



**REQUEST FOR QUALIFICATIONS (RFQ)
TO PROVIDE MARKETING SERVICES TO THE SAN FRANCISCO BAY AREA WATER
EMERGENCY TRANSPORTATION AUTHORITY**

The San Francisco Bay Area Water Emergency Transportation Authority (“WETA”) is seeking Statements of Qualifications from qualified firms in response to this Request for Qualifications (“RFQ”) for On-Call Marketing Services (the “Project”).

A. BACKGROUND

The San Francisco Bay Area Water Emergency Transportation Authority, a local agency with multi-county jurisdiction, was established by the California State Legislature to expand regional ferry service and coordinate waterborne emergency response activities on San Francisco Bay. WETA’s comprehensive plan to establish ferry service on seven new routes was approved by the Legislature in 2003 (the “Plan”). WETA is also working to assume operation of existing ferry services in the Bay Area (with the exception of those that are operated by the Golden Gate Bridge District), as directed by the Legislature through SB 976 and SB 1093. The Plan was prepared with input from existing private operators, public transit providers, governmental agencies, environmental groups, business organizations and local representatives. WETA’s goal is to design, build and operate a seamless transit system that responds to the region’s congestion management needs as well as serves in an emergency response capacity, develops innovative environmental solutions for ferry vessels, contributes to economic viability and improves quality of life.

As directed by the Legislature through SB 976 as amended by SB 1093, in May 2011 WETA assumed operation of the existing Alameda/Oakland and Alameda Harbor Bay Ferry Services from the City of Alameda, and is currently in the process of transitioning the Vallejo Baylink Ferry Service from the City of Vallejo to WETA, which is expected to occur in early 2012. Also expected to occur in the Spring of 2012, is the commencement of the agency’s first expansion ferry service, the Oakland/Alameda to South San Francisco Ferry service. Over the next several months, WETA will be working to consolidate both the existing ferry services that have been transferred to WETA and the new South San Francisco Ferry service under the agency’s new operating brand name “San Francisco Bay Ferry.” WETA will need to accomplish several marketing tasks associated with the consolidation of services and the introduction of the San Francisco Bay Ferry brand to the public.

WETA desires to secure a professional on-call marketing consultant(s) to provide services in support of WETA’s diverse marketing needs. These services will be required by WETA to generally support the marketing of new ferry services being developed as part of WETA’s Implementation and Operations Plan, to support public information related to the transfer of existing ferry services to WETA by the City of Alameda and the City of Vallejo, and the consolidation of both new and existing ferry services under the agency’s new operating brand name, “San Francisco Bay Ferry.”

The provision of these services is intended to complement WETA’s existing staff marketing and public information resources as specific areas of expertise and assistance are needed. Consultants are expected to have expertise in at least one, if not multiple marketing areas that

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are required by WETA. WETA may elect to select a single or multiple consultants to enter into a professional service agreement to provide on-call marketing services based on the nature of submittals received in response to this RFQ. Actual work will be authorized by negotiated task orders to provide project-specific services based on billing rates set forth in the agreement. It is WETA's expectation that the selected consultant(s) be capable of providing these services on (potentially) short notice and at irregular work intervals.

While it is difficult to determine the frequency and duration of the work that will be required for this Project, WETA staff estimates that multiple task orders for on-call marketing services will be issued annually. Additionally, staff expects to issue one or more task orders similar to the sample tasks included in Section B of this RFQ immediately or soon after award by the Board of Directors.

B. SCOPE OF SERVICES

The consultant selected to enter into a contract, the form of which is attached hereto as Attachment C (the "Contract"), with WETA as a result of this procurement (the "Selected Consultant") will provide WETA with the required staff, resources, and expertise to effectively perform and complete task orders for this Project, including but not limited to, the marketing/advertising subject areas detailed in this Section B (the "Services"):

1. Marketing Plans: Develop and support implementation of San Francisco Bay Ferry ("SFBF") marketing plans for SFBF service lines and for the SFBF system. Marketing plan will include advertising campaign planning and implementation.
2. Public Relations for Marketing of Consumer Services: Develop plans and provide public relations support for the launch of the South San Francisco/East Bay route, SFBF system wide branding and marketing campaigns, and Water Emergency Transportation Authority functions. Plan will focus on consumer media opportunities that will encourage potential customers to ride SFBF services, and will include consideration of the use of web-based social media.
3. Web Site Development/Enhancement: Develop and implement web site creative and content designed to improved SFBF site functionality, improve customer web site use experience, and enable web site to function as a critical marketing tool.
4. Printing Services: Provide print job specifications, press checks, contract for production (if not done in-house) and a range for delivery of printed materials. Printed materials may include but not be limited to brochures, schedules, dock signs, banners, and flyers.
5. Creative: Develop creative concepts for SFBF campaigns, promotions, and special events including print ads, visual media storyboards, and/or radio scripts.
6. Spot Production: Produce radio, visual media, and web-based spots.
7. Design Services: Develop design concepts and final art for premium items, ads, brochures, pocket schedules, dock signs, rack cards, and ferry tickets.
8. Media Planning and Media Purchase Services.

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WETA Provided Marketing Studies and Plans: To assist the Consultant with Plan development, WETA will make the following resources available through the WETA web site:

- Ridership Study, BayLink Ferry and Line 200 (2007 and 2010)
- Marketing Plan for South San Francisco/Oakland Ferry Service (July 2007)
- Water Transit Authority Marketing Plan (Johnson/Ukropina, May 2005)
- WETA: Initial Findings and Recommendations (M-Line, February 2010)
- Final Working Paper: Market Segmentation for Ridership Forecasting (Cambridge Systematics, March 2002)

Sample Task Orders: Staff expects to issue one or more task orders similar to the sample tasks included below immediately or soon after award by the Board of Directors.

Sample Task 1 – Advertising Services. Consultant shall develop and implement an advertising campaign that will introduce the SFBF brand to SFBF service areas and promote ridership on SFBF service routes.

Sample Task 1.1 - Develop an advertising plan that includes strategies, timelines and budgets. The plan shall include:

- 1.1.1 Creative: Three conceptual approaches for the campaign. Concepts shall include tag lines and graphics, and application of concepts across different media.
- 1.1.2 Media Plan: Plan shall include media recommendations, schedules and budget. Consultant shall consider web (including social media), print, radio, TV, cable, and outdoor media. Consultant shall make media buys if requested by WETA.
- 1.1.3 Public Relations Plan: Public relations efforts shall focus on consumer ferry service marketing and shall increase public awareness of the SFBF and promote a positive attitude toward SFBF services. Public Relations efforts shall support the South San Francisco launch, and SFBF branding efforts. The Public Relations plan will include recommendations for the use of web-based social media and WETA appearances on regional TV and radio shows such as Forum, The California Report, and This Week in California.

Sample Task 1.2 –Implementation of WETA approved plan. Upon completion of Task 1.a, Consultant and WETA shall meet to review the plan, budgets and implementation timelines. Upon WETA approval, Consultant shall implement the plan providing all staff and resources to do so.

Sample Task 2 – Vessel External Graphics. Consultant shall create a graphic design that will be applied to 6 unique vessel profiles on a total of 11 SFBF boats. The graphic design will be applied to the boats in a shipyard by a vinyl decal vendor. WETA will contract with the decal vendor and the shipyard for decal application. Photos of a representative sample of WETA vessels are posted on WETA's website.

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To accomplish Task 2, Consultant shall:

Sample Task 2.1 – Work with WETA, and the vinyl decal vendor to identify production requirements and parameters.

Sample Task 2.2 – Submit to WETA at least 10 preliminary design concepts and photorealistic comps. At WETA’s direction, Consultant shall revise the initial concepts and submit to WETA three photorealistic comps for final review. The final realistic comps shall include application of the concepts across the six different WETA vessel profiles. Consultant shall also provide photos of some non-WETA ferry vessels currently operating on the San Francisco bay so that the distinctive nature of the proposed design can be ascertained. Non-WETA ferry vessels to be included will be those operated by Golden Gate Ferry, Red and White Fleet, and Blue and Gold Fleet.

Sample Task 2.3 - Provide finished mechanical art per production requirements, coordinate with vinyl decal vendor, and provide support to the vendor and shipyard as needed for 11 ferry boats.

Sample Task 3 – Premium Item Selection, Graphic Design, and Production Assistance. WETA desires to purchase 4 to 5 types of premium items that bear the “San Francisco Bay Ferry” logo and WETA approved graphic design(s). Consultant shall assist WETA by performing the tasks below:

Sample Task 3.1 - Consultant shall assist WETA with premium item selection by making recommendations, and providing cost, production, and delivery information. Consultant shall provide samples of selected items as requested by WETA.

Sample Task 3.2 - Consultant shall provide 3 preliminary design concepts and photorealistic comps for each premium item selected by WETA. Consultant shall revise the initial concepts as requested by WETA and, upon WETA’s selection of a concept, submit to WETA a photorealistic comp for final approval. Upon WETA’s approval of final design, Consultant shall submit to WETA a production/delivery timeline, and final budget for the item including quantity, cost per unit, shipping, taxes, and set up (art) charges.

Sample Task 3.3 - Consultant shall work with the item vendor to identify production requirements and parameters, and provide final art as needed to vendor. At WETA’s discretion, WETA may purchase the items directly from the vendor or may reimburse Consultant for the cost of the premium items (with no Consultant markup).

