basis, subconsultant's fixed fee will be proposed and negotiated by CONSULTANT as a percentage of subconsultant's estimated direct labor cost and associated indirect cost for any Work Directive in accordance with the percentages set forth for CONSULTANT in Article V.A. above. There shall be no fee allowed for subconsultant subcontracted costs or ODCs.

C. Fixed Fee Revision

There shall be no revision, either upward or downward, to the established fee for CONSULTANT or subconsultants at any tier due to the establishment of a final rate for indirect cost reimbursement for any given fiscal year.

D. Extraordinary Fee

The parties may mutually agree to an extraordinary fee as a part of an individual Work Directive.

VI. APPLICABILITY

A. Time of Performance

This Rate Agreement shall apply to provisional cost reimbursement and direct and indirect rates, and shall cover the period from Notice to Proceed until [month/day/year]. In the future, the parties anticipate entering into a similar agreement with respect to costs and rates for the period [month/day/year] through [month/day/year].

B. CCJPA's Rights and Obligations

Nothing herein shall be construed to prejudice, waive, or in any other way affect any rights of the CCJPA under the provisions of Agreement No. ____-____, nor respecting limitation of the CCJPA's obligations thereunder.

C. Applicability of Provisional Rates Pending Final Determination

The provisional rates set forth in this Rate Agreement are applicable to all affected Work Directives issued by the CCJPA for Agreement No.____-____, pending final determination of such rates for CONSULTANT by a cognizant Federal agency, subject to approval by CCJPA's Project Director. In the event CONSULTANT does not have final audited rates determined by a cognizant Federal agency, then such rates will be established by an independent, third party audit entity which shall be approved by CCJPA's Project Director.

D. Final Determination of Rates

Any reimbursements under this Rate Agreement submitted prior to said final determination of such rates will be recalculated if these provisional rates differ from the audited rates, unless CCJPA and CONSULTANT mutually agree that recalculation will not be required, in which case the provisional rates will be considered as the audited rates.

E. Payment

CONSULTANT agrees to accept payment of these audited rates as its total compensation for all overhead, general and administrative costs for performing all services.

F. CONSULTANT's Final Rates

The final approved audited rates for indirect expenses for CONSULTANT shall be limited each fiscal year to a rate no more than that set forth below in this subarticle F. Such limitation shall not apply to any increases due solely to additional costs imposed by local, State or Federal regulations, subject to the approval of CCJPA's Project Director.

- In the event CONSULTANT has multiple indirect cost groupings (i.e. fringe benefits, overhead, general & administrative), the final approved rate shall be consolidated into a single multiplier rate. A rate of no more than three (3) percentage points greater than CONSULTANT's rates based on Article II.A. above will be allowed.

G. Subconsultant's Final Rates

The final approved audited rate for indirect expenses for subconsultants at any tier, shall be limited each fiscal year to a rate no more than that set forth in this subarticle G. Such

limitation shall not apply to any increases due solely to additional costs imposed by local, State or Federal regulations, subject to the approval of CCJPA's Project Director.

- In the event a subconsultant has multiple indirect cost groupings (i.e. fringe benefits, overhead, general & administrative), the final approved rate shall be consolidated into a single multiplier rate. A rate of no more than three (3) percentage points greater than subconsultants' rates as set forth in Article III.A. above will be allowed.

VII. OTHER

A. Terms and Conditions

The terms and conditions of Agreement No. ____ - ____ between the parties are incorporated in this Rate Agreement by this reference. All terms used but not defined herein shall have the meaning set forth in Agreement No. ____ - ____.

B. Modifications

All modifications to this Rate Agreement shall be in writing.

The parties have executed this Rate Agreement as of _____, 20__

CAPITOL CORRIDOR JOINT POWERS AUTHORITY

[Name of CONSULTANT]

Signature of the Project Director

Signature

Name
and Title _____

Name
and Title _____

ATTACHMENT D

PROVISIONAL COST REIMBURSEMENT AND RATE DATA

(This document, included as Attachment D and D-1, must be completed by all Proposer(s) who are selected for the oral interview and will be the basis for the contract (see Example Contract Agreement as Attachment B and the reference therein as Attachment C) between CCJPA and the Consultant)

Agreement No. ____-____

Attachment D
Provisional Cost Reimbursement and Rate Data
Page 1 of 3

PROVISIONAL COST REIMBURSEMENT AND RATE DATA

This data sheet is to be completed and submitted by each Proposer and each of its first tier subconsultants valued at \$250,000 or more in response to this RFSOQ:

1. PROVISIONAL INDIRECT COST RATES

- a. The provisional cost rate for direct labor fringe benefits as set forth in CONSULTANT's or subcontractor's submission is _____ %.
- b. The provisional cost rate for overhead expense for services performed in CONSULTANT's offices as applied to (identify bases) _____ is _____ %.
- c. The provisional cost rate for overhead expense for services performed in CCJPA facilities as applied to (identify bases) _____ is _____ %.
- d. The provisional cost rate for general and administrative expense as applied to direct labor for services performed in CONSULTANT's offices is _____ %.
- e. The provisional cost rate for general and administrative expense as applied to direct labor for services performed in CCJPA facilities is _____ %.

