

File No. 141035

Committee Item No. 6

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date November 19, 2014

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
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| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>ARC Resolution Nos. 14-0134, 06-0081</u> |
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Completed by: Linda Wong Date November 14, 2014

Completed by: _____ Date _____

1 [Engineering Services Agreement Amendment - URS Corporation - New Irvington Tunnel
2 Project - Not to Exceed \$14,873,561]

3 **Resolution approving and authorizing the General Manager of the San Francisco Public**
4 **Utilities Commission to execute Amendment No. 4 to the professional services**
5 **agreement for the New Irvington Tunnel Project with URS Corporation to increase the**
6 **amount by \$500,000 for a total revised agreement amount of \$14,873,561 and extend**
7 **the agreement term by one year for a total revised agreement term of ten years,**
8 **through June 30, 2016, pursuant to Charter Section 9.118.**

9
10 WHEREAS, On May 9, 2006, the San Francisco Public Utilities Commission (SFPUC)
11 awarded Agreement No. CS-820, New Irvington Tunnel (NIT) Project, Engineering Services,
12 and authorized the General Manager of the SFPUC to execute a professional services
13 agreement, in the amount of \$8,600,000 and with a term of seven (7) years, concluding on
14 June 27, 2013, with URS Corporation; and

15 WHEREAS, On September 22, 2009, this Board approved Amendment No. 2 to the
16 agreement, increasing the amount to a total of \$13,898,561, and extending the duration for a
17 term of eight (8) years, by Resolution No. 370-09; and

18 WHEREAS, The SFPUC approved Amendment No. 3 in 2011 for \$475,000, increasing
19 the not-to-exceed agreement amount to \$14,373,561, and extending the agreement term by
20 one (1) year for a total agreement duration of nine (9) years to June 2015 in order to provide
21 on-going engineering support during construction, and address the unanticipated increase in
22 design consultant reviews of submittals and engineering substitutions/re-designs submitted by
23 the construction contractor; and

24 WHEREAS, On August 26, 2014, the SFPUC, by Resolution No. 14-0134, approved
25 Amendment No. 4 to increase the agreement by \$500,000, for a total not-to-exceed

1 agreement amount of \$14,873,561, and extend the agreement term by up to twelve (12)
2 months to June 2016, in order to provide additional design engineer-of-record support during
3 final construction, closeout of the NIT project, and additional engineering support services for
4 the inspection of the existing Irvington Tunnel, subject to Board of Supervisors' approval,
5 pursuant to Charter, Section 9.118; and

6 WHEREAS, Funds for this agreement are available from Project No. CUW35901 –
7 New Irvington Tunnel; and

8 WHEREAS, The proposed Amendment No. 4 is on file with the Clerk of the Board of
9 Supervisors in File No. 141035, and is hereby declared to be part of this Resolution as if fully
10 set forth herein; now, therefore, be it

11 RESOLVED, That the Board of Supervisors, pursuant to Charter, Section 9.118 hereby
12 approves and authorizes the General Manager of the SFPUC to execute Amendment No. 4 to
13 increase the amount of Agreement No. CS-820 with URS Corporation by \$500,000, for a total
14 revised agreement amount of \$14,873,561, and with a time extension up to twelve (12)
15 months for a total agreement duration of up to ten (10) years if the Amendment is approved in
16 substantially the form on file with the Clerk of the Board, and in such final form as approved by
17 the General Manager and the City Attorney; and, be it

18 FURTHER RESOLVED, That within thirty (30) days of Amendment No. 4 being fully
19 executed by all parties, the SFPUC shall provide the final Amendment No. 4 to the Clerk of
20 the Board for inclusion into the official file.

<p>Item 6 File 14-1035</p>	<p>Department: Public Utilities Commission (PUC)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<p>The proposed resolution would authorize the fourth amendment to the existing contract between the Public Utilities Commission (PUC) and the URS Corporation (URS) to increase the not-to-exceed contract amount by \$500,000, from \$14,373,561 to \$14,873,561 for URS to provide New Irvington Tunnel project closeout services and inspect the existing Irvington Tunnel.</p>	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The existing Irvington Tunnel was completed in 1930 and is currently the only water conveyance tunnel that connects the water system in the Sierra Nevada mountains to the Alameda Creek Watershed. Because the existing Irvington Tunnel is the only water conveyance tunnel between these two water systems, it has been in constant use since 1966 without regular maintenance or repair. • The New Irvington Tunnel is an additional water conveyance tunnel that connects the water systems in in the Sierra Nevada mountains to the Alameda Creek Watershed. Once the New Irvington Tunnel is completed, the PUC will be able to drain the existing tunnel, inspect the tunnel for immediate repairs and deferred maintenance, and install new security structures at the ends of the existing tunnel. • In June 2006, the PUC entered into a contract with URS Corporation (URS), following a competitive solicitation process, to provide (a) geotechnical investigation, (b) engineering design services, and (c) support services during bid, award, construction, and close-out for the project. • The proposed resolution would authorize the fourth amendment to the existing contract for URS to provide New Irvington Tunnel project closeout services and inspecting the existing Irvington Tunnel. • According to Mr. Carlos Jacobo, PUC Budget Director, inspecting the existing Irvington Tunnel was not part of the original contract with URS but is being added because the work is consistent with the Environment Impact Review (EIR) that was approved for this project. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • The proposed resolution would increase the not-to-exceed contract amount by \$500,000 to provide \$150,000 in funds for URS to inspect the existing Irvington Tunnel, \$50,000 for archiving services, and \$300,000 for continued services through the end of the New Irvington Tunnel project. • According to Mr. Jacobo, funding for the requested \$500,000 increase will be provided from existing proceeds of Water Revenue bonds, as previously approved by the Board of Supervisors. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT / BACKGROUND

Mandate Statement

City Charter Section 9.118(b) states that a contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification with a \$500,000 impact or more is subject to Board of Supervisors approval.

Background

New Irvington Tunnel Project

The existing Irvington Tunnel was completed in 1930 and is currently the only water conveyance tunnel that connects the water system in the Sierra Nevada mountains to the Alameda Creek Watershed. Because the existing Irvington Tunnel is the only water conveyance tunnel between these two water systems, it has been in constant use since 1966 without regular maintenance or repair. According to Mr. Carlos Jacobo, San Francisco Public Utilities Commission (PUC) Budget Director, repairing or maintaining the existing Irvington Tunnel requires draining the tunnel, which would significantly interrupt water supply in the Bay Area if the New Irvington Tunnel was not operational.

The New Irvington Tunnel is an additional water conveyance tunnel that connects the water systems in in the Sierra Nevada mountains to the Alameda Creek Watershed. The New Irvington Tunnel project is part of the PUC’s Water System Improvement Program and is included in the PUC capital plan. Once the New Irvington Tunnel is completed, the PUC will be able to drain the existing tunnel, inspect the tunnel for immediate repairs and deferred maintenance, and install new security structures at the ends of the existing tunnel. Once the existing tunnel is repaired and improved, both tunnels will be functional and will provide constant water supply.

URS Corporation Contract

In June 2006, the PUC entered into a contract with URS Corporation (URS), following a competitive solicitation process, to provide (a) geotechnical investigation, (b) engineering design services, and (c) support services during bid, award, construction, and close-out for the project. Since June 2006, the PUC has amended the contract three times to increase the not-to-exceed contract and to extend the effective term of the contract, as shown in Table 1 below.

Table 1: Original Contract Between the PUC and URS, Inc. Has Been Amended Three Times to Increase the Not-To-Exceed Contract Amount and Term

	Term	Increase	Not-to-Exceed Contract Amount
Original Contract	June 2006 - June 2013	n/a	\$8,600,000
First Amendment	-	\$1,398,561	9,998,561
Second Amendment	June 2013 - June 2014	3,900,000	13,898,561
Third Amendment	June 2014 - June 2015	475,000	14,373,561
Total Increase		\$5,773,561	

According to Mr. Jacobo, through November 7, 2014, the PUC had expended or encumbered \$14,322,348, or 96.6 percent, of the currently authorized amount of \$14,373,561.

Because the initial term was for seven years and for an amount less than \$10,000,000, the contract was not subject to Board of Supervisors approval. The second amendment, which increased the contract amount by \$3,900,000 from \$9,998,561 to \$13,898,561, was subject to Board of Supervisors approval (File 09-0879) because it increased the total contract amount to more than \$10 million. The third amendment to the contract, which increased the amount by \$475,000, was not subject to Board of Supervisors approval.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the fourth amendment to the existing contract between the PUC and URS to increase the not-to-exceed contract amount by \$500,000, from a not-to-exceed contract amount of \$14,373,561 to a not-to-exceed contract amount of \$14,873,561 for URS to provide New Irvington Tunnel project closeout services and inspecting the existing Irvington Tunnel, and to extend the term of the contract by one year from June 2015 through June 2016, which increases the contract term to a total of ten years.

The original contract amount between PUC and URS will have increased by \$6,273,561 or 72.9 percent, from \$8,600,000 in 2006 to \$14,873,561 under the proposed fourth amendment. The total New Irvington Project budget, including the subject contract with URS, has increased by \$124,461,000 or approximately 58 percent, from the original budget of \$214,650,000 in 2005 to the current budget of \$339,111,000. According to the September 3, 2009 memorandum from the PUC to the Budget Analyst, "the discovery of difficult underground construction conditions during geotechnical investigations required substantial revisions to the original design concept for the New Irvington Tunnel".

In August 2014 a 65-foot section of the steel pipe liner inside the tunnel failed, which may cause a delay in the New Irvington Tunnel completion date. According to the quarterly Water System Improvement Project report, "a detailed investigation is under way with the SFPUC retaining a third party independent consultant to evaluate the cause of the failure...a few disputed issues remain unresolved... and the CM (construction management) team is working to define and resolve these issues with the contractor¹. It is expected that settlement of these issues will result in an increase in the contract cost".