Sample Task 4. Ferry Service Collateral Development. Consultant shall develop printed collateral materials for SFBF’s four service routes. Development shall include creation of an overall design, layouts, copy writing, editing, preparation of final art, vendor coordination, press checks, and all other activities needed to provide press ready materials. Collateral materials consist of rack brochures, cards, and pocket schedules for each of the four service routes, ferry tickets, dock signs, and a system wide SFBF

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brochure. Examples of ferry brochures, pocket schedules, tickets, and dock signs are posted on WETA's website.

Sample Task 4.1 - Consultant shall develop and submit to WETA two conceptual approaches that could be applied to the collateral materials. Consultant shall apply the approach to a brochure, dock sign, and pocket schedule mock-up and shall indicate how the conceptual approaches would be extended to other applications such as tickets and newsletters. Upon WETA selection of a conceptual approach, consultant shall provide a mock-up of a brochure, pocket schedule and ferry ticket for final WETA approval.

Sample Task 4.2 - Upon WETA approval of design Consultant shall work with WETA to identify route specific content requirements. Consultant shall provide copy writing, design and illustration services as require for each collateral piece. Consultant will deliver finished comps to WETA for review and approval.

Sample Task 4.3 - Consultant will assist with print production including providing print specifications as needed for vendor selection and obtaining vendor quotes. Consultant shall provide vendor with finished print ready files as required. Consultant shall perform press checks as requested and provide other print production support as required. At WETA's discretion, WETA may purchase the items directly from the vendor or may reimburse Consultant for the cost of the premium items (with no Consultant markup).

C. CONSULTANT CONTRACT ADMINISTRATION

All Services will be authorized on a task order basis. In general, the first item of work will be a scoping task, which will identify the critical steps necessary and how the Services will be coordinated. Budgets for each task order shall be negotiated based on rates and overheads identified in the Agreement entered into with Selected Consultant for the Services, a form of which is attached hereto as Attachment C.

D. RFQ CONTENT; EXAMINATION OF DOCUMENTS

This RFQ sets forth the requirements for the preparation, submission and contents of Offeror's Submittal submitted to WETA. Further, this RFQ describes the process and factors under which each Submittal will be evaluated and the Selected Consultant identified.

This RFQ includes the following documents:

- (1) Request for Qualifications
- (2) Attachment A: Acknowledgment of Insurance Requirements
- (3) Attachment B: Billing Rates
- (4) Attachment C: Form of Contract, including attachments thereto

Offerors shall be solely responsible for examining, with appropriate care and diligence, all of these documents and fully informing themselves of all relevant aspects of the Services and Project. By submitting a response to this RFQ, Offerors represent that they have fully examined this RFQ, and are capable of performing the scope of Services. Offerors are responsible for

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requesting clarifications of any deficiency, errors or omissions contained in this RFQ, as specified in Section F below.

E. REQUIRED CONTENTS OF SUBMITTAL

Each Submittal submitted in response to this RFQ (the "Submittal") shall respond fully to the requirements of this RFQ and include the following elements in the sequence listed below. Page limits, where specified, are for single-side print. Offeror is encouraged to print double-sided copies to save paper.

Cover Letter – Provide the name of your firm; the name, address, and telephone number of your firm's contact person; a description of the firm or team's interest in and commitment to the Project; an indication that, except as permitted by applicable law, the Submittal is a firm offer (for a period of 180 calendar days from the date the Submittals are due) to enter into a contract and perform the Services; and an express acknowledgement of the receipt of a complete set of RFQ documents and all Addenda issued for this RFQ, if any. The cover letter shall be signed by an official of your firm authorized to solicit business and enter into contracts for your firm. (No more than two pages.)

Firm Profile – Briefly describe the firm, including the form of organization, nature of services offered, number of employees, size and location of offices. Provide a summary description of the firm's financial condition and identify any conditions, including but not limited to bankruptcy, pending litigation, or merger that may hamper Offeror's capacity to perform the Services. (No more than one page.)

Proposed Approach – (No more than five pages.)
Provide a general explanation of the approach your firm would take for performing and completing task orders to provide the Services for this Project. (No more than five pages.)

Qualifications Experience – (No more than seven pages)

- (1) Clearly identify which marketing / public information subject areas, as detailed in Section B of this RFQ as the Services, the Offeror is qualified to provide. (Please reference subject areas by corresponding numbers in Section B of this RFQ.)
- (2) Provide a detailed description of the Offeror's experience, qualifications, and past performance relating to specific marketing / public information subject areas of the Services. Reference relevant projects by name, project description, client agency, scope of services provided, duration of work, year of completion, and indicate the firm's staff who worked on the project and their roles.
- (3) Include a minimum of three (3) relevant client references, including email and phone contact information of the person at the client organization who is knowledgeable about previous work performed by the firm.

Proposed Staffing Plan – (No more than one page each; full resumes should be included in appendices.)

- (1) Identify key staff and subcontractors and include a brief resume describing each team members' qualifications, relevant projects which they have worked on, and the specific marketing / public information subject areas of the Services they are qualified to provide.

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- (2) Designate the Principal and Project Manager in charge from the prime consulting firm. These individuals are expected to serve as WETA's primary contacts throughout the duration of the Agreement.

Cost Estimate – Submit with your response hourly rates by classification and overhead information, using the form in Attachment B, and place **in a separate sealed envelope clearly labeled as to its contents.**

Acknowledgement of Insurance Requirements – Offeror shall submit a signed acknowledgement that its team will be able to satisfy the insurance requirements necessary to perform the Services (Attachment A). WETA reserves the right to modify insurance requirements prior to entering into a contract for this project, if a contract is to be awarded. The Selected Consultant will be required to verify, to WETA's satisfaction, that all insurance requirements can be met.

Review of Form of Contract – Offeror shall include a paragraph in the submittal indicating that your firm has reviewed the form of contract included as Attachment C of this RFQ and either confirm your firm's acceptance of the contract terms or include a list of changes you firm would request should the Board of Directors award to your firm. Changes to the form of contract may be considered and made by WETA in its sole discretion.

Levine Act Disclosure – Disclose any Levine Act-related information, as described in Section L of this RFQ, below.

Conflict of Interest Disclosure – Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the owner, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage. Offerors must disclose any actual, potential or perceived organizational conflict of interest and provide information that may present an organizational conflict of interest as part of its Submittal. If the Offeror has no conflict of interest actual, potential or perceived organizational conflict of interest, a statement to that effect shall be included in the Submittal. Offerors have an ongoing obligation to disclose any organizational conflicts of interest, as more fully described in Section H of the Form of Contract attached hereto as Attachment C.

F. SUBMITTAL PROCEDURES: CLARIFICATIONS

Pre-Submittal Conference. WETA will hold a pre-submittal conference to review this RFQ with Offerors. Attendance by all Offerors is strongly encouraged. The Pre-Submittal Conference is scheduled for **10:00 AM Tuesday, January 24, 2012** at WETA's Administrative Offices located at Pier 9, Suite 111, The Embarcadero, San Francisco, CA.

RFQ Clarifications. Explanations or clarifications regarding the meaning or interpretation of this RFQ may be requested at the pre-submittal conference or by contacting Ernest Sanchez, Manager, Transportation Services, at 415-364-3190 or sanchez@watertransit.org. The deadline to submit requests for explanation or clarifications is 10:00 AM, Tuesday, January 24, 2012.

WETA specifically requests that any questions concerning this RFQ be directed to Ernest Sanchez only. Please do not contact other WETA staff.

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Should WETA determine that clarification of a possibly ambiguous or incomplete statement contained in the RFQ is in order, WETA will issue a written addendum clarifying the matter, which will be posted on WETA's website (www.watertransit.org). Each Offeror has an ongoing responsibility to check WETA's website for addenda. WETA has no obligation to provide any other notice of addenda being issued. Addenda issued for this RFQ, if any, must be expressly acknowledged in Offeror's cover letter.

Contract Clarifications. WETA intends to use the form of contract attached hereto as Attachment C as the Contract resulting from this RFQ. Questions or recommendations for modifications to the form of contract may be submitted in writing as set forth above in Section E of this RFQ. Changes to the form of contract may be considered and made by WETA in its sole discretion.

Submittal of Statements of Qualifications. All Statements of Qualifications should be submitted to:

Ernest Sanchez
Manager, Transportation Services
San Francisco Bay Area
Water Emergency Transportation Authority
Pier 9, Suite 111, The Embarcadero
San Francisco, CA, 94111

Two (2) hard copy and one (1) digital copy on CD/DVD of Offeror's Submittal must be received at the above address **no later than 2:00 PM Pacific Time on Thursday, February 9, 2012.** Submittals received after the date and time specified above will be considered late and will not be accepted.

Responses to this RFQ should be submitted in a sealed envelope indicating the project (On-call Marketing Services) as addressed in the RFQ. **Estimated costs shall be submitted in a separate sealed envelope clearly labeled as "Cost Proposal."**

Submittal Disclosure. All responses to this RFQ become the property of WETA and may be returned only at WETA's option. WETA reserves the right to release the Submittals, received as public information, upon request after Contract award.

