

ATTACHMENT 2
JACOBS PROJECT MANAGEMENT CO.
AGREEMENT



Gavin Newsom, Mayor
Edward D. Reiskin, Director



Department of Public Works
Contract Administration Division
Financial Management and Administration
875 Stevenson Street, Room 420
San Francisco, CA 94103-0903
Gordon Choy, Division Manager

NOTICE TO PROCEED

Contractor: Jacobs Project Management Co.
160 Spear Street, Suite 330
San Francisco, CA 94105

Project: Executive Construction Management Services for the SFGH Rebuild Program

Term: September 10, 2008 - December 31, 2016

Job No.: 6694A

DPW Order No.: 177,756

Contract Amount: \$8,000,000 (\$500,000 encumbered)

Controller's Posting Number:

Reference this # on your invoices No.: DPAT09000042

Date Posted: September 10, 2008

Edward D. Reiskin
Director of Public Works

by *ma. Carina C. Carlos*
Division of Contract Administration
September 11, 2008

cc: Ron Alameida, BOA
Joe Chin, BOE

attachments: Contract Purchase Order
Appointment
Agreement

GEC:ccc

PURCHASE ORDER - NON PURCHASING
DPW - ARCHITECTURE

PO NUMBER: DPAT09000042
PO AMOUNT: \$500,000.00

TO: JACOBS PROJECT MANAGEMENT CO
1111 S ARROYO PKWY
PASADENA CA 91105

PO PRINT DATE: 09/10/2008

PHONE :
VENDOR ID: 76679

TERMS: NET
FOB : DEST

ISSUE DATE : 09/10/2008

<<

DELIVER TO: DPW-BUREAU OF ARCHITECTURE (PWD09)
30 VAN NESS AVE #4100
SAN FRANCISCO CA 94102

Edward D. Reiskin, Director of Public Works

AUTHORIZED SIGNATURE:

By: *Jocelyn Quintos*
Jocelyn Quintos, Business Services Div Manager

DATE : 09102008
PHONE :

ORIGINAL ORDER MUST BE SIGNED TO BE VALID

INVOICE TO: DPW-BUREAU OF ARCHITECTURE (PWD09)
30 VAN NESS AVE #4100
SAN FRANCISCO CA 94102

TERMS:

PROVIDE EXECUTIVE CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE SFGH REBUILD PROGRAM. WORK SCOPE IS DEFINED IN THE FF. CATEGORIES:
1. PRE-CONSTRUCTION PHASE SVCS; 2. CONSTRUCTION PHASE SVCS;
3. CLOSEOUT PHASE SVCS; AND 4. POST-CONSTRUCTION PHASE SERVICES.
TOTAL AMOUNT OF CONTRACT N-T-E \$8,000,000.

INSURANCE REQUIREMENTS: G/L: \$4M; A/L: \$1M; W/C: \$1M; P/L: \$5M.
PSC#4087-07/08, APPROVED 1/22/08.
JOB#6694A; DPW#177,756; TERM: CERTIFICATION - DECEMBER 31, 2016.
PM: RON ALAMEIDA, BOA: 557-4763/CM: JOE CHIN, BOE: 558-4028

PURCHASE ORDER - NON PURCHASING
 DPW - ARCHITECTURE

PO NUMBER: DPAT09000042
 PO AMOUNT: \$500,000.00

ITEM	COMMODITY ID	UOM TAX	QUANTITY	UNIT PRICE	TOTAL PRICE
NAME/SPECS					
1	7210-20	JB N	1.00	500,000.0000	500,000.00
SVC, CONSTRCTN MNGMNT; ARCHITCTRL/ENGINRNG					

JOB# 6694A DPW# 177,756 SFGH REBUILD-EXECUTIVE CONSTRUCTION MGT SVCS

PROVIDE EXECUTIVE CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE SFGH REBUILD PROGRAM. WORK SCOPE IS DEFINED IN THE FOLLOWING CATEGORIES: 1. PRE-CONSTRUCTION PHASE SVCS; 2. CONSTRUCTION PHASE SVCS 3. CLOSEOUT PHASE SVCS; AND 4. POST-CONSTRUCTION PHASE SERVICES.

PROFESSIONAL SERVICES FEES SHALL NOT EXCEED TOTAL CONTRACT AMOUNT OF \$8M; ACTUAL PERFORMANCE SHALL PROCEED BY TASK ORDER. AMOUNT OF THIS PARTIAL ENCUMBRANCE SHALL BE \$500K, WITH AVAILABILITY OF REMAINING AMOUNT CONTINGENT UPON THE VOTERS/BOARD OF SUPERVISOR APPROVAL OF THE G.O. BOND IN NOVEMBER 2008.

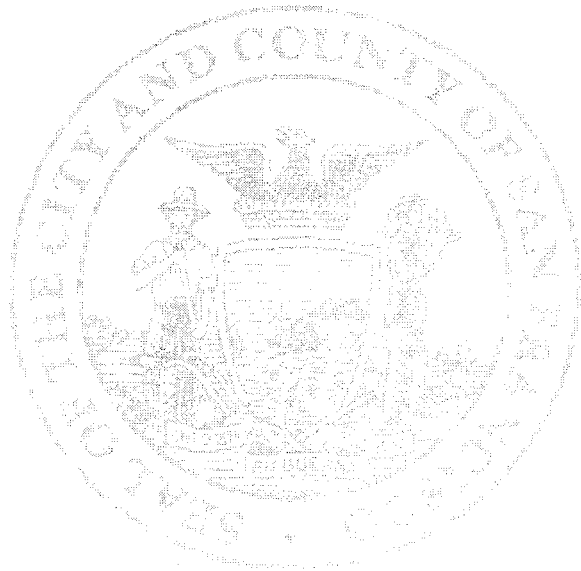
AMOUNT OF THIS ENCUMBRANCE N-T-E \$500K.
 TERM FROM CERTIFICATION THROUGH DECEMBER 31, 2016.

TOTAL ITEMS AMOUNT	\$500,000.00
SALES TAX	\$.00
INVOICE AMOUNT	\$500,000.00

PURCHASE ORDER - NON PURCHASING
DPW - ARCHITECTURE

PO NUMBER: DPAT09000042
PO AMOUNT: \$500,000.00

SFX INDEX	SUBOBJ	USERCODE	PROJECT	PRJDTL	GRANT	GRNTDTL	AMOUNT
01	PWA585HAAACP	02708	CHGREB	DS3353			500,000.00
							----- 500,000.00



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

ORDER NO. 177,756

APPOINTMENT

Contractor: Jacobs Project Management Co.
160 Spear Street, Suite 330
San Francisco, CA 94105

is appointed to provide Construction Management Services.

Payment will be made upon submission of approved invoice based upon work performed satisfactorily. Total cost not to exceed **\$8,000,000.00**. Estimated completion date is December 31, 2016.

Contractor shall indemnify and hold harmless the City & County of San Francisco, its officers and employees and furnish certificates of insurance directly protecting himself, any subcontractors and the City & County of San Francisco. The City & County of San Francisco, its officers, agents and employees shall be named as additional insureds and insurance shall be for:

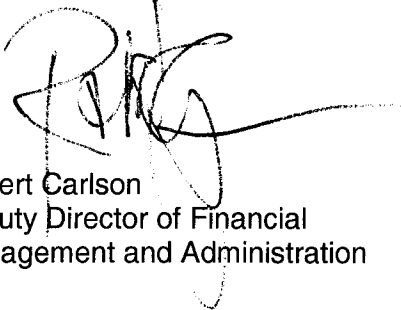
Commercial General Liability (bodily injury and property damage)	\$4,000,000 Single Limit
Business Automobile Liability (bodily injury and property damage)	\$1,000,000 Single Limit
Workers' Compensation; Employers' Liability	\$1,000,000 per Claim
Professional Liability	\$5,000,000 Per Claim

A Notice To Proceed and Purchase Order will be issued to the Contractor. Work shall not be performed unless authorized by a specific Task Order.

