

STAFF REPORT FOR CALENDAR ITEM NO.: 11
FOR THE MEETING OF: May 8, 2014

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorizing the Executive Director to execute a Professional Services Agreement with Ross & Baruzzini for the development of Safety & Security Concept of Operations documentation and other related consulting services (Services) for the Transbay Transit Center Program (Program), for an amount not to exceed \$700,000 and a three (3)-year term, with an option to extend the term for an additional three (3) years.

EXPLANATION:

To ensure the safety and security of the passengers, employees, transit operators, tenants, retailers, visitors, and other members of the public using the Program facilities, the Transbay Joint Powers Authority (TJPA) requires a Safety & Security Concept of Operations (ConOps) and related documentation.

Agencies such as the Metropolitan Transportation Commission, BART, AC Transit, San Francisco Municipal Transportation Agency (SFMTA), Caltrans, San Francisco International Airport, United States Coast Guard, Federal Highway Administration California Division, and General Services Administration prepare ConOps to describe how security and other systems and procedures are expected to operate in their intended environments and use the ConOps to support the validation of the system, training, and users and maintenance manuals.

The Safety & Security ConOps for the Program will, among other things, identify operational measures, procedures, and responses in the event of a safety threat, such as a fire, medical emergencies, or crime, at the Transbay Transit Center. The ConOps will identify and document a plan for coordination and cooperation related to the safety and security of the Program facilities among the TJPA, authorities having jurisdiction (e.g., San Francisco Police Department, San Francisco Fire Department), transit operators using the Transit Center, neighboring property owners, and other stakeholders. The ConOps will ensure that the TJPA is meeting federal, state, and local regulations that may impose safety and security requirements on the TJPA. The ConOps will also support the TJPA's application for designation and/or certification under the Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (the SAFETY Act), as well as applications for federal, state, and local funding to assist in implementation of safety and security measures for Program facilities. The ConOps will be responsive to the phased design, construction, and occupancy schedule for the Program.

Level One Services comprise the main required services under the Agreement. The major tasks included in the Level One Services are as follows:

Safety & Security ConOps documentation
Recommended implementation schedule

- Recommended security staffing plan for the facilities
- Estimated implementation cost
- SAFETY Act application assistance
- Funding opportunities assistance
- Emergency Operations Plan

Level Two Services comprise certain additional services that may be required by the TJPA. The major tasks included in the Level Two Services are as follows:

- Business Continuity Plan
- Additional funding opportunities assistance
- Additional staffing plan analysis
- Assistance with RFPs for any needed security related services
- Trainings/certifications
- Other additional services

On September 27, 2013, an announcement of the Request for Proposals (RFP) for professional services appeared in the *San Francisco Examiner* and was posted on the City Purchaser's Bids and Contracts website. On the same day, the TJPA posted the RFP on its website for the public to view and print and sent announcements of its availability to 40 contacts compiled from the TJPA's targeted list from website sign-ups and firms supplied to the TJPA from its security consultants, as well as the TJPA's internal list of 639 self-identified firms requesting to receive information from the TJPA on all Professional Services RFPs. As described in the RFP, the TJPA sought consultants with expertise in the development of Safety and Security ConOps documentation and other related consulting services.

On December 2, 2013, five proposals were received in response to the RFP. A selection committee of staff from the TJPA; Ducibella Venter & Santore and URS Corp, the TJPA's security consultants; Shute, Mihaly & Weinberger LLP; and the TJPA's Program Management/Program Controls consultant evaluated and interviewed qualified respondents and determined Ross & Baruzzini to be the highest-ranked respondent. The selection committee's report is attached.

Ross & Baruzzini has prepared a ConOps for the San Francisco International Airport and has extensive experience in security and emergency response planning for other transit agencies, such as SFMTA, BART, AC Transit, Caltrain, the Federal Transit Administration, Port Authority of New York and New Jersey, Northstar Corridor Rail Project, and Dallas Area Rapid Transit. Ross & Baruzzini team members have supported transit clients throughout California, including BART, SFMTA, Santa Clara Valley Transportation Authority, and Sacramento Regional Transit District, in safety and security planning, implementation, and management services.

Based on the selection committee's recommendation, staff negotiated a Professional Services Agreement with Ross & Baruzzini, and the firm has signed the Agreement. The Agreement is for

a maximum of \$700,000 and a term not to exceed three (3) years, with an option to extend the term for an additional three (3) years by mutual agreement of the parties.

All work under this Agreement shall be compensated on an hourly basis, subject to any maximum price set forth in a particular Notice to Proceed. The total compensation under the Agreement will not exceed \$700,000. The Agreement includes a breakdown of estimated compensation by task to facilitate progress monitoring.

Ross & Baruzzini's proposal included subcontractors CH2M Hill and Catalyst Partners, who will assist in the performance of the Services.

RECOMMENDATION:

Staff recommends that the Board of Directors authorize the Executive Director to execute a Professional Services Agreement with Ross & Baruzzini for an amount not to exceed \$700,000 to provide Professional Services for a three (3)-year term, with an option to extend the term for an additional three (3) years.

ENCLOSURES:

1. Resolution
2. Agreement No. 13-03-OPS-000
3. Selection Committee Report

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, The Transbay Joint Powers Authority (TJPA) is a joint powers agency organized and existing under the laws of the State of California; and

WHEREAS, Pursuant to the Joint Powers Agreement creating the TJPA, dated April 4, 2001, the TJPA has the authority to, among other things, make and enter into contracts and exercise all powers necessary and proper to carry out the provisions of the Joint Powers Agreement; and

WHEREAS, On September 27, 2013, the TJPA issued a Request for Proposals (RFP) No. 13-03 for Professional Services for a consultant to develop Safety & Security Concept of Operations (ConOps) documentation and related consulting services for the Transbay Transit Center Program; and

WHEREAS, On December 2, 2013, the TJPA received five proposals in response to the RFP, and a selection committee evaluated the proposals for technical merit; and

WHEREAS, The selection committee found the proposal submitted by Ross & Baruzzini to be responsive to the RFP and the proposer to be well qualified to perform the scope of services in a cost-effective manner; and

WHEREAS, To ensure the safety and security of the passengers, employees, transit operators, tenants, retailers, visitors, and other members of the public using the Program facilities, the TJPA requires the development of ConOps documentation and other related consulting services necessary for the secure operation of the Program; and

WHEREAS, The Ross & Baruzzini proposal addressed all of the tasks necessary to develop the Safety and Security ConOps documentation and other related consulting services; and

WHEREAS, TJPA staff has negotiated an agreement with Ross & Baruzzini for a term of three (3) years, with an option to extend the term for an additional three (3) years, at a cost not to exceed \$700,000; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to execute an agreement for Concept of Operations and other related services with Ross & Baruzzini, in the amount of \$700,000 for a period of three (3) years, with the option to extend the term for an additional three (3) years.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board at its meeting of May 8, 2014.

Secretary, Transbay Joint Powers Authority

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into as of the 8th day of May, 2014, by and between the TRANSBAY JOINT POWERS AUTHORITY (“TJPA”) and Ross & Baruzzini (“Contractor”).

Recitals

A. The TJPA requires Safety and Security Concept of Operations (“ConOps”) documentation and other related consulting services (“Services”) for the Transbay Transit Center Program (“Program”).

B. The Contractor submitted a written proposal (“Proposal”) in response to the TJPA’s Request for Proposals (“RFP”). Based on that Proposal, the TJPA’s selection committee determined the Contractor to be the highest-ranked respondent to the RFP, and the TJPA invited the Contractor for exclusive negotiations. This Agreement is the product of those negotiations.

C. The Contractor represents and warrants that it is qualified to perform the Services required by this Agreement as set forth in Appendix A (“Scope of Services”).

D. The TJPA and the Contractor intend that this Agreement comply with the regulations of the United States Department of Transportation (“USDOT”) and certain contracting requirements of the City and County of San Francisco (the “City”).

E. On May 8, 2014, the TJPA Board of Directors adopted Resolution No. _____ authorizing the TJPA’s Executive Director to execute this Agreement with the Contractor for the Services.

Now, THEREFORE, the parties agree as follows:

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

Charges under this Agreement will accrue only after prior written authorization certified by the TJPA’s Chief Financial Officer. The amount of the TJPA’s obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

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

The TJPA has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements or Program costs. The TJPA’s budget decisions are subject to the discretion of the TJPA Board of Directors. The Contractor’s assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

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

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be for three years from the Effective Date of the Agreement, as described in Section 3 below, provided that (i) the TJPA shall have the right to extend this Agreement for an additional three years by providing to the Contractor written notice of such extension on or before the expiration of this Agreement, and (ii) any such extension shall be subject to and conditioned upon the written agreement of the Contractor and the approval of such extension by resolution adopted by the TJPA Board of Directors.

3. Effective Date of Agreement

This Agreement shall become effective when the Chief Financial Officer has certified to the availability of funds for the first notice to proceed ("NTP") and the Contractor has been notified in writing via an NTP.

4. Services Contractor Agrees to Perform

The Contractor agrees to perform the services listed in Appendix A, "Scope of Services," attached hereto and incorporated by reference as though fully set forth within. Each NTP shall relate to a specified part of the services, and a not-to-exceed maximum price under that NTP. No NTP can be amended, except in writing and signed by an authorized representative of the TJPA.

To minimize the potential for a conflict of interest or unfair competitive advantage, the Contractor agrees that it shall not enter into a contract with any property owner with respect to any property that is within the Transit Center District without the TJPA's prior written consent, which the TJPA can grant or withhold at its sole discretion.

5. Compensation

All work under this Agreement shall be compensated on an hourly basis, subject to any maximum price set forth in a particular NTP. In no event shall the total compensation under this Agreement exceed Five Hundred Thousand Dollars, (\$500,000) for Level One Services and Two Hundred Thousand Dollars, (\$200,000) for Level Two Services. The breakdown of the Contractor's fees appears in Appendix B, "Fees".

Hourly rates for services are to remain fixed during the entire contract period, including any option periods, except for reasonable cost of living increases.

No charges shall be incurred under this Agreement nor shall any payments become due to the Contractor until the Services required under this Agreement are received from Contractor and approved by the Executive Director as being in accordance with this Agreement. The TJPA may withhold payment to the Contractor in any instance in which the Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

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

6. Guaranteed Maximum Costs

a. The TJPA's obligation hereunder shall not at any time exceed the amount certified by the Chief Financial Officer for the purpose and period stated in such certification, or the maximum price set forth in an NTP with respect to the work covered under that NTP.

b. Except as may be provided by laws governing emergency procedures, officers and employees of the TJPA are not authorized to request, and the TJPA is not required to reimburse the Contractor for, commodities or services in excess of the price set forth in an NTP and in excess of the total compensation under this Agreement as stated in Section 5, unless the changed scope is authorized by written amendment and approved as required by law.

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

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

7. Payment

Invoices furnished by the Contractor under this Agreement must be in a form acceptable to the TJPA and must include a unique invoice number. Invoices shall include the first and last day of a calendar month and be submitted within thirty (30) days of the end of said calendar month. Contractor must submit required DBE Progress Payment Reports with every invoice. All amounts paid to the Contractor shall be subject to audit by the TJPA.

The TJPA shall make payment to the Contractor at the address specified in the Section entitled "Notices to the Parties".

8. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code Chapter 6, Article V, any Contractor, subcontractor, or consultant who submits a false claim shall be liable to the TJPA for three times the amount of damages which the TJPA sustains because of the false claim, plus a civil penalty of up to \$10,000, and other damages as provided by statute. A Contractor, subcontractor or consultant will be deemed to have submitted a false claim to the TJPA if the Contractor, subcontractor or consultant (a) knowingly presents or causes to be presented to an officer or employee of the TJPA a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the TJPA; (c) conspires to defraud the TJPA by getting a false claim allowed or paid by the TJPA; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the TJPA; or (e) is a beneficiary of an inadvertent submission of a false claim to the TJPA, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the TJPA within a reasonable time after discovery of the false claim.

9. Disallowance

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

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

10. Taxes

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

11. Payment Does Not Imply Acceptance of Work

The granting of any payment by the TJPA, or the receipt thereof by the Contractor, shall in no way lessen the liability of the Contractor to correct or revise unsatisfactory work, even though the unsatisfactory character of such work may not have been apparent or detected at the time such payment was made.

12. Qualified Personnel

The Contractor represents and warrants to the TJPA that the Contractor is qualified to perform the services as contemplated by this Agreement. The Contractor further represents and warrants to the TJPA that it has all required licenses and approvals to perform the work contemplated by this Agreement, and that all work performed under this Agreement shall be performed only by personnel under the supervision and in the employment of the Contractor. All personnel engaged in the work shall be fully qualified and shall be authorized, licensed and certified under state and local law to perform such work if authorization, licensing or certification is required. The persons performing professional services under this Agreement on behalf of the Contractor are shown in Appendix C, "Staffing," attached hereto, and shall not be changed or substituted without the prior written consent of the TJPA, but all personnel, including those assigned at the TJPA's request, must be supervised by the Contractor. The Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement.