G. CONTRACT AWARD SCHEDULE

WETA shall make best efforts to maintain the Contract Award Schedule contained herein, as may be adjusted and/or modified in WETA's sole discretion, with appropriate written notice to all prospective Offerors. Failure to maintain the following target schedule will not affect WETA's rights hereunder:

RFQ release date:	Friday, January 13, 2012
Pre-submittal conference:	10:00 AM, Tuesday, January 24, 2012 WETA Administrative Offices Pier 9, Suite 111, The Embarcadero

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Deadline to submit requests for clarifications, corrections or modifications:	5:00 PM, Tuesday, January 24, 2012
Submittals due:	2:00 PM, Thursday, February 9, 2012
Interviews/Negotiations (as needed):	February 13 -14, 2012
Notice of Intent to Award	Wednesday, February 15, 2012
Board approval:	Thursday, February 16, 2012 (tentative meeting date, please check website for meeting date)

H. SUBMITTAL EVALUATION

WETA Evaluation Committee. WETA will establish an evaluation committee with responsibility for (1) reviewing all Submittals submitted by Offerors and (2) conducting the evaluation and interviews described in this RFQ. WETA reserves the right to reject or accept any and all Submittals, to waive any minor irregularities in Submittals or procedures, not award a contract in connection with this procurement, require confirmation of information furnished by an Offeror, modify the RFQ process, cancel a contract signed by the Selected Consultant but not yet executed by WETA, issue addenda modifying the terms of the RFQ, suspend and terminate the procurement at any time or to request additional information from Offerors at any stage of the evaluation.

Evaluation Criteria. Responses to this RFQ will be reviewed by the evaluation committee based on the following criteria, listed in descending order of importance:

- (1) Qualifications of proposed staff, including education and experience relating to specific marketing, public relations, advertising, media planning or other subject area(s). Offerors must have successfully operated in their area of interest for at least 3 recent consecutive years as a company (or Team). Public Relations companies must have a specialty in promoting services targeting customers. Preference will be given to CONSULTANTS demonstrating recent successful experience in the promotion of transportation services (both public and private).
- (2) Staffing capacity and the range of marketing / public information services offered
- (3) References
- (4) Ability to meet project deadlines

Interviews. WETA's evaluation committee may require that some or all Offerors attend an interview (may be in person or conducted via telephone per WETA's request) in order to compare alternative methods for furnishing the Services and seek clarification regarding the Submittals. WETA also reserves the right to require any such clarifications made during interviews in writing.

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Evaluation Committee Recommendation. The Evaluation Committee will make a recommendation of the most qualified firm(s) based on the above criteria. WETA reserves the right in its sole discretion to determine which of Offeror's qualifications, experience, available resources and ability to perform the Services best suit the requirements of the Project.

Negotiations. WETA may reject all Submittals without further discussion or commence negotiations with the apparent Selected Consultant to establish the final terms and conditions for the Contract. If WETA is unable to negotiate acceptable Contract terms with the firm determined to have submitted the Submittal most advantageous to WETA, WETA may formally terminate negotiations with that firm and commence negotiations with the next highest-ranked firm. This process shall be followed until negotiations are successfully concluded or WETA, at any time, rejects all Submittals. WETA expressly reserves the right to request changes to the staffing or scope of Services during negotiations.

Pre-award Conference. If deemed necessary, in WETA's sole discretion, the Offeror determined to be the apparent Selected Proposer shall participate in a pre-award conference conducted by WETA to clarify and discuss issues of concern and interest to both parties.

Notice of Intent to Award. If the Contract is to be awarded, Offerors will be notified of WETA's intent to award the Contract on or before the day WETA's Board acts to award the Contract. Offerors will be noticed by means of a posting on WETA's website. Each Offeror has an ongoing obligation to check WETA's website (www.watertransit.org) for WETA's Notice of Intent to Award. WETA has no other obligation to provide any other notice of the intent to award the Contract.

Debriefing. Any Offeror not awarded the Contract may request a post-award debriefing with WETA by submitting such request in writing (U.S. mail, fax or electronic mail) to WETA's Project Manager within five (5) working days of WETA's issuance of the Notice of Intent to Award. Post-award debriefings will be conducted within a reasonable time, at WETA's sole discretion, after the Contract has been awarded.

Licenses and Permits. Upon request by WETA, prior to award of the Contract, the Selected Consultant shall submit copies of the licenses and permits required, if any, to perform the Services.

I. CONTRACT AWARD

WETA reserves the right to not award any contract as a result of this procurement and may terminate the procurement and commence a new procurement for part or all of the Services at any time. Formal contract award shall only occur as and when, if at all, the WETA Board takes such action. WETA will not reimburse any firm for costs incurred as a result of preparing or submitting a Submittal, including negotiating with WETA on any matter related to this RFQ.

J. CONTRACT EXECUTION

If the WETA Board acts to award the Contract, the selected Offeror shall execute and deliver two of execution copies of the Contract within ten (10) working days of receipt of the final Contract, together with all required documents, including but not limited to, the insurance certificates.

K. PROTEST PROCEDURES

Protests shall be governed by the provisions of Chapter 5, Article XII, of the San Francisco Bay Area Water Emergency Transportation Authority Administrative Code.

L. LEVINE ACT

The Levine Act (Government Code 84308) is part of the Fair Political Practices Act that applies to elected officials who serve on appointed Boards such as the San Francisco Bay Area Water Emergency Transportation Authority. The Levine Act prohibits any Authority Member who has received \$250.00 or more within the previous twelve months from an applicant from participating in or influencing the decision on awarding a contract with the Authority. The Levine Act also requires a member of the Authority who has received such a contribution to disclose the contribution on the record of the proceeding. In addition, Authority Members are prohibited from soliciting or accepting a contribution from a party applying for a contract while the matter of awarding the contract is pending before the Authority or for three months following the date a final decision concerning the contract has been made.

Applicants must disclose on the record any contribution of \$250.00 or more that they have made to an Authority Member within the twelve-month period preceding submission of their response to this RFQ. This duty applies to your company, any member of your team, any agents for you or other team members and to the major shareholders of any closed corporation that is part of your team. If you have made a contribution that needs to be disclosed, you must provide written notice of the date, amount, and receipt of the contribution(s) in writing to the Authority's Executive Director. This information, if any, must accompany your response to this RFQ.

M. NON-COLLUSION

By submitting a Submittal in response to this RFQ, each Offeror certifies that its Submittal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the Offeror has not, directly or indirectly, induced or solicited any other person to submit a sham submittal or any other person to refrain from responding to this RFQ; and that the Offeror has not in any manner sought collusion to secure any improper advantage over any other person submitting a response to this RFQ.

N. EX PARTE COMMUNICATIONS

Commencing on the date of this RFQ and continuing until award of the Contract or cancellation of this RFQ, no Offeror shall have any ex parte communications regarding this RFQ with any member of WETA's staff, its Board of Directors, or any of its contractors or consultants involved with the procurement, unless expressly permitted by this RFQ. Any Offeror engaging in such prohibited communications may be disqualified at the sole discretion of WETA. The foregoing shall not preclude any Offeror from participation in public meetings of WETA's Board of Directors.

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O. NONDISCRIMINATION

Selected Consultant must comply with the nondiscrimination requirements set forth in Section K of the Contract.

-END OF REQUEST-

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ATTACHMENT A

ACKNOWLEDGMENT OF INSURANCE REQUIREMENTS – PROFESSIONAL SERVICES

CONSULTANT shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement, placed with insurers with a Best's rating of A- or better.

- a) **COMMERCIAL GENERAL LIABILITY** coverage (including but not limited to premises and operations; completed operations and products liability; personal injury and advertising injury; use of non-owned watercraft; explosion, underground, and collapse coverage; and contractual liability on written contracts) of not less than:

Two Million Dollars (\$2,000,000) combined single limit per occurrence for bodily harm and property damage; and

Two Million Dollars (\$2,000,000) general aggregate annual limit.

Policy shall include a Waiver of Subrogation and Additional Insured endorsement. Policy will also contain Separation of Interests Clause and Primary and Non-contributory language.

- b) **AUTOMOBILE LIABILITY INSURANCE** coverage (including but not limited to use of all owned and non-owned vehicles, uninsured motorists, and leased and hired vehicles) of not less than:

Two Million Dollars (\$2,000,000) combined single limit per occurrence and aggregate for bodily harm and property damage.

Policy shall include a Waiver of Subrogation and Additional Insured endorsement

- c) **PROFESSIONAL LIABILITY, ERRORS AND OMISSIONS INSURANCE** coverage for Errors and Omissions in an amount not less than \$2,000,000 per occurrence and aggregate with a deductible not to exceed \$100,000.

- d) **WORKERS COMPENSATION INSURANCE** coverage of not less than:

One Million Dollars (\$1,000,000) per occurrence for injuries incurred while providing Services under this AGREEMENT.

Policy shall include a Waiver of Subrogation.

- e) **PROTECTION AND INDEMNITY INSURANCE** coverage, as applicable, for work performed using floating platforms, skiffs, boats, vessels, or any other equipment that floats in an amount not less than \$2,000,000 per occurrence and aggregate.

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Policy shall include a Waiver of Subrogation and Additional Insured endorsement. Policy will also contain Primary and Non-contributory language.

Name: _____

Title: _____ Date: _____

NOTE: If you were unable to provide any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to WETA's attention no later than the deadline set forth in the RFQ to submit requests for clarifications, corrections or modifications.