2. FIXED FEE

- a. CONSULTANT's fixed fee will consist of the three components set forth in subarticle V.A. of Exhibit 2 (Rate Agreement).
 - (1) The direct labor fee component in accordance with Exhibit 2, subarticle V.A.1., will be _____ % of the estimated direct labor cost and associated indirect costs approved by CCJPA for any Work Directive. There shall be no fee for ODCs or any ODC-associated indirect costs.
 - (2) The direct labor fee component for seconded personnel in accordance with Exhibit 2, subarticle V.A.1., will be _____ % of the estimated direct labor cost and associated indirect costs approved by CCJPA for any Work Directive. There shall be no fee for ODCs or any ODC-associated indirect costs.

Agreement No. _____ - _____

(3) For providing subcontracted services consistent with the requirements of Article 14.0, SUBCONTRACTS, of Exhibit 1, CONSULTANT's fixed fee component shall be as set forth in subarticle V.A.2. of Exhibit 2 (Rate Agreement);

b. Subconsultant's fixed fee for providing services shall be as set forth in subarticle V.B. of Exhibit 2 (Rate Agreement).

3. BASIS FOR DIRECT LABOR COST REIMBURSEMENT

Proposers shall submit on a separate sheet direct labor cost rates, exclusive of any burden or markups, for its consulting, technical, administrative and clerical personnel. Use the following headings for rate listings:

CONSULTANT SALARY RANGES

<u>TITLE</u>	<u>GRADE</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
---------------------	---------------------	-----------------------	-----------------------

ATTACHMENT D-1

COST DISCLOSURE STATEMENT (CDS)

[Included here for information only. The CDS is not required for submittal with the SOQ, but will be required for Proposer(s) selected for the oral interview.]

CAPITOL CORRIDOR JOINT POWERS AUTHORITY

COST DISCLOSURE STATEMENT (CDS)

A. COMPANY BACKGROUND

1. Company Name: _____
Street Address: _____
City, State, Zip: _____

2. Official Company Contact for Cost and Audit Matters:

Name: _____
Title: _____
Telephone No. _____ Facsimile No. _____

3. List the address of your firm's home office and all other offices, and indicate by an * the location(s) that will perform on the CCJPA agreement; also, identify the responsible manager for each office.

Home Office: Manager: _____
Other Offices: Manager: _____
Manager: _____

4. On a separate sheet, list all principals/partners of the Firm, or alternatively, identify those individuals that reside at the local/regional offices of the Firm.

5. Firm's Fiscal Year Ending Date: _____

6. List on a separate sheet, all prior and current agreements that your company has with CCJPA, either as a part of a joint venture or under a prime or subcontract. If work was performed as a subconsultant, list the prime contractor and the CCJPA prime contract number. Also note whether the contract was performed on a cost reimbursable, or fixed price basis as well as any details as to what fees were paid (i.e. fixed fee, incentive fees, percentage fees, etc.). For each contract list the value of the contract as well as the fee terms.

B. COST PRINCIPLES

Agreement No. ____ - ____

1. In addition to specific agreement requirements, the CCJPA will use the following for determining the allowability of certain costs for reimbursement.

- Federal Acquisition Regulations (herein called "FAR"), 48 CFR Part 31
- Cost Accounting Standards (herein called "CAS"), 48 CFR Part 30

Does your firm have a working knowledge of these materials? _____

Do your employees have copies of these materials? _____

2. In order to evaluate your firm's compliance with the above principles, please answer the following questions, complete the schedules and attach all requested information.

a. Does your firm have federal government contracts? _____

b. Was your proposed indirect cost rate audited during the past year by a federal agency (sometimes referred to as "cognizant agency"), any other governmental entity, or a CPA firm? _____ If yes, provide a copy of the audit report(s) and the resulting rate agreements, if any. Also, complete the following: (Identify all reports)

Audit Organization _____

Period of Audit _____ Report Date _____

Scope of Audit _____

Audit Organization _____

Period of Audit _____ Report Date _____

Scope of Audit _____

C. DESCRIPTION OF COST ACCUMULATION AND BILLING PROCEDURES

1. On what basis does your firm maintain its accounting records? Accrual _____ Cash _____

If on a cash basis, are steps taken to properly allocate expenditures that benefit more than one fiscal year? _____ Is any allocation procedure contained in a written procedure? _____ If written, please attach a copy.