13. Reserved

14. Independent Contractor, Payment of Taxes and Other Expenses

a. Independent Contractor

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

Any terms in this Agreement referring to direction from the TJPA shall be construed as

providing for direction as to policy and the result of the Contractor's work only, and not as to the means by which such a result is obtained.

b. Payment of Taxes and Other Expenses

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

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

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

15. Insurance

a. Without in any way limiting the Contractor's other indemnification obligations under this Agreement, the Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages.

(1) If required under California law, Worker's Compensation, in statutory amounts, with Employers' liability limits not less than \$1,000,000 each accident, injury, or illness; and

(2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products, and Completed Operations; and

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

(4) Professional Liability Insurance with limits not less than \$1,000,000 each claim, with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

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

(1) Name as Additional Insured the TJPA, its members, directors, officers, agents, and employees.

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

c. All policies shall be endorsed to provide thirty (30) days' advance written notice to the TJPA of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the address specified in the Section entitled "Notices to the Parties".

d. Should any of the required insurance be provided under a claims-made form, the Contractor shall maintain such coverage continuously throughout the term of this Agreement, and without lapse, for a period of three (3) years beyond the expiration of this Agreement, to the effect that, should occurrences during the agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

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

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

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

h. Approval of the insurance by the TJPA shall not relieve or decrease the liability of the Contractor under this Agreement.

16. Indemnification

Contractor shall indemnify and save harmless the TJPA and its officers, directors, agents and employees from, and if requested shall defend them against, any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of the Contractor or loss of or damage to property, arising directly or indirectly from the Contractor's performance of this Agreement, including, but not limited to, the Contractor's use of facilities or equipment provided by the TJPA or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on the TJPA, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this

Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of the TJPA and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and the TJPA's costs of investigating any claims against the TJPA.

In addition to the Contractor's obligation to indemnify the TJPA, the Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend the TJPA from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to the Contractor by the TJPA and continues at all times thereafter. The Contractor shall have the exclusive right to select and retain attorneys to defend against such indemnified claims (subject to the reasonable approval of the TJPA) and the TJPA shall cooperate with the Contractor and its attorneys, at no cost to the TJPA.

The Contractor shall indemnify and hold the TJPA harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by the TJPA, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. Incidental and Consequential Damages

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

18. Liability of TJPA

The TJPA's monetary obligations under this agreement shall be limited to the payment of the compensation provided for in the Section of this Agreement entitled "Compensation". Notwithstanding any other provision of this Agreement, in no event shall the TJPA be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

19. Reserved

20. Default; Remedies

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

(1) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: Payment; Submitting False Claims, Monetary Penalties; Taxes; Insurance; Proprietary or Confidential Information of TJPA; Protection of Private Information; Assignment; Drug-Free Workplace; Compliance With Laws; USDOT Requirements.

(2) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten (10) days after written notice thereof from TJPA to Contractor.

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

(4) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of the Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, or (c) ordering the dissolution, winding-up or liquidation of the Contractor.

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

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

21. Termination for Convenience

a. The TJPA shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience when it is in the TJPA's best interest, which best interest shall be determined at the TJPA's sole discretion. The TJPA shall exercise this option by giving the Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.

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

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

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

(3) Terminating all existing orders and subcontracts.

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

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

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

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

c. Within thirty (30) days after the specified termination date, the Contractor shall submit to the TJPA an invoice, which shall set forth the reasonable cost to the Contractor for all services and other work the TJPA directed the Contractor to perform prior to the specified termination date, for which services or work the TJPA has not already tendered payment. The costs shall be determined as provided in Section 5, and shall be invoiced as provided in Section 7. The Contractor may also recover the reasonable cost of preparing the invoice.

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

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

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

22. Rights and Duties Upon Termination or Expiration

a. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: Submitting False Claims, Monetary Penalties; Disallowance; Taxes; Payment Does Not Imply Acceptance of Work; Responsibility for Equipment; Independent Contractor, Payment of Taxes and Other Expenses; Insurance; Indemnification; Incidental and Consequential Damages; Liability of TJPA; Proprietary or Confidential Information of TJPA; Protection of Private Information; Notices to the Parties; Ownership of Results; Works for Hire; Audit and Inspection of Records; Non-Waiver of Rights; Limitations on Contributions; Modification of Agreement; Administrative Remedy for Agreement Interpretation; Agreement Made in California, Venue; Construction; Entire Agreement; Severability; USDOT Requirements; Prompt Payment of Subcontractors.

b. Subject to the immediately preceding subsection (a), upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. The Contractor shall transfer title to the TJPA, and deliver in the manner, at the times, and to the extent, if any, directed by the TJPA, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to the TJPA. This subsection shall survive termination of this Agreement.

23. Notices to the Parties

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

To TJPA: Ms. Maria Ayerdi-Kaplan, Executive Director
Transbay Joint Powers Authority
201 Mission Street, Suite 2100
San Francisco, CA 94105
(415) 597-4615 fax
MAyerdi-Kaplan@TransbayCenter.org

To Contractor: Mr. Dave Kipp, Senior Vice President
Ross & Baruzzini
6 South Old Orchard Avenue
St. Louis, MO 63119
(314) 918-1766 fax
dkipp@rossbar.com

Any notice of default must be sent by registered mail.

24. Proprietary or Confidential Information of the TJPA

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

25. Protection of Private Information

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

a. Neither the Contractor nor any of its subcontractors shall disclose Private Information obtained from the TJPA or the City in the performance of this Agreement to any other subcontractor, person, or other entity, unless one of the following is true.

(i) The disclosure is authorized by this Agreement;

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

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

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

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

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

26. News Releases/Interviews

All Contractor news releases, media interviews, testimony at hearings and public comment relating to the Transbay Transit Center Program shall be prohibited unless expressly authorized by the TJPA.

27. Ownership of Results

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

28. Works for Hire

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

29. Audit and Inspection of Records

The Contractor agrees to maintain and make available to the TJPA, during regular business hours, accurate books and accounting records relating to its work under this Agreement. The Contractor will permit the TJPA to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. The Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any governmental agency having an interest in the subject of this Agreement shall have the same rights conferred upon the TJPA by this Section.

30. San Francisco Sunshine Ordinance

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

31. Public Access to Meetings and Records

If the Contractor receives a cumulative total per year of at least \$250,000 in TJPA funds or TJPA-administered funds and is a nonprofit organization as defined in Chapter 12L of the S.F. Administrative Code, the Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. The Contractor further agrees to make good faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the TJPA to terminate and/or not renew the Agreement, partially or in its entirety.

32. Subcontracting

The Contractor is permitted to subcontract portions of the services to be performed under this Agreement as follows:

*CH2M Hill
150 Spear Street, Suite 750
San Francisco, CA 94105*

*Catalyst Partners
1250 Connecticut Ave, NW, Suite 825
Washington, DC 20036*

The Contractor will be permitted to subcontract additional portions of the work under this Agreement subject to the prior written approval of the TJPA Executive Director. Subcontractors shall be solely responsible to the Contractor throughout the performance of their services under this Agreement. Assignment by the Contractor of work to subcontractors shall not relieve the Contractor of any obligation to the TJPA for the work performed.

33. Assignment

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

34. Non-Waiver of Rights

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter. There shall be no waiver except in writing, signed by the party to be charged.

35. Services Provided by Attorneys

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

36. Conflict of Interest

Through its execution of this Agreement, the Contractor acknowledges that it is familiar with the provisions of the Conflict of Interest Code of the TJPA; Section 15.103 of the San Francisco City Charter; Article III, Chapter 2 of San Francisco's Campaign and Governmental Conduct Code; and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

37. Limitations on Contributions

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

38. Prohibition on Political Activity with TJPA Funds

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

39. Equal Employment Opportunity/Nondiscrimination; Penalties

a. Contractor Shall Not Discriminate

In the performance of this Agreement, the Contractor agrees not to discriminate against any TJPA or City employee working with such Contractor or subcontractor, applicant for employment with such Contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or Acquired Immune Deficiency Syndrome or Human Immunodeficiency Virus (AIDS/HIV) status, or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor further agrees to

post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor is encouraged to actively recruit minorities and women for its workforce and take other steps, such as on-the-job training and education, to ensure nondiscrimination in the Contractor's employment practices.

b. Subcontracts

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

c. Nondiscrimination in Benefits

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

d. Condition to Contract

As a condition to this Agreement, the Contractor shall execute the appropriate "San Francisco Administrative Code Chapters 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101, HRC-12B-102, or HRC-12B-103) with supporting documentation and file the form with the TJPA Contract Compliance Officer.

e. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. The Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, the Contractor understands that pursuant to Section 12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against the Contractor and/or deducted from any payments due the Contractor.

40. Disadvantaged Business Enterprise (DBE) Requirements

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry

out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the TJPA deems appropriate.

Pursuant to the monitoring requirements outlined in Section XIII of the TJPA's DBE Program (49 CFR 26.37), the Contractor will be required to update and submit the TJPA's "Bidders/Proposers Information Request Form," regardless of DBE participation. Upon award of the contract, the Contractor shall submit the TJPA's "Progress Payment Report" with every invoice, the "Subcontractor Payment Declaration" within five (5) days of each Contractor payment to a subcontractor, and a "Final Expenditure Report" with the completion of the contract.

41. Reserved

42. Prompt Payment to Subcontractors

a. Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay a subcontractor not later than ten (10) days of receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The ten (10) days is applicable unless a longer period is agreed to in writing. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanction and other remedies of that Section. Federal regulation (49 CFR 26.29) requires that any delay or postponement of payment over thirty (30) days of receipt of each payment may take place only for good cause and with the TJPA's prior written approval. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE/SBE and non-DBE/SBE prime contractors and subcontractors.

b. Prompt Payment of Withheld Funds to Subcontractors

If the TJPA requires retainage from the prime contractor and prompt and regular incremental acceptances of portions, as determined by the TJPA of the contract work and retainage is paid to the prime contractor based on these acceptances, then the prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the TJPA. Any delay or postponement of payment may take place only for good cause and with the TJPA's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor's performance, or noncompliance by a subcontractor. This clause applies to both DBE/SBE and non-DBE/SBE subcontractors.

43. Requiring Minimum Compensation for Covered Employees

The Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set

forth. The text of the MCO is available on the Web at <http://www.sfgov.org/olse>. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, Contractor agrees to all of the following:

a. For each hour worked by a Covered Employee during a Pay Period on work funded under the TJPA contract during the term of this Agreement, the Contractor shall provide to the Covered Employee no less than the Minimum Compensation, which includes a minimum hourly wage and compensated and uncompensated time off consistent with the requirements of the MCO. Note that the gross hourly compensation for covered employees is \$12.66 as of January 1, 2014.

If a Covered Employee of a Nonprofit Corporation works in San Francisco, then the gross hourly compensation as of January 1, 2014, is \$11.03 per hour.

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

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

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

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

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

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

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

(5) The right to bar the Contractor from entering into future contracts with the TJPA for three (3) years.

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

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

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

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

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

i. The TJPA may conduct random audits of the Contractor. Random audits shall be (1) noticed in advance in writing; (2) limited to ascertaining whether Covered Employees are paid at least the minimum compensation required by the MCO; (3) accomplished through an examination of pertinent records at a mutually agreed upon time and location within ten (10) days of the written notice; and (4) limited to one audit of Contractor every two years for the duration of this Agreement. Nothing in this Agreement is intended to preclude the TJPA from investigating any report of an alleged violation of the MCO.

j. Any subcontract entered into by the Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. A subcontract means an agreement between the Contractor and a third party which requires the third party to perform all or a portion of the services covered by this Agreement. The Contractor shall notify the TJPA when it enters into such a subcontract and shall certify to the TJPA that it has notified the subcontractor of the obligations under the MCO and has imposed the requirements of the MCO on the subcontractor through the provisions of the subcontract. It is the Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, the TJPA may pursue any of the remedies set forth in this Section against the Contractor.

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

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

44. Requiring Health Benefits for Covered Employees

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

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

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

c. The Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. The TJPA shall notify the Contractor if such a breach has occurred. If, within thirty (30) days after receiving the TJPA's written notice of a breach of this Agreement for violating the HCAO, the Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, the Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the TJPA shall have the right to pursue the remedies set forth in 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the TJPA.

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

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

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

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

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

i. The Contractor shall provide reports to the TJPA in accordance with any reporting standards promulgated by the TJPA under the HCAO, including reports on subcontractors and subtenants, as applicable.

j. The Contractor shall provide the TJPA with access to records pertaining to compliance with HCAO after receiving a written request from the TJPA to do so and being provided at least five (5) business days to respond.

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

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

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

45. First Source Hiring Program

a. Incorporation of Administrative Code Provisions by Reference

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

b. First Source Hiring Agreement

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

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

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

c. Hiring Decisions

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

d. Exceptions

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

e. Liquidated Damages

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

f. Subcontracts

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

46. Reserved

47. MacBride Principles – Northern Ireland

Pursuant to San Francisco Administrative Code Section 12F.5, the TJPA urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The TJPA 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 the Contractor acknowledges and agrees that he or she has read and understood this Section.