According to Mr. Jacobo, the requested contract extension and related \$500,000 increase in the contract amount is for URS to provide for additional services during the project close-out phase with emphasis on archiving documents and to expand the scope of services to include draining and inspecting the existing Irvington Tunnel to determine any repairs that may require immediate attention and to catalog deferred maintenance in the tunnel.

¹ The construction contractor is Southland/Tutor Perini Joint Venture; the construction management contractor is Hatch Mott MacDonald; and the design contractor is URS Corporation.

According to Mr. Jacobo, inspecting the existing Irvington Tunnel was not part of the original contract with URS but is being added because the work is consistent with the Environment Impact Review (EIR) that was approved for this project.

FISCAL IMPACT

A summary of the additional contract costs of \$500,000 is shown in Table 1 below.

Table 1: Requested \$500,000 Increase in Not-To-Exceed Contract Amount

Service	Estimated Cost
Tunnel Inspection	\$150,000
Archiving	50,000
Continuing Service for 12 Months	300,000
Total	\$500,000

According to Mr. Jacobo, PUC does not expect any further amendments to this contract with URS. Funding for the requested \$500,000 increase will be provided from existing proceeds of Water Revenue bonds, as previously approved by the Board of Supervisors.

RECOMMENDATION

Approve the proposed resolution.



San Francisco Water Power Sewer

Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.3155
F 415.554.3161
TTY 415.554.3488

TO: Angela Calvillo, Clerk of the Board
FROM: Erin Hagan, Policy and Government Affairs Manager
DATE: October 6, 2014
SUBJECT: Approving amendment to engineering services agreement for SFPUC New Irvington Tunnel

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2014 OCT -6 AM 11:46
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Attached please find an original and one copy of a proposed resolution approving and authorizing the General Manager of the San Francisco Public Utilities Commission to execute an amendment to increase the amount of a professional services agreement for the New Irvington Tunnel Project with URS Corporation by \$500,000, for a total revised agreement amount of \$14,873,561, and extend the agreement term by one year for a total revised agreement term of ten years, pursuant to Charter Section 9.118.

The following is a list of accompanying documents (2 sets):

1. Board of Supervisors Resolution
2. Resolution No. 370-09
3. SFPUC Resolution No.14-0134
4. Agreement No. CS-820
5. Amendment 2 to CS-820
6. Amendment 3 to CS-820
7. Amendment 4 to CS-820

Please contact Erin Hagan at 554-0706 if you need any additional information on these items.

- Edwin M. Lee**
Mayor
- Vince Courtney**
President
- Ann Moller Caen**
Vice President
- Francesca Vietor**
Commissioner
- Anson Moran**
Commissioner
- Art Torres**
Commissioner
- Harlan L. Kelly, Jr.**
General Manager



PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 14-0134

WHEREAS, On May 9, 2006, this Commission awarded Agreement No. CS-820, New Irvington Tunnel (NIT) Project, Engineering Services, and authorized the General Manager of the San Francisco Public Utilities Commission (SFPUC) to execute a professional services agreement, in the amount of \$8,600,000 and with a term of seven (7) years, concluding on June 27, 2013, with URS Corporation; and

WHEREAS, Amendment No. 1 was issued on August 21, 2008 for \$1,398,561, increasing the total not-to-exceed agreement amount to \$9,998,561, with no change to the contract duration, in order to provide continued engineering services for the final design; and

WHEREAS, Amendment No. 2 was issued on September 22, 2009 for \$3,900,000, increasing the not-to-exceed agreement amount to \$13,898,561, and extending the agreement term by one (1) year for a total agreement duration of eight (8) years to June 2014, in order to provide continued engineering design services needed during pre-construction, including engineering support services for the environmental review and permitting process; and to provide engineering support during construction, start-up, commissioning and closeout of the project; and

WHEREAS, Amendment No. 3 was issued on July 12, 2011 for \$475,000, increasing the not-to-exceed agreement amount to \$14,373,561, and extending the agreement term by one (1) year for a total agreement duration of nine (9) years to June 2015, in order to provide on-going engineering support during construction and address the unanticipated increase in design consultant reviews of submittals and engineering substitutions/re-designs submitted by the construction contractor; and

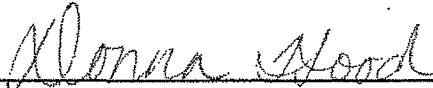
WHEREAS, Amendment No. 4 is being requested to increase the agreement by \$500,000, for a total not-to-exceed agreement amount of \$14,873,561 and extend the agreement term by up to twelve (12) months to June 2016, in order to provide additional design engineer-of-record support during final construction, closeout of the NIT project, and additional engineering support services for the inspection of the existing Irvington Tunnel; and

WHEREAS, A Contract Monitoring Division subconsulting goal of 6% Local Business Enterprise participation of the total value of services to be provided has been established for this agreement; and

WHEREAS, Funds for this agreement are available from Project No. CUW35901 – New Irvington Tunnel; now, therefore, be it

RESOLVED, That this Commission hereby approves Amendment No. 4 to Agreement No. CS-820, New Irvington Tunnel Project - Engineering Services, with URS Corporation, to continue as design engineer-of-record for the construction of the tunnel and support the inspection of the existing Irvington Tunnel; and authorizes the General Manager of the SFPUC to negotiate and execute this amendment increasing the agreement up to \$500,000, for a total not-to-exceed agreement amount of \$14,873,561, and with a time extension up to twelve (12) months for a total agreement duration of up to ten (10) years, subject to Board of Supervisors approval pursuant to Charter Section 9.118.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of August 26, 2014.



Secretary, Public Utilities Commission

**City and County of San Francisco
San Francisco Public Utilities Commission
Contract Administration Bureau
525 Golden Gate Avenue, 8th Floor
San Francisco, California 94102**

**Fourth Amendment between the City and County of San Francisco
(through the San Francisco Public Utilities Commission)
and
URS Corporation (dba URS Corporation Americas)
(CS-820)**

THIS AMENDMENT (this "Amendment") is made as of **Month ##, 2014**, in San Francisco, California, by and between **URS Corporation (dba URS Corporation Americas)** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through the San Francisco Public Utilities Commission.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period for the Contractor to provide continued specialized engineering design services during construction and the closeout of the New Irvington Tunnel Project, increase the contract amount, and update contract clauses; and

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission via the Department of Human Resources approved Contract number **4055-05/06** on **September 23, 2014**; and

WHEREAS, approval for this Amendment was obtained when the San Francisco Public Utilities Commission (SFPUC) approved Resolution No. **14-0134** on **August 26, 2014**; and

WHEREAS, approval for this Amendment was obtained when the Board of Supervisors approved Resolution No. **###-##** on **Month ##, 2014**.

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

1. Definitions. The following definitions shall apply to this Amendment:

a. Agreement. The term "Agreement" shall mean the Agreement dated **May 24, 2006** between Contractor and City, as amended by the First Amendment dated **August 21, 2008**; the Second Amendment dated **September 22, 2009** and the Third Amendment dated **December 15, 2011**.

b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

2a. **Section 2.** Section 2, Term of the Agreement, currently reads as follows:

2. **Term of the Agreement.** Subject to Section 1, the term of this Agreement shall be **June 27, 2006 through June 30, 2015.**

Such section is hereby amended in its entirety to read as follows:

2. **Term of the Agreement.** Subject to Section 1; the term of this Agreement shall be **June 27, 2006 through June 30, 2016.**

2b. **Section 5.** Section 5, Compensation, currently reads as follows:

5. **Compensation.** Compensation shall be made in monthly payments on or before the first day of each month for work, as set forth in Section 4 of this Agreement that the General Manager, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Fourteen Million, Three Hundred Seventy Three Thousand, Five Hundred Sixty One Dollars (\$14,373,561)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A. Task Orders will identify a detailed project scope, sub tasks, staffing plan, DBE utilization, schedule, deliverables, budget and costs to complete the task. A final task order scope will be negotiated between the SFPUC Project Manager and the Contractor and then submitted to Project Management Bureau Manager for approval. Each Task Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to City all work identified in that Task Order. The task order request will be processed for Controller certification of funding, after which a *Notice to Proceed* will be issued. The Contractor is hereby notified that work cannot commence until the Contractor receives a written Notice to Proceed in accordance with Chapter 6 of the San Francisco Administrative Code. ***Any work performed without a Notice to Proceed will be at the Contractor's own commercial risk.*** The calculations of costs and methods of compensation for all task orders under this contract shall be in accordance with the negotiated master contract and billing rates set forth in Appendix B. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the budget allocated to any task as more specific information concerning the task order scope becomes available.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

Such section is hereby amended in its entirety to read as follows:

5. Compensation. Compensation shall be made in monthly payments on or before the thirtieth day of each month for work, as set forth in Section 4 of this Agreement, that the General Manager of the Public Utilities Commission, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Fourteen Million Eight Hundred Seventy-Three Thousand Five Hundred and Sixty-One Dollars (\$14,873,561)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments except as set forth in Section 6.22(J)(7) of the Administrative Code.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of CMD Progress Payment Form. If Progress Payment Form is not submitted with Contractor's invoice, the Controller will notify the department, the Director of CMD and Contractor of the omission. If Contractor's failure to provide CMD Progress Payment Form is not explained to the Controller's satisfaction, the

Controller will withhold 20% of the payment due pursuant to that invoice until CMD Progress Payment Form is provided. Following City's payment of an invoice, Contractor has ten days to file an affidavit using CMD Payment Affidavit verifying that all subcontractors have been paid and specifying the amount.

2c. **Section 32. Section 32, Replacing "Earned Income Credit (EIC) Forms" with "Consideration of Criminal History in Hiring and Employment Decisions."** Section 32, "Earned Income Credit (EIC) Forms," is hereby replaced in its entirety to read as follows:

32. Consideration of Criminal History in Hiring and Employment Decisions.

a. Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at www.sfgov.org/olse/fco. A partial listing of some of Contractor's obligations under Chapter 12T is set forth in this Section.

Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

b. The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, shall apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

c. Contractor shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

d. Contractor or Subcontractor shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven

years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

e. Contractor or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection 32(d), above. Contractor or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

f. Contractor or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement, that the Contractor or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

g. Contractor and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Contractor or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

h. Contractor understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

2b. Section 16. Section 16, Indemnification, is hereby replaced in its entirety to read as follows:

Indemnification For Design Professionals. To the fullest extent permitted by law, Contractor shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Contractor or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of the Contractor, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities").

(a) **Limitations.** No insurance policy covering the Contractor's performance under this Agreement shall operate to limit the Contractor's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Contractor assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the contractors of any Indemnitee.

(b) **Copyright Infringement.** Contractor shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles, work or deliverables supplied in the performance of Services. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

3. **Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after the effective date.

4. **Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

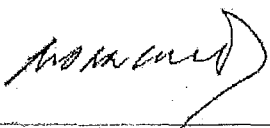
IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

CONTRACTOR

**URS Corporation
(dba URS Corporation Americas)**

Harlan L. Kelly, Jr.
General Manager
San Francisco Public Utilities Commission



Signature of Authorized Representative
NIEL WONG, VICE PRESIDENT

Title

Approved as to Form:

City vendor number: 19103

Dennis J. Herrera
City Attorney

By: _____
John G. White
Deputy City Attorney



San Francisco
Water Power Sewer
 Services of the San Francisco Public Utilities Commission

Contract Administration Bureau
 1155 Market Street, 9th Floor
 San Francisco, CA 94103
 T 415.551.4603
 F 415.554.3225

April 13, 2012

Noel Wong
 URS Corporation
 One Montgomery Street, Suite 900
 San Francisco, CA 94104
 Email: Noel_Wong@urscorp.com

RE: 1) Notice of Contract Amendment Certification - Engineering Design Services, New Irvington Tunnel (CS-820)
 2) Transmittal - Executed Agreement #3 between City and County of San Francisco Public Utilities Commission and URS Corporation

Dear Mr. Wong:

This letter provides a *notification of amendment certification* for an INCREASE in contract value and duration for the following contracted work:

BLANKET PURCHASE ORDER NO: BPUC06500037
 - *Work may not be charged against this blanket purchase order number*

SCOPE: Professional Engineering/Construction

EFFECTIVE DATE: June 27, 2006 to June 30, 2015

CONTRACT TO DATE: Total value of contract not to exceed \$14,373,561.00

Invoices must be charged against specific task orders only after a *Notice to Proceed* has been issued.

Should you have any questions, please do not hesitate to contact Rosiana Angel at (415) 554-1549.

Enclosure: Executed Amendment #3

cc: David Tszloo
 File/NCAC-CS-820 Amendment #3

Edwin M. Lee
 Mayor

Anson Moran
 President

Art Torres
 Vice President

Ann Moller Caen
 Commissioner

Francesca Victor
 Commissioner

Vince Courtney
 Commissioner

Ed Harrington
 General Manager



**City and County of San Francisco
San Francisco Public Utilities Commission
Contract Administration Bureau
1155 Market Street, 9th Floor
San Francisco, California 94103**

**Third Amendment between the City and County of San Francisco
(through the San Francisco Public Utilities Commission)
and
URS Corporation (dba URS Corporation Americas)**

CS-820 Engineering Services, New Irvington Tunnel Project

THIS AMENDMENT (this "Amendment") is made as of **December 15, 2011**, in San Francisco, California, by and between **URS Corporation (dba URS Corporation Americas)** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through acting by and through the San Francisco Public Utilities Commission.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below);
and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period for the Contractor to provide continued specialized engineering design services during construction and the closeout of the New Irvington Tunnel Project, increase the Agreement not-to-exceed amount, and update standard contractual clauses;

WHEREAS, on July 12, 2011, per Resolution No. 11-0119, the San Francisco Public Utilities Commission approved Amendment No. 3 to Agreement No. CS-820 for additional engineering design services for the New Irvington Tunnel, increasing the Agreement amount by \$475,000 for a not-to-exceed value of \$14,373,561, and increasing the duration by one (1) year, for a total duration of nine (9) years; and,

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number 4055- 05/06 on August 5, 2011;

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

1. Definitions. The following definitions shall apply to this Amendment:

a. Agreement. The term "Agreement" shall mean the Agreement dated **May 24, 2006** between Contractor and City as amended by the:

First amendment, dated August 21, 2008, and

Second amendment, dated September 22, 2009

b. **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. **Modifications to the Agreement.** The Agreement is hereby modified as follows:

2a. The introductory paragraph of the Agreement is hereby revised to read as follows:

This Agreement is made this 24th day of May, 2006, in the City and County of San Francisco, State of California, by and between: URS Corporation (dba URS Corporation Americas), 1333 Broadway, Suite 800, Oakland, California 94612, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through the San Francisco Public Utilities Commission.

2b. Section 2 ("Term of the Agreement") of the Agreement currently reads as follows:

2. **Term of the Agreement.** Subject to Section 1, the term of this Agreement shall be from June 27, 2006 through June 30, 2014.

Such section is hereby amended in its entirety to read as follows:

2. **Term of the Agreement.** Subject to Section 1, the term of this Agreement shall be **June 27, 2006 through June 30, 2015.**

2c. Section 5 of the Agreement, ("**Compensation**"), currently reads as follows:

Compensation shall be made in monthly payments on or before the first day of each month for work, as set forth in Section 4 of this Agreement that the General Manager, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Thirteen Million, Eight Hundred & Ninety Eight Thousand, and Five Hundred and Sixty One Dollars (\$13,898,561)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A. Task Orders will identify a detailed project scope, sub tasks, staffing plan, DBE utilization, schedule, deliverables, budget and costs to complete the task. A final task order scope will be negotiated between the SFPUC Project Manager and the Contractor and then submitted to Project Management Bureau Manager for approval. Each Task Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to City all work identified in that Task Order. The task order request will be processed for Controller certification of funding, after which a *Notice to Proceed*

will be issued. The Contractor is hereby notified that work cannot commence until the Contractor receives a written Notice to Proceed in accordance with Chapter 6 of the San Francisco Administrative Code. *Any work performed without a Notice to Proceed will be at the Contractor's own commercial risk.* The calculations of costs and methods of compensation for all task orders under this contract shall be in accordance with the negotiated master contract and billing rates set forth in Appendix B. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the budget allocated to any task as more specific information concerning the task order scope becomes available.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

Such section is hereby amended in its entirety to read as follows:

Compensation shall be made in monthly payments on or before the first day of each month for work, as set forth in Section 4 of this Agreement that the General Manager, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Fourteen Million, Three Hundred Seventy Three Thousand, Five Hundred Sixty One Dollars (\$14,373,561)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A. Task Orders will identify a detailed project scope, sub tasks, staffing plan, DBE utilization, schedule, deliverables, budget and costs to complete the task. A final task order scope will be negotiated between the SFPUC Project Manager and the Contractor and then submitted to Project Management Bureau Manager for approval. Each Task

Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to City all work identified in that Task Order. The task order request will be processed for Controller certification of funding, after which a *Notice to Proceed* will be issued. The Contractor is hereby notified that work cannot commence until the Contractor receives a written Notice to Proceed in accordance with Chapter 6 of the San Francisco Administrative Code. *Any work performed without a Notice to Proceed will be at the Contractor's own commercial risk.* The calculations of costs and methods of compensation for all task orders under this contract shall be in accordance with the negotiated master contract and billing rates set forth in Appendix B. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the budget allocated to any task as more specific information concerning the task order scope becomes available.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

2d. Submitting False Claims; Monetary Penalties. Section 8 of the Agreement is revised in its entirety to read as follows:

8. Submitting False Claims; Remedies.

Pursuant to Article V of Chapter 6 of the San Francisco Administrative Code, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. The text of Article V of Chapter 6, along with the entire San Francisco Administrative Code is available on the web at

http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca. A contractor, subcontractor, supplier, consultant or sub consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor,

supplier, consultant or subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

2e. Limitations on Contributions. Section 42 of the Agreement is revised in its entirety to read as follows:

42. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

2f. Requiring Minimum Compensation for Covered Employees. Section 43 of the Agreement is revised in its entirety to read as follows:

42. Requiring Minimum Compensation for Covered Employees

a. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

c. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

f. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

g. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the

contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

h. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

2g. Health Care Accountability Ordinance. Section 44 of the Agreement is revised in its entirety to read as follows:

44. Health Care Accountability Ordinance. Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of sections 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured

within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

h. Contractor shall keep itself informed of the current requirements of the HCAO.

i. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

j. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

k. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

l. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

m. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

2h. Appendix B, Calculation of Charges. The fourth paragraph of Appendix B, immediately preceding Section 1 of that Appendix, is hereby revised in its entirety to read as follows:

Pursuant to Article V of Chapter 6 of the San Francisco Administrative Code, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. The text of Article V of Chapter 6, along with the entire San Francisco Administrative Code is available on the web at http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca. A contractor, subcontractor, supplier, consultant or sub consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, supplier, consultant or subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on the effective date as set forth in Section 3.

4. Legal Effect. Except as expressly modified by this Amendment, 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 Amendment as of the date first referenced above.