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ATTACHMENT B

BILLING RATE SHEET

Advertising Activity	Hourly Billing Rate
Principal / Owner	\$0
Account Manager: responsible for day to day oversight of project	\$0
Art Director	\$0
Staff:	
Graphic Designer	\$0
Production Assistant	\$0
Copy Writer	\$0
Support Staff (database entry, promotion fulfillment, etc.)	\$0
Subcontracting Markup (1):	Percent Mark-Up
Print Production	%
Video Production	%
Media Planning/ Coordination/media purchase	%
Mailing list	%
Still Photography	%

(1) Mark-up applied to outside purchases.

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ATTACHMENT C

FORM OF CONTRACT

PROFESSIONAL SERVICES AGREEMENT #XX-XXX

between the

SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY

and

FIRM

This AGREEMENT is made and entered into as of _____ (the “Effective Date”), by and between the San Francisco Bay Area Water Emergency Transportation Authority, (the “AUTHORITY” or “WETA”) and FIRM, a STATE of FIRM corporation located at ADDRESS (the "CONSULTANT"). For purposes of this AGREEMENT, each of the AUTHORITY and CONSULTANT may be referred to individually as a “Party” or together, as “Parties.”

RECITALS

WHEREAS, the AUTHORITY was created to investigate and to implement expansion of ferry service within the San Francisco Bay Area; and

WHEREAS, the AUTHORITY [DESCRIPTION OF PROJECT] (the “PROJECT”); and

WHEREAS, the AUTHORITY desires to secure professional services in the nature of [DESCRIPTION OF SERVICES] (generally, the “Services”) with respect to the PROJECT; and

WHEREAS, the CONSULTANT provided a submittal in response to the AUTHORITY’s solicitation and represents that it possesses the professional qualifications and expertise to perform such Services; and

WHEREAS, the CONSULTANT has been selected to provide such Services.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

AUTHORITY hereby contracts with CONSULTANT and CONSULTANT hereby contracts with AUTHORITY to perform the services contemplated herein, on the terms and subject to the conditions and in consideration of the payments set forth in this AGREEMENT.

CONSULTANT promises, covenants and agrees to diligently pursue the Services to completion in accordance with the schedule and under the terms and conditions set forth below.

ARTICLE I - GENERAL PROVISIONS

A. GENERAL CONDITIONS

1. **The “Services”**, which are the subject of this AGREEMENT, are described in Appendix A, Scope of Services, and Appendix D, Compensation, which are both attached hereto and incorporated herein by reference.

2. **Scope of Services**. CONSULTANT shall furnish all technical, professional and administrative services and responsibilities, including but not limited to, labor, material, equipment, transportation, supervision and expertise, necessary to perform all operations required to satisfactorily complete the Services as specified, stated, indicated or implied in this AGREEMENT.

3. **Term**. The term of the AGREEMENT shall commence on [DATE 1] and shall expire, unless earlier terminated or extended in accordance with this AGREEMENT, on [DATE 2] (the “Term”). AUTHORITY, at its sole discretion, may elect to extend the Term of this AGREEMENT up to an additional twelve (12) months, commencing on [day after DATE 2], and continuing through [DATE 2 + 12 months] (the “Option Term”), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with Appendix A, Scope of Services, and Appendix D, Compensation. [Delete second sentence if no option term is desired.]

4. **AUTHORITY’s Representative**. AUTHORITY hereby designates its Executive Director, or his/her designee, to be its representative in administering all matters relative to the AGREEMENT.

5. **CONSULTANT’s Representative**. CONSULTANT hereby designates [NAME] to represent CONSULTANT with full authority under the AGREEMENT.

6. **CONSULTANT’s Key Personnel**. CONSULTANT represents that it has the professional and technical personnel required to perform the Services under this AGREEMENT. The key personnel designated in Appendix B will be CONSULTANT’s key personnel for the performance of the Services. CONSULTANT shall give AUTHORITY prior written notice of any proposed change in key personnel. Any such change may be made only upon AUTHORITY’s prior written approval, not to be unreasonably withheld. AUTHORITY shall have the right to request the removal or replacement of any of the key

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personnel listed on Appendix B or any other CONSULTANT staff who, in AUTHORITY's sole and reasonable opinion, are for any reason unsuitable or unsatisfactory. CONSULTANT shall promptly remove the person(s) specified in AUTHORITY's request and, at CONSULTANT's sole cost and expense, shall promptly appoint satisfactory replacement(s) upon AUTHORITY's approval of such replacement(s). CONSULTANT shall make available to AUTHORITY any information AUTHORITY may need to decide whether to approve such replacement(s). AUTHORITY retains the sole right to terminate this AGREEMENT in the event of a change of ownership or fundamental structure in CONSULTANT's firm. CONSULTANT shall give AUTHORITY prior written notice of any such proposed change. Within 30 calendar days of receipt of CONSULTANT's notice, AUTHORITY shall notify CONSULTANT in writing of its decision to continue to perform under, or to terminate, this AGREEMENT, effective on the date contained therein. Nothing in this provision shall be construed to limit AUTHORITY's right to terminate this AGREEMENT as set forth in ARTICLE I, Section B of this AGREEMENT.

7. **Preliminary Review of Services.** Where the CONSULTANT is required to prepare and submit reports, working papers, and other documents to AUTHORITY as products of the Services, CONSULTANT shall submit such documents in draft form, and AUTHORITY shall have the opportunity to direct revisions prior to formal submission by CONSULTANT.

8. **Appearance at Hearings.** If and when required by AUTHORITY, CONSULTANT shall attend and render assistance at hearings related to performance of the Services, as may be deemed necessary by the AUTHORITY. CONSULTANT shall be compensated as set forth in Appendix D, Compensation.

9. **Responsibility of CONSULTANT.** CONSULTANT shall be solely responsible for the professional quality, technical accuracy and the coordination of the Services. Neither the AUTHORITY's review, inspection, acceptance, nor payment for any of the Services shall be construed to waive any of AUTHORITY's rights and remedies under the AGREEMENT, or any cause of action arising out of CONSULTANT's performance of the AGREEMENT. CONSULTANT shall be and remain liable to AUTHORITY or any third party, in accordance with applicable law, for all damages caused by CONSULTANT's negligence, recklessness or willful misconduct in the performance of, or failure to perform, this AGREEMENT.

10. **Inspection of Services.** AUTHORITY may inspect or review

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CONSULTANT's Services in progress at AUTHORITY's convenience. Any inspection or review by AUTHORITY shall be performed in a manner not to unreasonably interfere with CONSULTANT.

11. **No Third Party Beneficiaries.** This AGREEMENT gives no rights or benefits to anyone other than AUTHORITY and CONSULTANT and has no third-party beneficiaries.

12. **Legal Action.** All legal actions by either Party against the other arising from this AGREEMENT, or for the failure to perform in accordance with the applicable standard of care, or any other cause of action, will be subject to the applicable statutes of limitation of the State of California.

13. **Survival.** The rights and obligations of the Parties, which by their nature survive termination of this AGREEMENT, breach of contract or warranty, fault, tort (including but not limited to torts based on negligence, statute, or strict liability) or completion of the Services covered by this AGREEMENT, shall remain in full force and effect after termination or completion. Such rights and obligations include, but are not limited to, those set forth in: (a) ARTICLE I, General; and (b) ARTICLE I, Section F, Indemnity and any releases, limitations on indemnity, and any and all limitations on any remedies herein.

14. **Order of Interpretation.** ARTICLE I, Section A, paragraph 9 and ARTICLE I, Section F of this AGREEMENT shall take precedence over any conflicting provision of this AGREEMENT or any document incorporated into it or referenced by it.

15. **No Waiver.** Failure of AUTHORITY to insist upon strict performance of any terms or conditions of this AGREEMENT, or failure or delay in exercising any rights or remedies provided herein or by law, or failure to properly notify CONSULTANT in the event of breach, or the acceptance of or payment for any Services hereunder shall not release CONSULTANT from the terms, conditions, representations or obligations of this AGREEMENT applicable to it, and shall not be deemed a waiver of any right of AUTHORITY to insist upon strict performance hereof or upon any of its rights or remedies as to any prior or subsequent default hereunder.

16. **Governing Law.** The laws of the State of California govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

17. **Severability.** If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT will be

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construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

18. **Dispute Resolution.** Any claims, controversy or dispute arising out of, or relating to, this AGREEMENT or the breach or alleged breach thereof shall be resolved in accordance with this Section.

(a) **Initial Actions.** The Parties shall first attempt to resolve the dispute informally in meetings or communications between representatives of the CONSULTANT and the AUTHORITY. If the dispute remains unresolved ten (10) working days after it first arises, CONSULTANT may present the dispute to the AUTHORITY's Executive Director or his/her duly authorized representative (the "Executive Director") for resolution. The Executive Director shall issue a written decision on the matter in dispute within ten (10) working days after receipt of notice from CONSULTANT identifying the issues in dispute. The Executive Director may also provide a written decision on his/her own initiative. The written decision shall become final unless, within ten (10) working days after the issuance of said determination, CONSULTANT delivers written notice stating, in general terms, the factual or legal objections to the written decision,

(b) **Further Resolution.** If the CONSULTANT timely objects to the written decision, either party may seek resolution through referral to mediation. If such mediation is unsuccessful, either Party may seek judicial resolution of the dispute in an appropriate court of the Superior Court in the State of California in San Francisco, CA.; provided, however, mediation is a prerequisite as a condition precedent to the initiation of litigation.