2. Briefly describe your firm's system for accumulating and billing project costs by answering all of the following questions. (Provide separate attachments as necessary or required)

a. **DIRECT LABOR**

The CONSULTANT and each subconsultant will be compensated for the services of its personnel on the basis of reasonable, actual paid Direct Labor Costs (herein called "DLC") exclusive of any fringe benefits or overheads.

DLC must also exclude principal or owner time dedicated to the general operation of the business. DLC must also exclude time associated which CCJPA has identified as being allowable only to the extent that they are (i) specific classifications of DLC identified in the Agreement or Work Directive Plan as may be the case or, (ii) are not associated with

specific activities that CCJPA has identified as being reimbursable on a basis other than as a direct cost. (See generally Articles I and IV of the Agreement)

The hourly rates of temporary or contract personnel which are classified as non-employees cannot be calculated as part of DLC, but must be treated as an Other Direct Cost (herein called "ODC"; see generally Article III of the Agreement).

Similarly, the hourly rates of subconsultants cannot be calculated as part of DLC, but must be treated as a Subcontracted Direct Cost (herein called "SDC"; see generally Article II of the Agreement).

Therefore, with respect to direct labor charges by your firm:

- 1) Your firm must fully document all time spent by Principals and employees and charged to CCJPA projects. CCJPA requires that all labor charges be identifiable to the nearest half-hour and specify what activity or task is being performed. (See generally Article 1.0 of the Rate Agreement.)
 - a) Does your firm have a time sheet signed by the employee and verified in writing by the immediate supervisor? _____
 - b) Does the time sheet record all time both direct and indirect? _____
 - c) Are controls in existence to ensure that DLC are relevant to the project scope? _____ Are any such controls formalized in written procedures? _____
- 2) How many hours in your firm's normal workday? _____ hours
- 3) CCJPA normally does not participate in overtime premium for direct labor personnel. Has your firm made provisions to exclude overtime premium and unpaid overtime from CCJPA billings? _____
- 4) Does your firm have a compensation policy for the classifications of labor proposed for these services? _____ If so, please attach a copy.
 - a) Does your firm have guidelines for Salary Administration, i.e. the range of annual reviews, or salary adjustments? _____ If so, please attach a copy and indicate the average adjustment for the last three years.
 - b) Does your firm have any individual incentive compensation plans including, but not limited to bonuses, commissions or profit sharing plans? If so please attach a copy of each.
- 5) CCJPA does not allow payment for uncompensated labor costs. Does your firm have procedures to ensure that uncompensated labor is not billed to CCJPA projects? _____
- 6) If your firm is a partnership/sole proprietorship, does your accounting system use a drawing account to record all compensation to the owner(s)? _____

- 7) Does your firm hire professionals on a temporary basis to work on specific projects, rather than on a continuous employment relationship? _____
- a) How many are currently working for your firm? _____
- b) Who are they and what projects are they working on?

- c) What was the total cost to your company of professionals hired on a temporary basis during the last completed fiscal year? 20____, \$_____.
 Were these amounts in your direct labor base for that year? _____

b. **OTHER DIRECT COSTS**

Other Direct Costs (herein called "ODCs") are direct costs other than direct labor and direct materials that are identified specifically with a contract based on a beneficial or causal relationship.

The Federal Acquisition Regulations (48 CFR Part 31) provide that no contract will have a cost allocated to it as a direct cost if other costs incurred for the same purpose, in like circumstances, are treated as an indirect cost of that or any other contract.

Costs identified specifically with a contract are the direct cost of that contract. **All costs identified with other contracts are direct costs of those contracts whether reimbursed or not.**

- 1) a) Does your firm have an approval process for ODCs? _____
 If so, are they in writing? _____
- b) Does your firm have procedures in place to ensure that ODC budgets are not exceeded? _____
 If so are these procedures in writing? _____
- 2) For each of the following cost categories estimate the amounts charged as direct and indirect costs by your firm during the last completed fiscal year. FY 20_____

	Direct	Indirect
Travel	\$ _____	\$ _____
Reproduction	_____	_____
Graphics	_____	_____
Office Supplies	_____	_____
Equipment	_____	_____
Relocation Costs	_____	_____
Computer Expenses	_____	_____

Laboratory Testing	_____	_____
Contract Labor	_____	_____
Other Cost (specify)	_____	_____
	_____	_____
	_____	_____

3) If any costs listed in 2 above are charged as both a direct and indirect costs, identify them and explain how these and other costs directly identifiable with specific contracts are excluded from the indirect cost pool, to prevent duplication.