CITY

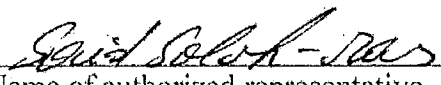
CONTRACTOR

Recommended by:

URS Corporation (dba URS Corporation Americas)



Ed Harrington
General Manager
San Francisco Public Utilities Commission



Name of authorized representative

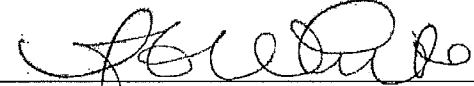
Vice President

Title

Approved as to Form:

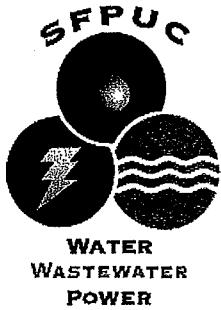
City vendor number: 19103-01

Dennis J. Herrera
City Attorney

By: 

John G. White
Deputy City Attorney

SSB
HW HKK



1100 217

SAN FRANCISCO PUBLIC UTILITIES COMMISSION



Contract Administration Bureau
Ivy V. Fine, Manager

1155 Market Street, 9th Floor, San Francisco, CA 94103 • Tel. (415) 551-4603 • Fax (415) 554-3225

November 12, 2009

Louis Armstrong, Vice President
URS Corporation
1333 Broadway, Suite 800
Oakland, CA 94612

GAVIN NEWSOM
MAYOR

ANN MOLLER CAEN
PRESIDENT

F. X. CROWLEY
VICE PRESIDENT

FRANCESCA VIETOR
COMMISSIONER

JULIET ELLIS
COMMISSIONER

ANSON B. MORAN
COMMISSIONER

ED HARRINGTON
GENERAL MANAGER

- RE: 1) Notice of Contract Amendment Certification – Engineering Services
New Irvington Tunnel Project (CS-820)
2) Transmittal – Executed Agreement # 2 between the City and County of
San Francisco Public Utilities Commission and **URS Corporation.**

Dear Mr. Armstrong,

This letter provides a *notification of amendment certification* for an INCREASE in contract value for the following contracted work:

BLANKET PURCHASE ORDER NO: BPUC06500037 – *Work may not be charged against this blanket purchase order number*

SCOPE: *No change in scope of work – Engineering Services for the New Irvington Tunnel Project.*

EFFECTIVE DATE: **June 27, 2006 to June 30, 2013**

CONTRACT TO DATE: Total value of contract has been increased to **\$13,898,561.00**

Should you have any questions, please do not hesitate to contact Suyin Lim at (415) 554-2418.

Enclosure: Executed Amendment #02

cc: David Tsztoo
File/NCAC 820 amend 02

RECEIVED

NOV 19 2009

LOUIS J. ARMSTRONG

**City and County of San Francisco
San Francisco Public Utilities Commission
Contract Administration Bureau
1155 Market Street, 9th Floor
San Francisco, California 9410**

**Second Amendment between the City and County of San Francisco
(through the San Francisco Public Utilities Commission)
and
URS Corporation Americas
CS-820**

THIS AMENDMENT (this "Amendment") is made as of, September 22, 2009, in San Francisco, California, by and between **URS Corporation Americas** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through the General Manager of San Francisco Public Utilities Commission.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and
WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period, increase the contract amount, and update standard contractual clauses;

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number **4055-05/06** on August 17, 2009;

WHEREAS, approval for this Amendment was obtained from the San Francisco Public Utilities Commission on July 28, 2009, under Resolution No. **09-0126**;

WHEREAS, approval for this Amendment was obtained from the San Francisco Board of Supervisors on September 22, 2009, under Resolution No. **370-09**;

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

1. Definitions. The following definitions shall apply to this Amendment:

a. Agreement. The term "Agreement" shall mean the Agreement dated May 24, 2006 between Contractor and City, as amended by the:

- First amendment, dated August 21, 2008.

b. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 2 of the Agreement, ("Term of the Agreement"), currently reads as follows:

Subject to Section 1, the term of this Agreement shall be **84 months** from the effective date as set forth in Section 3.

Such section is hereby amended in its entirety to read as follows:

Subject to Section 1, the term of this Agreement shall be from June 27, 2006 through June 30, 2014.

2b. Section 5 of the Agreement, ("**Compensation**"), currently reads as follows:

Compensation shall be made in monthly payments on or before the first day of each month for work, as set forth in Section 4 of this Agreement that the General Manager, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Nine Million, Nine Hundred & Ninety Eight Thousand, and Five hundred and sixty One Dollars (\$9,998,561)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A. Task Orders will identify a detailed project scope, sub tasks, staffing plan, DBE utilization, schedule, deliverables, budget and costs to complete the task. A final task order scope will be negotiated between the SFPUC Project Manager and the Contractor and then submitted to Project Management Bureau Manager for approval. Each Task Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to City all work identified in that Task Order. The task order request will be processed for Controller certification of funding, after which a *Notice to Proceed* will be issued. The Contractor is hereby notified that work cannot commence until the Contractor receives a written Notice to Proceed in accordance with Chapter 6 of the San Francisco Administrative Code. ***Any work performed without a Notice to Proceed will be at the Contractor's own commercial risk.*** The calculations of costs and methods of compensation for all task orders under this contract shall be in accordance with the negotiated master contract and billing rates set forth in Appendix B. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the budget allocated to any task as more specific information concerning the task order scope becomes available.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

Such section is hereby amended in its entirety to read as follows:

Compensation shall be made in monthly payments on or before the first day of each month for work, as set forth in Section 4 of this Agreement that the General Manager, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed **Thirteen Million, Eight Hundred & Ninety Eight Thousand, and Five Hundred and Sixty One Dollars (\$13,898,561)**. The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A. Task Orders will identify a detailed project scope, sub tasks, staffing plan, DBE utilization, schedule, deliverables, budget and costs to complete the task. A final task order scope will be negotiated between the SFPUC Project Manager and the Contractor and then submitted to Project Management Bureau Manager for approval. Each Task Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to City all work identified in that Task Order. The task order request will be processed for Controller certification of funding, after which a *Notice to Proceed* will be issued. The Contractor is hereby notified that work cannot commence until the Contractor receives a written Notice to Proceed in accordance with Chapter 6 of the San Francisco Administrative Code. ***Any work performed without a Notice to Proceed will be at the Contractor's own commercial risk.*** The calculations of costs and methods of compensation for all task orders under this contract shall be in accordance with the negotiated master contract and billing rates set forth in Appendix B. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the budget allocated to any task as more specific information concerning the task order scope becomes available.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

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Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

2c. Section 45 of the Agreement (“**First Source Hiring Program**”) is hereby replaced in its entirety to read as follows:

a. **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. **First Source Hiring Agreement.** As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

(1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs may be certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and

notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(9) Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

c. Hiring Decisions. Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. Exceptions. Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. Liquidated Damages. Contractor agrees:

(1) To be liable to the City for liquidated damages as provided in this section;

(2) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

(3) That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of

unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(4) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(5) That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

A. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

B. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(6) That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. **Subcontracts.** Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

2d. Section 15 of the Agreement ("**Insurance**"), is hereby replaced in its entirety to read as follows:

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

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

(2) Commercial General Liability Insurance with limits not less than \$3,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

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

(4) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$4,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement and any deductible not to exceed \$50,000 each claim.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

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

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

c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

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

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs

be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

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

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

i. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

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

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after **September 22, 2009.**

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

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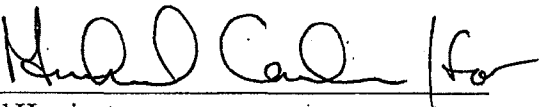
IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

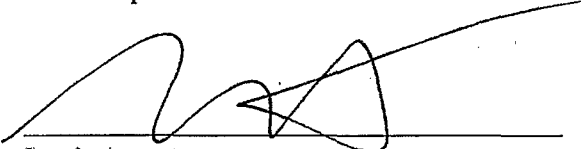
CONTRACTOR

Recommended by:

URS Corporation Americas



Ed Harrington
General Manager
SFPUC




Louis Armstrong
Vice President
1333 Broadway, Suite 800
Oakland, CA 94612

City vendor number: 1910301

Approved as to Form:

Dennis J. Herrera
City Attorney

By: 

Deputy City Attorney

1 [Approving amendment to engineering services agreement for SFPUC New Irvington Tunnel
2 Project.]

3 **Resolution approving and authorizing the General Manager of the San Francisco Public**
4 **Utilities Commission to execute an amendment to increase the amount of a**
5 **professional services agreement with URS Corporation by \$3,900,000, for a total**
6 **revised agreement amount of \$13,898,561, and extend the agreement term by one year**
7 **for a total revised agreement term of eight years, pursuant to San Francisco Charter**
8 **Section 9.118.**

9
10 WHEREAS, On May 9, 2006, per Resolution No. 06-0081, the San Francisco Public
11 Utilities Commission (SFPUC) awarded Agreement No. CS-820, Engineering Services for the
12 New Irvington Tunnel Project, to URS Corporation to provide geotechnical investigations,
13 preparation of reports, and furnishing engineering design services for the design of the New
14 Irvington Tunnel Project; and authorized the General Manager of the SFPUC to negotiate and
15 execute a professional services agreement, in the amount of \$8,600,000, and with a term of
16 seven years, concluding in June 2013; and

17 WHEREAS, On August 21, 2008, per Resolution No. 08-0148, the SFPUC approved
18 Amendment No. 1 to Agreement No. CS-820 to continue URS Corporation professional
19 engineering services for detailed and final design of the New Irvington Tunnel Project,
20 increasing the original agreement amount by \$1,398,561 to \$9,998,561, with no extension to
21 the agreement term; and

22 WHEREAS, On July 28, 2009, per Resolution No. 09-0126, the SFPUC approved
23 Amendment No. 2 to Agreement No. CS-820 to provide additional engineering design
24 services needed prior to construction, along with engineering support services for the
25 environmental review and permitting process, and to provide engineering support during

1 construction, start-up, commissioning and closeout of the project, increasing the
2 agreement amount by \$3,900,000 to \$13,898,561, and extending the agreement term by one
3 year to June 2014; and

4 WHEREAS, HRC established subconsulting goals of 6% DBE participation as part of
5 the original Agreement; and

6 WHEREAS, The actual DBE participation as of April 2009 is approximately 7.5; and

7 WHEREAS, URS Corporation, SFPUC and HRC have agreed upon a 6.75%
8 subcontracting goal for Amendment No. 2; and

9 WHEREAS, The services requested under Amendment No. 2 are within the framework
10 of the work originally planned to be performed under the CS-820 Agreement; and

11 WHEREAS, The proposed Amendment No. 2 is on file with the Clerk of the Board of
12 Supervisors in File No. 090879, and is hereby declared to be part of this Resolution as if
13 fully set forth herein; now, therefore, be it

14 RESOLVED, That the Board of Supervisors, pursuant to Charter Section 9.118, hereby
15 approves and authorizes the General Manager of the SFPUC to execute Amendment No. 2 to
16 increase the amount of Agreement No. CS-820 with URS Corporation by \$3,900,000, for a
17 total revised agreement amount of \$13,898,561, and extend the agreement term by one year
18 for a total revised agreement term of eight years, to provide additional engineering design,
19 environmental and permitting support services needed prior to construction; and to provide
20 engineering support during construction, start-up, and commissioning of the New Irvington
21 Tunnel Project if the Project is approved in substantially the form on file with the Clerk of the
22 Board, and in such final form as approved by the General Manager and the City Attorney.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 090879

Date Passed:

Resolution approving and authorizing the General Manager of the San Francisco Public Utilities Commission to execute an amendment to increase the amount of a professional services agreement with URS Corporation by \$3,900,000 for a total revised agreement amount of \$13,898,561 and extend the agreement term by one year for a total revised agreement term of eight years, pursuant to San Francisco Charter Section 9.118(b).