Funds are available:

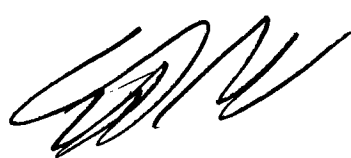
Index Code PWA585HAAACP Fund Type/Fund/Subfund 5H AAA ACP Project/Project Detail CHGREB
DS3353
Job No. 6694A.

RECOMMENDED:



Robert Carlson
Deputy Director of Financial
Management and Administration

APPROVED:



Edward D. Reiskin
Director of Public Works

DISTRIBUTION:

DPW Order Clerk (1 unsigned)
Jacobs Project Management Co.
Joe Chin, BOE
First Source Hiring Administrator, Dept. 45, 3120 Mission St.

GEC: cc

Approved: August 25, 2008

**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS**

AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND

This Agreement is made this 5th day of August, 2008, in the City and County of San Francisco, State of California, by and between:

Jacobs Project Management Co.
160 Spear Street, Suite 330
San Francisco, CA 94105

hereinafter referred to as "Contractor," and City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of Public Works, hereinafter referred to as "Director."

Recitals

WHEREAS, the Department of Public Works wishes to contract for professional services in construction management for the San Francisco General Hospital Rebuild Program (See also Appendix A); and,

WHEREAS, a Request for Qualifications ("RFQ") was issued on March 20, 2008, and City selected Contractor as the highest qualified scorer pursuant to the RFQ; and

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

WHEREAS, approval for said Agreement was obtained from the Civil Service Commission by Resolution No. PSC #4087-07/08 dated January 22, 2008

Now, THEREFORE, the parties agree as follows:

1. Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement and Specifications, it shall have the meaning herein set forth.

AUTHORIZATION	Contract Order of the City and County of San Francisco properly executed by the Director, Director of Purchasing, and City Administrator, and certified by the Controller for the specific funding of this Agreement or any modification thereof.
CITY ADMINISTRATOR	City Administrator of the City and County of San Francisco.
CITY	City and County of San Francisco, a municipal corporation.
CONTRACTOR	Jacobs Project Management Co.
CONTROLLER	Controller of the City and County of San Francisco.
DIRECTOR	Director of Public Works of the City and County of San Francisco.
WORK	The work to be done in providing the services as described and specified in Appendix A.

Whenever the words "as directed", "as required", "as permitted", or words of like effect are used, it shall be understood as the direction, requirement, or permission of the Department of Public Works. The words "sufficient", "necessary", or "proper", and the like, mean sufficient, necessary or proper in the judgment of the Department of Public Works.

~~The words "approval", "acceptable", "satisfactory", or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Department of Public Works, unless otherwise indicated by the context.~~

2. 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 the Charter of City. 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 in the event 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.

3. Term of the Agreement

Subject to Section 2, the term of this Agreement shall be from the date of certification by the Controller to December 31, 2016.

4. 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.

5. Services Contractor Agrees to Perform

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

6. Compensation

Compensation shall be made in monthly payments on or before the 30th day of each month for work, as set forth in Section 5 of this Agreement, that the Director of Public Works, in his or her sole discretion, concludes has been performed as of the 30th day of the immediately preceding month. In no event shall the amount of this contract exceed \$8,000,000 (EIGHT MILLION DOLLARS). The breakdown of costs associated with this contract is provided for 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 Department of Public Works as being in accordance with 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 Progress Payment Form. If HRC Progress Payment Form 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 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 HRC Progress Payment Form is provided.

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

7. Method of Payment

Invoices furnished by Contractor under this Agreement must be in a form acceptable to Director of Purchasing and Controller. All amounts paid by City to Contractor shall be subject to audit by City.

Payment shall be made by City to Contractor at the address stated hereinabove.

8. Disallowance

In the event Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by City or 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.

In the event that this Agreement is federally funded, 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.

9. 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 the 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, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its 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 the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

10. 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.

11. 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,

~~but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.~~

12. 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 City.

13. Independent Contractor

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.

14. Insurance

- a. Without in any way limiting Contractor's liability pursuant to Section 15, "Indemnification and General Liability," of this Agreement, Contractor will maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage:

- (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 \$2,000,000 each occurrence / \$4,000,000 aggregate 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 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 \$5,000,000 each claim occurrence with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.
- b. Commercial General Liability and Commercial Automobile Liability Insurance policies shall be endorsed to 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 (30) days' advance written notice to City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the following address:

Contract Clerk
Department of Public Works
Division Of Contract Administration
875 Stevenson Street, Room 420
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 contract and, without lapse, for a period of three years beyond the contract expiration, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the contract, 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 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.
- g. 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.
- h. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.
- i. If 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.

15. Indemnification

- a. General Indemnity

To the fullest extent permitted by law, Contractor shall assume the defense of, indemnify and save harmless the City, its boards, commissions, 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 subconsultants) 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 nor indirectly, in whole or in part, from (1) the services under this Agreement, or any part of such services, and (2) any negligent, reckless, or willful act or omission of the Contractor and subconsultant to the Contractor, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities"), subject to the provisions set forth herein.

b. Limitations

(1) No insurance policy covering the Contractor's performance under this Agreement shall operate to limit the Contractor's liability under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such liability.

(2) The Contractor assumes no liability whatsoever for the sole negligence or willful misconduct of any Indemnitee or the contractors of any Indemnitee.

(3) 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.

c. 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 or services to be supplied in then performance of Contractor's services under this Agreement.

16. Incidental and Consequential Damages

Contractor shall not be liable to the City, regardless of whether any claim is based on contract, tort, strict liability or otherwise, for any type of special, consequential, indirect or incidental damages arising out of or in connection with this Agreement or the services performed in connection with this Agreement. This limitation shall not (i) affect Contractor's obligation to pay Liquidated Damages as set forth in this Agreement; (ii) affect Contractor's liability for fraud, willful misconduct or illegal or unlawful acts; (iii) limit Contractor's liability for third party claims as provided elsewhere herein; (iv) limit Contractor's liability for any type of damage to the extent such damage is required to be covered by insurance as specified herein; or (v) limit contractor's liability for damages expressly provided for in this Agreement.

17. 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.

18. Liquidated Damages

LEFT BLANK BY AGREEMENT OF THE PARTIES.

19. 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: 9, 14, 23, 28, 32, 44, 54, 55, 56, or 60.

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- (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.

20. 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 minimum of fourteen (14) days 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.

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- (7) Taking such action as may be necessary, or as the 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 the City or otherwise disposed of as directed by the 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 the 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.

21. Rights and Duties Upon Termination or Expiration

Subject to the immediately preceding subsection (a), upon termination of this Agreement prior to expiration of the term specified in Section 3, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other 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.

22. Conflict of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the 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.~~

23. 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.

24. Notices to the Parties

All notices to be given by the parties to this Agreement shall be in writing and served by depositing same in the United States Post Office, postage prepaid and registered as follows:

To City: Department of Public Works
Division of Contract Administration
875 Stevenson Street, Room 420
San Francisco, CA 94103

To Contractor: Charles Davis
Jacobs Project Management Co.
160 Spear Street, Suite 330
San Francisco, CA 94105

Any notice of default must be sent by registered mail.

25. Ownership of Results; Works For Hire

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, studies, reports, memoranda, computation sheets 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.