4) ODCs also include Subconsultants, does your firm lease office space to other consultants, or otherwise provide support services? _____ If so, describe the relationship.

c. **INDIRECT COSTS**

Indirect costs may consist of one or more pools of expenses which are grouped on the basis of the benefits accruing to the cost objectives represented by the distribution base or bases to which they are allocated. Since accounting practices vary, the use of particular groupings is not required. However, CCJPA contract requirements specify **direct labor costs** as the basis for allocating indirect costs. Furthermore, CCJPA requires that direct labor exclude: 1) fringe benefits, which must be classified as indirect costs; 2) Subconsultant, contract employees and other non-employee costs which must be classified as ODCs; and 3) principal, or owner labor cost dedicated to the general operation of the firm.

Indirect cost rates must be supported. A provisional rate for indirect costs will be established. Your firm's final rate must represent your firm's actual cost experience for a completed fiscal year and must comply with all FAR and specific CCJPA agreement requirements.

Provisional rates must represent your firm's best estimate of the rates to be experienced during that particular year. If your provisional rate does not use your last completed fiscal year, the estimated cost must be based on historical data and all known future changes. The computation should provide for the future changes that will occur in both your direct labor base and indirect expense pools. A proposed rate must comply with all FAR and CCJPA agreement requirements. CCJPA will consider provisional rates audited and approved by a cognizant federal agency (i.e., EPA, DCAA), or other government entity, if the rate is further adjusted to comply with CCJPA agreement requirements.

Each firm must be able to support its direct labor base and other labor cost components used to calculate the indirect cost rate by submission of data for the last three years. **For this purpose complete the SCHEDULE OF SUMMARY COST AND SALARY DATA (page 9) for the last two completed fiscal years and the new fiscal year.**

Complete the INDIRECT COST SCHEDULES (Schedules A, B and C, pages 10 through 12) for your firm's last two completed fiscal years and the new fiscal year. The schedules may be modified as appropriate and will be reviewed by CCJPA as part of negotiating a provisional reimbursement agreement.

List each indirect cost account, the amount, and a description of each adjustment. Specifically how adjustments for: 1) FAR unallowable costs, and 2) the exclusion of those categories of cost which will be paid directly by CCJPA as an ODC, or will be provided directly by CCJPA or another firm. Also exclude comparable pool costs incurred in the performance of other contracts. For example, if travel is charged directly, then only general purpose travel should be included in the pool. Nonreimbursable direct travel should be excluded from the pool.

The following is a list of some of the more common costs unallowable per FARs. The list is not meant to be all inclusive, and accordingly, the CONSULTANT must refer to the FARs when preparing the INDIRECT COST SCHEDULE.

- | | |
|---------------|--------------------------------|
| Advertising | Fines/Penalties |
| Bad Debts | Idle Facilities |
| Contingencies | Interest/Other Financial Costs |
| Contributions | Losses on Other Contracts |
| Entertainment | Organizational Costs |

- 1) Does your firm routinely evaluate pool costs to identify and remove unallowable costs? _____ If so, at what interval? _____ If there is a written procedure for this removal, please attach a copy.

- 2) Does this CDS exclude any cost centers used by your firm? _____ If yes, identify these cost centers: _____

- 3) a. Does your firm own or have a financial interest in the facilities it leases or rents? _____
If yes, identify: _____

- b. Does your firm own or have a financial interest in equipment it leases or rents? _____
If so, please identify those interests: _____

- 4) a. Does our firm share any facilities with other affiliates, subsidiaries, personal interests, etc.? _____
If yes, describe each sharing arrangement: _____

b. Does your firm share any equipment with other affiliates, subsidiaries, personal interests, etc.? _____
If yes, describe each sharing arrangement: _____

5) CCJPA will not allow Facilities Cost of Capital unless specifically proposed, reviewed, approved and audited. Does your proposed indirect cost rate include facilities cost of capital? _____
If yes, attach appropriate computation. _____

SCHEDULE OF SUMMARY COST AND SALARY DATA

For Fiscal Years Ending:	_____ 20__	_____ 20__	_____ 20__
	Actual	Actual	Proposed
Total Company Sales	\$ _____	\$ _____	\$ _____
Total Direct Labor	\$ _____	\$ _____	\$ _____
Total Direct Labor Hours	\$ _____	\$ _____	\$ _____
Total All Salaries	\$ _____	\$ _____	\$ _____
Total All Bonuses	\$ _____	\$ _____	\$ _____
Total Number of Principals/Owners (P/O)	\$ _____	\$ _____	\$ _____
Total Salaries	\$ _____	\$ _____	\$ _____
Total Bonuses	\$ _____	\$ _____	\$ _____
Total Number of Professional Employees *	\$ _____	\$ _____	\$ _____
Total Salaries	\$ _____	\$ _____	\$ _____
Total Bonuses	\$ _____	\$ _____	\$ _____
Total Number of All Other Employees *	\$ _____	\$ _____	\$ _____
Total Salaries	\$ _____	\$ _____	\$ _____
Total Bonuses	\$ _____	\$ _____	\$ _____

* To be considered an employee, an individual should be subject to withholding tax and be issued a Wage and Tax Statement (W-2) at year end and receive administrative support and supervision.