September 22, 2009 Board of Supervisors — ADOPTED

Ayes: 10 - Alioto-Pier, Avalos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell,
Mirkarimi

Excused: 1 - Campos

File No. 090879

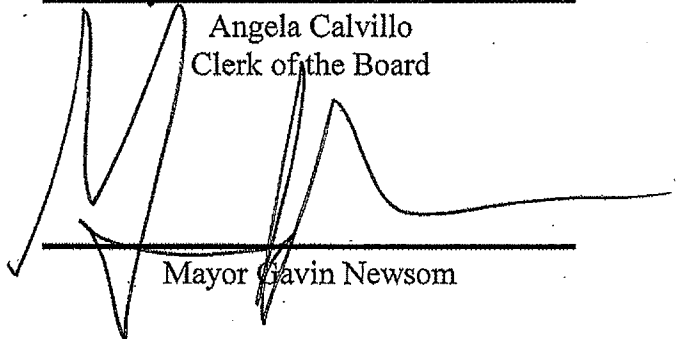
I hereby certify that the foregoing Resolution was ADOPTED on September 22, 2009 by the Board of Supervisors of the City and County of San Francisco.

9/29/09

Date Approved



Angela Calvillo
Clerk of the Board



Mayor Gavin Newsom



SAN FRANCISCO PUBLIC UTILITIES COMMISSION



San Francisco Public Utilities Commission
City and County of San Francisco
Contract Administration Bureau
1155 Market Street, 9th Floor
San Francisco, California 94103

Agreement between the City and County of San Francisco and

URS Corporation

This Agreement is made this 24th day of May, 2006, in the City and County of San Francisco, State of California, by and between: URS Corporation, 1333 Broadway, Suite 800, Oakland, California 94612, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing."

Recitals

WHEREAS, the San Francisco Public Utilities Commission ("Department") wishes to retain the services of URS Corporation, 1333 Broadway, Suite 800, Oakland, California 94612, to provide Professional Engineering Services to the new Irvington Tunnel; and,

WHEREAS, a Request for Proposal ("RFP") was issued on January 18, 2006, and City selected Contractor as the highest qualified scorer pursuant to the RFP; and

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and,

WHEREAS, approval for said Agreement was obtained from a Civil Service Commission Notice of Action for Contract Number 4055-05/06 on December 5, 2005; and

WHEREAS, On May 9, 2006, per Resolution No. 06-0081, attached hereto, the San Francisco Public Utilities Commission approved the selection of URS Corporation and authorized the General Manager of the San Francisco Public Utilities Commission to execute a written contract for CS-820 Engineering Services, The New Irvington Tunnel, to provide Engineering Services for an amount not to exceed \$8,600,000 and with a duration of 84 months from the date of Controller certification.

Now, THEREFORE, the parties agree as follows:

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

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

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

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

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

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be 84 months from the effective date as set forth in Section 3.

3. Effective Date of Agreement

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

4. Services Contractor Agrees to Perform

The Contractor agrees to perform the services provided for in Appendix A, "Description of Services," attached hereto and incorporated by reference as though fully set forth herein.

5. Compensation

Compensation shall be made in monthly payments on or before the first day of each month for work, as set forth in Section 4 of this Agreement that the General Manager, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this Agreement exceed Eight Million Six Hundred Thousand Dollars (\$8,600,000). The breakdown of costs associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein.

As part of this contract Task Orders will be prepared in accordance with Appendix A. Task Orders will identify a detailed project scope, sub tasks, staffing plan, DBE utilization, schedule, deliverables, budget and costs to complete the task. A final task order scope will be negotiated between the SFPUC Project Manager and the Contractor and then submitted to Project Management Bureau Manager for approval. Each Task Order shall identify the entire amount to which the Contractor shall be entitled to fully perform and deliver to City all work identified in that Task Order. The task order request will be processed for Controller certification of funding, after which a *Notice to Proceed* will be issued. The Contractor is hereby notified that work cannot commence until the Contractor receives a written Notice to Proceed in accordance with Chapter 6 of the San Francisco Administrative Code. ***Any work performed without a Notice to Proceed will be at the Contractor's own commercial risk.*** The calculations of costs and methods of compensation for all task orders under this contract shall be in accordance with the negotiated master contract and billing rates set forth in Appendix B. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the

budget allocated to any task as more specific information concerning the task order scope becomes available.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of HRC Form 7, "Prime Consultant/Joint Venture Partner(s) and Sub-consultant Participation Report." If HRC Form 7 is not submitted with Contractor's invoice, the Controller will notify the department, the Director of HRC and Contractor of the omission. If Contractor's failure to provide HRC Form 7 is not explained to the Controller's satisfaction, the Controller will withhold 20% of the payment due pursuant to that invoice until HRC Form 7 is provided.

Following City's payment of an invoice, Contractor has ten days to file an affidavit using HRC Form 9, "Sub-Consultant Payment Affidavit," verifying that all subcontractors have been paid and specifying the amount.

6. Guaranteed Maximum Costs

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

b. Except as may be provided by laws governing emergency procedures, officers and employees of City are not authorized to request, and City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law.

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

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

7. Payment; Invoice Format

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include the Contract Progress Payment Authorization number. All amounts paid by City to Contractor shall be subject to audit by City.

City shall make payment to Contractor at the address specified in the section entitled "Notices to the Parties."

8. Submitting False Claims; Monetary Penalties

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

9. Disallowance

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

By executing this Agreement, Contractor certifies that Contractor is not suspended, debarred or otherwise excluded from participation in federal assistance programs. Contractor acknowledges that this certification of eligibility to receive federal funds is a material term of the Agreement.

10. Taxes

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

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

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

(2) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of

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

(3) Contractor, on behalf of itself and any permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

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

11. Payment Does Not Imply Acceptance of Work

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

12. Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, and Contractor must supervise all personnel, including those assigned at City's request. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

13. Responsibility for Equipment

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by the City.

14. Independent Contractor; Payment of Taxes and Other Expenses

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

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

b. Payment of Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

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

15. Insurance

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

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

(2) Commercial General Liability Insurance with limits not less than \$3,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

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

(4) Professional liability insurance with limits not less than \$4,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement and any deductible not to exceed \$50,000 each claim.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must provide the following:

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

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

c. All policies shall provide thirty days' advance written notice to City of cancellation mailed to the following address:

City And County of San Francisco
San Francisco Public Utilities Commission
Contract Administration Bureau
1155 Market Street, 9th Floor
San Francisco, CA 94103

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

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

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

g. Before commencing any operations under this Agreement, Contractor shall do the following: (a) furnish to City certificates of insurance, and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above, and (b) furnish complete copies of policies promptly upon City request. Failure to maintain insurance shall constitute a material breach of this Agreement.

h. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

16. Indemnification

To the fullest extent permitted by law, Contractor shall assume the defense of, indemnify and save harmless the City and its officers and employees (collectively "Indemnitees") from any claim, loss, damage, injury (including, without limitation, injury to or death of an employee of the Contractor or its subcontractors) and liabilities of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorney's fees and costs of investigation) that arise directly or indirectly, in whole or in part, from (1) the services under this Agreement, or any part thereof, (2) any act or omission of the Contractor and subcontractor to the Contractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"), even if such Liabilities are caused in part by the negligence of any Indemnitee, subject to the provisions set forth herein.

To the extent, however, that the foregoing provision imposes an obligation on the Contractor which does not involve any negligence or other breach of obligation on the part of Contractor or its subcontractors, then, provided that Contractor is in compliance with its insurance obligations under Article 15 above, such obligations shall be limited to the extent to which it is covered by Contractor's insurance and that of its subcontractors.

In no event, however, shall Contractor's liability or indemnification responsibilities be so limited in the event of negligence or other breach of obligation on the part of the Contractor or its subcontractors.

The Contractor assumes no liability whatsoever for the sole negligence or willful misconduct of any Indemnitee or the Contractors of any Indemnitee.

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

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

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any

person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. Incidental and Consequential Damages

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

18. Liability of City

CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. Liquidated Damages

Left blank by agreement of the parties.

20. Default; Remedies

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

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

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

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

(4) A court or government authority enters an order (A) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (B) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage

of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (C) ordering the dissolution, winding-up or liquidation of Contractor.

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

c. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

21. Termination for Convenience

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

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

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

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

(3) Terminating all existing orders and subcontracts.