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 the 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 the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

26. Audit and Inspection of Records

Contractor agrees to maintain and make available to City during business hours accurate books and accounting records relative to its activities 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. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five 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 of this Agreement shall have the same rights conferred upon City by this Section.

27. Subcontracting

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is approved by written instrument executed and approved in the same manner as this Agreement. 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.

28. Assignment

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

29. Local Business Enterprise Utilization; Liquidated Damages

a. The LBE Ordinance

Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE 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 LBE 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 provisions of the LBE 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 LBE 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 LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE 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 the City's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Contractor authorized in the LBE Ordinance, including declaring the Contractor to be irresponsible and ineligible to contract with the City for a period of up to five years or revocation of the Contractor's LBE certification. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

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 LBE 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 LBE subcontracting participation goal for this contract is **14 %**. 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 the HRC Progress Payment Form and the HRC Payment Affidavit. Failure to provide the HRC Progress Payment Form and the HRC Payment Affidavit with each invoice submitted by Contractor

~~shall entitle City to withhold 20% of the amount of that invoice until the HRC Payment Form and the HRC Subcontractor Payment Affidavit are provided by Contractor.~~

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

3. Subcontract Language Requirements

Contractor shall incorporate the LBE 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 LBEs made in fulfillment of Contractor's obligations under this Agreement, a provision requiring Contractor to compensate any LBE 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 LBE subcontractor as specified in the bid or proposal, unless Contractor received advance approval from the Director of HRC and contract awarding authority 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 LBE 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 the City unless Contractor notifies the Director of HRC in writing within ten working days prior to receiving payment from the 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 the City, to file the HRC Payment Affidavit 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 §14B.17.

30. Compliance with South Africa Divestment Ordinance; Liquidated Damages

Not applicable.

31. 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.

32. 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 the contractor, its employees, agents or assigns shall be deemed a material breach of contract.

33. 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.

34. Modification of Agreement

This Agreement may not be modified, nor may compliance with any of its terms waived, except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with 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% (HRC Contract Modification Form).

35. 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 the Director of Public Works who shall decide the true meaning and intent of the Agreement.

36. 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.

37. Construction

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

38. 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 34.

39. 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.

40. Ownership of Equipment

Any equipment vehicles, computer programs (software licenses and media), etc. purchase by the Contractor or its subcontractors in connection with services to be performed under this Agreement shall become property of and will be transmitted to the City.

41. Guaranteed Maximum Costs

- a. The City's obligations 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 the City are not authorized to request, and the 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 the City are not authorized to offer or promise, nor is the 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.

42. 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.

43. Non-Discrimination; 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 Sections 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. Non-Discrimination 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 the 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 of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 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.

44. 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 the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant 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 consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (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.~~

45. 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 (30) 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 (30) 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 (30) days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the 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.

46. 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 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 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.

If a Covered Employee of a Nonprofit Corporation works in San Francisco, then that employee is covered by San Francisco's Minimum Wage Ordinance, which is Chapter 12R of the Administrative Code. As of January 1, 2007, Chapter 12R's minimum wage is \$9.14 per hour.

- (b) Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the 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.

- (e) 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, the 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 the City for three (3) 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 the City. Any amounts realized by the 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 the CITY, which communications are marked to indicate that they are to be distributed to Covered Employees.
- (g) Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the MCO, including reports on subcontractors.
- (h) The Contractor shall provide the City with access to pertinent records after receiving a written request from the 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 (10) 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 the 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.

47. Requiring Health Benefits for Covered Employees

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/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.

48. 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.

49. 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 the 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, the 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.

50. 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.

51. 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.

52. 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

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 maybe 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

(7) That in the event the City is the prevailing party in a civil action to recover liquidated damages for breach of a contract provision required by this Chapter, the contractor will be liable for the City's costs and reasonable attorneys fees.

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.

53. **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.

54. **Compliance with Laws**

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the 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.

1. **Protection of Private Information**

Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

56. 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 the 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.

57. 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.

58. 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.

59. Food Service Waste Reduction Requirements

Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual

damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

60. Supervision of Minors

Left blank by agreement of the parties

61. Slavery Era Disclosure

Left blank by agreement of the parties.

THIS SECTION INTENTIONALLY LEFT BLANK

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

CITY

Recommended by:

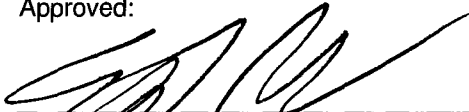

Signature

EDGAR LOPEZ
Name

Approved as to Form:
Dennis J. Herrera
City Attorney

By 
Deputy City Attorney

Approved:


Edward B. Reiskin
Director of Public Works

Approved:

N/A
Edwin M. Lee, City Administrator

CONTRACTOR

Jacobs Project Management Co.
Name

160 Spear Street, Suite 330
Address

San Francisco, CA 94105

City State Zip

I have read and understood Sec. 31, 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.

By 
Signature

SCOTT McCallister VP PMCM
Name Title Operations

(714) 503.3737
Area Code Phone Number

35-2321289
Federal Employer Number

APPENDIX A

SCOPE OF WORK

RFQ or RFP or PROPOSAL shall mean the City's Request For Qualifications or Proposals for professional (design) services for this Project and the (Architect's or Engineer's or Consultant's) proposal to provide such services. All requirements of the RFQ or RFP and the representations made in the (Architect's or Engineer's or Consultant's) proposal that are not in conflict with provisions of this contract are hereby incorporated by reference and made an integral part of the contract as though fully set forth herein. With respect to any conflict or ambiguity between this Agreement and the RFQ or RFP or the proposal, this Agreement shall control except where the RFQ or RFP or the proposal refers to services not otherwise mentioned in this Agreement, then and to such extent the RFQ or RFP proposal shall control.

General Scope of Services:

Jacobs Project Management Co. will form an Executive Construction Management Team that will be providing construction management and inspection services in support of the San Francisco General Hospital Rebuilt Program.

The scope of services is defined into the following categories: 1. PRE-CONSTRUCTION PHASE SERVICES, 2. CONSTRUCTION PHASE SERVICES, 3. CLOSEOUT PHASE SERVICES, and 4. POST-CONSTRUCTION PHASE SERVICES.

1. PRE-CONSTRUCTION PHASE SERVICES

1.A. Construction Planning/Document Control Tasks

- Establishing and maintaining overall Project and Construction Controls Systems (PCCS) throughout the Project, including automated daily workflow processing and automated reporting. The PCCS will be implemented during the design phase to facilitate and document communication between the A/E Team, CM/GC + Core Subcontractors, the City, and other Consultants and will continue to be used throughout the construction to post-construction phases. PCCS to utilize common commercially available web-based database; ProLog Website, CMiC Collaboration software, or equal, which includes the following minimum features: change order and change order request tracking and management, contract management, Computer Aided Design (CAD) reader, Xref uploading, field administration, procurement, project dashboard, program dashboard, project reporting, project logs, tracking RFIs/submittals, document management and archival, redline tools, photo management, punch list, collaboration tools, and cost management.
- Providing integration of City Staff in the implementation and maintenance of the PCCS.
- Developing, implementing, and maintaining a project documentation system that will be utilized starting at Design Development (DD) and continue through the Post-Construction Phase. This comprehensive and uniform project filing system will be used for tracking, reporting, recording all project documentation for the complete Project. All project documentation shall be scanned in the Adobe Acrobat format (*.pdf) and archived. At the completion of the project, a comprehensive and complete record of all project documents, including copies of all scanned digital images of the project documents in a media acceptable to the City, shall be turned over.
- Reviewing and providing input to the City's Construction Procedure Manual that will be utilized during construction, including all forms, documents, logs, and procedures requiring review and approval. The manual should also include flow charts showing the flow of the forms, documents, and decision-making procedures as well as the time associated with each task. Forms and procedures include, but not limited to, submittals, change orders, change order requests, proposed change orders, RFIs, schedules, progress payments, inspection program, cost control reports, logs, and commissioning and testing program.
- Tracking plan review comments provided by OSHPD and/or other City and State agencies having jurisdiction and ensuring resolution of these items by the A/E Team and/or other parties.
- Participating in and documenting trade conflicts as a result of Building Information Modeling (BIM) coordination and studies.
- Assisting City Project Management with communication and coordination of City's interdepartmental processes and responsibilities.
- Assisting with Community Outreach services