CERTIFICATION

I certify that to the best of my knowledge and belief that this Statement and the documents attached thereto are a complete and accurate disclosure of the information requested by this form.

Signature of Submitting Official (CEO or CFO)

Title

Date

Agreement No. ____ - ____

Schedule A - General & Administrative Expenses (G&A)

Fiscal Year Ending: _____, 20__

Schedule of Actual Expenses, Unallowable Costs, and Adjusted Costs

<u>Account No.</u>	<u>Description of Costs Removed</u>	<u>Expenses Per General Ledger</u>	<u>Unallowable Costs</u>	<u>Notes</u>	<u>Adjusted Costs</u>
_____	Salaries & Wages	_____	_____	_____	_____
_____	Legal Fees	_____	_____	_____	_____
_____	Audit Fees	_____	_____	_____	_____
_____	Other Fees	_____	_____	_____	_____
_____	Travel	_____	_____	_____	_____
_____	Entertainment	_____	_____	(1)	_____
_____	Advertising & Promotion	_____	_____	(2)	_____
_____	Bad Debts	_____	_____	(1)	_____
_____	Technical Publication	_____	_____	_____	_____
_____	Periodicals	_____	_____	_____	_____
_____	Conventions & Seminars	_____	_____	_____	_____
_____	Interest Expense	_____	_____	_____	_____
_____	Holiday	_____	_____	_____	_____
_____	Vacation	_____	_____	_____	_____
_____	Sick Leave	_____	_____	_____	_____
_____	Personal Absence	_____	_____	_____	_____
_____	Employee FICA	_____	_____	_____	_____
_____	FUI	_____	_____	_____	_____
_____	SUI	_____	_____	_____	_____
_____	Workmans' Compensation	_____	_____	_____	_____
_____	Health Insurance	_____	_____	_____	_____
_____	Life Insurance	_____	_____	_____	_____
_____	Pension Plan	_____	_____	(3)	_____
_____	Tuition Assistance	_____	_____	_____	_____
_____	Miscellaneous	_____	_____	_____	_____
_____	Subtotal	_____	_____	_____	_____
_____	B&P/IR&D	_____	_____	(4)	_____
_____	Total	=====	=====	=====	=====

Notes:

- (1) Unallowable cost per Government procurement regulation FAR 31.2.
- (2) Some advertising expenses allowable e.g. help-wanted employment advertising.
- (3) Employer contributions to pension plan may be in excess of that allowable under FAR.
- (4) See Schedule I for computation of allowable IR&D/B&P costs.

(Use this format for each Fiscal Year and Cost Center)

Agreement No. ____ - ____

Schedule B - Overhead Expenses
Fiscal Year Ending: _____, 20

Schedule of Actual Expenses, Unallowable Costs, and Adjusted Costs

<u>Account No.</u>	<u>Unallowable Description of Costs Removed</u>	<u>General Ledger</u>	<u>Adjusted Costs</u>	<u>Notes</u>	<u>Expenses Per Costs</u>
_____	Salaries & Wages	_____	_____	_____	_____
_____	Postage & Handling	_____	_____	_____	_____
_____	Office Supplies	_____	_____	_____	_____
_____	Small Equipment	_____	_____	_____	_____
_____	Temp. Clerical Help	_____	_____	_____	_____
_____	Other Outside Services	_____	_____	_____	_____
_____	Relocation	_____	_____	(1)	_____
_____	Business Meals	_____	_____	_____	_____
_____	Telephone Expense - Local	_____	_____	_____	_____
_____	Telephone - Long Distance	_____	_____	_____	_____
_____	Telecopies	_____	_____	_____	_____
_____	Real Estate Rent	_____	_____	_____	_____
_____	Equipment Rent	_____	_____	_____	_____
_____	Recruitment	_____	_____	_____	_____
_____	Dues/Memberships	_____	_____	(2)	_____
_____	Insurance	_____	_____	_____	_____
_____	Property Taxes	_____	_____	_____	_____
_____	Permits & Licenses	_____	_____	_____	_____
_____	Depreciation/Amortization	_____	_____	_____	_____
_____	Repairs & Maintenance	_____	_____	_____	_____
_____	Holiday	_____	_____	_____	_____
_____	Vacation	_____	_____	_____	_____
_____	Sick Leave	_____	_____	_____	_____
_____	Severance Pay	_____	_____	(3)	_____
_____	Employer FICA	_____	_____	_____	_____
_____	FUI	_____	_____	_____	_____
_____	SUI	_____	_____	_____	_____
_____	Workmans' Compensation	_____	_____	_____	_____
_____	Health Insurance	_____	_____	_____	_____
_____	Life Insurance	_____	_____	_____	_____
_____	Pension Plan	_____	_____	(4)	_____
_____	Miscellaneous	_____	_____	_____	_____
_____	Total	=====	=====	_____	=====

Notes:

(1) Moving charges are limited by FAR.