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

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

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

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

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

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

(2) A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (1), provided that Contractor can establish, to the satisfaction of City, that Contractor would have made a profit had all services and other work under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

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

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

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

e. In arriving at the amount due to Contractor under this Section, City may deduct: (1) all payments previously made by City for work or other services covered by Contractor's final invoice; (2) any claim which City may have against Contractor in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection (d); and (4) in instances in which, in the opinion of City, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

f. City's payment obligation under this Section shall survive termination of this Agreement.

22. Rights and Duties Upon Termination or Expiration

a. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: 8 through 11, 13 through 18, 24, 26, 27, 28, 48 through 52, 56, and 57.

materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

23. Conflict of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

24. Proprietary or Confidential Information of City

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

25. Notices to the Parties

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

To City: Gilbert Tang
 Engineering Management Bureau
 San Francisco Public Utilities Commission
 1155 Market Street, 3rd Floor
 San Francisco, CA 94103
 (Tel.) 415-551-4866
 (Fax) 415-551-4877
 Email: gtang@sfwater.org

To Contractor: Noel C. Wong, P.E.
 Vice President/Project Director
 URS Corporation
 1333 Broadway, Suite 800
 Oakland, CA 94612
 (Tel.) 510-893-3600
 (Fax) 510-874-3268
 Email: noel_wong@urscorp.com

Any notice of default must be sent by registered mail.

Email: noel_wong@urscorp.com

Any notice of default must be sent by registered mail.

26. Ownership of Results

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Contractor or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire

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

28. Audit and Records

a. Audit and Inspection of Records

Contractor agrees to maintain and make available to City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement, except that the Contractor's billing rates are not subject to audit with respect to the makeup or composition of the rates but actual salaries must be verifiable by certified payroll records. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than three years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this Section.

b. Duty to Cooperate

Contractor agrees to assist and fully cooperate with City regarding any claims, disputes or litigation City may have with any third parties where Contractor has information and/or records arising from Contractor's participation in this Agreement.

29. Subcontracting

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment

The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

31. Non-Waiver of Rights

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

32. Earned Income Credit (EIC) Forms

Administrative Code section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

a. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

b. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Contractor of the terms of this Agreement. If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, City may pursue any rights or remedies available under this Agreement or under applicable law.

c. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section.

d. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

33. Disadvantaged Business Enterprise Utilization; Liquidated Damages

a. The DBE Ordinance

Contractor, shall comply with all the requirements of the Disadvantaged Business Enterprise Ordinance set forth in Chapter 14A of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "DBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the DBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provision of the DBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the DBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

b. Compliance and Enforcement

1. Enforcement

If Contractor willfully fails to comply with any of the provisions of the DBE Ordinance, the rules and regulations implementing the DBE Ordinance, or the provisions of this Agreement pertaining to DBE participation, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of City's Human Rights Commission or any other public official authorized to enforce the DBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the DBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with City for a period of up to five years or revocation of the Contractor's DBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14A.13(B).

By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City.

Contractor agrees to maintain records necessary for monitoring its compliance with the DBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

2. Subcontracting Goals

The DBE subcontracting participation goal for this contract is 6%. Contractor shall fulfill the subcontracting commitment made in its bid or proposal. Each invoice submitted to City for payment shall include the information required in HRC Form 7 and Form 9. Failure to provide HRC Form 7 and

Form 9 with each invoice submitted by Contractor shall entitle City to withhold 20% of the amount of that invoice until HRC Form 7 and Form 9 is provided by Contractor.

Contractor shall not participate in any back contracting to the Contractor or lower-tier subcontractors, as defined in the DBE Ordinance, for any purpose inconsistent with the provisions of the DBE Ordinance, its implementing rules and regulations, or this Section.

3. Subcontract Language Requirements

Contractor shall incorporate the DBE Ordinance into each subcontract made in the fulfillment of Contractor's obligations under this Agreement and require each subcontractor to agree and comply with provisions of the ordinance applicable to subcontractors.

Contractor shall include in all subcontracts with DBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any DBE subcontractor for damages for breach of contract or liquidated damages equal to 5% of the subcontract amount, whichever is greater, if Contractor does not fulfill its commitment to use the DBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of HRC and Purchasing to substitute subcontractors or to otherwise modify the commitments in the bid or proposal. Such provisions shall also state that it is enforceable in a court of competent jurisdiction.

Subcontracts shall require the subcontractor to maintain records necessary for monitoring its compliance with the DBE Ordinance for a period of three years following termination of this contract and to make such records available for audit and inspection by the Director of HRC or the Controller upon request.

4. Payment of Subcontractors

Contractor shall pay its subcontractors within three working days after receiving payment from City unless Contractor notifies the Director of HRC in writing within ten working days prior to receiving payment from City that there is a bona fide dispute between Contractor and its subcontractor and the Director waives the three-day payment requirement, in which case Contractor may withhold the disputed amount but shall pay the undisputed amount.

Contractor further agrees, within ten working days following receipt of payment from City, to file an affidavit (HRC Form 9) with the Controller, under penalty of perjury, that the Contractor has paid all subcontractors. The affidavit shall provide the names and addresses of all subcontractors and the amount paid to each. Failure to provide such affidavit may subject Contractor to enforcement procedure under Administrative Code §14A.13.

34. Nondiscrimination; Penalties

a. Contractor Shall Not Discriminate

In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such Contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status,

marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts

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

c. Nondiscrimination in Benefits

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

d. Condition to Contract

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

e. Incorporation of Administrative Code Provisions by Reference

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

35. MacBride Principles—Northern Ireland

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

36. Tropical Hardwood and Virgin Redwood Ban

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

37. Drug-Free Workplace Policy

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

38. Resource Conservation

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

39. Compliance with Americans with Disabilities Act

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

40. Sunshine Ordinance

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

41. Public Access to Meetings and Records

If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this

Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for City to terminate and/or not renew the Agreement, partially or in its entirety.

42. Limitations on Contributions

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with City for the rendition of personal services or for the furnishing of any material, supplies or equipment to City, whenever such transaction would require approval by a City elective officer of the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for the contract until the later of either (1) the termination of negotiations for such contract or (2) three months after the date the contract is approved by City elective officer or the board on which that City elective officer serves.

43. Requiring Minimum Compensation for Covered Employees

Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at <http://www.sfgov.org/oca/lwlh.htm>. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, Contractor agrees to all of the following:

a. For each hour worked by a Covered Employee during a Pay Period on work funded under the City contract during the term of this Agreement, Contractor shall provide to the Covered Employee no less than the Minimum Compensation, which includes a minimum hourly wage and compensated and uncompensated time off consistent with the requirements of the MCO. For the hourly gross compensation portion of the MCO, Contractor shall pay a minimum of \$10.77 an hour beginning January 1, 2005 and for the remainder of the term of this Agreement; provided, however, that Contractors that are Nonprofit Corporations or public entities shall pay a minimum of \$9 an hour for the term of this Agreement.

b. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to City with regard to Contractor's compliance or anticipated compliance with the requirements of the MCO, for opposing any practice proscribed by the MCO, for participating in proceedings related to the MCO, or for seeking to assert or enforce any rights under the MCO by any lawful means.

c. Contractor understands and agrees that the failure to comply with the requirements of the MCO shall constitute a material breach by Contractor of the terms of this Agreement. The City, acting through the Contracting Department, shall determine whether such a breach has occurred.

d. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City, acting through the Contracting Department, shall have the right to pursue the following rights or remedies and any rights or remedies available under applicable

law:

(1) The right to charge Contractor an amount equal to the difference between the Minimum Compensation and any compensation actually provided to a Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law;

(2) The right to set off all or any portion of the amount described in Subsection (d)(1) of this Section against amounts due to Contractor under this Agreement;

(3) The right to terminate this Agreement in whole or in part;

(4) In the event of a breach by Contractor of the covenant referred to in Subsection (b) of this Section, the right to seek reinstatement of the employee or to obtain other appropriate equitable relief; and

(5) The right to bar Contractor from entering into future contracts with City for three years.

Each of the rights provided in this Subsection (d) shall be exercisable individually or in combination with any other rights or remedies available to City. Any amounts realized by City pursuant to this subsection shall be paid to the Covered Employee who failed to receive the required Minimum Compensation.

e. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

f. Contractor shall keep itself informed of the current requirements of the MCO, including increases to the hourly gross compensation due Covered Employees under the MCO, and shall provide prompt written notice to all Covered Employees of any increases in compensation, as well as any written communications received by the Contractor from City, which communications are marked to indicate that they are to be distributed to Covered Employees.

g. Contractor shall provide reports to City in accordance with any reporting standards promulgated by City under the MCO, including reports on subcontractors.

h. The Contractor shall provide City with access to pertinent records after receiving a written request from City to do so and being provided at least five (5) business days to respond.

i. The City may conduct random audits of Contractor. Random audits shall be (i) noticed in advance in writing; (ii) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (iii) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten days of the written notice; and (iv) limited to one audit of Contractor every two years for the duration of this Agreement. Nothing in this Agreement is intended to preclude City from investigating any report of an alleged violation of the MCO.

j. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. A subcontract means an agreement between the Contractor and a third party which

requires the third party to perform all or a portion of the services covered by this Agreement. Contractor shall notify the Department of Administrative Services when it enters into such a subcontract and shall certify to the Department of Administrative Services that it has notified the subcontractor of the obligations under the MCO and has imposed the requirements of the MCO on the subcontractor through the provisions of the subcontract. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

k. Each Covered Employee is a third-party beneficiary with respect to the requirements of subsections (a) and (b) of this Section, and may pursue the following remedies in the event of a breach by Contractor of subsections (a) and (b), but only after the Covered Employee has provided the notice, participated in the administrative review hearing, and waited the 21-day period required by the MCO. Contractor understands and agrees that if the Covered Employee prevails in such action, the Covered Employee may be awarded: (1) an amount equal to the difference between the Minimum Compensation and any compensation actually provided to the Covered Employee, together with interest on such amount from the date payment was due at the maximum rate then permitted by law; (2) in the event of a breach by Contractor of subsections (a) or (b), the right to seek reinstatement or to obtain other appropriate equitable relief; and (3) in the event that the Covered Employee is the prevailing party in any legal action or proceeding against Contractor arising from this Agreement, the right to obtain all costs and expenses, including reasonable attorney's fees and disbursements, incurred by the Covered Employee. Contractor also understands that the MCO provides that if Contractor prevails in any such action, Contractor may be awarded costs and expenses, including reasonable attorney's fees and disbursements, from the Covered Employee if the court determines that the Covered Employee's action was frivolous, vexatious or otherwise an act of bad faith.

l. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 (\$50,000 for nonprofits) in the fiscal year.