(c) **Alternatives.** If, agreed upon by the Parties, disputes may be resolved by an alternative disputes resolution process, including binding arbitration.

(d) **Diligent Performance.** The existence of any such claim shall not excuse CONSULTANT or AUTHORITY from continued full and timely performance as required by this AGREEMENT.

19. **Attorney's Fees.** Subject to the provisions of ARTICLE I, Section 18, Dispute Resolution, if any Party shall bring an action or proceeding (including, without limitation, any cross-complaint, counter-claim, third-party claim or arbitration proceeding) against another Party by reason of the alleged breach or violation of any provision hereof, or for the enforcement of any provision hereof, or to interpret any provision hereof, or otherwise arising out of this AGREEMENT, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of such action or proceeding, including but not limited to

its actual reasonable attorneys' fees, which shall be payable by the non-prevailing party whether or not such action or proceeding is prosecuted to judgment or award.

B. TERMINATION

1. **By Authority For Convenience.** AUTHORITY may terminate the AGREEMENT, in whole or in part, for AUTHORITY's convenience by giving the CONSULTANT not less than thirty (30) calendar days prior written notice of such termination for convenience. CONSULTANT shall be compensated for Services performed up to and including the date of termination, including, if applicable, a pro-rated amount of profits; provided, however, that CONSULTANT shall not be paid any amount of profit anticipated for Services not performed by CONSULTANT as of the termination date.

In addition to payment for Services performed by CONSULTANT, AUTHORITY shall pay CONSULTANT an amount equal to the allowable costs incurred by CONSULTANT prior to termination, and other costs reasonably incurred by CONSULTANT for implementing the termination, including but not limited to, subcontract termination costs and related closeout costs, if any.

2. **By Authority For Cause.** AUTHORITY may terminate the AGREEMENT, in whole or in part, upon occurrence of any of the following: (a) CONSULTANT makes a general assignment for the benefit of creditors; (b) a petition in bankruptcy is filed by or against CONSULTANT; (c) a receiver is appointed on account of CONSULTANT's insolvency; (d) CONSULTANT violates any law, ordinance, rule, regulation or order of a public authority in performance of the Services; or (e) any material breach on the part of CONSULTANT, of any term, covenant or agreement contained in the AGREEMENT, or for failure of CONSULTANT to substantially perform its duties and obligations under the AGREEMENT, in the manner provided herein. AUTHORITY shall give CONSULTANT seven (7) calendar days prior written notice of its intent to terminate the AGREEMENT for cause. If, at the end of the seven (7) day notice period, CONSULTANT has not commenced correction of its performance to the reasonable satisfaction of the AUTHORITY, AUTHORITY may immediately thereafter exercise its right of termination and such termination shall be effective immediately. If CONSULTANT commences correction within the seven (7) day notice period and diligently pursues such correction to completion within thirty (30) calendar days of the date of commencement, to the reasonable satisfaction of AUTHORITY, the AGREEMENT shall continue in full force and effect.

3. **Return of Work Product.** Immediately upon CONSULTANT's receipt of

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notice of termination of the AGREEMENT by AUTHORITY, whether for cause or convenience, CONSULTANT shall deliver to AUTHORITY all data, estimates, graphs, summaries, reports, plans, information, work product and any other such materials as may have been collected or created by CONSULTANT in any form or media, in the performance of the Services under the AGREEMENT, whether completed or in progress.

4. **Damages/Compensation.** If termination by AUTHORITY is due to the failure of CONSULTANT to fulfill its obligations under the AGREEMENT, CONSULTANT will be compensated for that portion of the Services which has been completed and accepted by the AUTHORITY, and for Services performed up to and including the date of termination, including a pro-rated amount of profit, if applicable; provided, however, that CONSULTANT shall not be paid any amount for profit anticipated on unperformed Services. In the event of unperformed Services, under Article 1B.2, CONSULTANT shall be liable to AUTHORITY for the reasonable excess costs of reprocurement incurred by AUTHORITY in completing such work, whether by WETA or by others, which includes administrative costs associated with reprocurring contracts for such unperformed Services as well as the amount by which the replacement price of Services exceeds the terminated CONSULTANT's price.

5. **Adjustments.** If, after delivery by AUTHORITY and receipt by CONSULTANT of notice of termination for cause, AUTHORITY determines that CONSULTANT had not so breached the AGREEMENT or failed to perform, termination shall be deemed to have been effected for the convenience of AUTHORITY. In such case, CONSULTANT's compensation shall be adjusted as set forth in ARTICLE I, Section B, paragraph 1, above.

6. **Remedies, Cumulative.** Unless and except as otherwise provided in this AGREEMENT, the rights and remedies of the Parties provided in this Section B, Termination, are cumulative and not exclusive, and are in addition to any and all other rights and remedies provided by law or this AGREEMENT.

7. **Waiver of Claims.** By executing the AGREEMENT, CONSULTANT shall be deemed to have waived any and all claims for damages in the event of AUTHORITY's termination for convenience as provided in ARTICLE I, Section B, paragraph 1, except for reasonable costs incurred by CONSULTANT for the implementation of termination, including, but not limited to, subcontract termination costs as mutually agreed by the AUTHORITY and CONSULTANT.

8. **Right to Cure.** In addition to the right to correct performance as set forth in

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the above Paragraphs 2 and 3 of this Section B. regarding termination for cause, AUTHORITY shall provide CONSULTANT with an opportunity to cure, at CONSULTANT's sole expense, all errors and omissions that may be disclosed during review of the Services performed by CONSULTANT. Should CONSULTANT fail to make such corrections in a timely manner, such corrections shall be made by AUTHORITY and CONSULTANT shall pay all costs thereof. The opportunity to cure provision shall in no way limit any other right of AUTHORITY under this AGREEMENT, including but not limited to the right to terminate the AGREEMENT.

C. REVISION IN SCOPE OF SERVICES

1. **Changes.** When changes in the Services are required by AUTHORITY or requested by CONSULTANT, CONSULTANT shall promptly estimate their effect on the cost of the Services, and on the Schedule of Services, and so notify AUTHORITY. No change shall be implemented by CONSULTANT unless it is approved by AUTHORITY in writing and CONSULTANT has received notification from AUTHORITY to proceed. Unless otherwise agreed to in writing, all provisions of this AGREEMENT shall apply to all changes in the Services.

2. **Equitable Adjustment.** If AUTHORITY determines that a change materially affects the total value or time of performance of this AGREEMENT, CONSULTANT and AUTHORITY will mutually agree in writing to an equitable adjustment.

3. **Extra Services.** AUTHORITY may request Extra Services to be performed by CONSULTANT. "Extra Services" is defined as services not authorized in the original AGREEMENT, and is, subsequent to the execution of this AGREEMENT by the Parties, determined by AUTHORITY to be necessary for the Project. Upon receipt of an Extra Services authorization from AUTHORITY, CONSULTANT shall continue performance of the Services as revised by the authorization. Adjustments to CONSULTANT's compensation due to authorized Extra Services shall be made only within the Total Contract Amount, as defined in Article III below, of the AGREEMENT.

4. **Necessary Revisions.** If AUTHORITY determines that revisions to the Scope of Services, Schedule of Services, Compensation, or other parts of the AGREEMENT are necessary, they shall be mutually agreed upon and incorporated herein through the execution of written amendments to this AGREEMENT.

D. OWNERSHIP OF WORK PRODUCT/CONFIDENTIALITY

1. **Ownership.** All work product which CONSULTANT is required to prepare or develop in the performance and completion of the Services hereunder, including without limitation any drawings, specifications, documents, calculations, maps, sketches, notes, reports, data, models and samples, and any and all inventions and copyrightable material contained therein, shall become the sole and exclusive property of AUTHORITY as a work for hire when made or prepared whether delivered to AUTHORITY or not, subject to CONSULTANT's right to use the same to perform the Services under this AGREEMENT. Such work product shall, together with any materials furnished to CONSULTANT by AUTHORITY hereunder, be delivered to AUTHORITY upon request and in any event upon completion or termination of this AGREEMENT, as specified in Section B.3, above. AUTHORITY and its authorized representatives may use any such work product delivered by CONSULTANT without CONSULTANT's permission. CONSULTANT agrees to execute all documents and to take all steps requested by AUTHORITY at AUTHORITY's expense which AUTHORITY deems necessary or desirable to complete and perfect in AUTHORITY ownership of such property rights.

2. **Confidentiality.** All ideas, memoranda, specifications, plans, manufacturing procedures, drawings, descriptions, and all other written information submitted to the CONSULTANT in connection with the performance of the AGREEMENT shall be held confidential by the CONSULTANT and shall not, without the prior written consent of the AUTHORITY, be used for any purposes other than the performance of the Services under this AGREEMENT. Nothing furnished to the CONSULTANT, which is otherwise known to the CONSULTANT or becomes generally known in the relevant industry, shall be deemed confidential. The CONSULTANT shall not use the AUTHORITY's name or insignia, photographs, or any other publicity pertaining to the Services in any magazine, trade paper newspaper, or other news medium without the prior written consent of the AUTHORITY. CONSULTANT may, with AUTHORITY's prior written consent, use PROJECT technical information in the demonstration of expertise for purposes of describing PROJECT experience to others in the routine conduct of CONSULTANT's business.