48. Drug-Free Workplace Policy

The Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is

prohibited on TJPA premises. The Contractor agrees that any violation of this prohibition by the Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

49. Resource Conservation

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

50. Tropical Hardwood/Virgin Redwood Ban

Pursuant to Section 804(b) of the San Francisco Environment Code, the TJPA urges Contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

51. Preservative-treated Wood Containing Arsenic

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

52. Food Service Waste Reduction Requirements

Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this agreement as though fully set forth. This provision is a material term of this agreement. By entering into this agreement, contractor agrees that if it breaches this provision, the TJPA will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100.00) liquidated damages for the first breach, two hundred dollars (\$200.00) liquidated damages for the second breach in the same year, and five hundred dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that the TJPA will incur based on the violation, established in light of the circumstances existing at the time this agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by the TJPA because of Contractor's failure to comply with this provision.

53. Graffiti Removal

Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business

opportunities and the enjoyment of life; is inconsistent with the City and County of San Francisco's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

The Contractor shall remove all graffiti from any real property owned or leased by the Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of the Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the City's Department of Public Works or the TJPA. This Article is not intended to require the Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include (a) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (b) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. Sections 101 et seq.).

54. Modification of Agreement

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved according to TJPA requirements.

55. Administrative Remedy for Agreement Interpretation

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the TJPA who shall decide the true meaning and intent of the Agreement. Nothing in this Section shall be interpreted as the Contractor waiving any legal rights or remedies to which it is entitled.

56. Agreement Made in California; Venue

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

57. Construction

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

58. Entire Agreement

This Agreement sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in the Section entitled “Modification of Agreement”.

59. Severability

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

60. USDOT Requirements

The provisions contained in “USDOT Requirements for Professional Services Contracts,” attached as Appendix F, are incorporated into this Agreement, and the Contractor agrees to abide by such provisions. Such provisions supplement the provisions in this Agreement, and shall be interpreted in the broadest possible manner to avoid any conflicts. If there is an unavoidable conflict between the USDOT terms and conditions and any other terms and conditions of this Agreement, in the TJPA’s sole determination, the USDOT terms and conditions shall take precedence.

61. Compliance With Laws

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

62. Compliance with Americans with Disabilities Act

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

63. Authority to Execute Agreement

Each individual executing this Agreement, on behalf of one of the parties, represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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

TRANSBAY JOINT POWERS AUTHORITY

Approved as to Form by:

Maria Ayerdi-Kaplan, Executive Director

TJPA Legal Counsel

Transbay Joint Powers Authority
Board of Directors
Resolution No. _____
Adopted: _____
Attest:

Secretary, TJPA Board

CONTRACTOR

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

I have read and understood the Section entitled “MacBride Principles—Northern Ireland”, San Francisco’s statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles

Authorized Signature

6 South Old Orchard
Address

David A. Kipp, PE
Printed Name

St. Louis, MO 63119
City, State, Zip Code

Senior Vice President
Title

(314) 918-8383
Phone Number

Ross & Baruzzini
Company Name

43-0787438
Federal Employer ID Number

PROFESSIONAL SERVICES AGREEMENT

APPENDIX A

SCOPE OF SERVICES

SECTION ONE: Overview

1. Levels of Service.

Ross & Baruzzini (R&B) offers two levels of services: Level One for an amount not to exceed \$500,000—to meet the basic requirements of the procurement, and Level Two for an amount not to exceed \$200,000—additional services to facilitate future public safety and security operations at the Transbay Transit Center (TTC).

2. Meetings and Travel.

Included in R&B's Level One fee are:

- Virtual bi-weekly meetings status presentations with the TJPA project team through the anticipated sixteen (16) month duration of the project.
- Six (6) in-person Stakeholder meetings held in locations to be identified by the project team.

There will be no charge for the costs of the above travel or for time spent in travel.

If TJPA requests additional on-site meetings, TJPA will reimburse for actual travel costs that are pre-authorized in advance and to the extent such costs comply with TJPA's Travel, Business Expense, and Relocation Policy ("Travel Policy"), which is available at http://transbaycenter.org/uploads/2009/10/Travel_Policy_for_TJPA_Consultants_Subs_Rev2009.pdf. For planning purposes, the estimated cost of such meetings is \$1,500.00 each per R&B team member (R&B will normally send two personnel to each meeting).

3. Consultant's Objective.

The base line (Level One) objective of the Ross & Baruzzini team for this project is to deliver to the TJPA industry standard turnkey guidance documents so that the TTC can:

- Immediately commence professional Safety and Security operations that support the mission and vision of the TJPA;
- Have a repository of seminal documents to guide the development of the Safety and Security program at the TTC.
- Identify and document risk-based operational measures to mitigate risk and vulnerabilities to and within TJPA facilities while meeting the multiuse, mixed occupancy, and multimodal public transportation programs and business mission objectives of the TJPA, within the available budget for the project, and responsive to the phased design, construction, and occupancy schedules. In

particular, ensure preparation of appropriate operational response to risks and vulnerabilities identified in the Risk & Vulnerability Assessment (RVA).

- Identify and document a plan for coordination and cooperation among the TJPA, the authorities having jurisdiction (e.g., San Francisco Police Department, San Francisco Fire Department, Department of Homeland Security, and other federal, state, and local agencies), the transit operators using the TTC, neighboring property owners, and other stakeholders, related to the safety and security of the TTC.
- Support the TJPA's application for designation and/or certification under the SAFETY Act.
- Ensure the TJPA is meeting federal, state, and local regulations that may impose safety and security requirements on the TJPA.
- Allow the TJPA to apply for federal, state, and local funding to assist in implementation of safety and security measures for the TTC.

4. Delivery Approach and Schedule.

R&B will pursue an incremental project execution approach that allows us to discover and refine needs – through collaborative charrettes, create operational and functional requirements, build deliverables, review those deliverables with the TJPA team, and then deliver. Each task in the Scope of Services must be pre-authorized by the TJPA by written Notice to Proceed (NTP). R&B's project plan Gantt chart and schedule of values are provided in Appendix B.

While R&B will provide multiple types of deliverables with multiple levels of detail (Directives, Plans, MOUs, Operational Measures with Processes and Procedures) for both internal and external stakeholders, each will provide the following minimal information:

- Purpose of the deliverable
- Applicability and Scope
- Definitions
- Policy/Governance
- Responsibilities of all parties
- Effective Date
- References

All deliverables will be presented in a draft form for TJPA review and approval before finalizing.

To ensure the safety and security of the passengers, employees, transit operators, tenants, retailers, visitors, and other members of the public using the TTC facilities, the TJPA has undertaken and plans to undertake numerous measures, including, but not limited to, preparation of a Safety and Security Management Plan; preparation and update of a Risk and Vulnerability Assessment and Design Guidance Criteria (DGC); preparation of a draft Mass Notification System/Emergency Communication System; and retention of world class architects, engineers, and security subject matter experts to develop drawings and specifications that incorporate the DGC for the program facilities. R&B's services shall be informed by and responsive to these earlier and ongoing efforts by the TJPA. R&B's services shall complement, rather than duplicate, this work.

5. Minimum Expectations in Provision of Services.

In the provision of Services, R&B will provide, at a minimum, the following:

- Close and regular coordination and communication with the TJPA's staff, the design team professionals responsible for the design of the TTC, the TJPA's subject matter experts, the transportation entities utilizing the TTC, emergency responders and authorities having jurisdiction, public and private property stakeholders in the Transbay neighborhood, and other agencies and entities. Subject to the TJPA's prior authorization, the R&B will be expected to identify the appropriate stakeholder representative and achieve each stakeholder's review and concurrence with the operational and other requirements identified in the ConOps.
- Review of design and operations documentation to develop a detailed understanding of the physical plant of the TTC and all of the operational program requirements for the TTC.
- Review and detailed understanding of the agreements with adjacent property owners regarding safety and security matters.
- Review and detailed understanding of the design, construction, and occupancy schedules for the TTC.
- Review and detailed understanding of the RVA and related safety and security documents.
- Review and detailed understanding of the designs produced by the various design team professionals in response to the requirements for enhancing safety and security as stipulated in the RVA DGC.
- Review and detailed understanding of the RVA recommendations for safety and security operations which supplement the "physical" security recommendations identified for implementation by the design teams. (Note: these referenced RVA recommendations are to be considered only a limited subset of those to be developed by R&B.)
- Detailed understanding of the emergency response planning and coordination efforts of the federal, state, and local authorities having jurisdiction in the TTC area.
- Identifying, scheduling, and attending meetings in San Francisco on an as-needed basis.

R&B shall sign and strictly comply with the terms and conditions of the TJPA's Non-Disclosure Agreement.

SECTION TWO: Deliverables (Level One)

R&B will deliver the following Scope of Services:

1. CONOPS DOCUMENT

The Security Concept of Operations (ConOps) will draw together various systems, processes and organizational entities for the purpose of operating a safe, secure, and effective TTC safety and security program. Throughout R&B's development of this deliverable, R&B will continuously seek to achieve three fundamental objectives:

1. Organize, align, and connect stakeholder groups and/or functions;
2. Define operational activities and functions, and improve and enhance relationships, coordination, collaboration, management and response; and

3. Ensure that people, process and technology are merged and synthesized to implement an operational and systems approach to achieve timely and accurate situational awareness, incident management and business process activities.

The subsequent sections of the scope of services illustrate how R&B will author and assemble the key sections of the ConOps deliverable. R&B's work plan assumes we will distribute for review, meet as a group of stakeholders to discuss and make changes to, and ultimately gain concurrence over each major section as we complete them. Once all sections have been reviewed and base-lined, R&B will assemble the approved versions of each section into a single "Transbay Transit Center Security Operations Concept-of-Operations" volume with supporting appendices. R&B will distribute the assembled version of the approved sections to the stakeholder team for another review and final discussions before base-lining the deliverable as the "Final" version.

All documents will be password protected. The final CONOPS and other draft work products and selected documents as determined by the TJPA shall be labeled "For Official Use Only. This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. Government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520."

R&B understands and will be prepared to support the Security Operations ConOps document as a living document, i.e., it will require constant review and revision as stakeholder requirements mature, systems improve, regulatory requirements change, and security needs evolve.

R&B will execute the ConOps development process and deliver a ConOps document as outlined in the Scope of Services above. The document will consist of the following modules:

1.1 Safety and Security Program Mission Statement.

1.1.1 Mission Statement Deliverables.

R&B will deliver a Safety and Security Program Mission Statement that supports the mission and vision of the TJPA (as defined by the Executive Director) and provides guidance necessary to establish and mature the Safety and Security ConOps and Program. R&B will review the initial version with the TJPA, amend it as directed, and republish the approved version before R&B commences work on other deliverables under the SOW. Once these other deliverables are completed, R&B will work with the TJPA to revisit the Mission Statement to determine and incorporate changes to it resulting from R&B's work to complete and gain TJPA and stakeholder acceptance of R&B's other deliverables. The Safety and Security Program Mission Statement will clearly define the scope and purpose of the Program and will provide language that will help future managers allocate resources effectively and create viable performance metrics.

1.2 Security Governance and Cooperation Plan.

1.2.1 Governance Committee.

R&B will recommend a security governance committee structure, and identify the requirement for each Governance Committee position. R&B will work closely with the TJPA and other stakeholders, selected at the TJPA's discretion, to plan a framework for governing security policies and procedures at the TTC. This plan will illustrate and describe a governance committee hierarchy, membership, chairmanship, delegated authorities and responsibilities, and internal and external lines of reporting. The plan will contain rules and the prerequisite qualifications for each committee position. R&B will develop these positions with the understanding they will not likely exist within the TJPA during this project. R&B will also develop an initial National Incident Management System/Incident Command System (NIMS/ICS) organization structure that includes position descriptions, qualifications and training requirements.

1.2.2 Governance and Cooperation Documents.

R&B will develop security governance documents and templates using industry best practice models to guide stakeholder support to the TTC and the reciprocity the stakeholder should expect from the TTC. Where stakeholders exist, R&B will ensure those agreements reflect the actual support required as defined by the ConOps process. R&B will facilitate and codify these agreements—Contracts, Letters of Intent, Mutual Aid Agreements, Cooperation Agreements, Memoranda of Understanding, etc., to build a library from which the Security Governance Committee can refer when discharging its responsibilities.

1.2.3 Governance Scope and Deliverable.

R&B will facilitate meetings, interviews and processes necessary to:

- 1.2.3.1** Develop security governance program and documents with an emphasis on current industry best practices. Ensure that documentation is provided to describe how the initial Security/Public Safety Operations Governance Committee would be selected, and what additional policies, rules, and procedures for its operation they would need to develop and codify.
- 1.2.3.2** Identify and document current and potential future stakeholders, their roles and responsibilities and the detail of the support they provide to or require from the TTC during normal, emergency and training evolutions. Include information and resource sharing requirements.
- 1.2.3.3** Design a specific template for welcoming and integrating the needs of new security operations stakeholders over the course of the construction and operation of the TTC.

1.3 Implementation Schedule

Please see Paragraph 2, "Recommended Implementation Schedule".