1.B. Budget/Cost Estimating/Cost Control Tasks

- Reviewing, evaluating, validating, and reconciling construction cost estimates and project cost projections and escalations prepared by A/E Team and CM/GC + Design Assist Team participants to facilitate the establishment of a value-targeted budget and scope. Preparing independent cost estimates for all trade packages, including those for which the Core Subcontractors will submit a price.
- Providing detailed construction cost estimates for the major design phases: Schematic Design (SD), Design Development (DD), and Construction Drawings (CD). Participating in cost estimating sessions for reconciliation with the CM/GC's and the A/E Team's cost estimates.
- Providing independent cost estimates at 50% CD and 100% CD, including estimates for each bid package. Compare these cost estimates with the ones prepared by the A/E Team and reconcile the differences. Once the reconciliation process is complete, providing a report documenting the differences and the recommended construction cost.
- Providing cost budget, cost forecasting, and cost monitoring management services. Providing as-needed cost estimates at critical points of the DD to assure completion of the Project within the cost budgets approved by the City.
- Providing other as-needed cost analyses, cost estimating, and cost control services.

1.C. Construction Scheduling/Schedule Control Tasks

- Preparing and monitoring the detailed baseline cost-loaded and resource-loaded SFGH Rebuild Program Master Schedule outlining all tasks and milestones between the SD and CD phases to facilitate and to track the design and financial status of the SFGH Rebuild Program. Baseline Schedules shall also be used to monitor and track all OSHPD and/or City and State-agencies that have jurisdiction over the plan review process.
- Providing monthly updates of the SFGH Rebuild Program Master Schedule. Preparing and submitting reports detailing the monthly updated cost and resource-loaded schedules for the Master Schedule and tracking the progress of the A/E Team through the SD, DD, and CD phases. The status reports shall include information pertaining to the current project schedule and cost expenditures compared to the as-planned baseline project schedule and cost budgets. Recommendations on how to recover from schedule slippages.
- Providing as-needed schedule updates during critical points of the DD and CD phases to assure completion of the design within the baseline schedule timeline. Providing recommendations, as necessary, to ensure that the Project can meet the schedule milestones.
- Preparing status reports regarding project schedule and budget and construction budget expenditures.
- All construction project schedules will be prepared utilizing the Critical Path Method (CPM) and the Primavera suite of programs (P3, P6, Contractor, etc.).

2. CONSTRUCTION PHASE SERVICES

2.A. Construction Administration/Document Control Tasks

- Establishing and maintaining overall Project and Construction Controls Systems (PCCS) throughout the Project, including automated daily workflow processing and automated reporting. The PCCS will be implemented during the design phase to facilitate and document communication between the A/E Team, CM/GC + Core Subcontractors, the City, and other Consultants and will continue to be used throughout the construction to post-construction phases. PCCS to utilize common commercially available web-based database; ProLog Website, CMiC Collaboration software, or equal, which includes the following minimum features: change order and change order request tracking and management, contract management, CAD reader, Xref uploading, field administration, procurement, project dashboard, program dashboard, project reporting, project logs, tracking RFIs/submittals, document management and archival, redline tools, photo management, punch list, collaboration tools, and cost management.
- Providing access and support services to the A/E Team, CM/GC, the City, and other Consultants to the PCCS.
- Developing, implementing, and maintaining a project documentation system that will be utilized starting at Pre-Construction Phase and continue through the Post-Construction Phase to ensure that a comprehensive and complete of record of project documents is maintained at the completion of the project. This comprehensive and uniform project filing system will be used for tracking, reporting, recording all project documentation for the complete Project. All project documentation shall be scanned in the Adobe Acrobat format (.pdf) and archived onto DVD-Rom storage medias or equivalent, as approved by the City. At project completion, the Executive CM shall deliver the complete project documents, including copies of all scanned digital images, to the City.

- Providing as-needed construction administration support.
- Establishing processes and procedures and roles and responsibilities of the Project Team to ensure the timely resolution of all issues, including but not limited to, RFIs, Submittals, Proposed Change Orders (PCOs), Change Orders (CO), Change Order Requests (CORs), Correction Notices, Non-conforming Work Reports, etc.
- Coordinating with CM/GC and A/E Team on the BIM reports/studies and coordination drawings.
- Participating in and recording Integrated Team constructability workshops, reviews and deliverables including Building Information Modeling reports and studies.
- Reviewing and advising on CM/GC's and its subcontractors' shop drawings, fabrication drawings, coordination drawings, submittals, and RFIs for compliance with the Contract Documents.
- Providing expert advice and recommendations on resolving technical and contractual issues and/or disputes that arise during construction between the CM/GC and the A/E Team.
- Reviewing, coordinating and recommending action on all deliverables and submittals from consultants, A/E Team, and CM/GC and Subcontractors on the project.
- Assisting with Community Outreach services.

2.B. Construction Scheduling/Schedule Control Tasks

- Reviewing and analyzing the CM/GC's baseline CPM schedules (cost and resource-loaded). Preparing and submitting reports detailing the review and approval of the CPM schedules.
- Reviewing and analyzing the CM/GC's monthly updated CPM schedules (cost and resource-loaded). Preparing and submitting reports detailing the review and approval of the CM/GC's schedules.
- Reviewing and analyzing the CM/GC's revised CPM schedules (cost and resource-loaded). Preparing and submitting reports detailing the review and approval of the CPM schedules.
- Preparing periodic progress status reports.
- Reviewing and commenting on all schedules submitted by the CM/GC, including "look-ahead" schedules.
- Providing schedule analysis of the impacts of proposed change orders and pending/approved change orders on the project duration and schedule.
- Preparing independent project schedules (as required) for the review and analysis of the CM/GC time impact analysis submittals. Reviewing and analyzing and providing recommendations to the CM/GC's request(s) for time extension.
- Preparing schedule updates and as-built schedules, as required, based on as-built/gathered data.
- Reviewing and negotiating change order requests and change orders as they relate to time impact to the construction schedule.
- Preparing status reports regarding project schedule and budget and as it relates to the construction activity progress and construction budget expenditures.

2.C. Budget/Cost Estimating/Cost Control Tasks

- Developing and implementing a tracking system for the monitoring the status of construction change orders, change order requests, and proposed change orders. Reviewing and advising the City on CM/GC's change order requests/proposals.
- Preparing independent cost estimates to evaluate the change order requests submitted by the CM/GC and Subcontractors. Negotiating change order requests and change orders for both time and cost and providing appropriate recommendations to the City.
- Preparing progress and financial status reports.
- Providing claims and schedule delay analyses.
- Preparing reports monitoring construction progress and construction budget expenditures.

2.D. Inspector of Record Inspection, and Quality Assurance/Quality Control Inspection Tasks

- Providing Hospital Inspector of Record (IOR) services to verify that the construction of the new hospital facility conforms to the approved plans and specifications and any approved change orders to those documents. The IOR shall attend weekly progress meetings with the City, CM/GC, A&E, and Executive CM.
- Supporting City Staff to monitor CM/GC's quality assurance/quality control (QA/QC) program.