E. CONSULTANT STATUS/SUBCONSULTANTS:

1. **Independent Contractor.** CONSULTANT shall be an agent of AUTHORITY in performance of the Services. Notwithstanding such relationship between AUTHORITY and CONSULTANT, CONSULTANT shall be an independent contractor, and

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CONSULTANT's personnel performing Services under this AGREEMENT shall at all times be under the CONSULTANT's exclusive direction and control and shall be employees of the CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and other amounts due its employees in connection with this AGREEMENT and shall be responsible for all reports and obligations respecting them, including but not limited to Social Security tax, income tax withholding, unemployment compensation, Workers' Compensation, employee benefits and similar matters. No liability or benefits, such as worker's compensation, pension rights or liabilities, insurance rights or liabilities, or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to CONSULTANT's agents or employees with respect to AUTHORITY as a result of the performance of this AGREEMENT. No relationship other than that of independent contractor shall be implied between the parties or either party's agent, employee or subcontractor, and CONSULTANT hereby agrees to protect, indemnify, defend and hold AUTHORITY harmless from any such claim and any costs or expenses related thereto.

2. **Assignment, Transfer and Subcontracts.** Services to be performed and furnished to AUTHORITY under this AGREEMENT shall be deemed to be professional services and, except as herein provided, CONSULTANT has neither the right nor the power to assign, subcontract, transfer or otherwise substitute, in whole or in part, its interest in the AGREEMENT or its obligations hereunder without the prior written consent of AUTHORITY. An assignment or subcontract shall not obligate AUTHORITY beyond the obligations and liabilities set forth in this AGREEMENT nor shall it relieve CONSULTANT from any obligation or liability under this AGREEMENT. CONSULTANT shall include in all subcontracts under this AGREEMENT all relevant provisions of the AGREEMENT that are necessary to fulfill CONSULTANT's obligations hereunder. If so requested by AUTHORITY, copies of all reimbursable subcontracts shall be provided to AUTHORITY in a timely manner. Subject to the foregoing, the provisions of this AGREEMENT shall be binding upon and inure to the benefit of the successors and assigns of AUTHORITY and the permitted assigns of CONSULTANT.

3. **Subcontracts; Timely Payment.** CONSULTANT is required to pay its subconsultants for satisfactory performance of Services under this AGREEMENT no later than ten (10) days after the CONSULTANT's receipt of payment for those Services from AUTHORITY.

F. INDEMNIFICATION

1. **Representations of CONSULTANT.** CONSULTANT represents and maintains that it is skilled in the practices necessary to perform all services necessary to complete the Services, its duties and obligations, expressed and implied, contained herein, and the AUTHORITY expressly relies upon CONSULTANT's representations regarding its skills and knowledge. The CONSULTANT shall perform all Services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

2. **Responsibilities of CONSULTANT.** CONSULTANT agrees to indemnify, hold harmless and defend the AUTHORITY, its officers and employees, from and against any and all liability, claims, demands, suits, judgments, loss, damages, costs and expenses, including reasonable attorneys' fees (collectively "CLAIMS"), of any and every kind to the extent arising out of or resulting from negligence, recklessness or willful misconduct of the CONSULTANT, and/or its officers, employees, agents or subconsultants in the performance of this AGREEMENT. CONSULTANT shall defend AUTHORITY and its employees, agents, officers, and directors with separate counsel of AUTHORITY's choosing, and shall promptly pay all costs and attorneys' fees in connection therewith. In the event AUTHORITY is determined, by a court or arbitrator, to be partially liable for a CLAIM, AUTHORITY shall reimburse the CONSULTANT for its proportionate share of the reasonable costs of defense actually expended, based on its share of liability.

G. INSURANCE REQUIREMENTS

The insurance requirements specified in this section shall cover CONSULTANT's own liability and any liability arising out of work or services performed under this AGREEMENT by any subcontractors, subconsultants, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations (hereinafter collectively referred to as "AGENTS") that CONSULTANT authorizes to work under this AGREEMENT. CONSULTANT is required to procure and maintain at its sole cost and expense the insurance coverages subject to all of the requirements set forth below. Such insurance shall remain in full force and effect throughout the term of this AGREEMENT.

CONSULTANT is also required to assess the risks associated with work to be performed by AGENTS under subcontract and to include in every subcontract the

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requirement that AGENTS maintain adequate insurance coverages with appropriate limits and endorsements to cover such risks; the limit for the Commercial General Liability insurance in each subcontract shall not be less than \$1 million. To the extent that any AGENTS do not procure and maintain such insurance coverage, CONSULTANT shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling CONSULTANT's indemnity obligation as to itself or any of its AGENTS in the absence of coverage. In the event CONSULTANT or its AGENTS procure Excess or Umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that the CONSULTANT's insurance be primary without any right of contribution from WETA. Prior to beginning work under this AGREEMENT, CONSULTANT shall provide WETA with satisfactory evidence of compliance with the insurance requirements of this section.

1. **Commercial General Liability Insurance.** Commercial General Liability insurance for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of at least \$2 million per occurrence or claim and a general aggregate limit of at least \$2 million. Such insurance shall cover all of CONSULTANT'S operations both at and away from the project site. Such insurance shall not have any exclusion for Cross Liability or Cross-Suits. In addition, for any construction and public works projects, the insurance shall not have any exclusion for Explosion, Collapse and Underground perils (xcu). Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

This insurance shall include coverage for, but not be limited to:

- (a) Premises and operations.
- (b) Products and completed operations.
- (c) Personal injury.
- (d) Advertising injury.
- (e) Use of non-owned watercraft, if applicable.
- (f) Such insurance shall include the following endorsements as further

detailed in the Endorsements Section below:

- i. Additional Insured.
- ii. Waiver of Subrogation.
- iii. Separation of Insureds Clause.

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iv. Primary and Non-Contributory wording.

2. **Business Automobile Liability Insurance.** Business Automobile Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least \$2 million per accident or loss.

This insurance shall include coverage for, but not be limited to:

- (a) All Owned autos.
- (b) Hired or rental autos.
- (c) Non-owned autos.
- (d) Such insurance shall include the following endorsements as further

detailed in the Endorsements Section below:

- i. Additional Insured.
- ii. Waiver of Subrogation.
- iii. Primary and Non-Contributory wording.

3. **Worker's Compensation and Employer's Liability Insurance.** Workers' Compensation insurance with statutory limits, as required by Section 3700 *et seq.* of the California Labor Code, or any subsequent amendments or successor acts thereto governing the liability of employers to their employees.

U.S. Longshoreman and Harbor Workers' Compensation Act (USL&H) insurance if the CONSULTANT involves work on or adjacent to navigable water, as defined by the U.S. Department of Labor. If USL&H coverage applies, the CONSULTANT requires proof of insurance coverage in compliance with statutory requirements of the Longshoreman and Harbor Workers' Compensation Act (administered by the U.S. Department of Labor).

Employers Liability Insurance with minimum limits of \$1 million.

(a) Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- i. Waiver of Subrogation.

4. **Professional Liability Insurance.** Professional Liability insurance covering errors and omissions and the resulting damages including, but not limited to, economic loss to WETA and having minimum limits of liability of \$2 million per claim or occurrence and \$2 million annual aggregate.

The policy shall include coverage for all services and work performed under this AGREEMENT.

5. **Property Insurance.** Property insurance with Special Form coverage

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including theft, but excluding earthquake, with limits at least equal to the replacement cost of the property described below. This insurance shall include coverage for, but not be limited to:

- (a) CONSULTANT'S own business personal property and equipment to be used in performance of this AGREEMENT.
- (b) Materials or property to be purchased and/or installed on behalf of WETA, if any.
- (c) Builder's Risk for property in the course of construction on an "all risk" basis for the full replacement cost of materials, supplies, all property to be incorporated into the finished work, and completed work in an amount not less than the full completed value of the covered structure or the replacement value of alterations or additions. WETA shall be named as a loss payee and losses will be payable to both CONSULTANT and WETA, as their interests may appear.
- (d) Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:

- i. Waiver of Subrogation

6. **Hull and Machinery Insurance.** If the AGREEMENT involves marine activities or work from boat, vessel, skiff, floating platform, or any other equipment that floats, CONSULTANT shall provide coverage at Market Value of vessel on American Institute Hull Clauses, 6/2/77 form.

7. **Protection and Indemnity (Including Jones Act).** If the AGREEMENT involves marine activities, or work from a boat, vessel, skiff, floating platform, or any other equipment that floats, CONSULTANT shall provide Protection & Indemnity coverage including injury to a crew (Jones Act) and passengers; Protection & Indemnity, SP 38 or SP 23 for \$2 million combined single limit per occurrence.

- (a) Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:

- i. Additional Insured.
 - ii. Waiver of Subrogation.
 - iii. Primary and Non-Contributory wording.

8. **Endorsements.**

- (a) Additional Insured. The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds the San Francisco Bay Area Water

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Emergency Transportation Authority and its respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

(b) Waiver of Subrogation. The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of the San Francisco Bay Area Water Emergency Transportation Authority and its respective directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

(c) Separation of Insureds. The referenced policies shall contain Separation of Insureds Clause and stipulate that inclusion of WETA as Additional Insureds shall not in any way affect existing rights either as respects any claim, demand, suit or judgment made, brought or recovered against the CONSULTANT. The purpose of this coverage is to protect CONSULTANT and WETA in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

(d) Primary Insurance. The referenced policies and any Excess or Umbrella policies shall indicate that they are primary to any other insurance and the insurance company(ies) providing such policy(ies) shall be liable there under for the full amount of any loss or claim, up to and including the total limit of liability, without right of contribution from any of the insurance effected or which may be effected by WETA.

