

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

Second Amendment

THIS AMENDMENT (this "Amendment") is made as of **August 12, 2013**, in San Francisco, California, by and between **PGH Wong Engineering, Inc.** ("Contractor"), and the **City and County of San Francisco**, a municipal corporation ("City"), acting by and through its Airport Commission or the Commission's designated agent, hereinafter referred to as "Commission."

RECITALS

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

WHEREAS, the Commission adopted Resolution Number **10-0265** on **August 3, 2010**, which authorized the award of said Agreement for the period of **August 23, 2010** through **June 30, 2012**; and

WHEREAS, the Commission adopted Resolution Number **12-0034** on **February 21, 2012**, which authorized the award of Modification No. 1 of said Agreement for the period of **August 23, 2010** through **June 30, 2015**; and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to increase the Agreement amount and to add staff for the Terminal 3 Program shared Administrative Construction Management (ACM) service portion of the Agreement through July 2014; and

WHEREAS, Commission authorized this Modification 2 pursuant to Resolution Number **13-0172** on **August 12, 2013**; and

WHEREAS, approval for this Amendment was obtained when the Civil Service Commission approved Contract number **PSC 4106-09/10** on **April 16, 2012**; and

WHEREAS, the Commission desires to modify the Agreement for administrative changes required by recently enacted San Francisco contracting ordinances; and

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

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

a. Agreement. The term "Agreement" shall mean the Agreement dated **August 3, 2010** between Contractor and City referenced as Contract No. 8974.9, as amended by the:

First Amendment, dated **July 1, 2012**

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

2. **Section 5. Compensation.** The compensation is hereby amended to increase the total compensation payable by an amount not to exceed **Two Million One Hundred Seventy-seven Thousand Dollars (\$2,177,000)** for a new total not to exceed amount of **Seven Million Four Hundred Thousand Dollars (\$7,400,000)**.

This Amendment is a partial authorization of the Commission awarded amount (\$3,942,000) due to the current maximum Civil Service Authorization amount which equals \$7,400,000. A third amendment to fund the remaining \$1,765,000 will be prepared when approval is received from Civil Service.

3. **Section 8. Submitting False Claims; Monetary Penalties** is hereby replaced in its entirety to read as follows:

8. Submitting False Claims; Monetary Penalties.

Pursuant to San Francisco Administrative Code §§6.80-6.83, any contractor, subcontractor, supplier, consultant or subconsultant who submits a false claim shall be liable to the City for the statutory penalties set forth in those sections. The text of Sections 6.80-6.83, along with the entire San Francisco Administrative Code is available on the web at: http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca. A contractor, subcontractor, supplier, consultant or subconsultant 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.

4. **Section 42. Limitations on Contributions** is hereby replaced in its entirety as follows:

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

5. **New Section 64. Labor Peace / Card Check Rule** is hereby replaced in its entirety to read as follows:

64. Labor Peace / Card Check Rule. Without limiting the generality of other provisions herein requiring Contractor to comply with all Airport Rules, Contractor shall comply with the Airport's Labor Peace / Card Check Rule, adopted on February 1, 2000, pursuant to Airport Commission Resolution No. 00-0049 (the "Labor Peace / Card Check Rule"). Capitalized terms not defined in this provision are defined in the Labor Peace/Card Check Rule. To comply with the Labor Peace/Card Check Rule, Contractor shall, among other actions: (a) Enter into a Labor Peace/Card Check Rule Agreement with any Labor Organization which requests such an agreement and which has registered with the Airport Director or his / her designee, within thirty (30) days after Labor Peace/Card Check Rule Agreement has been requested; (b) Not less than thirty (30) days prior to the modification of this Agreement, Contractor shall provide notice by mail to any Labor Organization or federation of labor organizations which have registered with the Airport Director or his / her designee (registered labor organization"), that Contractor is seeking to modify or extend this Agreement; (c) Upon issuing any request for proposals, invitations to bid, or similar notice, or in any event not less than thirty (30) days prior to entering into any Subcontract, Contractor shall provide notice to all registered Labor Organizations that Contractor is seeking to enter into such Subcontract; and (d) Contractor shall include in any subcontract with a Subcontractor performing services pursuant to any covered Contract, a provision requiring the Subcontractor performing services pursuant to any covered Contract, a provision requiring the Subcontractor to comply with the requirements of the Labor Peace/Card Check Rule. If Airport Director determines that Contractor violated the Labor Peace/Card Check Rule, Airport Director shall have the option to terminate this Agreement, in addition to exercising all other remedies available to him / her.