Agreement No. _____ - _____

- (2) Nature and amount limited by FAR.
- (3) Severance pay is limited.
- (4) Employer contributions to pension plan may be limited.

(Use this format for each Fiscal Year and Cost Center)

Schedule C - Schedule of Bases Used to Allocate Indirect Expenses
Fiscal Year Ending: _____, 20

Pool - General and Administrative Expenses - Schedule A:

Base - Direct Labor Cost input (excluding fringe benefit expenses)

Pool - Fringe Benefit Expenses - Schedule B:

Base - Straight time direct labor dollars of all contracts and projects including labor costs of Bid and Proposals.

ATTACHMENT E

PROTEST PROCEDURE

PROTEST PROCEDURE

A. Submittal of Protests

All protests must be in writing, stating the name and address of the protestor, a contact person, the RFSOQ Number and Title and shall specify in detail the grounds of the protest and the facts supporting the protest.

All protests must be addressed as follows, to the District Secretary of the San Francisco Bay Area Rapid Transit District ("BART") who also serves as the CCJPA Board Secretary:

<u>For Special Delivery or Hand Delivery:</u>	or	<u>By U.S. Mail:</u>
CCJPA c/o District Secretary		CCJPA c/o District Secretary
San Francisco Bay Area Rapid Transit District		San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 23rd Floor		P.O. Box 12688
Oakland, CA 94612		Oakland, CA 94604-2688

Protests not properly addressed to the District Secretary may not be considered by the CCJPA.

Copies of the District's Protest Procedures which are equally applicable to the CCJPA may be obtained from the District's Division of Contract Administration, P. O. Box 12688, Oakland, California 94604-2688, Telephone (510) 464-6543. SOQs will be opened and a Notice of Award will be issued by the CCJPA only in accordance with the Protest Procedures.

B. Pre-submittal Protests

Pre-submittal protests are protests based upon the content of the solicitation documents. Five (5) copies of pre-submittal protests must be received by the District Secretary no later than ten (10) calendar days prior to SOQ opening. A written decision specifying the grounds for sustaining all or part of, or denying, the protest will be transmitted to the protestor in a manner that will provide verification of receipt, prior to the submission of SOQs. If the protest is sustained, the SOQ submission date may be postponed and an addendum issued to the RFSOQ document or, at the sole discretion of the CCJPA, the advertisement may be canceled. If the protest is denied, SOQs will be received on the scheduled date.

C. Protests on the Recommended Award

All Proposers will be notified of the recommended award, if any. This notice will be transmitted to the Proposer at the address contained in its SOQ in a manner that provides verification of receipt. Any Proposer whose SOQ has not lapsed may protest the recommended award on any ground not specified in subsection B. above. Ten (10) copies of a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest must be received by the District Secretary at the appropriate address set forth in subsection A. above no later than seven (7) calendar days following receipt of such notification. A written decision stating the grounds for allowing or denying the protest will be transmitted to the protestor and the Proposer recommended for award in a manner that provides verification of receipt, prior to execution of the Agreement. Such decision shall be final.

EXHIBIT 1

PROJECT CONSULTANT TEAM

Name, Address and Telephone Numbers of All Firms Participating on the Project (including Proposer) and Subconsultants	Work Description	Total Dollar Amount
Proposer's Name Address Phone Number		
Name Address Phone Number		
Name Address Phone Number		
Name Address Phone Number		
Name Address Phone Number		
Name Address Phone Number		

Name – Authorized Officer of Proposer Firm (Print or Type)

Signature – Authorized Officer of Proposer firm

Date

EXHIBIT 2

CONFIDENTIAL

STATEMENT OF QUALIFICATIONS AND BUSINESS REFERENCES

Proposer shall complete the Statement of Qualifications and Business references below. In addition, Proposer submitting a SOQ as a joint venture must have an executed Joint Venture Agreement as of the SOQ due date and a copy of the Joint Venture Agreement shall be attached to this Exhibit 2. Proposers are free to attach additional material. Such material is to be attached to this Exhibit.

The information on this Proposer Sheet will be a factor in evaluating the awards.