1.4 Operational Measures.

The Operational Measures Sections of the ConOps Document will include at a minimum the following functional requirement components:

- Support for the implementation of the Transbay program Emergency Communication System/Mass Notification System (ECS/MNS) as informed by the Emergency Operations Plan (EOP)
- Natural and man-made disaster responses
- Key and Locksmith management to maintain control of access
- Personnel/employee background screening as part of a Trusted Access Program
- ID badge/access control credential issuance, use, and control as part of a Trusted Access Program, and any associated biometric enrollments
- Video surveillance, including the use of video analytics to support crime prevention business mission continuity and CBRN event mitigation
- Passenger, cargo, and baggage/package search and screening protocols and integration as part of a Trusted Access Program
- Safety and security related to parking and vehicle queuing operations
- Recognition and management of suspicious behavior and contraband
- Public awareness and reporting (e.g., “See Something, Say Something”)
- Crowd management and control
- Special events and venue management from a safety and security perspective
- Territorial reinforcement and control of restricted areas
- Intrusion deterrence, detection, assessment, and response
- Rules and regulations for facility use by transit passengers, transit operators, tenants, retailers, and members of the public
- Operation of gates, doors, elevators, escalators, stairways, bollards, fencing, ventilation, lighting, and similar facility protective design features and systems
- Operation and control of ventilation and exhaust systems from a fire and CBRN management perspective
- Business continuity contingency planning
- Information/data collection, storage and retention from an information integrity and non-disclosure perspective
- Generator diesel fuel delivery and storage
- Security and life-safety related static and dynamic (electronic/user programmable) signage and message board deployment and response
- Theft, including entity assets, public assets and inventory management (except retail theft and inventory control)
- Graffiti and vandalism management
- Lost and Found management
- Waste management from a safety and security perspective
- Utilities interruption and safety and security affects and responses
- Artwork protection
- ECS/MNS programming to affect the ConOps recommended decision support template for the range of emergency response events.

R&B will provide the following Operational Measures deliverables. (Note, this list corresponds to the Operational Measures identified in Attachment 7 of the RFP.)

1.4.1 Policies and Procedures (roles and responsibilities, communications plan) for incident detection, incident response and incident management, including command and control protocol.

1.4.1.1 R&B will prepare Policies and Procedures templates that identify the steps necessary for day-to-day policing and incident response at the TTC, and recommend an organizational structure to implement such. R&B understands that, currently, there is no Security & Public Safety Planning position within the TJPA who is typically responsible for establishing and maintaining incident response procedures such as Action Plans. Therefore, R&B will work with the TJPA to develop the policies and procedures to craft templates for such plans in the absence of this position.

1.4.1.2 Deliverables in this section will include Incident Action Plan templates, TTC Safety and Security position descriptions, and position specific checklists supporting command and control protocols. Included also will be protocols on the operation of gates, doors, elevators, escalators, stairways, bollards, fencing, ventilation, lighting, and similar facility protective design features and systems.

1.4.2 Strategic approach to policing and security of Transbay facilities including use of TJPA directed/deployed security/guard forces, local law enforcement including the San Francisco Police Department (SFPD) and transit operators' security personnel and programs.

1.4.2.1 R&B will organize and conduct workshops with the TJPA, local public safety and law enforcement entities, and stakeholders' security/police forces. Workshops, meetings, and interviews will be organized to maximize participation in the development of the Public Safety and Security Operations ConOps and the sections pertaining to the TTC's day-to-day policing and protective functions. R&B will facilitate this process and will deliver documentation that will guide the eventual TJPA security team in sharing situational awareness and coordinating policing activities, and sharing intelligence collection information with local stakeholders to improve performance and mitigate gaps in protection.

1.4.3 Site-wide Communications.

1.4.3.1 Systems supporting each of the project entities.

Please refer to paragraph 1.4.6 regarding the development of Systems ConOps.

1.4.3.2 Internal, external, partner/stakeholders interoperability.

R&B will assess the capabilities of the TTC's planned and stakeholder's legacy radio and mobile data communications systems. This assessment will begin by meeting with and collecting radio system design information from: each of the stakeholder transit agencies; the City/County of San Francisco police, fire, EMS, and public works departments; and appropriate state and federal agencies. R&B will analyze how the TTC and its security functions will coordinate with and/or impact stakeholder interoperability. From these meetings, document reviews, and a conceptual understanding of the Security Operations within the TTC, R&B will prepare and discuss with the TJPA and appropriate stakeholders a notional radio communications networking and interoperability plan, and associated reprogramming, reconfiguring, and/or additional communications equipment, for security protective/policing and incident response functions.

1.4.4 Rail and Bus Transit Interactions.

1.4.4.1 Communications protocols.

This task focuses on understanding the current policies and procedures each transit agency uses to interact with other transit agencies, public safety, and public works irrespective of the disparate carriages each stakeholder uses today or will be used once the TTC is commissioned. To understand current policies and procedures, R&B will:

- Conduct a set of business process analyses (BPAs) meetings with TTC stakeholder transit operators to determine the security procedures for intra-agency dispatch fleet and rail control operations, and inter-agency coordination at and around the TTC, during normal service, general emergencies (earthquakes), maintenance problems such as breakdowns, special events, and public safety incidents (e.g. assaults, Amber alerts, fare jumpers).
- Collect and analyze existing written Policies and Procedures associated with these intra-agency and interagency communication flows. Highlight areas where written procedures differ from stakeholder interviews.
- Create a gap analysis where stakeholder protocols leave the TJPA with an identified vulnerability (i.e., monitoring passengers and bags originating from the stakeholder entities and arriving at the Transit Center without stakeholder monitoring).
- Create flow charts or other suitable approaches for depicting the current state of these relevant procedures (estimating 6 agencies x 5 business processes analyzed = 30 BPAs).
- Create flow charts or other suitable approaches for depicting the future state of these same procedures considering the inclusion of the TTC and the public safety/security operation established under the TJPA.
- Create rules and regulations for facility use by transit passengers, transit operators, tenants, retailers, and members of the public.

1.4.5 Manpower (resource planning such as recommended staffing levels, post positions, and advice regarding law enforcement guard services versus contract guard services).

Please refer to “Recommended Staffing Plan” Paragraph 3.0.

1.4.6 Safety and security supportive technologies (i.e., selection, use, and deployment of video surveillance, intrusion detection, access control, call for assistance, voice communications, mass notification/emergency communications systems, fire alarm, fire suppression, Chemical Biological Radiological Nuclear (CBRN) detection, vertical transportation, Building Management System (BMS)/smoke management, etc.)

1.4.6.1 R&B will provide operational scenarios (templates) for both policing and incident management through the use of the technologies identified in the design for the TTC. The operational scenarios will consist of step-by-step descriptions of which technologies will be used for specific events, when and how the proposed system of technologies should operate and interact with security personnel and associated stakeholders under different circumstances. Each scenario will describe a sequence of events and activities, specify what triggers the sequence, the steps to be performed (operating procedures), who or what performs each step, when communications occur and to whom or what [e.g., a log file], what information is being communicated, and decision trees or flow charts will be provided of activities per notification and required response activities.

1.4.6.2 Examples of operational scenarios may include the use of video surveillance, including the use of video analytics to support crime prevention, business mission continuity, CBRN event mitigation, the management/handling of unattended baggage, recognition and management of suspicious behavior and contraband, among others.

1.4.7 Protective design elements (i.e., operable vehicle arrest devices, closure grills, etc.).

R&B will review the approved TTC Design Guidance Criteria, and ECS/MNS company design documents to determine how each document dictates, affects, and/or interacts with the physical protective design elements being implemented in the current design for the TTC. From this, R&B, through coordination with the TJPA team, will develop the baseline policies and procedures for those protective elements, including intrusion deterrence; detection; assessment; and response. R&B will also address territorial reinforcement and control of restricted areas in support of protective design elements. This will be done for both normal and emergency operations. As part of this work, we will recommend training and exercise programs where both operational and maintenance issues will be addressed and exercised and decision templates will be provided for notification and required response activities.

1.4.8 Training, quality assurance, and enforcement programs for all personnel participating in the ConOps protocols.

R&B will deliver a preliminary training plan that an incoming Chief Security Officer (CSO) can use to coordinate training, and provide training goals for each type of training (foundational, role oriented, and Homeland Security Exercise and Evaluation Program compliant). This plan will identify a process and provide a structure to ensure that training is not only continuous, but the results of the training efforts influence the training plan improvement process, as well as the organizational design and operation of the TTC Security Center. R&B will also provide initial skills assessment check lists with which to assess the proficiency of trainees as well as post assessment check lists for personnel completing each level of training for each position within the center and for all vendors and tenants. R&B will recommend a training records maintenance program supporting this process that will also include retention protocols. See also paragraph 1.5.

1.4.9 Security Operations Center (SOC) and liaison with partners/stakeholder SOCs and Train Operation Centers (TOC), including transportation entities, retail operation (if they have centralized security operations), adjacent stakeholders, governmental entities, park management entities.

Building on the results of the governance development processes and as informed by the Governance Documents, R&B will ensure the ConOps provides recommended guidance to a TJPA CSO with respect to coordination among all partner agencies. This guidance will include recommendations on meeting schedules, meeting agendas, establishing key aspects of coordination, and coordination records management. R&B realize that the current lack of stakeholders will require R&B to act as proxies for positions within the TTC and individual store concessionaires and create coordination documentation for future modification (if necessary) by personnel selected to fulfill those positions.

1.4.10 Vehicle/cargo/mail screening programs.

R&B will utilize R&B's experience, combined with input from the TJPA to create and deliver industry best practices plans, processes, screening protocols, procedures and decision support templates to promote effective screening of vehicles, taxi staging and 'black cars', mail, baggage/package, and cargo entering the property. The templates will consist of descriptive steps and easy-to-follow checklists used during normal policing operations as well incident response.

1.4.11 Trusted Access Programs for persons, vehicles, parcels, baggage, and cargo.

R&B will work with the TJPA to develop the protocols and operational measures for a Trusted Access Program (TAP). A TAP will allow controlled access to pre-screened employees, tenant personnel, vendors, vehicles, taxi staging and 'black cars,' parcels, baggage, and cargo. Pre-screening for employees may include some level of background investigation and identity authentication badging to allow expedited access. R&B's measures will also incorporate provisions to

handle cases where screening/access is denied, to include the capture of identity authentication badges when employees are no longer working at the TTC, and will also include computer access overrides for dismissed employees.

1.4.12 Disaster and emergency management response plans.

R&B will develop an all-hazards basic EOP and Emergency Management Response Plans consisting of procedures set forth in the National Response Framework, National Infrastructure Protection Plan, and NIMS/ICS. Deliverables for this task will include a FEMA, NIMS/ICS, National Response Framework, National Infrastructure Protection Plan, and local emergency management agencies Emergency Operations Plan-compliant document that avoids conflicting with other existing plans that may impact how the TJPA responds and operates in emergencies or sustained security events.

1.4.13 CBRN detection, mitigation, and response plans, including on site initial response and coordinated response with authorities having jurisdiction upon their arrival.

1.4.13.1 This task will be coordinated by R&B's consultant team (acting as the TJPA ICS command staff) through a series of planning meetings involving the TJPA and RVA subject matter experts (SME), and local Fire/HazMat teams and relevant Emergency Management agencies in the region, including the SFPD and Department of Homeland Security SME. Additional agencies that may be included are Sandia National Laboratory, public health, police/sheriff, state police and public works. As a result of these meetings a plan will be developed as an annex to the Emergency Operations Plan that deals specifically with this topic that will include response decision support templates. This section will be completed with the assurance that there will be no conflicts with any existing TJPA emergency operation plans or the in similar plans for TJPA stakeholder response agencies.

1.4.13.2 R&B's approach will also include CBRN laboratory modeling coordination with the San Francisco Fire Department, or the applicable agency guiding the local modeling effort.

1.4.14 Local law enforcement and fire-life safety (FLS) response plans.

Prior to drafting any emergency response plans, R&B will review any existing regional plans to determine what is already in place among agencies participating in the TTC. This information will assist R&B in drafting specific plans for the TJPA without conflicts. R&B's review will include documented meetings with the San Francisco Fire and Police Departments to determine exiting plans as they relate to the TTC, any existing response gaps, and recommended response planning measures to eliminate identified gaps.

1.4.15 Post-construction completion of new retail tenant fit-out/site modification construction management liaison/consequence management.

R&B will deliver a recommended approach based on industry best practices to address the security and public safety needs and capabilities of prospective retail and commercial tenants. The approach will include interfaces, capabilities, and responsibilities expected from the tenant with respect to security within their lease areas and within the TTC's public areas. R&B understands that the plan will have to be developed without the benefit of individual store concessionaries and possibly without the guidance of the retail development manager. R&B intends to collaborate closely with the TJPA and property management experts whom have experience in transit center retail and ensure R&B's deliverables provide the requisite data to allow all parties to commence immediate public safety and security operations, as well as to provide sufficient guidance to facilitate future modifications to support the needs of the final Transit Center concessionaire profile. TJPA will be retaining a Facilities Operator/Master Retail Lessor during the duration of the ConOps development services and that entity will be a resource made available to R&B.

1.4.16 Facility operations management integration.

R&B expects that eventually there will be a TTC Facilities Operator, either a third party or a unit within the TJPA. In either case, R&B will catalog all documents that define the security/public safety needs and capabilities of the security operations team for Facilities Operator's reference. In addition R&B will include the governance documents that define Facilities Operations' role, and language in the ConOps document that defines the shared resources and how mutual support is provided during normal and emergency operations. During R&B's development of the ConOps, R&B will also assume the role of the Facilities Operator to ensure that role is reflected in all public safety and security guidance documents.