9. Evidence of Insurance. For all coverages, prior to commencing work or entering onto the Property, CONSULTANT shall provide WETA's Representative with a certificate evidencing coverage, and upon request, a certified duplicate original of the policy. The certificate shall also show that the CONSULTANT's policy(ies) will not be cancelled without 30 days prior written notice to WETA's Representative.

10. General Provisions.

(a) Notice of Cancellation. The policies shall provide that the CONSULTANT's policies will not be cancelled or have limits reduced or coverage altered without thirty (30) days prior written notice to WETA's Representative.

(b) Acceptable Insurers. All policies will be issued by insurers acceptable to WETA and with a Best's Rating of A- VIII or better.

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(c) Self-insurance. Upon evidence of financial capacity satisfactory to WETA, and CONSULTANT's AGREEMENT to waive subrogation against WETA respecting any and all claims that may arise, CONSULTANT's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance.

(d) Failure to Maintain Insurance. All insurance specified above shall remain in force until all work to be performed is satisfactorily completed, all of CONSULTANT's personnel and equipment have been removed from WETA property, and the work has been formally accepted. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this AGREEMENT.

(e) Regulatory Compliance. In addition to the requirements described above, CONSULTANT shall comply with additional coverages required by the United States Department of Transportation, the Environmental Protection Agency, and/or related State or local laws, rules and regulations.

(f) Claims Made Coverage. If any insurance specified above shall be provided on a claim-made basis, then in addition to coverage requirements above, such policy shall provide that:

- i. Policy retroactive date coincides with or precedes the CONSULTANT'S start of work (including subsequent policies purchased as renewals or replacements).
- ii. CONSULTANT shall make every effort to maintain similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds.
- iii. If insurance is terminated for any reason, CONSULTANT agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from work performed under this AGREEMENT.
- iv. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

(g) Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from WETA. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

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In the event WETA seeks coverage as an additional insured under any CONSULTANT policy that contains a deductible or self-insured retention, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act or omission of CONSULTANT, subcontractor, subconsultant, or any of their officers, directors, employees, agents, or suppliers, even if CONSULTANT or subcontractor is not a named defendant in the lawsuit.

(h) Reporting of Incidents, Losses or Claims. The CONSULTANT agrees to immediately notify WETA's Representative, at (415) 291-3377 following any accident or injury, which occurs in connection with the Work under this AGREEMENT. In addition, the CONSULTANT shall provide a detailed written report of the accident or injury to WETA within seven (7) days of its occurrence.

H. PROHIBITED INTEREST

1. **Disclosure.** CONSULTANT shall disclose any financial, business, or other relationship with AUTHORITY that may have an impact upon the outcome of this AGREEMENT, or any ensuring AUTHORITY project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT.

2. **Solicitation.** CONSULTANT warrants that it has not employed or retained any company or person, other than an employee working solely for the CONSULTANT, to solicit or secure the AGREEMENT and that it has not paid or agreed to pay any company or person, other than an employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of the AGREEMENT. For breach of violation of this warranty, the AUTHORITY shall have the right to rescind the AGREEMENT without liability, or at its discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

3. **Conflict of Interest.** CONSULTANT agrees that, for the term of this AGREEMENT and until the final payment has been made to the CONSULTANT, CONSULTANT shall not permit any member, officer or employee of the AUTHORITY, during his/her tenure and for one (1) year thereafter, to have any financial interest in the AGREEMENT prohibited by California Government Code Section 87100 *et seq.* In addition, neither CONSULTANT nor any of its employees shall enter into any contract involving

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services or property with a person or business prohibited from transacting such business with AUTHORITY pursuant to Government Code Section 87100 *et seq.* CONSULTANT agrees that it has an ongoing obligation, during the term hereof, to provide written disclosure of any such prohibited conflicts to AUTHORITY.

4. **Conflict of Employment.** Employment by the CONSULTANT of any current officer, chief executive officer or other employee, authorized representative or agent of the AUTHORITY shall not be permitted even though such employment may be outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, for a period of one (1) year after leaving office or employment, no officer, chief executive officer or other employee of the AUTHORITY shall, for compensation, be permitted by CONSULTANT to act as agent or attorney for or otherwise represent the CONSULTANT by making any formal or informal appearance, or by making any oral or written communication before the AUTHORITY, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding or revocation of a permit, license, grant, entitlement or contract, or the sale or purchase of goods, services or property.

I. NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of the AGREEMENT or changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

CONSULTANT:

[FIRM]

ATTN: [PERSON]

[POSITION]

[ADDRESS 1]

[ADDRESS 2]

AUTHORITY:

SAN FRANCISCO BAY WATER EMERGENCY
TRANSPORTATION AUTHORITY

ATTN: Nina Rannells

Executive Director

Pier 9, Suite 111

San Francisco, CA 94111

J. AUDIT OF BOOKS AND RECORDS

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During the Term of this AGREEMENT, CONSULTANT and subconsultants shall make available to the AUTHORITY, its authorized agents, officers and employees, the State, the California State Auditor, and any other duly authorized representative of the Federal or State Government, for examination and audit, any and all ledgers and books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or related to the expenditures and disbursements charged to the AUTHORITY, and shall furnish such other evidence or information as AUTHORITY may require with respect to any such expense or disbursement charged by the CONSULTANT. The records described in this Section J shall be retained by CONSULTANT and subconsultants and made available for inspection by AUTHORITY or its designee at all reasonable times for a period of three (3) years after the expiration or earlier termination of this AGREEMENT. AUTHORITY may, in its sole discretion, conduct a periodic audit of costs, not more frequently than once every twelve (12) months.

K. COMPLIANCE WITH LAWS.

1. **Laws and Regulations.** CONSULTANT and its employees, agents and subconsultants performing the Services hereunder shall at all times comply with all applicable local, state, federal and governmental laws, ordinances, statutes and regulations in effect at the time Services under this AGREEMENT is performed. CONSULTANT shall indemnify and hold harmless AUTHORITY from and against any and all claims or expenses caused or occasioned directly or indirectly by its failure to so comply.

2. **Non-discrimination Assurance.** CONSULTANT and subconsultants shall not discriminate on the basis of race, color, religion, age, sexual orientation, disability, national origin, or sex in the performance of this AGREEMENT. Each subcontract the CONSULTANT signs with a subconsultant must include the assurance in this paragraph.

3. **MacBride Principles--Northern Ireland.** Pursuant to San Francisco (City) Administrative Code Section 12F.5, City urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. City 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 CONSULTANT acknowledges and agrees that he or she has read and understood this Section 11.

4. **Tropical Hardwood and Virgin Redwood Ban.** Pursuant to Section 804(b) of the San Francisco Environment Code, City urges all grantees not to import, purchase,

obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

5. **Resource Conservation.** Chapter 5 of the San Francisco Environment Code (Resource Conservation) is incorporated herein by reference. The requirements of Chapter 5 applicable to this AGREEMENT are the requirements under Section 506(h) that any bid, report, proposal, quotation or other document prepared in connection with this AGREEMENT must be submitted on recycled paper and printed on double sided pages to the maximum extent possible.

L. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT between the Parties relating to the PROJECT and supersedes any previous agreement or understanding.

M. AMENDMENT

This AGREEMENT may be amended or modified only by a written amendment duly executed by both Parties.

N. AVAILABILITY OF FUNDS

This AGREEMENT is awarded on the contingency of available funds. The obligation of AUTHORITY is conditioned upon the availability of funds allocated and available to carry out the provisions of the AGREEMENT in full.

ARTICLE II - SCHEDULE

A. SCHEDULE OF SERVICES

CONSULTANT shall conform to the schedule set forth in Appendix C, Schedule of Services (the "Schedule") which is attached hereto and incorporated herein by reference, except as otherwise modified by the AGREEMENT. In the event it becomes necessary to modify the Schedule of Services, modifications shall be mutually agreed upon and incorporated herein through the execution of written amendments to this AGREEMENT.

B. REPORTING

Monthly progress reports in a form acceptable to AUTHORITY, which describe any portion of the Services performed or completed by CONSULTANT, shall be submitted to

AUTHORITY with CONSULTANT's monthly billings. Costs for Services and actual costs shall be itemized in accordance with Appendix D, Compensation.

C. SUSPENSION, DELAY, OR INTERRUPTION OF SERVICES; FORCE MAJEURE

1. AUTHORITY may suspend, delay, or interrupt the services of the CONSULTANT for the convenience of the AUTHORITY.
2. Neither Party shall be considered in the default in the performance of its duties and obligations under this AGREEMENT with respect to Appendix C, Schedule of Services, to the extent that the performance of any obligation is prevented or delayed by an event of Force Majeure (as defined herein) or for suspension, delay, or interruption for AUTHORITY's convenience. In either event, AUTHORITY shall make an equitable adjustment of the Schedule of Services, commitment and cost of CONSULTANT's personnel and subconsultants, and CONSULTANT's compensation. Force Majeure shall mean any of the following: (a) an act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, riot, sabotage, or inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the ordinary course on the open market; (b) strike, lockout, or action of labor unions; (c) condemnation, requisition or order of governmental or civil or military authorities; (iv) any other similar cause not within the reasonable control of CONSULTANT (financial ability or negligence excepted); or other causes as approved in writing in the sole discretion of AUTHORITY.
3. CONSULTANT shall take all reasonable actions to minimize any Schedule extensions or additional costs to AUTHORITY resulting from any such delay.
4. As a condition precedent to the approval of an extension of time to complete the established Schedule of Services, CONSULTANT shall give written notice to AUTHORITY within seven (7) calendar days after CONSULTANT knows or should know of any cause or conditions that might, under reasonably foreseeable circumstances, result in delay for which CONSULTANT may claim an extension of time or adjustment of cost.