44. Requiring Health Benefits for Covered Employees

Unless exempt, Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at <http://www.sfgov.org/oca/lwlh.htm>. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

a. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

b. Notwithstanding the above, if the Contractor is a small business as defined in Section

12Q.3(d) of the HCAO, it shall have no obligation to comply with part (a) above.

c. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

d. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

e. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

f. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

g. Contractor shall keep itself informed of the current requirements of the HCAO.

h. Contractor shall provide reports to City in accordance with any reporting standards promulgated by City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

i. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least five business days to respond.

j. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

k. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and City to be equal to or greater than \$75,000 in the fiscal year.

45. First Source Hiring Program

a. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

b. First Source Hiring Agreement.

(1) Contractor will comply with First Source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the exclusive opportunity to initially provide Qualified Economically Disadvantaged Individuals for consideration for employment for Entry Level Positions. The duration of the First Source interviewing requirement shall be ten (10) days, unless business necessity requires a shorter period of time;

(2) Contractor will comply with requirements for providing timely, appropriate notification of available Entry Level Positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of Qualified Economically Disadvantaged Individuals to participating Employers;

(3) Contractor agrees to use good faith efforts to comply with the First Source hiring requirements. A Contractor may establish its good faith efforts by filling: 1) its first available Entry Level Position with a job applicant referred through the First Source Program; and, 2) fifty percent (50%) of its subsequent available Entry Level Positions with job applicants referred through the San Francisco Workforce Development System. Failure to meet this target, while not imputing bad faith, may result in a review of the Contractor's employment records.

c. Hiring Decisions.

Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

d. Exceptions

Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

e. Liquidated Damages

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$2,070 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

f. **Subcontracts**

Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

46. Prohibition on Political Activity with City Funds

In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. Preservative-treated Wood Containing Arsenic

Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

48. Modification of Agreement

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with the Department to submit to the Director of HRC any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20%.

49. Administrative Remedy for Agreement Interpretation

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

50. Agreement Made in California; Venue

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

51. Construction

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

52. Entire Agreement

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48.

53. Compliance with Laws

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

54. Services Provided by Attorneys

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

55. Supervision of Minors

Left blank by agreement of the parties.

56. Severability

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

57. Nondisclosure of Private Information

As of March 5, 2005, Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated herein by reference and made a part of this Agreement as though fully set forth. Capitalized terms used in this section and not defined in this Agreement shall have the

meanings assigned to such terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

(a) Neither Contractor nor any of its Subcontractors shall disclose Private Information obtained from City in the performance of this Agreement to any other Subcontractor, person, or other entity, unless one of the following is true:

(i) The disclosure is authorized by this Agreement;

(ii) The Contractor received advance written approval from the Contracting Department to disclose the information; or

(iii) The disclosure is required by law or judicial order.

(b) Any disclosure or use of Private Information authorized by this Agreement shall be in accordance with any conditions or restrictions stated in this Agreement. Any disclosure or use of Private Information authorized by a Contracting Department shall be in accordance with any conditions or restrictions stated in the approval.

(c) Private Information shall mean any information that: (1) could be used to identify an individual, including without limitation, name, address, social security number, medical information, financial information, date and location of birth, and names of relatives; or (2) the law forbids any person from disclosing.

(d) Any failure of Contractor to comply with the Nondisclosure of Private Information Ordinance shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, City may terminate this Agreement, debar Contractor, or bring a false claim action against Contractor.

58. Graffiti Removal

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and

without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

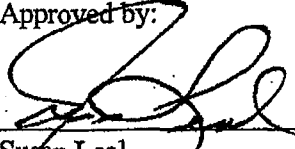
Any failure of Contractor to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

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

CITY

CONTRACTOR

Approved by:




Susan Leal
General Manager
San Francisco Public Utilities Commission

Printed Name


Approved as to Form:

Dennis J. Herrera
City Attorney

By 

Deputy City Attorney

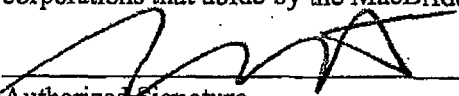
Approved:



Naomi Little
Director of Office of Contract Administration/
Purchaser

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.



Authorized Signature

Louis J. Armstrong
Printed Name

Vice President
Title

URS Corporation
Company Name

1910301
City Vendor Number

1333 Broadway, Suite 800
Oakland, CA 94612
Address

94-1716908
Federal Employer ID Number

APPENDICES

- A: Services to be Provided by Contractor
- B: Calculation of Charges

Appendix A
Services to be Provided by Contractor

Contractor agrees to perform said services all in accordance with the terms of this Agreement.

1. Description of Tasks to be Performed by Contractor

Individuals listed in the Fee Schedule and whose resumes and qualifications have been submitted as part of the proposal to provide specific services are expected to work as part of the project team. Pursuant to the scope of services described in the RFP, the work plan, and the Fee Schedule submitted as part of Contractor's proposal, Contractor shall perform the following tasks:

Task Descriptions Omitted from this Version
(Portions of Pages A-1 through A-67)

2. Additional Services

Contractor may also be asked to provide the following services:

- Presentations to the SFPUC, the Board of Supervisors, and neighborhood or community meetings;
- Professional consultations and peer review;
- Field inspections and field or crisis management at project sites. Confined space entry may be required;
- Ability and willingness to obtain unusual or specific expertise on short notice;
- Emergency response; and
- Other services, in addition to the above, which will be negotiated between the SFPUC and Contractor as part of the scope of work of that task.

3. Reports

Contractor shall submit written reports as requested by the SFPUC Project Manager. Reports shall be thorough, competent and professional. Draft reports submitted for review shall be analyzed for technical content. Clarity, language or technical content shall be grounds for resubmission as referred to in Contract Item 11 describing "Acceptance of Work". The SFPUC Project Manager shall determine the format for the content of such reports. Submission of all reports shall be in accordance with the schedule set forth in individual task orders. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

4. Performance of Services

Performance of engineering services for Agreement No. CS-820, Engineering Services, The New Irvington Tunnel, will be executed according to a task order process. The SFPUC Project Manager will initially identify tasks and request the contractor to prepare a work scope, sub tasks, staffing plan, DBE utilization, schedule, deliverables, budget and costs to complete the tasks in accordance with this Agreement and the Consultant's proposal. A final task order scope will be negotiated between the SFPUC Project Manager and the Contractor and then submitted to Project Management Bureau Manager for approval. Labor rates, overhead rates and certain other unit costs or prices, including profit will be in accordance with Appendix B. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the budget allocated to any task as more specific information concerning the task order scope becomes available.

The task order request will be processed for Controller certification of funding, after which a *Notice to Proceed* will be issued. The Contractor is hereby notified that work cannot commence until the Contractor receives a written Notice to Proceed in accordance with Chapter 6 of the San Francisco Administrative Code. *Any work performed without a Notice to Proceed will be at the Contractor's own commercial risk.* The calculations of costs and methods of compensation for all task orders under this contract shall be in accordance with the negotiated master contract and billing rates set forth in Appendix B.

5. Department Liaison

In performing the services provided for in this Agreement, Contractor's liaison with the SFPUC will be the Project Manager, Gilbert Tang.

6. Performance Evaluation

Performance evaluations support the SFPUC's objective of continuously improving the quality of Contractor services. The SFPUC may or may not, at its sole discretion, conduct evaluation(s) of Contractor's performance. Ratings are ultimately the decision of the SFPUC and are not subject to negotiation with the Contractor. Contractor may provide comments on a performance evaluation form if an evaluation is performed. In the event that the SFPUC conducts performance evaluation(s) of Contractor, such performance evaluation(s) shall not confer any express or implied rights upon Contractor, nor shall they shift any liability to the SFPUC for Contractor's performance of the contract.

7. Anticipated Task Schedule

**Anticipated Schedule Omitted from This Version
(Pages A-68 through A-71)**

Appendix B Calculation of Charges

As part of Contractor's proposal, dated February 28, 2006, Contractor submitted, in detail, proposed costs and fees for requested task(s) in a Fee Schedule, attached hereto as part of Appendix B-1. However, as provided in the RFP, the budget identified for tasks in Appendix B is an estimate, and the City reserves the right to modify the budget allocated to any task as more specific information concerning the task order scope becomes available.

Contractor, with the assistance of the SFPUC, will be required to define the detailed scope for tasks under this Agreement. All costs associated with the development of the scope of work shall be borne by Contractor.

Eligibility of project costs, direct and overhead, will be determined per the Code of Federal Acquisition Regulations (FAR)—Title 48, Volume I, Parts 1-51 and other appropriate financial standards.

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

1. Billing Rate & Effective Project Multiplier:

Contractor's billing rates provided in the Fee Schedule, attached hereto as Appendix B-1 will be the billing rate for the listed individuals. Contractor will be allowed to escalate its 2006 billing rates based only on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Workers. The Effective Project Multiplier will apply to the billing rate of substitute and unnamed staff and subcontractors assigned later. The Effective Project Multiplier will apply to all contract Amendments. Contractor's billing rates are not subject to audit with respect to the makeup or composition of the rates but actual salary must be verifiable by certified payroll records.

The billing rate for each listed individual may not exceed the lowest rate charged to any other governmental entity. Additionally, billing rates shall not exceed Federal Acquisition Regulations (FAR) or Generally Accepted Accounting Principles (GAAP) rate, whichever is applicable, if both, whichever is lowest.

