

City and County of San Francisco
Airport Commission
P.O. Box 8097
San Francisco, California 94128

First Modification

**Contract No. 10071.41
Project Management Support Services for
The Terminal 3 West Modernization Program**

THIS MODIFICATION (this "Modification") is made as of **March 21, 2017**, in San Francisco, California, by and between **WCME JV** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Airport Commission or the Commission's designated agent, hereinafter referred to as "**Commission.**"

RECITALS

- A. City and Contractor have entered into the Agreement (as defined below); and
- B. On February 16, 2016, by Resolution No. 16-0053, the Commission awarded this Agreement to the Contractor for an amount not-to-exceed \$8,100,000 for the first year of services; and
- C. City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the term of the agreement and make other administrative changes; and
- D. On March 21, 2017, by Resolution No. 17-0064, the Commission approved this Modification to the Contractor to extend the term of the contract by one year; and
- E. Approval for this Agreement was obtained when the Department of Human Resources approved PSC No. 40697-14/15 on June 27, 2016; and

NOW, THEREFORE, Contractor and the City agree as follows:

- 1. **Definitions.** The following definitions shall apply to this Modification:
 - a. **Agreement.** The term "Agreement" shall mean the Agreement dated **February 16, 2016** between Contractor and City.
 - b. **Other Terms.** Terms used and not defined in this Modification shall have the meanings assigned to such terms in the Agreement.
- 2. **Section 2. Term of the Agreement** is hereby amended to extend the term of the contract for **one (1) additional year** for a new ending date of **April 3, 2018**.

Section 11.15. Federal Non-Discrimination Provisions is hereby deleted in its entirety and replaced with the following:

11.15 Federal Nondiscrimination Requirements. During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as "Contractor") agrees as follows:

11.15.1 Compliance with Regulations. Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

11.15.2 Nondiscrimination. Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

11.15.3 Solicitations for Subcontracts. Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of Contractor's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

11.15.4 Information and Reports. Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airport or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Airport or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

11.15.5 Sanctions for Noncompliance. In the event of a contractor's noncompliance with the Non-discrimination provisions of this Agreement, the Airport will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding payments to the contractor under the contract until the contractor complies; and/or
- (b) Cancelling, terminating, or suspending a contract, in whole or in part.

11.15.6 Incorporation of Provisions. Contractor will include the provisions of paragraphs 11.15.1 through 11.15.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the Airport or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with litigation by a

subcontractor, or supplier because of such direction, Contractor may request the Airport to enter into any litigation to protect the interests of the Airport. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

11.15.7 Title VI List of Pertinent Nondiscrimination Acts and Authorities.

During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin

discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

4. **New Section 11.17. Airport Commission Rules and Regulations** is hereby added to read as follows:

11.17 **Airport Commission Rules and Regulations.** Contractor agrees to comply with the Airport Commission's Rules and Regulations for the San Francisco International Airport as amended from time to time. A copy of the current Rules and Regulations can be found at: <http://www.flysfo.com/about-sfo/the-organization/rules-and-regulations>.

5. **New Section 11.18. Federal Fair Labor Standard Act** is hereby added to read as follows:

11.18 **Federal Fair Labor Standards Act.** This Agreement incorporates by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Contractor has full responsibility to monitor compliance to the referenced statute or regulation. Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

6. **New Section 11.19. Occupational Safety and Health Act of 1970** is hereby added to read as follows:

11.19 **Occupational Safety and Health Act of 1970.** This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

7. **Appendix B, Calculation of Charges**, is hereby amended as follows:

a. **The first introduction Paragraph** is hereby amended to change one of the Joint Venture contractor's business name from MCK Associates, LLC to MCK Americas, Inc. as follows:

This is Appendix B attached to, and incorporated by reference in the Agreement made on February 16, 2016 between the City and County of San Francisco, acting by and through its Airport Commission (Commission), and WCME JV, a Joint Venture of PGH Wong Engineering, Inc., Cooper Pugeda Management, Inc., MCK Americas, Inc., and Environmental & Construction Solutions, Inc. (Contractor) providing for Project Management Support Services for Terminal 3 West Modernization Project and Boarding Area F Passenger Boarding Bridge Project.

b. **Section 3.2 Overhead Rates**, is hereby deleted in its entirety and replaced with the following:

3.2. Overhead Rates

3.2.1 The approved overhead rates are:

Firm Name	Home Office Overhead Rate	Field Office Overhead Rate
PGH Wong Engineering, Inc.	125.00%	125.00%
Cooper Pugada Management, Inc.	110.00%	110.00%
MCK Americas, Inc.	125.00%	125.00%
Environmental & Construction Solutions, Inc.	120.00%	120.00%
AECOM Technical Services, Inc.	158.03%	128.10%
Apex Testing Laboratories, Inc.	163.20%	150.00%
Chaves & Associates	145.00%	145.00%
CM Pros	166.93%	145.00%
Hollins Consulting, Inc.	120.00%	120.00%
Saylor Consulting Group	125.12%	125.12%
Urban Fabrick, Inc.	140.00%	140.00%

3.2.2 Commission shall pay the lesser of Contractor's current audited overhead rates, or the maximum approved overhead rates stated above.

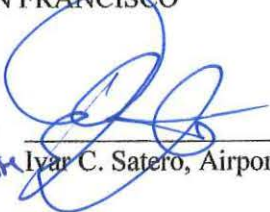






3.2.3 Contractor shall submit to the Commission current certified reviewed financial audit report(s) of overhead cost rates for home and/or field office rates prior to award of the Contract and upon request for a change or addition to the approved overhead rates stated in this Paragraph 3.2.

3.2.4 The home office indirect cost rate shall be used when staff works in an office provided by the Contractor. The field office indirect cost rate shall be used when staff is assigned full time to an office provided by the Commission. To qualify for the field office indirect cost rate the Commission shall provide office spaces, utilities, telephone service, internet access, and computers.

8. Effective Date. Each of the changes set forth in this Modification shall be effective on and after the date of this Modification.

9. Legal Effect. Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Modification as of the date first referenced above.

<p>CITY AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO</p> <p>By:  Ivan C. Satero, Airport Director</p> <p>Attest:</p> <p>By:  Jean Caramatti, Secretary Airport Commission</p> <p>Resolution No: 17-0064</p> <p>Adopted on: March 21, 2017</p> <p>Approved as to Form:</p> <p>Dennis J. Herrera City Attorney</p> <p>By:  Heather Wolnick Deputy City Attorney</p>	<p>CONTRACTOR</p> <p> Authorized Signature</p> <p>Clifford S. M. Wong President PGH Wong Engineering, Inc. 182 2nd Street, Suite 500 San Francisco, California 94105 (415) 566-0800</p> <p> Authorized Signature</p> <p>Ismael G. Puga Cooper Puga Management, Inc. President 65 McCoppin Street San Francisco, California 94103 (415) 218-2912</p> <p> Authorized Signature</p> <p>Brendan P. McDevitt MCK Americas, Inc. President 806 Jamestown Avenue San Francisco, California 94124 (415) 710-0973</p> <p> Authorized Signature</p> <p>Andrew Petreas Environmental & Construction Solutions, Inc. President 290 Division Street, Suite #307 San Francisco, California 94103 (415) 934-8790</p> <p>98846 City Vendor Number</p> <p>810714202 Federal Employer ID Number</p>
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