- Developing a reporting system independent of the CM/GC's QA/QC program that tracks, monitors, and documents all work that require testing and inspection and all records of the entities that have inspected such work for acceptance.
- Developing a reporting system independent of the CM/GC's QA/QC program that tracks, monitors, and documents all non-conforming work reports (NCR) and OSHPD and IOR correction notices and correction of such NCR(s) and correction notices.
- Assisting with the coordination of the CM/GC's utility tie-in connections to existing facilities and campus services to minimize disruption to hospital operations.
- Establishing, providing, and maintaining daily and weekly digital photographic records of progress of the work, as needed and approved by the City. Where advantageous and upon request by the City, make digital video camera records of the work. (Note: if this task is included in the specifications as a Contractor's requirement, then the Executive CM shall coordinate and maintain the records.)
- Supporting City Staff in coordination of construction activities with SFGH campus and hospital operations and neighboring community.
- Assisting City Staff to coordinate testing and inspection with OSHPD, SF Building Inspection Department, SF Fire Marshall, and other Agencies having jurisdiction, including commissioning, project close-out, and functional and operational activities.
- The City and/or its other Consultants will be responsible for all special inspection services: (i.e. concrete, reinforcing steel, piling, drilled piers and caissons, in-place density tests, structural welding, high-strength bolting, base isolation, masonry, and spray-on fireproofing). The Executive CM will only be responsible for coordinating all such special inspection activities between the IOR, CM/GC, and the City and its Consultants.
- Reviewing the actual completed work and providing recommendations to the City as they relate to Contractor's payment requests. Monitoring and assisting City Staff in the approval of Contractor's progress payment.
- Performing quality assurance inspections, and miscellaneous field inspections required in the specifications, except those specifically noted to be performed by the CM/GC and its subcontractors. Witnessing, documenting, and preparing reports for all tests and inspections performed by CM/GC and its subcontractors.
- Managing, coordinating, and scheduling all inspections and testing services.
- Coordinating building commissioning services with CM/GC and Third Party Commissioning, as required to satisfy OSHPD and LEED requirements. Coordinating all OSHPD and LEED documentation and close-out activities.

3. CLOSE-OUT PHASE SERVICES

- Coordinating all required OSHPD and LEED close-out documentation and other close-out activities as outlined in the Contract Documents.
- Working with the Third Party Commissioning Authority to ensure that all building commissioning documentation is complete and in compliance with the Contract Documents.
- Assisting and coordinating the implementation of the Building System Start-up and Building Commissioning process between the City's Commissioning Authority, Department of the Environment, A/E Team, IOR, and CM/GC and Subcontractors.
- Assisting the Commissioning Authority in documenting the Endurance Testing to be performed by the CM/GC and Subcontractors.
- Coordinating with the CM/GC and City Staff the training of operation and maintenance of building systems. Providing digital recordings of all such training for record purposes, unless otherwise determined to be performed by the CM/GC or others.
- Developing a system for the tracking of punchlist items. Coordinating with the CM/GC and Subcontractors on the timely correction and completion of all punchlist items. There shall be no outstanding punchlist items at Final Completion. Warranty work shall not constitute punchlist work.
- Coordinating and tracking the delivery of all spare parts, operation and maintenance manuals, warranty documents, training logs, as-built/record drawings, keys, and any other items necessary to the City.
- Assisting with Community Outreach services

4. POST-CONSTRUCTION PHASE SERVICES

- Setting up a records and retrieval system designed for ease of use and information retrieval. Records shall include reports, test results, inspections, contract documents, change orders, change order requests, schedules, as-built/record drawings, billings and payment requests, cost accounting, and project correspondences including emails. An index shall be developed identifying the type of records and their location. At this time, it is envisioned that files will be boxed for archival storage and will include electronic files on DVD-Roms or other media. The storage system must be approved by the City.
- Maintaining and providing records in electronic format and hardcopy of all email correspondences of all staff throughout the project
- Assisting the City in ensuring that the CM/GC and Subcontractors honor their warranty responsibilities in a timely manner.
- Assisting the City in preparation for and defending against any and all legal claims and court suits.
- The Executive CM may be retained for a period of three (3) years after the completion of the Project, terminable at any time upon written notice from the City. The exact date for the commencement of this phase shall be mutually agreed upon by the City and the Executive CM, and may be dependent on various factors, including but not limited to: Certificate of Final Completion and Occupancy, all final payments, and resolution of issues connected with local, State, and Federal agencies.

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APPENDIX B

CALCULATION OF CHARGES

The Contractor acknowledges and agrees that, due to funding limitations at time of award of this Agreement, the Controller cannot certify the availability of funds for the all of the services which the City intends the Contractor to perform under this Agreement. The City will authorize the Contractor to perform only those services under this Agreement covered by certified funds. The Contractor acknowledges and agrees that any services performed in excess of the value of the certified funds would be unauthorized and performed at the Contractor's own risk.

FEE: Professional service fees for this contract shall not exceed Eight Million Dollars (\$8,000,000).

1. Actual performance shall proceed by task order. From time to time, the City will issue task orders to the Contractor. Each task order will identify the scope of work required by that order and specify a not-to-exceed amount. The Contractor shall perform only those services described in the task order.

See attached Initial 24-Week Work Plan (Task 1) prepared by Jacobs Project Management.

2. See attached Fee Schedules from Jacobs Project Management Co. (Prime), Liberty Tree Enterprises (Subconsultant), Saylor Consulting Group (Subconsultant), Chaves & Associates (Subconsultant), Montgomery Corporation (Subconsultant), Davis & Associates Communications (Subconsultant)

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Appendix B

July 30, 2008

San Francisco General Hospital Rebuild Program Initial 24 Week Work Plan

PROJECT SCHEDULE STAFFING PLAN		Sprint Start						PreConstruction Services - DD Phase																			
Overall Schedule per week		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24		
Jacobs Initial 24 week work plan																											
Office & System Set up	SPG																										
Design Assist through DD																											
Program Schedule Development & Verification																											
Estimate Adjustments for SD Estimate Verification																											
Partnering																											
Public Relations	Davis & Associates																										
FEE SCHEDULE		PreConstruction Services - DD Phase																								TOTAL HOURS	
Project Executive	L. Colson	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	24	
Senior Construction Manager	J. Hall	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	782
*Project Engineer	Liberty Tree	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	24	752
Admin Assistant	Jacobs	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	700
*Admin Assistant	Chaves & Assoc	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	700
SPG Support	Jacobs	80	80	80																						240	
Estimator	Jacobs	120	120	120	120																					480	
*Estimator	Baylor & Assoc	40	40	40	40																					160	
Sr Planner / Scheduler	M. Baugh	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	96	
*IOR	S. Montgomery			8	8																					16	
Sprint Start Advisors, Sr CM	Jacobs			40	40	40		8				8				8										144	
Sprint Start Advisor, Sr. PM	Jacobs			20	20	20		4				4				4										72	
*Public Relations	Davis & Assoc							8	8	8	8															32	
SUB-TOTAL HOURS		333	333	333	321	161	153	93	185	101	101	101	113	93	185	165	177	185	165	165	165	165	165	165	165	165	
Annual Hours																										4,168	
FTE's		8.33	8.33	8.33	8.02	4.02	3.83	2.33	2.63	2.53	2.53	2.87	2.33	4.13	4.13	4.43	4.13	4.13	4.13	4.13	4.13	4.13	4.13	4.13	4.13	4.13	
Total project Ave FTE's		4.34 FTE/Month																								\$ 493,048	

Hours	Rate
24	\$ 187.71
782	\$ 170.19
752	\$ 137.08
700	\$ 52.00
700	\$ 66.40
240	\$ 51.85
480	\$ 158.54
160	\$ 151.76
96	\$ 145.90
16	\$ 183.75
144	\$ 170.19
72	\$ 147.84
32	\$ 203.63
Avg Rate	
4,168	\$ 125.83

GENERAL REQUIREMENTS																										GENERAL REQUIREMENTS
Misc. Materials & Supplies		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	
Misc start up supplies to inc travel		1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
																										\$ 17,000
																										\$ 17,000

* includes 5% mark up for Subs

\$ 510,048

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

APPENDIX D

FEE SCHEDULE

One (1) copy of the Fee Schedule must be completed for the prime consultant (provide one copy each for all firms on JV team) and for each sub-consultant listed in the HRC Attachment 2. These fee schedules shall be submitted separately in a sealed envelope and delivered with the proposal package.