1.4.17 Fire evacuation and/or shelter in place management strategies.

R&B will schedule project meetings with the TJPA and local emergency management and public safety (Fire, HazMat, and police) to determine what procedures are already in place. Other sources of information for this task would be the California Department of Transportation and the State of California Motor Carriers Association, which may have existing plans for evacuation routes and methods to achieve them. We will deliver an initial fire evacuation and/or shelter-in-place Transit Center management plan as a component of the Security Operations ConOps.

1.4.18 Park security protocols.

Park security will be a discussion item in R&B's stakeholder workshops. R&B's first requirement will be to understand not only the security and public safety needs of all stakeholders regarding TTC's parkland but the requirements of the City and other regulatory bodies. Based on the security design guidance and the information obtained from stakeholder meetings and available documentation,

R&B will create a set of security protocols for TTC's parkland, including consideration of special events and venue operations such as (day/night) concerts, hours of operation, and pedestrian bridges to adjoining properties to aide in park security protocol planning elements.

1.4.19 Emergency Operations Planning as necessary to inform the implementation of the ECS/MNS.

R&B will work with the ECS/MNS system designer to provide operational input to the final systems design. R&B will identify specific language/scripted messages and recommended decision support templates for significant events in the ECS/MNS.

1.4.20 Media Response Plan.

The R&B developed media response plan will anticipate the formation of a communications group within TJPA, and will contain scripted messages and agency contact information that ensures an accurate media release and saves time. If a joint information center is formed where multiple agencies are involved, the plan will list situations and define what agency will take the lead with regard to media releases.

1.5 Training.

Please also refer to 1.4.8 "Training, quality assurance and enforcement programs for all personnel participating in the ConOps protocols." R&B will develop a master training plan that includes classroom training program models that can be customized for the expected/recommended staffing associated with the TTC's security operations. R&B's training program plan as part of R&B's ConOps deliverable will include curriculum, classes, validation of participant understanding (testing), and hardcopy documentation and electronic media to provide for an ongoing training program. R&B's model will identify a proposed process and structure intended to ensure training is incremental (initial, intermediate, advanced, annual/refresher), role specific, comprehensive and continuous, and its results influence the evolution of the training plan as well as the organizational design and operation of the TTC itself. R&B's program will also include training programs and records maintenance program templates for each role (for all personnel—operations, support, maintenance, etc.).

1.6 Drills and exercises.

R&B will develop a set of operational drills and tabletop exercises to evaluate the proficiency of future staff, transit operators, commercial and retail tenants, neighboring property owners, interactions with first responders, and others, immediately around and within the TTC in the performance of safety and security duties. R&B's exercise plan for the TJPA will include recommendations for the frequency of security operational drills and exercises, their durations, and suggested scenarios that will focus on developing and maintaining staff knowledge of the TTC and plans they may be required to operate with during in an emergency.

1.7 Audits and Quality Control.

Develop a program for periodic audits and other quality control measures to ensure compliance with the ConOps and other safety and security documents. This quality assurance program will identify the personnel required to affect it, the periodicity of its performance, the means to evaluate the results, and a proposed methodology to correct found deficiencies and update the respective ConOps produced by R&B.

R&B will develop broad performance assessment guidance and metrics for the safety and security operation along with specific performance objectives and metrics for each sub-organization and for each individual role/position in the TTC. The performance and quality control tools, processes, audits and metrics, will consider the seminal mission and goals of the TTC, and be informed by the expressed and derived requirements of the stakeholders, the TTC's physical and operational security concerns, and the design and regulation guidance that the TJPA has or will obtain.

1.8 Change Management. Identify a process for resolving and documenting updates and changes in the ConOps over the life of the TTC. Provide guidance regarding appropriate timing for any updates to the ConOps.

The ConOps Plan is only relevant if it is kept current and reflects the lessons learned from exercises and significant events—internal or external. During the course of the development of the ConOps deliverable, R&B will work with the TJPA to establish and formalize a document review, update, configuration management, version control, and redistribution program plan. The plan will be organized with and function within the recommended TTC security governance committee structure established in Section 2. The ConOps itself will be organized and operate so that revisions can be proposed, arbitrated, incorporated, approved, and redistributed in a controlled and thoughtful manner by the Security Governance committee. The plan will address leadership actions, communications, stakeholder engagements, and training requirements. It will also include risks associated with change as well as tangible risk mitigation strategies.

2. RECOMMENDED IMPLEMENTATION SCHEDULE

R&B will develop two schedules for the project. The first presented in the form of a Gantt chart built using Microsoft™ Project (Current version or previous version acceptable), for the key delivery elements of the CONOPs process, as identified elsewhere in this document and reflecting the development and integration of the Security Operations ConOps and corresponding with the TTC's current phased construction and operation timeline. R&B will periodically review this project schedule with the TJPA to confirm that the pace and outputs of R&B's work meet the TJPA's expectations. This schedule will highlight meetings required, the submission and review of draft versions of, and finalization and resubmission of final versions of, the ConOps and other deliverables the TJPA expects from us through this engagement.

The second schedule will be for implementation of the ConOps, which also will acknowledge the phased construction and operation of the TTC, and will provide a recommended schedule to assist the TJPA in preparing to implement the ConOps modules. R&B's implementation schedule will

be guided by the various facility and systems design packages either underway or scheduled and will be prepared with the contractual constraints related to the TJPA Chief Security Officer position in mind. These considerations include establishment of the position, security and policing strategy, outsourcing requirements and potential Request for Proposal (RFP) development.

3. RECOMMENDED STAFFING PLAN

R&B will conduct a security staffing analysis using current industry transit center security models as a benchmark. The staffing model will be guided by the results of the ConOps process and by TJPA's financial and operational considerations, and will take into account the availability of local law enforcement resources and contract guard services. The model will be responsive to the phased design, construction and operation of the program, and will include all positions in the TTC.

R&B will deliver two (2) security staffing recommendation for Level One (by October 2014) and one (1) alternative in Level Two that will be balanced between law enforcement staff and contract resources and will identify the roles for each position in the TTC, provide a description for each of the roles, their minimum qualifications, certifications, and the level of training required for candidates to be selected for the role. R&B will also prepare and present in the ConOps a summary of the operational and financial (benefits and detriments) tradeoffs between law enforcement vs. contracted guard services, as well as other data necessary to assist TJPA negotiate greater SFPD support to reduce cost to the TJPA.

4. ESTIMATED IMPLEMENTATION COST

R&B, in close coordination with the TJPA team, will develop an estimated implementation cost, in a format acceptable to the TJPA that considers the phased construction and operations of the TTC facilities and will provide costs associated with the implementation of the organizational design element and plans and protocols identified in the ConOps. The cost estimate will include magnitudes of probable costs for accomplishing the tasks/activities and any related systems and/or equipment identified in the ConOps.

5. SAFETY ACT APPLICATION

R&B will assist the TJPA with their application for SAFETY act certification/designation for the Transbay Transit Center facilities. R&B will assist in the generation of the necessary documentation required for application and conduct the necessary coordination with the Department of Homeland Security to ensure the application is complete.

6. FUNDING OPPORTUNITIES

R&B will, in close coordination with the TJPA team, assist the TJPA effort to identify and apply for funding opportunities that will support the implementation of the ConOps and other safety and security measures for the TTC. R&B will assist the TJPA in applying for one funding opportunity in Level One Services and two opportunities for Level Two services.

7. EMERGENCY OPERATIONS PLANS

R&B will coordinate with all relevant internal and external stakeholders to develop an EOP as necessary to support and program the ECS/MNS. R&B will also work with the ECS/MNS Integrator to create an on operation system responsive to the EOP. Please see 1.4.12 for additional details. Additionally, please also refer to Appendix D, “Emergency Operations Plan Sample Outline.” (Note, while not specifically listed, the plan will identify procedures for Notification, Deactivation and Reconstitution.)

SECTION THREE: Additional Services – Level Two

The following additional services and deliverables (Level Two) may be authorized by TJPA. R&B will:

- Develop a complete Business Continuity Plan (BCP)
 - Utilizing BCP standards for the transportation security industry, create a BCP that is specific to the needs of the TJPA security and public safety continuity of operations requirements. The BCP will guide the TJPA in transitioning Public Safety and Security operations to an alternative site, with loss of critical capabilities, in the event of a natural or manmade incident that precludes the execution of the mission from the TTC Security Operations Center. Refer to outline in Appendix E, “Business Continuity Plan Sample Outline.”
- Assist in the identification of and application for two additional funding opportunities.
- Provide one additional staffing recommendation created using the same methodology as the earlier model.
- Provide Staffing Procurement Assistance.
 - This assistance would include managing job or RFP advertisements, reviewing applications and/or proposals, interviewing candidate/companies and recommending candidates/companies to the TJPA for consideration.
- Provide additional training to assist Command and General staff in obtaining NIMS/ICS certification.
- Provide services as necessary to expand select ConOps documents beyond the minimal level required to support startup operations. These services will be provided on per document basis and will require the mutual agreement of R&B and the TJPA as to the scope of the work required.

SECTION FOUR: Assumptions

1. Ross & Baruzzini will invoice in accordance with a Schedule of Values (see Appendix B).
2. The TJPA will provide R&B timely access to all relevant documents, spaces, and stakeholders required to accomplish the scope of services.
3. All Stakeholder meetings will be hosted at TJPA facilities.
4. No technical specifications or signed and sealed engineering documents will be required from R&B for this scope of services.

5. Design, Procurement and Construction Administration are not included in this scope of work.
6. Design changes initiated after contract may result in change orders.
7. Ross & Baruzzini will not provide any law enforcement training in this project with the exception of inviting public safety agencies to be player participants in all TJPA exercises within the scope services.
8. Due to the significant size and scope of the final deliverable, it is assumed for its proposal that Ross & Baruzzini shall submit to the TJPA 100% draft versions of individual major sections for the ConOps deliverable for review and comment. (Ross & Baruzzini will also distribute these sections directly to specific stakeholders at the TJPA's discretion and direction.) Our work plan assumes the TJPA will collect, consolidate, and return to Ross & Baruzzini within ten (10) business days after receipt of the 100% draft, a single composite set of review comments from the stakeholders and from its own organization. Ross & Baruzzini will arrange for a meeting, held either via telepresence or on site at the TJPA offices, attended by knowledgeable representatives from the TJPA and the TTC's stakeholders, to review and come to mutual agreement on what comments should be incorporated into the 100% draft and how to most appropriately incorporate them. Ross & Baruzzini will incorporate those comments vetted through this preceding meeting into the 100% draft version and consequently consider the section as a 100% "Pre-Final" version.
9. Once all 100% draft sections of the ConOps deliverable have been reviewed and brought to their respective 100% Pre-Final levels, Ross & Baruzzini will assemble the ConOps deliverable into a complete, 100% Pre-Final version and distribute it to the TJPA and its selected stakeholders for a final review. Ross & Baruzzini proposal assumes (1) this second review/comment cycle will be restricted to how cohesively the entire ConOps document has been assembled from the individual, previously reviewed and commented, 100% Pre-Final sections, and (2) the TJPA shall serve as the arbiter between Ross & Baruzzini and the various stakeholders to consolidate and finalize the review of the ConOps document.