1. Business Name of Proposer:
 - a. Address: _____

 - b. Telephone No.: _____
 - c. Contact Person: _____

2. Form of Proposer Organization:
 - a. Is Proposer a sole proprietorship? Yes ____ No ____
Name and address of Owner: _____

 - b. Is Proposer a partnership? Yes ____ No ____
Name and address of Partners: _____

 - c. Is Proposer a limited partnership? Yes ____ No ____
Name and address of General Partner: _____

 - d. Is Proposer a corporation? Yes ____ No ____
State of Incorporation: _____
Name of Officers: _____

Corporation Number: _____
Federal Taxpayer ID Number _____

 - e. Is Proposer a joint venture? Yes ____ No ____ (***See Note Below**)
Name of joint ventures: _____

***Note:** If Proposer is a joint venture, a copy of the Joint Venture Agreement shall be attached to this statement and submitted with your SOQ.

3. Business License (documented) _____
Taxpayer ID Number (Federal) _____

4. How many years has your organization been in business under your present business name?

5. How many years of experience has your organization had? _____

6. How many years of experience has your organization had in the type of work similar to the work you are proposing (List separately for Environmental and Track Design)? _____

7. List similar types of projects your firm has successfully concluded for both Environmental document preparation and Track Design. Include names of individuals and telephone numbers, the CCJPA may contact including public bodies for these projects.

<u>Year</u>	<u>Price</u>	<u>Contract Project Description</u>	<u>Names of Owner and Address</u>	<u>Contact Person</u>

Provide information on SF 330

8. Name the Key Personnel who are to work on the project for which you are proposing and next to each person's name the project title of similar work to that upon which you are bidding which they have successfully participated. Attach resumes of these key people to this document. Indicate who will be the Project Manager and lead contact with CCJPA for execution and coordination of the work.

Provide information on SF 330

9. How many years have the key people worked in your firm?

10. How many years of experience have the key people had working in areas similar to these projects (List separately for Environmental and Track Design)?

11. Where is the location of offsite work to be done?

Telephone No. _____

12. Have you or your organization failed to complete a contract? If so, give details:

13. Reference is hereby made to the following bank or banks as to financial responsibility of the Proposer:

Name of bank _____
Street address _____
City and state _____
Telephone No. _____
Officer familiar with Proposer's account _____

Name of bank _____
Street address _____
City and state _____

Telephone No. _____

Officer familiar with Proposer's account _____

Name of bank _____

Street address _____

City and state _____

Telephone No. _____

Officer familiar with Proposer's account _____

14. Reference is hereby made to the following surety company or companies as to the financial responsibility and general reliability of Proposer:

Name of surety company _____

Name of local agent (if different) _____

Local address: _____

City and State _____

Telephone No. _____

Person familiar with Proposer's Account _____

15. Provide as a part of this Exhibit, complete and audited financial statements (including all notes thereto) for your firm for the past three years. This should also include specific data that will allow BART to evaluate the indirect cost rate provided in the estimated cost for scope of services.

16. In what other line of business are you financially interested? _____

17. Is any litigation pending against your organization? If so, give details. _____

I declare under penalty of perjury that the foregoing is true and correct:

Executed on _____ day of _____, 20____, at

City

State

Name of Proposer: _____

By: _____
Signature of Proposer or
Authorized Representative

Print Name and Title of
Person Signing

Name of Proposer: _____

ATTACHMENT F

EXAMPLE ASSIGNMENT OF CONTRACT

Execution Version

ASSIGNMENT AND ASSUMPTION OF CONSULTING SERVICES AGREEMENT AND CONSENT

This Assignment and Assumption of Consulting Services Agreement and Consent (this “Assignment and Consent”), is entered into as of XXXXXX (the “Effective Date”), by and among the Capitol Corridor Joint Powers Authority, a local transportation authority (“Assignee” or “CCCJPA”), and XXXXXXXXXXXXXXXXXXXXXXX (“Consultant”).

RECITALS

- A. Assignor and Consultant entered into that certain Consulting Services Agreement, dated XXXXXXXX, (the “Agreement”), between Assignor and Consultant, and
- B. Pursuant to the Agreement, Consultant is to perform services related to the development and implementation of the California Integrated Travel Program (Cal ITP), in the context all programmatic related implementation, and
- C. Assignee is better situated to administer the Agreement and Assignor desires to assign all of its rights and obligations in, to and under the Agreement to Assignee, and Assignee desires to assume all of Assignor’s rights and obligations in, to and under the Agreement, and
- D. Consultant desires to consent to Assignor’s assignment of its rights and obligations under the Agreement to Assignee, and to Assignee’s assumption of Assignor’s rights and obligations under the Agreement, and to agree to Assignee becoming its counterparty under the Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Assignor, Assignee and Consultant hereby agree as follows:

- 1. Assignment of Agreement. As of the Effective Date, Assignor hereby transfers, assigns and conveys all of Assignor's right, title and interest in, to and under the Agreement to Assignee.
- 2. Assumption of Agreement.
 - a. Assumption. As of the Effective Date, Assignee hereby accepts, assumes and agrees to perform, fulfill and comply with all covenants and obligations to be performed, fulfilled or complied with by Agency pursuant to the Agreement accruing on and after the Effective Date, and confirms that as of the Effective Date it shall be deemed a party to the Agreement and agrees to be bound by all of the terms of the Agreement and to undertake all the obligations of Agency and County contained therein.