6. **New Section 65. Federal Non-Discrimination Provisions** is hereby added to read as follows:

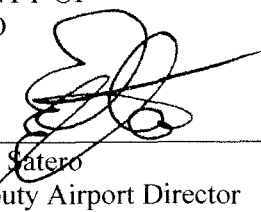
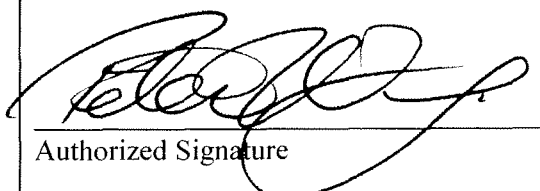
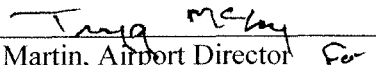

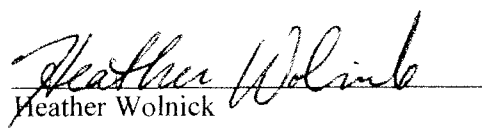
65. Federal Non-Discrimination Provisions. Contractor for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that Contractor shall maintain and operate the Airport facilities and services in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, as said regulations may be amended. Contractor, for itself, its personal representatives, successors in interest, and assigns, agrees that Contractor in its operation at and use of San Francisco International Airport, covenants that (1) no person on the grounds of race, color, national origin or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under the Airport and the furnishing of services thereon, no person on the grounds of race, color, national origin or sex shall be excluded from participation or denied the benefits of, or otherwise be subject to discrimination, (3) that Contractor shall use all City premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A – Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. These Regulations are incorporated as though fully set forth herein. Contractor agrees to include the above statements in any subsequent contract that it enters into with subcontractors and cause those agreements to similarly include the statements, and cause those businesses to include the statements in further agreements.

Failure by the contractor to comply with the requirements of this section is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Airport deems appropriate.

7. Effective Date. Each of the modifications set forth in this Amendment shall be effective on and after August 12, 2013.

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

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

CITY	CONTRACTOR
AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO	
Recommended:  Ivar Satero Deputy Airport Director	 Authorized Signature
By:  John L. Martin, Airport Director	Peter G. H. Wong, P.E. CEO PGH Wong Engineering, Inc.
Attest:	14532 City Vendor Number
By:  Jean Caramatti, Secretary Airport Commission	182 – 2 nd Street, Suite 500 San Francisco, California 94105
Resolution No: 13-0172	415-566-0800
Adopted on: August 12, 2013	94-2987905 Federal Employer ID Number
Approved as to Form:	
Dennis J. Herrera City Attorney	
By:  Heather Wolnick Deputy City Attorney	

Appendices:

Appendix B.2, Calculation of Charges

APPENDIX B.2
CALCULATION OF CHARGES



APPENDIX B.2
CALCULATION OF CHARGES

Appendix B.2 which is attached to, and incorporated by reference in the Agreement made on **August 3, 2010** between the City and County of San Francisco, acting by and through its Airport Commission (Commission), and **PGH Wong Engineering, Inc.** (Contractor) providing for construction management and administrative construction management services for Terminal 3/Boarding Area E Refurbishment Project and Terminal 3 Improvements Program.

A. GENERAL

1. For the complete and satisfactory performance of the services detailed in Appendix A.1 of this Agreement, the City will pay fees and expenses not-to-exceed **Seven Million Four Hundred Thousand Dollars (\$7,400,000)** and is broken down as follows: labor of \$5,865,043; other direct cost (ODC) allowance of \$184,957; and material testing allowance of \$1,350,000.00. This amount is for the purpose of establishing a budget figure for certification by the Controller only. The total compensation to be paid shall not exceed that amount unless increased by an appropriate amendment to this Agreement.
2. No Change
3. No Change

B. METHOD OF PAYMENT

1. No Change
2. No Change
3. No Change
4. No Change
5. No Change
6. No Change
7. No Change

C. DIRECT SALARY RATE AND DIRECT SALARY RATE ADJUSTMENT

1. No Change

2. No Change
3. The direct labor rates agreed upon at the effective date of this Amendment shall remain effective until June 30, 2014. At least thirty (30) calendar days prior to the expiration date stated in this paragraph C.3, the Contractor may submit to the Airport Project Manager any request for direct labor rate increases for consideration. The submission of a proposed direct labor rate increase by the Contractor does not constitute an agreement by the Commission that any proposed rate increase will be accepted by the Commission.

D. BILLING RATES

1. No Change
2. No Change

E. FIXED FEE

No Change

F. OTHER DIRECT COST

1. No Change
2. No Change

G. APPROVED HOURLY BASE RATES

The following represent some classification changes associated with this second amendment. All classifications not listed below remain unchanged.

CLASSIFICATION	RANGE OF RATES
Administrative Construction Manager	\$80 - \$93
Construction Manager	\$65 - \$85
Resident Engineer	\$60 - \$80
Tenant Improvements Manager	\$65 - \$85
Contract Administrator (First Source)	\$20 - \$35
Administrative Support (First Source)	\$20 - \$35
Project Controls Manager	\$55 - \$70
Cost Engineer	\$50 - \$65
Inspector	\$30 - \$55
Activation Manager	\$65 - \$85

END OF APPENDIX B.2