PROFESSIONAL SERVICES AGREEMENT

APPENDIX B

FEES

SCHEDULE OF VALUES:

Level One

Paragraph	Module	Schedule	Value (\$)
N/A	Kick Off Mtg	5/23/14	5,000.00
N/A	Document Review & Constraints Documentation	5/19-6/19/14	5,000.00
3.0	Staffing plan (2)	6/19-9/10/14	10,000.00
N/A	Initial Stakeholder Mtg & Document Stakeholder Needs/Capabilities	6/16-8/14/14	10,000.00
1.1	Safety & Security Program Mission Statement	7/18-7/29/14	3,000.00
2.0	Recommended Implementation Schedule	8/14-9/4/14	2,000.00
1.4.1.1	Develop Core Business Processes and Procedures	8/28-11/11/14	32,000.00
1.2	Security Governance & Cooperation Plan	5/19-12/25/14	50,000.00
1.4.8, 1.5	Training, QA, & Enforcement Plans	5/19-7/13/14	42,000.00
5.0	SAFETY Act Application	8/1/14-2/3/15	35,000.00
6.0	Funding Opportunities	7/15/14-12/5/14	4,000.00
1.4.12, 1.4.19, 7.0	Emergency Operations Plan	8/28/14-2/19/15	50,000.00
1.4.1.2	Policies & Procedures for Incident Response/Mgmt Plans	8/28/14-1/1/15	20,000.00
1.4.2	Strategic Policing Coordination Plan	12/26/14-3/15/15	5,000.00
1.4.3	Site-wide Communication Plans	8/18-12/16/14	10,000.00
1.4.4	Rail & Bus Transit Interactions Protocols	12/17/14-2/5/15	6,000.00
1.4.6	Safety & Security Supportive Technology ConOps and Protocols	6/19/14 -4/1/15	36,000.00

Paragraph	Module	Schedule	Value (\$)
1.4.7	Protective Design Elements Plan	1/2-3/17/15	30,000.00
1.4.9	SOC/ TOC Stakeholder Coordination/Liaison Plan	12/26/14-2/4/15	12,000.00
1.4.10	Vehicle/Cargo/Mail Screening Plan	7/1/15-7/15/15	10,000.00
1.4.11	Trusted Access Program	6/19-11/17/14	35,000.00
1.4.15	Post-construction Retail Tenant Security Plan	8/28-10/27/14	4,000.00
1.4.16	Facility Operators Security Guidance Document	12/17-2/16/14	8,000.00
1.4.14	Local Law Enforcement and FLS Response Plans	8/28-10/6/14	6,000.00
1.4.18	Park Security Protocols/Plan	8/14-9/17/14	15,000.00
1.4.20	Media Response Plan	8/28-10/3/14	5,000.00
1.6	Drill and Exercises	8/14-10/20/14	20,000.00
1.7	Audits & Quality Control Process/Plan Protocols	11/11/14-12/5/14	23,000.00
1.8	Change Management Plan	11/12/14-1/8/15	4,000.00
1.0	ConOps Document	7/14/14 -10/420/15	3,000.00
Total			500,000.00

Level Two

Section Three

	Module	Schedule	Value (\$)
	Business Continuity Plan	11/25/14-2/13/15	50,000.00
	Coordinate Two Funding Applications		10,000.00
	Provide One Addl. Staffing Recommendations		5,000.00
	Provide Procurement Services		45,000.00
	Provide Training to Assist with NIMS/ICS Staff Certification		30,000.00
	Provide additional services to expand modules as required by TJPA		60,000.00
Total			200,000.00

ID	Task Name	Duration	Start	Finish	Predecessors	Mar '14	Apr '14	May '14	Jun '14	Jul '14	Aug '14	Sep '14	Oct '14	Nov '14	Dec '14	Jan '15	Feb '15	Mar '15	Apr '15	May '15	Jun '15	Jul '15	Aug '15	Sep '15	Oct '15	Nov '15	D
268	Create a Business Continuity Plan -- Page 20 -- Level Two Services	59 days?	Wed 11/12/14	Mon 2/2/15																							
269	Review documentation from previous Modules	1 day?	Wed 11/12/14	Wed 11/12/14	72																						
270	Set up and convene Business Continuity Meeting with TJPA	2 days	Thu 11/13/14	Fri 11/14/14	270																						
271	Document TJPA Guidance	10 days	Mon 11/17/14	Fri 11/28/14	271																						
272	Generate BCP	30 days	Mon 12/1/14	Fri 1/9/15	272																						
273	Forward Plan to TJPA for review and obtain review comments	10 days	Mon 1/12/15	Fri 1/23/15	273																						
274	update plan	5 days	Mon 1/26/15	Fri 1/30/15	274																						
275	Publish a TOC Business Continuity Plan	1 day?	Mon 2/2/15	Mon 2/2/15	275																						
276																											
277																											
278	Create a Drills and Exercise Plan and Drills and Exercises for TCC Stakeholders -- Page 18 of Appendix A.	48 days?	Thu 8/14/14	Mon 10/20/14																							
279	Review documentation from previous modules	1 day?	Thu 8/14/14	Thu 8/14/14	49																						
280	Generate plan and drills and exercises	30 days	Fri 8/15/14	Thu 9/25/14	279																						
281	Review with TJPA	1 day?	Fri 9/26/14	Fri 9/26/14	280																						
282	obtain input	10 days	Mon 9/29/14	Fri 10/10/14	281																						
283	Update documents	5 days	Mon 10/13/14	Fri 10/17/14	282																						
284	Publish Plan/Drills/Exercises	1 day?	Mon 10/20/14	Mon 10/20/14	283																						
285																											
286	Develop TCC ConOps QC Process/Plan -- Page 18 (7) of Appendix A.	18 days?	Wed 11/12/14	Fri 12/5/14																							
287	Review Documentation from Previous Modules	1 day?	Wed 11/12/14	Wed 11/12/14	72																						
288	Generate ConOps Quality Control Plan	5 days	Thu 11/13/14	Wed 11/19/14	287																						
289	Review Plan with TJPA	10 days?	Thu 11/20/14	Wed 12/3/14	288																						
290	Update plan	1 day?	Thu 12/4/14	Thu 12/4/14	289																						
291	Publish TCC SOC ConOps QC Plan	1 day?	Fri 12/5/14	Fri 12/5/14	290																						
292																											
293	Develop a Change Management Plan -- Page 18 of Appendix A.	46 days?	Wed 11/12/14	Wed 1/14/15																							
294	Review documentation from previous Modules	1 day?	Wed 11/12/14	Wed 11/12/14	72																						
295	Develop Change Management Protocols	30 days	Thu 11/13/14	Wed 12/24/14	294																						
296	Review Protocols with TJPA	10 days?	Thu 12/25/14	Wed 1/7/15	295																						
297	Incorporate Protocols into ConOps	5 days	Thu 1/8/15	Wed 1/14/15	296																						
298																											
299	Create ConOps Document -- Page 6 of Appendix A.	337 days?	Mon 7/7/14	Tue 10/20/15																							
300	Assemble all Security and Public Safety Plans within a draft ConOps Document	300 days	Mon 7/7/14	Fri 8/28/15																							
301	Create Introduction and Methodology Preamble sections	1 day	Mon 8/31/15	Mon 8/31/15	300																						
302	Forward draft to TJPA for review and Comment	10 days	Tue 9/1/15	Mon 9/14/15	301																						
303	obtain comment and update document	10 days	Tue 9/15/15	Mon 9/28/15	302																						
304	Forward Document to TJPA for Second Review	10 days	Tue 9/29/15	Mon 10/12/15	303																						
305	Obtain comment and Update Document	5 days	Tue 10/13/15	Mon 10/19/15	304																						
306	Publish ConOps Document	1 day?	Tue 10/20/15	Tue 10/20/15	305																						



Project: TJPA Work Plan 041814 to TJ
Date: Sun 4/20/14

Task		Summary		External Milestone		Manual Task		Manual Summary		External Tasks		Deadline	
Split		Project Summary		Inactive Milestone		Duration-only		Start-only		External Milestone			
Milestone		External Tasks		Inactive Summary		Manual Summary Rollup		Finish-only		Progress			

PROFESSIONAL SERVICES AGREEMENT

APPENDIX C

STAFFING

Key Personnel	Role	Raw Rate/Hr
Dan Proctor, R&B	PM	\$86.54
Stacey Black, CH2M Hill	Security Consultant	\$70.00
Bernie Grotewiel	Security Consultant	\$55.77
Ann Barry, R&B	Technology Consultant	\$88.94
David McWorter, Catalyst	SAFETY Act Consultant	\$60.00
Akmal Ali, Catalyst	SAFETY Act Consultant	\$60.00
John Simon, CH2M Hill	Emergency Planning Consultant	\$60.00
TBD	Project Coordinator	\$20.53

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APPENDIX D

EMERGENCY OPERATIONS PLAN

SAMPLE OUTLINE

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APPENDIX E

BUSINESS CONTINUITY PLAN

SAMPLE OUTLINE

[Client Name]

Business Continuity Plan

[Date]

Version [#]

For Official Use Only

DISCLAIMER

Promulgation Statement

This Business Continuity Plan has been prepared for [Client Name] and reviewed by [Authority]. The information included in this plan is business confidential and the responsibilities, authorities, and priorities are for use only after an incident as defined in this plan.

[Name]

Date

[Title]

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1.0 BUSINESS CONTINUITY PLAN INTRODUCTION

The purpose of this business continuity plan (BCP) is to support the overall mission of [Client Name] and to provide tools and procedures to maintain viable strategies for business continuity and continuity of services in the wake of an event that poses an unacceptable risk of business and/or operational disruption to [Client Name]. Specifically, the purpose includes the following:

-

Overview of BCP

- Introduction -
- Concept of Operations -
- Mission Essential Functions -
- Critical Resources -
- Vital Records and Data -
- Alternate Facilities -
- Delegation of Authority -
- Succession Planning -
- Alert Notification Procedures -
- Devolution -
- Reconstitution -
- Tests, Training, and Exercises -

Scope

-

In addition, the scope of this plan includes the following locations:

Locations	Address

Table 1: Facility Locations served by the BCP

Executive Policy Statement

Hazard / Disaster / Emergency Incident Definition

[Insert Number] incident levels are used, based on the size and complexity of the incident:

Incident Level	Level of Involvement	Definition
0		
1		
2		
3		

Table 2: Incident Level Definitions

Assumptions

Assumptions for this BCP are as follows:

-

Integration with Other Plans



Figure 1: BCP Relationship with Other Plans

The plans that supplement this BCP are listed in Table 3.

Type of Plan	Included Documents

Table 3: Plan Relationships

2.0 CONCEPT OF OPERATIONS

Roles and Responsibilities

Business Continuity Planning Coordinator

-

Business Continuity Planning Committee

-

Distribution List

Staff	Title

Table 4: Internal Distribution List

Outside Parties	Title	Organization

Table 5: External Agencies Distribution List

Plan Accessibility, Security and Use

Plan Activation

Figure 2 below depicts an overview of the phases of an incident.

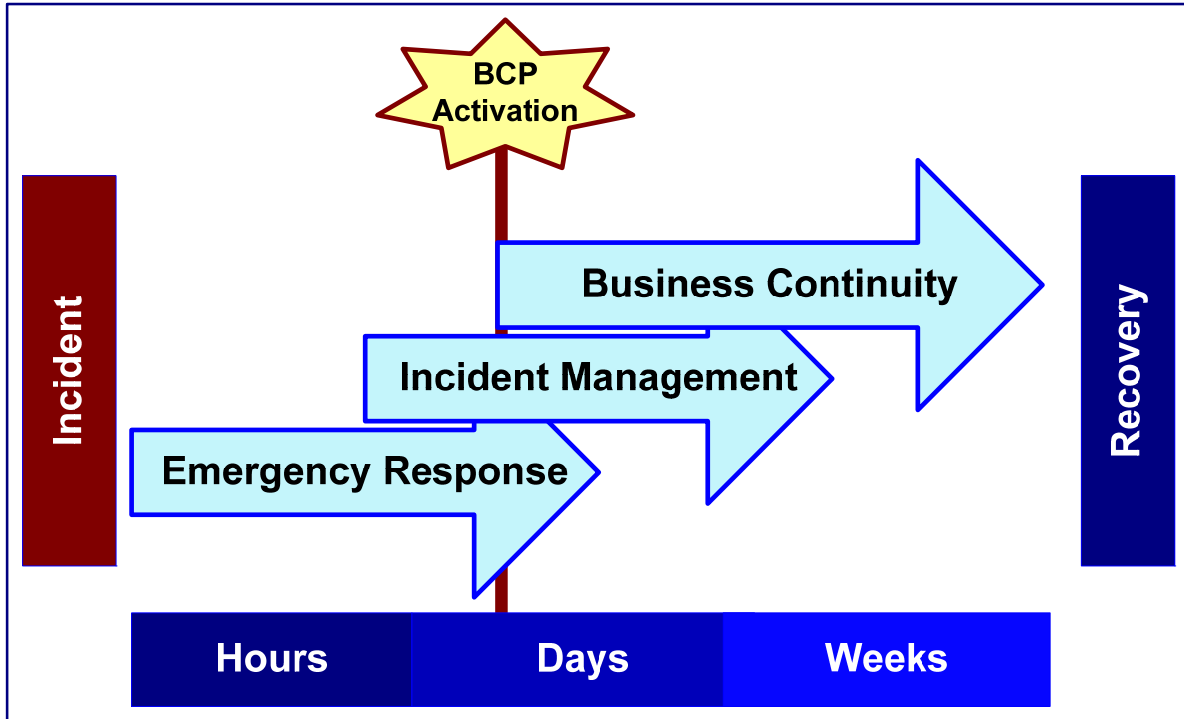


Figure 2: Plan Activation Process

Plan Deactivation

3.0 MISSION ESSENTIAL FUNCTIONS

Identification and Prioritization

Ranking	Departments	MEF	Possible Disruptions
1			
2			
3			
4			

Table 6: MEF List

Recovery Time Objectives

RTO	Department	MEF

Table 7: Recovery Time Objectives of MEF

Mobilization Requirements

Ranking	MEF	Mobilization Requirements

Table 8: Mobilization Requirements of MEF

Security and Safety Requirements

MEF	Situation Description

Table 9: MEFs to Provide Security and Safety to Utility

Internal Inter-dependencies

MEF	Dependency	Needed By (Department)	Provided By (Department)

Table 10: Internal Inter-dependencies

4.0 CRITICAL RESOURCES

Systems

Equipment

MEF	Equipment	Number Needed	Alternate Options

Table 11: Critical Equipment

Materials and Supplies

MEF	Materials and Supplies Needed	Alternate Options

Table 12: Critical Materials and Supplies

Personnel

MEF	Duty	Assignment

Table 13: Personnel Necessary to Perform MEF

Mutual Aid and Assistance

Information Technology

5.0 VITAL RECORDS AND DATA

6.0 ALTERNATE FACILITIES

Pre-established Facilities

Emergency Acquisition Protocols

Tele-working

Relocation Procedures

7.0 DELEGATION OF AUTHORITY

Department	Authority	Primary Alternate	Secondary Alternate	Tertiary Alternate	Fourth Alternate

Table 14: Delegations of Authority

8.0 SUCCESSION PLANNING

Department	Position	Primary Alternate	Secondary Alternate	Tertiary Alternate	Fourth Alternate

Table 15: Orders of Succession

9.0 ALERT NOTIFICATION PROCEDURES

Internal Communications

External Communications

Additional Modes of Communication

10.0 DEVOLUTION

11.0 RECONSTITUTION

Assessment of the primary operating facility

Returning to Normal Operations

12.0 TESTS TRAINING AND EXERCISES

APPENDIX A. BUSINESS CONTINUITY PLANNING COMMITTEE MEMBERS

Name	Title

APPENDIX B. EMPLOYEE PREPAREDNESS

Building an Emergency Supply Kit

Developing a Family Emergency Plan

Other Employee Support

APPENDIX C. PLAN MAINTENANCE

Annual Evaluation

Identifying Necessary Changes

Responsible Party

APPENDIX D. TESTS, TRAINING, AND EXERCISES

Equipment

Activation

Outside Testing

Training

Orientation

Refresher Training

Specialized Training

Exercises

Annexes

ABBREVIATIONS

PROFESSIONAL SERVICES AGREEMENT

APPENDIX F

USDOT REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS

USDOT REQUIREMENTS FOR AGREEMENTS WITH THE TJPA

The USDOT's requirements for agreements between the TJPA and a third party are summarized below. Certain USDOT provisions described below may not be applicable to all agreements with the TJPA. The italicized text is intended to assist the Contractor in understanding which Federal requirements may be applicable to an agreement. The USDOT and the TJPA have sole discretion to apply any particular provision described below.