The sealed envelope shall be titled "FEE SCHEDULE FOR RFQ SFGH - EXECUTIVE CM 2008" and include the name of the Consultant.

The sealed envelope from a selected firm will be opened after the selection process is completed. The City reserves the right to review the schedule and request for changes during contract negotiations.

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Consultants must submit billing rates for all prime consultants and subconsultants on the fee schedules. Due to the wide variety of work that may arise, the City reserves the right to negotiate items not specified in the fee schedule or delete certain listed items.

All billable staff rates shall be fully burdened to include labor, benefits, taxes, overhead, profit, healthcare benefit surcharges, minimum compensation accountability surcharges, costs for obtaining insurance and bonds, employee fringe benefits, employee paid time off, employee training, support and administrative services and other ancillary charges.

Rates listed in the Agreement shall be one single rate reflecting 2008 billing rates. The selected Proposer will only be allowed to escalate its 2008 billing rates based on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Works. The billing rate for each listed individual may not exceed the lowest rate charged to any other government entity. The City reserves the right to audit material that allows for verification of the accuracy of project invoices (e.g. project billing records, accounting records, time sheets, etc.)

Information to be filled out as applicable for prime consultant(s) and for each sub-consultant listed in HRC Form 2.

Name of prime consultant or sub-consultant: Jacobs Project Management Co.

Overhead rate*: 158.66 %

* An audited rate is preferable but not required. Provide an itemized percentage breakdown of the items that are accounted in the overhead rate. Administrative and clerical support services are considered part of overhead.

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

Fully burdened staff billing rates to be calculated as follows:

Billing rate = (DL + DL X FR + DL X OH) * 1.1 = \$ _____/hour

Where: DL = Direct Labor (base rate)
FR = Fringe (salary burden)
OH = Overhead rate

= Profit factor

Note: Overtime rate = Fully Burdened Staff Billing Rates x 1.5

Fully burdened staff billing rates/hour for professional positions (categories of positions) as indicated in table format below. If a position is not applicable, indicate 'Not applicable'. If a position is not listed, utilize 'Other' and describe the position.

<i>Position</i>	<i>Direct Labor rate (\$/hr)</i>	<i>Billing Rate (\$/hr)</i>
Principal	\$ 92.79	\$ 187.71
Project Manager		
Construction Manager	\$ 73.08	\$ 147.84
Assistant Construction Manager		
Cost Engineer/Estimator	\$ 78.37	\$ 158.54
Scheduling Engineer/Estimator	\$ 72.12	\$ 145.90
Inspector of Record		
Project Engineer	\$ 45.67	\$ 92.39
Office Engineer		
Field Engineer		
Field Technician		
Construction Inspector		
QA/QC Inspector/Coordinator		
Administrative Supervisor		
Administrative/Clerical Support	\$ 26.00	\$ 52.60
Other (describe)		
Advisor	\$ 113.00	\$ 228.60
Lead Planner/Scheduler	\$ 72.93	\$ 147.54
Sr. Construction Manager	\$ 84.13	\$ 170.19

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

The following rates shall apply for all other services and charges, and remain in effect throughout the term of the contract for both the prime consultant and all sub-consultants:

Services	Rates/Schedule
Sub-consultant work	Cost plus 5% (for a maximum of two tiers of subconsultants)
Meal expenses	Not reimbursable
Lodging	Not reimbursable without prior agreement
Air/taxi/shuttle/rail fares	Not reimbursable without prior agreement
Other direct costs	At cost
Travel	The Internal Revenue Service (IRS) standard mileage rate for business use of an automobile. No markup applies. This rate is subject to change annually. Travel expenses will be reimbursed only when work locations are outside of San Francisco and only with prior approval. Expenses associated with traveling to and from prime consultant's offices and sub-consultants' offices located outside San Francisco to and from work sites within San Francisco are not reimbursable.

The following non-reimbursable items are considered part of the work to provide services. Costs associated are considered to be included in the staff billing rate. They shall remain in effect throughout the term of the contract for the prime consultant and all sub-consultants:

Office supplies
Office equipment
Computers
Telephones calls
Cell phone and calls
Fax
Cameras
Photocopies
Safety equipment and supplies
Tools

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

LTE

APPENDIX D

FEE SCHEDULE

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The sealed envelope shall be titled "FEE SCHEDULE FOR RFQ SFGH - EXECUTIVE CM 2008" and include the name of the Consultant.

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Consultants must submit billing rates for all prime consultants and subconsultants on the fee schedules. Due to the wide variety of work that may arise, the City reserves the right to negotiate items not specified in the fee schedule or delete certain listed items.

All billable staff rates shall be fully burdened to include labor, benefits, taxes, overhead, profit, healthcare benefit surcharges, minimum compensation accountability surcharges, costs for obtaining insurance and bonds, employee fringe benefits, employee paid time off, employee training, support and administrative services and other ancillary charges.

Rates listed in the Agreement shall be one single rate reflecting 2008 billing rates. The selected Proposer will only be allowed to escalate its 2008 billing rates based on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Works. The billing rate for each listed individual may not exceed the lowest rate charged to any other government entity. The City reserves the right to audit material that allows for verification of the accuracy of project invoices (e.g. project billing records, accounting records, time sheets, etc.)

Information to be filled out as applicable for prime consultant(s) and for each sub-consultant listed in HRC Form 2.

Name of prime consultant or sub-consultant: Liberty Tree Enterprises

Overhead rate*: 189.92 %

* An audited rate is preferable but not required. Provide an itemized percentage breakdown of the items that are accounted in the overhead rate. Administrative and clerical support services are considered part of overhead.

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

LIBERTY TREE

Fully burdened staff billing rates to be calculated as follows:

ENTERPRISES

Billing rate = (DL + DL x FR + DL x OH) * 1.1 = \$ _____ /hour

Where: DL = Direct Labor (base rate)
 FR = Fringe (salary burden)
 OH = Overhead rate
 = Profit factor

Note: Overtime rate = Fully Burdened Staff Billing Rates x 1.5

Fully burdened staff billing rates/hour for professional positions (categories of positions) as indicated in table format below. If a position is not applicable, indicate 'Not applicable'. If a position is not listed, utilize 'Other' and describe the position.