ARTICLE III - COMPENSATION/PAYMENT

A. COMPENSATION AND TOTAL CONTRACT AMOUNT

As full consideration for the satisfactory performance and completion by CONSULTANT of this AGREEMENT, AUTHORITY shall pay to CONSULTANT

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compensation as set forth in Appendix D, Compensation. Total compensation for Services performed under the AGREEMENT shall not exceed [DOLLAR AMOUNT] including direct expenses (the "Total Contract Amount"). CONSULTANT shall not perform any Services or incur any costs beyond the Total Contract Amount, without prior written approval of the AUTHORITY Board of Directors, and no additional compensation will be paid without a written amendment to the AGREEMENT, executed by both Parties. Mark-ups on subconsultant charges are not permitted and all expenses must be reasonable and verifiable in AUTHORITY's sole discretion. All Services must be performed, and payments made, in accordance with duly executed task orders.

B. INVOICES AND TIME OF PAYMENT

1. CONSULTANT shall prepare invoices on a monthly basis for each complete calendar month. Invoices shall be submitted to AUTHORITY as soon as possible, but no later than sixty (60) calendar days after month's end.

2. The invoice should bear the following certification signed by an officer of CONSULTANT:

"I hereby certify that the hours and salary rates charged in this invoice are the actual hours and rates worked and paid to the employees listed."

Signed:

Title _____

Date _____

Invoice No. _____

3. Payment by AUTHORITY shall be due within thirty (30) calendar days after receipt of CONSULTANT's correct original invoice (except as provided in paragraph 8 of this Section B, below) in the amount due for all Services performed during the month, pursuant to this ARTICLE III. Payment for Services will represent the value of the completed Scope of Services as measured by expended costs to date.

4. After receipt of the final payment for Services under this AGREEMENT, CONSULTANT shall sign a Release and Certificate of Final Payment in the form set forth in Appendix E hereto.

5. If AUTHORITY disputes any portion of the invoiced amount, AUTHORITY may, in its sole discretion, withhold payment up to one hundred percent (100%) of the disputed amount.

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6. If any disputed amount is determined by a court or arbitrator (as set forth in Article I, Sections 18 and 19) to have been wrongfully withheld, or if CONSULTANT is not paid timely paid as set forth in this Article III, Section B., paragraph 3, AUTHORITY shall pay to CONSULTANT one and one-half percent (1.5%) per month of the wrongfully withheld or untimely amount for each month that payment is wrongfully withheld or not timely paid. In any action for the collection of amount withheld in violation of this provision, the prevailing party shall be entitled to reasonable attorney's fees and costs.

7. The form of CONSULTANT's monthly invoice shall be as mutually agreed upon by CONSULTANT and AUTHORITY.

8. AUTHORITY may request reasonable documentation for certain expense items. In the case of a request for documentation, AUTHORITY shall timely pay all invoiced amounts not subject to such request. AUTHORITY shall pay all undisputed invoiced amounts for which AUTHORITY requested documentation within thirty (30) calendar days of receipt of the requested documentation.

9. The existence of a dispute shall not excuse CONSULTANT or AUTHORITY from continued full and timely performance as required by this AGREEMENT.

C. SUSPENSION OF SERVICES FOR NONPAYMENT

In the event payment for completed Services has not been made within forty-five (45) calendar days from the receipt of the invoice for any undisputed billing, CONSULTANT may, after giving AUTHORITY fifteen (15) calendar days written notice, suspend performance of all Services without penalty or liability of any nature for such suspension. Upon receipt of payment in full for services rendered, CONSULTANT shall recommence performance of the Services.

ARTICLE IV - OBLIGATIONS OF THE CONSULTANT

A. AUTHORIZATION TO PROCEED

CONSULTANT shall not commence any part of the Services until AUTHORITY directs CONSULTANT, by applicable task order, to proceed.

ARTICLE V - OBLIGATIONS OF THE AUTHORITY

A. AUTHORITY-FURNISHED DATA

AUTHORITY will provide CONSULTANT with all technical data in AUTHORITY's possession that it considers relevant to the PROJECT, including, but not limited to, previous reports, maps, surveys, borings, and all other information relating to the Services. CONSULTANT may reasonably rely upon the accuracy, timeliness, and completeness of the information provided by AUTHORITY.

B. ACCESS TO FACILITIES

AUTHORITY will make its facilities reasonably accessible to CONSULTANT as required for CONSULTANT's performance of the Services.

C. TIMELY REVIEW

AUTHORITY will examine the studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, and other consultants as the AUTHORITY deems appropriate; and render, in writing, decisions required of AUTHORITY in a timely manner.

D. PROMPT NOTICE

The AUTHORITY will give prompt written notice to CONSULTANT whenever AUTHORITY observes or becomes aware of any development that affects the scope or timing of CONSULTANT's Services, or any defect in the performance of CONSULTANT.

ARTICLE VI - RESERVED

ARTICLE VII - APPENDICES, SCHEDULES, AND SIGNATURES

This AGREEMENT, including its Appendices, constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

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The following Appendices are hereby made a part of this AGREEMENT:

- Appendix A: SCOPE OF SERVICES
- Appendix B: KEY PERSONNEL
- Appendix C: SCHEDULE OF SERVICES
- Appendix D: COMPENSATION
- Appendix E: RELEASE AND CERTIFICATE OF FULL PAYMENT

IN WITNESS WHEREOF, AUTHORITY has by order caused the AGREEMENT to be subscribed by the binding authority of the AUTHORITY and CONSULTANT has caused the AGREEMENT to be subscribed on its behalf by duly authorized signees.

CONSULTANT:

[FIRM]
a [STATE of FIRM] professional services
corporation

AUTHORITY:

SAN FRANCISCO BAY AREA WATER
EMERGENCY TRANSPORTATION
AUTHORITY

By: _____

By: _____

Name: _____

Title: _____

Recommended:

By: _____

Name: _____

Title: _____

Approved as to form:

Legal Counsel to Authority

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APPENDIX A

SCOPE OF SERVICES

**SAN FRANCISCO BAY AREA
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APPENDIX B

KEY PERSONNEL

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APPENDIX C

SCHEDULE OF SERVICES

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APPENDIX D

COMPENSATION

**SAN FRANCISCO BAY AREA
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APPENDIX E

FORM OF RELEASE AND CERTIFICATE OF FINAL PAYMENT

CONSULTANT: [FIRM]

With reference to the AGREEMENT dated _____, 20__ (“AGREEMENT”), and each and every amendment thereto, between [FIRM] (“CONSULTANT”) and SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY (“AUTHORITY”) for [SERVICES AND PROJECT], California, CONSULTANT hereby certifies and represents that it has made full payment to all persons and entities of all costs, charges and expenses incurred by it or on its behalf for labor, services, equipment and materials supplied to CONSULTANT by such persons and entities in connection with its performance of services under said AGREEMENT.

CONSULTANT further certifies that to its best knowledge and belief, each of its subconsultants and suppliers has made full payment of all costs, charges and expenses incurred by it or on its behalf of work labor, services, materials and equipment supplied and/or used by it in connection with CONSULTANT's performance of services under said AGREEMENT.

In consideration of the receipt, which receipt is hereby acknowledged, of an aggregate amount of \$ _____ for all Services performed pursuant to the AGREEMENT, including the adjusting payment, CONSULTANT hereby unconditionally and fully releases and forever discharges AUTHORITY and its officers, employees, agents, premises and property from all claims, liens and obligations of every nature, presently known or unknown, arising out of or in connection with the performance of said AGREEMENT and all amendments thereto. CONSULTANT expressly waives all rights or benefits which it now has, or in the future may have, under the terms of Section 1542 of the Civil Code of the State of California, which provides as follows:

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A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known to him must have materially affected his settlement with the debtor.

As additional consideration for all payments mentioned above, including the final adjusting payment, if any, CONSULTANT agrees to indemnify and hold harmless AUTHORITY from and against all costs, losses, damages, claims, causes of action, judgments and expense, including attorneys' fees, arising out of or in connection with claims against AUTHORITY which arise out of the performance of the work under the AGREEMENT and which may be asserted by CONSULTANT or any of its suppliers, subconsultants of any tier, or any of their representatives, officers, agents or employees.

Nothing contained in this Release and Certificate of Final Payment shall have any effect upon, nor be construed in any way to relieve CONSULTANT of its obligations under the provisions of the above AGREEMENT, as amended, which by their nature survive completion of the Services including, without limitation, warranties, guaranties and indemnities.

Executed this ____ day of _____, 20__.

[FIRM]

By _____

Name _____

Title _____

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-END OF RFQ ATTACHMENTS-