- b. References in Agreement. Assignee and Consultant hereby agree that all references in the Agreement to “Agency” and “the CCJPA” shall be deemed references to “CCJPA.”
 - c. Receipt of Agreement. Assignee hereby acknowledges and confirms that it has received a copy of the Agreement and the schedules and exhibits related thereto.
 - d. Assignor Obligations. Assignor shall remain responsible for and perform all of Assignor's obligations under or with respect to the Agreement accruing prior to the date of this Assignment and Consent.
3. Consent to Assignment. Consultant hereby consents to Assignor’s conveyance and assignment of its right, title and interest in, to and under the Agreement to Assignee pursuant to this Assignment and Consent, which is effective as of the Effective Date. Notwithstanding the foregoing, the parties hereto agree that Assignor shall be entitled to pursue claims accruing or arising incident to the Agreement on or before the Effective Date, and all its rights and remedies related to such claims, for (a) payments of indemnity now or hereafter due under the Agreement from Consultant, and/or (b) insurance payments or proceeds, provided however, that Consultant’s liability for such claims shall not exceed the liability it would have incurred if the assignment effected hereby had not been made.
4. Indemnification.
 - a. Assignee Indemnity. Assignee shall indemnify Assignor against, and agrees to hold Assignor harmless of and from (i) all liabilities, obligations, actions, suits, proceedings or claims, and all costs and expenses, including, but not limited to, reasonable attorneys' fees (collectively, “Claims and Costs”), based upon or arising out of any breach or failure of Assignee to observe or perform any of the obligations of Assignee as set forth in this Assignment and Consent, and (ii) all Claims and Costs based upon or arising out of the Agreement on and after the Effective Date.
 - b. Assignor Indemnity. Assignor shall indemnify Assignee against, and agrees to hold Assignee harmless of and from (i) all Claims and Costs based upon or arising out of any breach or failure of Assignor to observe or perform any of the obligations of Assignor as set forth in this Assignment and Consent, and (ii) all Claims and Costs based upon or arising out of the Agreement prior to the Effective Date.
5. Insurance; Further Assurances. Consultant will provide Assignee with evidence of insurance as required by the Agreement. Each party to this Assignment and Consent shall execute and deliver such instruments, documents and other written information and take such other actions as the other party may reasonably require in order to carry out the intent of this Assignment and Consent.

6. Conditions Precedent. The effectiveness of this Assignment and Consent is conditioned upon (i) its approval by the Board of Supervisors of Assignor and the Board of Commissioners of Assignee, any approvals required by Consultant, and execution by each of the parties hereto, and (ii) Consultant's satisfaction of the insurance requirements of Section 5 of this Assignment and Consent.
7. Notices. Unless otherwise notified by Assignee, copies of any notices to be provided pursuant to the Agreement shall be sent to Assignee at the following address:

CCJPA ADDRESS

8. Binding Effect. This Assignment and Consent shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
9. Entire Agreement. This Assignment and Consent shall constitute the entire agreement between the parties hereto with respect to the subject matter of this Assignment and Consent and supersedes all prior agreements, understandings, negotiations, representations, and discussions, whether verbal or written, of the parties, pertaining to that subject matter.
10. Severability. If any provision of this Assignment and Consent is determined to be illegal or unenforceable, all other provisions shall nevertheless be effective.
11. Governing Law. This Assignment and Consent and the legal relations between the parties hereto shall be governed by and be construed in accordance with the laws of the State of California with venue in the Superior Court of the County of Alameda, California.
12. Counterparts. This Assignment and Consent may be executed in several counterparts and all such executed counterparts shall constitute one document, binding on all of the parties hereto, notwithstanding that all of the parties hereto are not signatories to the original or to the same counterpart.

Signatures appear on following page.

IN WITNESS WHEREOF, the Assignor, Assignee and Consultant have executed this Assignment and Assumption of Consulting Services Agreement and Consent as of the date first set forth above.

ASSIGNOR ASSIGNEE

CCJPA, a Joint Powers Authority XXXXXXXXXXXXX, described
subdivision of the State of California AUTHORITY,

By: _____ By: ___ Name: _____ Name: _____
Title: __ Title: _

Approved as to form: Approved as to form: XXXXXXXXXXXXX

By: ___ By: ___ Deputy County Counsel XXXXXXX
Authority Counsel

CONSULTANT

XXXXXXXXXXXXXXXXXX

By: _____ Name: Title: _

By: _____ Name: Title: _