These provisions supplement the provisions in the Agreement, and shall be interpreted in the broadest possible manner to avoid any conflicts. If there is an unavoidable conflict between the USDOT requirements and any other terms and conditions of the Agreement, in the TJPA's sole determination, the USDOT requirements shall take precedence.

The following provisions (1-11) apply to all Agreements (excluding micropurchases—purchases of \$3,000.00 or less).

1. DEFINITIONS

****** *The Definitions apply to all Agreements.*

- (a). **Agreement** means a contract, purchase order, memorandum of understanding or other agreement awarded by the TJPA to a Contractor, financed in whole or in part with Federal assistance awarded by FTA or FRA.
- (b). **Approved Project Budget** means the most recent statement, approved by the FTA, of the costs of the Project, the maximum amount of Federal assistance for which the TJPA is currently eligible, the specific tasks (including specified contingencies) covered, and the estimated cost of each task.
- (c). **Contractor** means the individual or entity awarded an Agreement financed in whole or in part with Federal assistance originally derived from FTA.
- (d). **Federal Cooperative Agreement** means the instrument by which FRA or FTA awards Federal assistance to the TJPA to support a particular Project, and in which FRA or FTA takes an active role or retains substantial control.
- (e). **Federal Grant Agreement** means the instrument by which FTA or FRA awards Federal assistance to the TJPA to support a particular Project, and in which FTA or FRA does not take an active role or retain substantial control, in accordance with 31 U.S.C. Section 6304. **FRA** is the acronym for the Federal Railroad Administration, one of the operating administrations of the U.S. DOT.
- (f). **FRA Directive** includes any FRA regulation, policy, procedure, directive, circular, notice, order or guidance providing information about FRA's programs, application processing procedures, and Project management guidelines.
- (g). **FTA** is the acronym for the Federal Transit Administration, one of the operating administrations of the U.S. DOT.
- (h). **FTA Directive** includes any FTA regulation, policy, procedure, directive, circular, notice, order or guidance providing information about FTA's programs, application processing procedures, and Project management guidelines, including the Master Agreement between FTA and the TJPA.
- (i). **Government** means the United States of America and any executive department thereof.

- (j). **Project** means the Transbay Transit Center Program, which will extend Caltrain to Transbay Terminal and replace Transbay Terminal with the new Transbay Transit Center Building. Total project consists of three major components: a new, multi-modal Transbay Transit Center (TTC) on the site of the present Transbay Terminal; the extension of Caltrain commuter rail from its current SF terminus at 4th and Townsend St. to a new underground terminus under a proposed new TTC; and the establishment of a Redevelopment Area with related development projects, including transit-oriented development on publicly owned land in the vicinity of the new multi-modal TTC.
- (k). **Recipient** means the TJPA.
- (l). **Secretary** means the U.S. DOT Secretary, including his or her duly authorized designee.
- (m). **Subcontract** means a subcontract at any tier entered into by Contractor or its subcontractor relating to the Agreement, financed in whole or in part with Federal assistance originally derived from FTA or FRA. Unless otherwise specified, the Contractor must include each of these Federal provisions in any Subcontract related to this Agreement.
- (n). **U.S. DOT** is the acronym for the U.S. Department of Transportation, including its operating administrations.
- (o). **U.S.DOT Directives** means any U.S. DOT regulation, policy, procedure, directive, circular, notice, order or guidance providing information about U.S.DOT's programs, application processing procedures, and Project management guidelines.

2. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

** *This requirement applies to all Agreements.*

The TJPA and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the TJPA, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the Agreement.

3. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

** *This provision applies to all Agreements.*

- (a). The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Section 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions under the Agreement. Upon execution of the Agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Agreement or the FTA- or FRA-assisted Project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (b). The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA or FRA under the authority of 49 U.S.C. Section 5307, the Government

reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

4. ACCESS TO DOCUMENTS

****** *This requirement applies to all Agreements. FRA requires the inclusion of these requirements in Subcontracts over \$100,000.*

****** *Please be aware that the requirements in the Agreement regarding audit and inspection of records may require the Contractor to maintain files relating to this Agreement for a longer period of time than described in the requirement below. Please also be aware that, as described in the Agreement, the TJPA follows the provisions of the City and County of San Francisco Sunshine Ordinance regarding responses to public requests for certain bid documents. The Contractor must comply with the requirements described below and in the Agreement.*

- (a). Where the TJPA is considered a "local government" and is a Recipient or a subgrantee of a Recipient, in accordance with 49 CFR Section 18.36(i), the Contractor agrees to provide the TJPA, the FTA or FRA Administrator, the Comptroller General of the United States and/or any of their authorized representatives access to any books, documents, accounts papers and records of the Contractor which are directly pertinent to this Agreement ("Documents") for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR Section 633.17, to provide the FTA or FRA Administrator or its authorized representatives, including any project management oversight Contractor, access to Contractor's Documents and construction sites pertaining to a major capital project, defined at 49 U.S.C. Section 5302(a)1, which is receiving Federal financial assistance through the programs described at 49 U.S.C. sections 5307, 5309 or 5311.
- (b). Where the TJPA is a Recipient or a subgrantee of a Recipient, in accordance with 49 U.S.C. Section 5325(a), and enters into a contract for a capital project or improvement (defined at 49 U.S.C. Section 5302[a]1) through other than competitive bidding, the Contractor agrees to provide the TJPA, the Secretary and the Comptroller General, or any authorized officer or employee of any of them, access to any Documents for the purposes of conducting an audit and inspection.
- (c). The Contractor agrees to permit any of the foregoing parties to reproduce, by any means whatsoever, or to copy excerpts and transcriptions, as reasonably needed, of any Documents.
- (d). The Contractor agrees to maintain all Documents required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the TJPA, the FTA or FRA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. (See 49 CFR Section 18.39[i][11]).

5. FEDERAL CHANGES

****** *This requirement applies to all Agreements.*

Contractor shall at all times comply with all applicable federal laws and regulations, and all FTA Directives, FRA Directives and U.S. DOT Directives applicable to the Project, as they may be amended or promulgated from time to time during the term of this Agreement. It is Contractor's responsibility to be aware of any amendments or changes to such federal requirements and directives. Contractor's failure to so comply shall constitute a material breach of this Agreement.

6. CIVIL RIGHTS REQUIREMENT

****** *This requirement applies to all Agreements.*

** *Please be aware that the requirements in the Agreement regarding nondiscrimination are broader than the USDOT Requirements described below. The Contractor must comply with the requirements described below and in the Agreement.*

- (a). **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. Section 2000d et seq.; the Age Discrimination Act of 1975, as amended, 42 U.S.C. Section 6101 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq.; Federal transit law at 49 U.S.C. Section 5332; and the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794 et seq.; the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 et seq.; the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 et seq.; and the Public Health Service Act, as amended, 42 U.S.C. 290dd et seq., the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, disability, or other protected class. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements federal agencies may issue, including U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21; and U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR parts 27 and 37.
- (b). **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the Agreement:
- (1). **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. Section 2000e, and Federal transit laws at 49 U.S.C. Section 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. Section 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA or FRA may issue.
- (2). **Age** - In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. Section 623, and Federal transit law at 49 U.S.C. Section 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA or FRA may issue.
- (3). **Disabilities** - In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA or FRA may issue.

7. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

** *The specific provisions checked below apply to this Agreement.*

(a). This Agreement is subject to the requirements of 49 CFR Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBEs) is 10 percent. The TJPA's Anticipated DBE Participation Level for each Federal Fiscal Year is published on the TJPA website by August 1 of each year.

A separate Agreement goal of _____ percent DBE participation has been established for this Agreement.

A separate Agreement goal **has not** been established for this Agreement.

(b). The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Agreement. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the TJPA deems appropriate. Each Subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR Section 26.13[b]).

(c). *(Checked box is applicable to this Agreement.)*

(If a separate Agreement goal has been established, use the following)

The Contractor was required to document sufficient DBE participation to meet the separate Agreement goal established for this Agreement or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR Section 26.53.

(If no separate Agreement goal has been established, use the following)

The Contractor is required to report its DBE participation obtained through race-neutral means throughout the period of performance.

(d). The Contractor is required to pay its subcontractors performing work related to this Agreement for satisfactory performance of that work no later than ten (10) days after the Contractor's receipt of payment for that work from the TJPA. In addition, the Contractor is required to return any retainage payments to those subcontractors within thirty (30) days after incremental acceptance of the subcontractor's work by the TJPA and Contractor's receipt of the partial retainage payment related to the subcontractor's work.

(e). The Contractor must promptly notify the TJPA whenever a DBE subcontractor performing work related to this Agreement is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the TJPA.

8. INCORPORATION OF U.S. DEPARTMENT OF TRANSPORTATION TERMS

** *This requirement applies to all Agreements.*

The preceding provisions include, in part, certain standard terms and conditions required by U.S. DOT, FTA and FRA of the TJPA's agreements, whether or not expressly set forth in the preceding Agreement provisions. All contractual provisions required by U.S. DOT, FTA, and FRA are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all USDOT, FTA, and FRA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any TJPA

requests which would cause the TJPA to be in violation of the USDOT, FTA, or FRA terms and conditions.

9. FLY AMERICA REQUIREMENTS

****** *This provision applies to all Agreements that involve the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S.*

- (a). The Contractor agrees to comply with 49 U.S.C. Section 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act.
- (b). The Contractor shall submit the "Fly America Certification" if the regulation is applicable to the particular Agreement.
- (c). The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier.
- (d). Notwithstanding the foregoing, transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the U.S. DOT has determined meets the requirements of the Fly America Act.

10. CARGO PREFERENCE REQUIREMENTS

****** *This provision applies to all Agreements involving equipment, materials, or commodities which may be transported by ocean vessels.*

The Contractor agrees to:

- (a). use privately owned United States flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Agreement to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels;
- (b). furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-landing in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the TJPA (through the Contractor in the case of a subcontractor's bill-of-landing).

11. ENERGY CONSERVATION REQUIREMENTS

****** *This provision applies to all Agreements.*

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Section 6201 *et seq.*

The following provision (12) applies to Agreements exceeding \$10,000.

12. RECYCLED PRODUCTS

****** *This provision applies to all Agreements to procure \$10,000 or more of any one item designated by the EPA under 40 CFR Part 247, Subpart B in a single fiscal year, and to all Agreements to procure any items designated in 40 CFR Part 247, Subpart B where the TJPA or the Contractor has used Federal funds to procure \$10,000 or more of any one item in the previous fiscal year.*

****** *Please be aware that the requirements in the Agreement regarding resource conservation may be more restrictive than the USDOT Requirements described below. The Contractor must comply with the requirements described below and in the Agreement.*

The Contractor agrees to comply with the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. Section 6962 et seq.), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in 40 CFR Part 247, Subpart B.

The following provision (13) applies to Agreements exceeding \$25,000.

13. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

****** *This requirement applies to all Agreements and Subcontracts greater than or equal to \$25,000, and to any Agreement for auditing services at any dollar value.*

- (a). This Agreement is a “covered transaction” for purposes of federal suspension and debarment laws, including 2 CFR part 1200, and the provisions of U.S. Office of Management and Budget Appendix A “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR part 180, and the Contractor is required to comply with same. In particular, the Contractor is required to verify that the Contractor, its “principals,” and its “affiliates” are not “excluded” or “disqualified,” as defined by federal suspension and debarment laws.
- (b). The Contractor shall submit the “Certification Regarding Debarment, Suspension, and Other Responsibility Matters.”