- Direct Labor is limited to actual salaries of project personnel
- Effective Project Multiplier: 2.77

2. Staff Changes: The SFPUC Project Manager/Bureau Manager must approve the assignment of staff prior to beginning a task order as well as any staff changes proposed by Contractor. The SFPUC OCA/P-500 (11-05)

2. **Staff Changes:** The SFPUC Project Manager/Bureau Manager must approve the assignment of staff prior to beginning a task order as well as any staff changes proposed by Contractor. The SFPUC Project Manager must also approve in writing any personnel changes proposed by Contractor after Notice to Proceed has been issued. The City will only approve project staff substitutions where that change in personnel is requested by the City and/or beyond the control of the Contractor. Individuals listed in the Fee Schedule and for whom resumes and qualifications have been submitted as part of the proposal are expected to be provided to the project team. Hourly billing rates for substituted staff and staff assigned later shall be calculated by multiplying the actual hourly salary of an employee by Contractor's Effective Project Multiplier. The Effective Project Multiplier includes direct rate, overhead (including other direct and miscellaneous costs), salary burden, fringe benefits and profit.

3. **Additional Subcontractors:** Second-tier and pass-through subcontracting is prohibited. However, in the event that the prime Contractor and its approved subcontractors lack the necessary skills or expertise to perform requested services that are within the scope of the contract, additional subcontractors may be added to the Contractor team after obtaining pre-authorization by the SFPUC Project Manager and Bureau/Division Manager.

4. **Other Direct Costs (ODC):** Most indirect costs are expected to be included in the firm's fringe and overhead categories. Costs that are not attributable to direct labor or otherwise not captured through overhead rates are classified as ODC's and subject to pre-approval in writing by the SFPUC Project Manager and Bureau/Division Manager.

Clerical and administrative costs shall be included as part of the overhead rate. The only exception to this provision shall be clerical and administrative time utilized in the production of a specific deliverables. ODC's shall not include any labor charges or pass-throughs. Meals including refreshments and working lunches with SFPUC staff will not be reimbursed. Invoice preparation will not be allowed. All ODC's will be reimbursed at actual cost and no mark up shall be included.

The following ODC's will be eligible for reimbursement. All other ODC's must be pre-approved in writing with supporting documentation.

A) Travel and Relocation. In accordance with guidance and policies established by the Office of the Controller and the applicable Federal Agencies, will be reimbursed at cost or applicable Continental U. S. travel per diem Allowances (CONUS) rates whichever is lower, and with proper documentation:

- Travel expenses **outside** the nine Bay Area counties, for travel per Federal Travel Regulations (<http://www.gsa.gov>), to include: transportation, lodging, meals and incidentals such as bridge tolls, except for relocation and long term assigned staff working more than six months;
- Travel expenses **inside** the nine Bay Area counties to include: 1) mileage, when privately owned vehicles (POV) are used from the home office to SFPUC facilities; 2) rental car reimbursement per Federal Travel Regulations (<http://www.gsa.gov>) and with prior approval; 3) local travel (bus, taxi, rail, POV) from home office to SFPUC facilities; and
- Relocation Costs: During the project, if staff assigned short term (less than six months) with special skills is needed for specific tasks and those skills are not available from Contractor staff in the San Francisco Bay Area, travel and temporary housing costs may be charged to the contract if those charges are pre-approved by the SFPUC. Any travel and temporary housing costs will be reimbursed at cost or the Federal

Government's CONUS standards, whichever is lower. The SFPUC will not pay relocation costs for Contractor staff assigned to the contract on a full-time or on-going basis more than six months

B) Communications/Mail/Reprographics, in accordance with the guidance and policies established by the Office of the Controller and the applicable Federal Agencies, and with proper documentation:

- Overnight/priority mail related to a specific deliverable identified in the task order;
- Long distance/toll telephone calls and facsimiles from remote locations (not Contractor's home office); and
- Reprographics and printing at remote locations (not Contractor's home office) and/or for special requirements.

C) Equipment/Computers/Utilities/Facilities, in accordance with the guidance and policies established by the Office of the Controller and the applicable Federal Agencies, and with proper documentation:

- Use of specialty computer hardware, software and project equipment not provided by the SFPUC and identified in Contractor's proposal and approved by PM/Bureau Manager on the task order;
- Telecommunications lines/Utility hook ups to remote locations when required and identified in Contractor's proposal and approved by PM on the task order; and
- Conference Rooms required for briefings/presentations at remote locations identified in Contractor's proposal.

D) Other, in accordance with the guidance and policies established by the Office of the Controller and the applicable Federal Agencies:

- Laboratory tests supporting a deliverable and identified in the task order; and
- Permits, as required by Federal, State, and local governments.

5. **Subconsultant Fees:**

- Subject to above restrictions;
- Shall be subject to written pre-approval by the SFPUC Project Manager; and
- Subcontractor administration markup is limited to *actual cost not to exceed 5%*.

6. **Direct Labor Rates:** Direct labor payroll rates can be adjusted annually limited to a maximum of the CPI (San Francisco Bay Area for Urban Wage Earners and Clerical Workers) for the previous year. Adjustments for individual Contractor employees may exceed the maximum provided that the total adjustment dollars for Contractor employees dedicated to this contract do not exceed the maximum dollars based on the total direct salary paid on the contract for the previous year plus the CPI.

7. **Retention:** Five percent (5%) of each invoice payment will be withheld for each task order. When the work for the task order or defined critical milestones has been completed to the satisfaction of the SFPUC Project Manager and all work products have been received and approved by the SFPUC Project Manager, Contractor may request that the retention be released. In lieu of money retention, an irrevocable letter of credit acceptable to the City will be accepted.

8. **Invoice Requirements:** Contractor shall submit one original invoice package with the appropriate HRC reporting forms and supporting documentation to substantiate the time, mileage

and ODCs for the prime and subcontractors. A standard invoice format shall be developed by Contractor anticipating project complexity and used thereafter. Each invoice must be with an HRC Form No. 7 to identify the participation and amount payable to subcontractors. Timesheets, cards or logs must include a brief description memorializing, on a daily basis, when and what work was performed. Mileage logs must include the beginning and ending mileage to substantiate the variable portal-to-portal distance and local driving required while performing the work. Any "Other Direct Costs" must be substantiated with receipts including a brief description for each receipt memorializing the purpose. Complete invoice packages should be sent directly to the SFPUC Project Manager.

HRC Form No. 9 must be sent to the Project Manager within ten (10) days of receiving payment for each invoice to document the subcontractor's payment by the prime Contractor.

HRC Form No. 8 must be sent to the Project Manager with the final invoice for each task order to authenticate the total subcontractor participation and close out the Purchase Order Release.

9. **Audited financial Statements:** Within ninety (90) days after the end of Contractor's fiscal year, Contractor shall submit to client year-end financial statements and an unqualified audit report certified by an independent Certified Public Accountant (CPA). This report shall state that the audit was conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the comptroller General of the United States. Contractor shall also provide schedules of indirect cost rates and accompanying audit report by its independent Certified Public Accountant. This report shall also state that the audit was conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States, and that the schedule of indirect cost rates were prepared on the basis of accounting practices prescribed by Chapter 1, Part 31, of the Federal Acquisition Regulation (FAR) and other applicable federal and state regulations. Contractor shall pay for the cost of the foregoing audit.
10. **Audit:** All costs submitted for payment by Contractor are subject to audit as stipulated in Section 28 (a) Audit and Inspection of Records. Contractor's billing rates are not subject to audit with respect to the makeup or composition of the rates but actual salary must be verifiable by certified payroll records.

**Fee Schedule Appendix B-1
Omitted from This Version**

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 06-0081

WHEREAS, Engineering design services are required for the New Irvington Tunnel project; and

WHEREAS, It is necessary to procure the services of a qualified engineering firm to provide specialized design services to supplement SFPUC staff; and

WHEREAS, The estimated cost of services is \$8,600,000; and

WHEREAS, The proposal was advertised on January 18, 2006; and

WHEREAS, Services are anticipated to begin in June 2006 and end in June 2013, and the duration of this agreement is 84 months; and

WHEREAS, SFPUC staff and HRC review of the proposals resulted in the establishment of URS Corporation as the best qualified consulting firm; and

WHEREAS, An HRC subcontracting goal of 6% DBE participation has been established and approved for this agreement by the HRC Contract Compliance Officer assigned to the SFPUC. URS Corporation is committed to meet the DBE goal submitted in its proposal which exceeds the HRC goal established; and

WHEREAS, Failure to reach successful agreement on contract terms and conditions within 30 days of the date of the Commission award may result in award of the contract to the next highest ranked proposer, or re-advertising and re-selecting consultants at the discretion of the City; and

WHEREAS, The firms being awarded a contract by the SFPUC must be in compliance with the Equal Benefits Provisions of Chapter 12B of the City's Administrative Code either at the time of the award, or within 2 weeks of the date of the Commission award; failure of the bidder to obtain compliance certification from HRC may, in the General Manager's sole discretion, result in award of the agreement to the next highest ranked proposer, or re-advertising and re-selecting consultants at the discretion of the City; and

WHEREAS, Funds for this agreement will be available at the time of award of the agreement from Project CUW 35901 - New Irvington Tunnel, pending approval of the SFPUC 2006 Supplemental Appropriation by the Board of Supervisors; now, therefore, be it

RESOLVED, That this Commission hereby approves the selection of URS Corporation, awards a professional services agreement to provide engineering design services for CUW 35901 – New Irvington Tunnel, and authorizes the General Manager of the San Francisco Public Utilities Commission to execute a professional services agreement with URS Corporation for an amount not to exceed \$8,600,000, and with a duration of 84 months or in the event negotiations are not successful or City requirements are not satisfied, to negotiate and execute a professional services agreement with the next highest ranked proposer.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of _____ *May 9, 2006*

Secretary, Public Utilities Commission