Position	Direct Labor Rate (\$/hr)	Billing Rate (\$/hr)
Principal	\$96.15	\$213.70
Project Manager	\$59.08	\$131.21
Construction Manager	\$66.56	\$147.94
Assistant Construction Manager	\$44.52	\$98.95
Cost Engineer/Estimator	\$52.24	\$116.11
Scheduling Engineer/Estimator	\$48.08	\$106.861
Inspector of Record	Not applicable	Not applicable
Project Engineer	\$59.08	\$131.31
Office Engineer	\$34.20	\$76.01
Field Engineer	\$45.13	\$100.31
Field Technician	\$31.18	\$69.30
Construction Inspector	\$46.75	\$103.91
QA/QC Inspector/Coordinator	\$51.20	\$113.80
Administrative Supervisor	\$29.52	\$65.61
Administrative/Clerical Support	\$20.28	\$45.07
Other (describe): Project Director	\$84.23	\$187.21

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

(LTE)

The following rates shall apply for all other services and charges, and remain in effect throughout the term of the contract for both the prime consultant and all sub-consultants:

<i>Services</i>	<i>Rates/Schedule</i>
Sub-consultant work	Cost plus 5% (for a maximum of two tiers of subconsultants)
Meal expenses	Not reimbursable
Lodging	Not reimbursable without prior agreement
Air/taxi/shuttle/rail fares	Not reimbursable without prior agreement
Other direct costs	At cost
Travel	The Internal Revenue Service (IRS) standard mileage rate for business use of an automobile. No markup applies. This rate is subject to change annually. Travel expenses will be reimbursed only when work locations are outside of Sa Francisco and only with prior approval. Expenses associated with traveling to and from prime consultant's offices and sub-consultants' offices located outside San Francisco to and from work sites within San Francisco are not reimbursable.

The following non-reimbursable items are considered part of the work to provide services. Costs associated are considered to be included in the staff billing rate. They shall remain in effect throughout the term of the contract for the prime consultant and all sub-consultants:

- Office supplies
- Office equipment
- Computers
- Telephones calls
- Cell phone and calls
- Fax
- Cameras
- Photocopies
- Safety equipment and supplies
- Tools

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

SCG

APPENDIX D

FEE SCHEDULE

One (1) copy of the Fee Schedule must be completed for the prime consultant (provide one copy each for all firms on JV team) and for each sub-consultant listed in the HRC Attachment 2. These fee schedules shall be submitted separately in a sealed envelope and delivered with the proposal package.

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Rates listed in the Agreement shall be one single rate reflecting 2008 billing rates. The selected Proposer will only be allowed to escalate its 2008 billing rates based on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Works. The billing rate for each listed individual may not exceed the lowest rate charged to any other government entity. The City reserves the right to audit material that allows for verification of the accuracy of project invoices (e.g. project billing records, accounting records, time sheets, etc.)

Information to be filled out as applicable for prime consultant(s) and for each sub-consultant listed in HRC Form 2.

Name of prime consultant or sub-consultant: Saylor Consulting Group

Overhead rate*: 145%

* An audited rate is preferable but not required. Provide an itemized percentage breakdown of the items that are accounted in the overhead rate. Administrative and clerical support services are considered part of overhead.

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

SAYLOR (SCG)

Fully burdened staff billing rates to be calculated as follows:

Billing rate = (DL + DL x FR + DL x OH) * 1.1 = \$ _____ /hour

Where: DL = Direct Labor (base rate)

FR = Fringe (salary burden)

OH = Overhead rate

= Profit factor

Note: Overtime rate = Fully Burdened Staff Billing Rates x 1.5

Fully burdened staff billing rates/hour for professional positions (categories of positions) as indicated in table format below. If a position is not applicable, indicate 'Not applicable'. If a position is not listed, utilize 'Other' and describe the position.

<i>Position</i>	<i>Direct Labor Rate (\$/hr)</i>	<i>Billing Rate (\$/hr)</i>
Principal	\$65.00	\$175.18
Project Manager	\$57.84	\$155.88
Senior Estimator	\$54.22	\$146.12
Chief Estimator	\$57.84	\$155.88
Cost Engineer/Estimator	\$34.99	\$94.30
Scheduling Engineer/Estimator	\$34.99	\$94.30
Senior Mechanical	\$54.22	\$146.12
Senior Electrical	\$54.22	\$146.12
Office Engineer		
Field Engineer		
Field Technician		
Construction Inspector		
QA/QC Inspector/Coordinator		
Administrative Supervisor		
Administrative/Clerical Support		
Other (describe):		

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

SAYLOR
(SCG)

The following rates shall apply for all other services and charges, and remain in effect throughout the term of the contract for both the prime consultant and all sub-consultants:

<i>Services</i>	<i>Rates/Schedule</i>
Sub-consultant work	Cost plus 5% (for a maximum of two tiers of subconsultants)
Meal expenses	Not reimbursable
Lodging	Not reimbursable without prior agreement
Air/taxi/shuttle/rail fares	Not reimbursable without prior agreement
Other direct costs	At cost
Travel	The Internal Revenue Service (IRS) standard mileage rate for business use of an automobile. No markup applies. This rate is subject to change annually. Travel expenses will be reimbursed only when work locations are outside of Sa Francisco and only with prior approval. Expenses associated with traveling to and from prime consultant's offices and sub-consultants' offices located outside San Francisco to and from work sites within San Francisco are not reimbursable.

The following non-reimbursable items are considered part of the work to provide services. Costs associated are considered to be included in the staff billing rate. They shall remain in effect throughout the term of the contract for the prime consultant and all sub-consultants:

- Office supplies
- Office equipment
- Computers
- Telephones calls
- Cell phone and calls
- Fax
- Cameras
- Photocopies
- Safety equipment and supplies
- Tools

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

CA

APPENDIX D

FEE SCHEDULE

One ((1)) copy of the Fee Schedule must be completed for the prime consultant (provide one copy each for all firms on JV team) and for each sub-consultant listed in the HRC Attachment 2. These fee schedules shall be submitted separately in a sealed envelope and delivered with the proposal package.

The sealed envelope shall be titled "**FEE SCHEDULE FOR RFQ SFGH - EXECUTIVE CM 2008**" and include the name of the Consultant.

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Information to be filled out as applicable for prime consultant(s) and for each sub-consultant listed in HRC Form 2.

Name of prime consultant or sub-consultant: Chaves & Associates

Overhead rate*: 164.6 %

* An audited rate is preferable but not required. Provide an itemized percentage breakdown of the items that are accounted in the overhead rate. Administrative and clerical support services are considered part of overhead.

**REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program**

CA

Fully burdened staff billing rates to be calculated as follows:

Billing rate = (DL + DL x FR + DL x OH) * 1.1 = \$ _____/hour

Where: DL = Direct Labor (base rate)
FR = Fringe (salary burden)
OH = Overhead rate
= Profit factor

Note: Overtime rate = Fully Burdened Staff Billing Rates x 1.5

Fully burdened staff billing rates/hour for professional positions (categories of positions) as indicated in table format below. If a position is not applicable, indicate 'Not applicable'. If a position is not listed, utilize 'Other' and describe the position.

<i>Position</i>	<i>Direct Labor Rate (\$/hr)</i>	<i>Billing Rate (\$/hr)</i>
Principal	\$65.00	\$172.00
Project Manager	\$65.00	\$172.00
Construction Manager		
Assistant Construction Manager		
Cost Engineer/Estimator		
Scheduling Engineer/Estimator		
Inspector of Record		
Project Engineer		
Office Engineer		
Field Engineer		
Field Technician		
Construction Inspector		
QA/QC Inspector/Coordinator		
Administrative Supervisor	\$40.00	\$105.84
Administrative/Clerical Support	\$25.00	\$66.15
Other (describe)		
System Administrator	\$65.00	\$172.00

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

CA

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The following rates shall apply for all other services and charges, and remain in effect throughout the term of the contract for both the prime consultant and all sub-consultants:

<i>Services</i>	<i>Rates/Schedule</i>
Sub-consultant work	Cost plus 5% (for a maximum of two tiers of subconsultants)
Meal expenses	Not reimbursable
Lodging	Not reimbursable without prior agreement
Air/taxi/shuttle/rail fares	Not reimbursable without prior agreement
Other direct costs	At cost
Travel	The Internal Revenue Service (IRS) standard mileage rate for business use of an automobile. No markup applies. This rate is subject to change annually. Travel expenses will be reimbursed only when work locations are outside of Sa Francisco and only with prior approval. Expenses associated with traveling to and from prime consultant's offices and sub-consultants' offices located outside San Francisco to and from work sites within San Francisco are not reimbursable.

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- Office supplies
- Office equipment
- Computers
- Telephones calls
- Cell phone and calls
- Fax
- Cameras
- Photocopies
- Safety equipment and supplies
- Tools

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

MC

APPENDIX D

FEE SCHEDULE

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Rates listed in the Agreement shall be one single rate reflecting 2008 billing rates. The selected Proposer will only be allowed to escalate its 2008 billing rates based on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Works. The billing rate for each listed individual may not exceed the lowest rate charged to any other government entity. The City reserves the right to audit material that allows for verification of the accuracy of project invoices (e.g. project billing records, accounting records, time sheets, etc.)

Information to be filled out as applicable for prime consultant(s) and for each sub-consultant listed in HRC Form 2.

Name of prime consultant or sub-consultant: Montgomery Corporation

Overhead rate*: 185.0 %

* An audited rate is preferable but not required. Provide an itemized percentage breakdown of the items that are accounted in the overhead rate. Administrative and clerical support services are considered part of overhead.

REQUEST FOR QUALIFICATIONS
Executive Construction Management Services
San Francisco General Hospital Rebuild Program

MC

Fully burdened staff billing rates to be calculated as follows:

Billing rate = (DL + DL x FR + DL x OH) * 1.1 = \$ _____ /hour

Where: DL = Direct Labor (base rate)
FR = Fringe (salary burden)
OH = Overhead rate
= Profit factor

Note: Overtime rate = Fully Burdened Staff Billing Rates x 1.5

Fully burdened staff billing rates/hour for professional positions (categories of positions) as indicated in table format below. If a position is not applicable, indicate 'Not applicable'. If a position is not listed, utilize 'Other' and describe the position.

<i>Position</i>	<i>Direct Labor Rate (\$/hr)</i>	<i>Billing Rate (\$/hr)</i>
Principal		
Project Manager		
Construction Manager		
Assistant Construction Manager		
Cost Engineer/Estimator		
Scheduling Engineer/Estimator		
Inspector of Record		
Project Engineer		
Office Engineer		
Field Engineer		
Field Technician		
Construction Inspector		
QA/QC Inspector/Coordinator		
Administrative Supervisor		
Administrative/Clerical Support		
Other (describe): Project Director		
Lead Inspector of Record	72.00	165.33
Inspector Of Record	72.00	165.33

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The following rates shall apply for all other services and charges, and remain in effect throughout the term of the contract for both the prime consultant and all sub-consultants:

<i>Services</i>	<i>Rates/Schedule</i>
Sub-consultant work	Cost plus 5% (for a maximum of two tiers of subconsultants)
Meal expenses	Not reimbursable
Lodging	Not reimbursable without prior agreement
Air/taxi/shuttle/rail fares	Not reimbursable without prior agreement
Other direct costs	At cost
Travel	The Internal Revenue Service (IRS) standard mileage rate for business use of an automobile. No markup applies. This rate is subject to change annually. Travel expenses will be reimbursed only when work locations are outside of Sa Francisco and only with prior approval. Expenses associated with traveling to and from prime consultant's offices and sub-consultants' offices located outside San Francisco to and from work sites within San Francisco are not reimbursable.

The following non-reimbursable items are considered part of the work to provide services. Costs associated are considered to be included in the staff billing rate. They shall remain in effect throughout the term of the contract for the prime consultant and all sub-consultants:

Office supplies
Office equipment
Computers
Telephones calls
Cell phone and calls
Fax
Cameras
Photocopies
Safety equipment and supplies
Tools

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APPENDIX D

FEE SCHEDULE

One (1) copy of the Fee Schedule must be completed for the prime consultant (provide one copy each for all firms on JV team) and for each sub-consultant listed in the HRC Attachment 2. These fee schedules shall be submitted separately in a sealed envelope and delivered with the proposal package.

The sealed envelope shall be titled "FEE SCHEDULE FOR RFQ SFGH - EXECUTIVE CM 2008" and include the name of the Consultant.

The sealed envelope from a selected firm will be opened after the selection process is completed. The City reserves the right to review the schedule and request for changes during contract negotiations.

One (1) copy of the Fee Schedule must be completed for the prime consultant (provide one copy each for all firms on JV team) and for each Sub-consultant listed in the HRC Attachment 2. These fee schedules shall be submitted separately in a sealed envelope and delivered with the proposal package.

Consultants must submit billing rates for all prime consultants and subconsultants on the fee schedules. Due to the wide variety of work that may arise, the City reserves the right to negotiate items not specified in the fee schedule or delete certain listed items.

All billable staff rates shall be fully burdened to include labor, benefits, taxes, overhead, profit, healthcare benefit surcharges, minimum compensation accountability surcharges, costs for obtaining insurance and bonds, employee fringe benefits, employee paid time off, employee training, support and administrative services and other ancillary charges.

Rates listed in the Agreement shall be one single rate reflecting 2008 billing rates. The selected Proposer will only be allowed to escalate its 2008 billing rates based on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Works. The billing rate for each listed individual may not exceed the lowest rate charged to any other government entity. The City reserves the right to audit material that allows for verification of the accuracy of project invoices (e.g. project billing records, accounting records, time sheets, etc.)

Information to be filled out as applicable for prime consultant(s) and for each sub-consultant listed in HRC Form 2.

Name of prime consultant or sub-consultant: Davis & Associates Communications

Overhead rate*: 158% %

* An audited rate is preferable but not required. Provide an itemized percentage breakdown of the items that are accounted in the overhead rate. Administrative and clerical support services are considered part of overhead.

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Fully burdened staff billing rates to be calculated as follows:

Billing rate = (DL + DL x FR + DL x OH) * 1.1 = \$ _____ /hour

Where: DL = Direct Labor (base rate)
FR = Fringe (salary burden)
OH = Overhead rate
= Profit factor

Note: Overtime rate = Fully Burdened Staff Billing Rates x 1.5

Fully burdened staff billing rates/hour for professional positions (categories of positions) as indicated in table format below. If a position is not applicable, indicate 'Not applicable'. If a position is not listed, utilize 'Other' and describe the position.

<i>Position</i>	<i>Direct Labor Rate (\$/hr)</i>	<i>Billing Rate (\$/hr)</i>
Principal	68.30	193.84
Sr. Project Manger	60.90	172.83
Construction Manager		
Assistant Construction Manager		
Cost Engineer/Estimator		
Scheduling Engineer/Estimator		
Inspector of Record		
Project Engineer		
Office Engineer		
Field Engineer		
Field Technician		
Construction Inspector		
QA/QC Inspector/Coordinator		
Administrative Supervisor		
Administrative/Clerical Support		
Other (describe): Project Director		
Sr. Project Associate	58.80	166.87
Project Manager	55.65	157.93
Project Associate	51.45	146.12
Project Coordinator	47.25	134.10
Communications Coordinator	27.30	77.48
Graphic Designer	38.47	109.18

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The following rates shall apply for all other services and charges, and remain in effect throughout the term of the contract for both the prime consultant and all sub-consultants:

<i>Services</i>	<i>Rates/Schedule</i>
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The following non-reimbursable items are considered part of the work to provide services. Costs associated are considered to be included in the staff billing rate. They shall remain in effect throughout the term of the contract for the prime consultant and all sub-consultants:

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Safety equipment and supplies
Tools