The following provisions (14-15) apply to Agreements exceeding \$50,000.

14. CLEAN AIR

****** *This provision applies to all Agreements greater than \$50,000 and to subcontracts greater than \$50,000.*

- (a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. The Contractor agrees to report each violation to the TJPA and understands and agrees that the TJPA will, in turn, report each violation as required to assure notification to FTA and FRA and the appropriate EPA Regional Office.
- (b) The Contractor also agrees to include these requirements in each subcontract exceeding \$50,000.

15. CLEAN WATER REQUIREMENTS

****** *This provision applies to all Agreements greater than \$50,000.*

- (a). The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq. The Contractor agrees to report each violation to the TJPA and understands and agrees that the TJPA will, in turn, report each violation as required to assure notification to FTA and FRA and the appropriate EPA Regional Office.
- (b). The Contractor also agrees to include these requirements in each Subcontract exceeding \$50,000 financed in whole or in part with Federal assistance provided by FTA and FRA.

The following provisions (16-19) apply to Agreements exceeding \$100,000.

16. BUY AMERICA REQUIREMENTS

****** *This provision applies only to the following types of Agreements: construction agreements of any value; agreements for the acquisition of goods or rolling stock of any value if funded by FRA, and valued at more than \$100,000 if funded by FTA.*

- (a). The Contractor agrees to comply with 49 U.S.C. Section 5323(j), 49 CFR Part 661, and 49 U.S.C. 24405, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA- and FRA-funded projects, such as the Transbay Transit Center Program that is the subject of this Agreement, are produced in the United States, unless a waiver has been granted by FTA, FRA, or the product is subject to a general waiver. General waivers, when FTA funds are used, are listed in 49 CFR Section 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. Section 5323(j)(2)(C) and 49 CFR Section 661.11 when FTA funds are used, and 49 CFR 24405(a) when FRA funds are used.
- (b). The Contractor shall submit the "Buy America Certification" at the time of bid/offer if the regulation is applicable to the particular agreement. The Prime Contractor is responsible for ensuring that lower tier subcontractors are in compliance.

17. BREACHES AND DISPUTE RESOLUTION

****** *This requirement applies to all Agreements in excess of \$100,000.*

- (a). **Disputes** - Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of TJPA's Executive Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Executive Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.
- (b). **Performance During Dispute** - Unless otherwise directed by the TJPA, Contractor shall continue performance under this Agreement while matters in dispute are being resolved.
- (c). **Claims for Damages** - Should either party to the Agreement suffer injury or damage to person or property because of any act or omission of the party or of any of the party's employees, agents or others for whose acts the party is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- (d). **Remedies** - Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between the TJPA and the Contractor arising out of or relating to this Agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the state in which the TJPA is located.

- (e). **Rights and Remedies** - The duties and obligations imposed by the Agreement Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the TJPA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

18. LOBBYING

** *This provision applies to the following types of Agreements, if the Agreement is equal to or greater than \$100,000: construction, architectural and engineering; acquisition of rolling stock; professional services; operational services; and Turnkey.*

** *Please be aware that the requirements in the Agreement regarding limitations on contributions may be more restrictive than the USDOT Requirements described below. The Contractor must comply with the requirements described below and in the Agreement.*

- (a). The contractor shall submit the "New Restrictions on Lobbying Certification" if the regulation is applicable to the particular agreement.
- (b). (1). No Federal appropriated funds have been or will be paid by or on behalf of the Contractor to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance, or the extension, continuation, renewal, amendment, or modification of any Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance;
- (2). If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance, the Applicant assures that it will complete and submit Standard Form- LLL, 'Disclosure Form to Report Lobbying,' in accordance with its instructions. Such forms are forwarded from tier to tier up to the TJPA.

19. AGREEMENT WORK HOURS AND SAFETY STANDARDS ACT

** *This requirement applies to Agreements and Subcontracts for construction over \$100,000, and to non-construction Agreements valued at more than \$100,000 that employ "laborers or mechanics on a public work," as defined by 42 U.S.C. Section 3701.*

- (a). **Overtime requirements** - No Contractor or subcontractor contracting for any part of the Agreement work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (b). **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (c). **Withholding for unpaid wages and liquidated damages** - The TJPA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Agreement or any other Federal contract with the same Contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

FLY AMERICA CERTIFICATION

49 U.S.C. Section 40118
41 CFR Part 301-10

Certificate of Compliance

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance

***If a foreign air carrier was used, the certification shall adequately explain why services by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier.*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10.

Date _____

Signature _____

Company Name _____

Title _____

Explanation: _____

BUY AMERICA CERTIFICATION

FTA Certification requirement relating to procurement of steel, iron, or manufactured products.

Certificate of Compliance

The Contractor hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j)(1), the applicable regulations in 49 C.F.R. Part 661.

Date _____

Contractor Name _____

Authorized Representative Name _____

Signature _____

Title _____

OR

Certificate of Non-Compliance

The Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. § 5323(j)(1), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7.

Date _____

Contractor Name _____

Authorized Representative Name _____

Signature _____

Title _____

FRA Certification requirement relating to procurement of steel, iron, or manufactured products.

Certificate of Compliance

The Contractor hereby certifies that it will comply with the FRA Buy America requirements of 49 U.S.C. Section 24405(a)(1).

Date _____

Contractor Name _____

Authorized Representative Name _____

Signature _____

Title _____

OR

Certificate of Non-Compliance

The Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 24405(a)(1), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. Section 24405(a)(2).

Date _____

Contractor Name _____

Authorized Representative Name _____

Signature _____

Title _____

NEW RESTRICTIONS ON LOBBYING CERTIFICATION

The Contractor certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The Contractor shall require that the language of this certification be included in all Subcontracts, and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. Section 1352 (as amended by the Lobbying Disclosure Act of 1995) and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR 20.110. Pursuant to 31 U.S.C. 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies and affirms the truthfulness and accuracy of each statement of this certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Section 3801 *et seq.*, apply to this certification and disclosure, if any.

Date _____

Contractor Name _____

Authorized Representative Name _____

Signature _____

Title _____

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS**

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

- (1) The prospective participant certifies to the best of its knowledge and belief that it and its principals:
 - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) b. of this certification; and
 - d. Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) The prospective proposer also certifies that if, later it becomes aware of any information contradicting the statements of paragraphs (a) through (d) above, it will promptly provide that information to the TJPA.
- (3) Where the prospective proposer is unable to certify to any of the statements in this certification, such prospective primary participant shall attach and provide a written explanation to the TJPA.

The certification in this clause is a material representation of fact relied upon by the TJPA. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the TJPA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of federal suspension and debarment laws, including 2 CFR part 1200, and the provisions of U.S. Office of Management and Budget Appendix A "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Bidder/Offeror Name: _____

Authorized Representative Name: _____

Authorized Representative Title: _____

Authorized Representative Signature: _____

Date: _____



Safety and Security Concept of Operations Preparation Services Selection Committee Report December 2013

Executive Summary and Recommendation

In response to Request for Proposals (RFP) No. 13-03 for Safety and Security Concept of Operations (ConOps) Services, issued on September 27, 2013, the TJPA received five submissions on December 2, 2013. A selection committee convened on December 9, 2013 to evaluate the proposals. Based on the written proposals, the selection committee elected to invite three Respondents in for interviews; interviews were held on December 17 & 18, 2013.

Based on the criteria outlined in the RFP, and a thorough evaluation and interview process, the selection committee recommends that the TJPA negotiate a professional services contract with Ross & Baruzzini.

Background

The TJPA issued an RFP from qualified individuals and/or firms with expertise in the development of ConOps documentation and other related consulting services. This RFP is for preparation of the ConOps but not implementation of the ConOps; any request for services to implement the ConOps will be the subject of a separate solicitation.

To ensure the safety and security of the passengers, employees, transit operators, tenants, retailers, visitors, and other members of the public using the Project facilities, the TJPA has undertaken and plans to undertake numerous measures, including, but not limited to, the following:

- In 2010, the TJPA prepared a Safety and Security Management Plan (SSMP).
- In 2012, the TJPA prepared a Risk and Vulnerability Assessment (RVA) for the Project that expanded and updated a 2009 draft RVA. The RVA included extensive Security Design Guidance Criteria (DGC) to inform the design and construction of the Project facilities and includes an initial sub set of safety and security concepts of operation which are considered a starting point for the Services to be provided by the Respondent. The RVA will be updated at appropriate intervals; those updates are not a part of the scope of services under this RFP.
- In 2012 and 2013 the TJPA prepared a draft Mass Notification System/Emergency Communications System (ECS/MNS) design plan for the Project. This system will require significant input from the Respondent to inform its operational criteria from a decision support template perspective as informed by the Emergency Operations Plan to be provided by the Respondent.
- The TJPA has retained world class architects, engineers, and security subject matter experts and, utilizing the RVA documentation referenced above, has developed drawings and specifications which incorporate the Security Design Guidance Criteria (DGC) for the Program facilities. These facilities are in various states of design and construction and their document maturity is reflected in the individual facility implementation schedules.

- The TJPA expects to apply for designation and/or certification under the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act). The deliverables to be provided by the selected Respondent are to support that application and the Respondent is expected to work with the TJPA in acquiring these SAFETY Act designations and certifications.
- The TJPA has entered and plans to enter into certain agreements with neighboring property owners to ensure the design, construction, and operation of nearby properties incorporates appropriate safety and security measures, and maximizes the protection of the public from injury. The deliverables to be provided by the Respondent are expected to appropriately reference and incorporate those agreements.

The Services shall be informed by and responsive to these earlier and ongoing efforts by the TJPA. The Services should complement, rather than duplicate, this work.

The TJPA's purposes, goals, and objectives for the Services include the following:

- Identify and document risk-based operational measures to mitigate risk and vulnerabilities to and within TJPA facilities while meeting the multiuse, mixed occupancy, and multimodal public transportation programs and business mission objectives of the TJPA, within the available budget for the Project, and responsive to the phased design, construction, and occupancy schedules. In particular, ensure preparation of appropriate operational response to risks and vulnerabilities identified in the RVA.
- Identify and document a plan for coordination and cooperation among the TJPA, the authorities having jurisdiction (e.g., San Francisco Police Department, San Francisco Fire Department, Department of Homeland Security, and other federal, state, and local agencies), the transit operators using the Project, neighboring property owners, and other stakeholders, related to the safety and security of the Project.
- Support the TJPA's application for designation and/or certification under the SAFETY Act.
- Ensure the TJPA is meeting federal, state, and local regulations that may impose safety and security requirements on the TJPA.

Allow the TJPA to apply for federal, state, and local funding to assist in implementation of safety and security measures for the Project.

Schedule

RFP Issued:	Friday, September 27, 2013
Pre-Proposal Conference:	Thursday, October 17, 2013, 2:00 pm
Deadline for Submission of Questions:	Wednesday, November 6, 2013, 2:00 pm
Answers to Written Questions Posted:	Friday, November 15, 2013
Proposals Due:	Monday, December 2, 2013, 3:00 pm
Notification of Interviews:	Tuesday December 10, 2013
Interviews:	Tuesday, December 17 through Thursday, December 19, 2013
Contract Recommended for TJPA Approval:	January or February, 2014*

**Due to the complex nature of the negotiations this date has been moved to May 2014.*

Selection Committee Members

- Mark Zabaneh, TJPA Senior Program Manager
- Ed Sum, TJPA Senior Engineering Manager
- Mark O'Dell, TJPA PMPC Program Manager
- Deborah Miller, TJPA General Counsel, Shute, Mihaly & Weinberger LLP
- Robert Ducibella, TJPA Risk and Vulnerability Assessment Consultant
- Denise Sines, TJPA Risk and Vulnerability Assessment Consultant

Joseph Robinson, Superintendent, Service/Operations Control Center with AC Transit advised on the selection process by reviewing the five proposals submitted and was in agreement with the selection committee on the three firms that were shortlisted for interviews.

RFP Outreach

An announcement of the RFP appeared in the *San Francisco Examiner* and was posted on the City Purchaser's Bids and Contracts website; a copy of the announcement is Attachment A. On the same day, the TJPA posted the RFP on its website for the public to view and print and sent announcement of its availability to 40 contacts compiled from the TJPA's targeted list from website sign-ups as well as names and firms supplied to the TJPA from our Risk and Vulnerability Assessment Consultants, as well as TJPA's internal list of 639 self-identified firms requesting to receive information from the TJPA on all Professional Services RFPs.

The TJPA received five responsive submissions on or before the RFP submission date of December 2, 2013, from:

- AECOM
- Delcan Corporation
- Risk and Strategic Management, Corp.
- Ross & Baruzzini
- TRC Engineers, Inc.

A selection committee convened on December 9, 2013 to evaluate the proposals. Based on the written proposals, the selection committee elected to invite three Respondents in for interviews:

- AECOM
- Risk and Strategic Management, Corp.
- Ross & Baruzzini

Interviews were held on December 17 & 18, 2013.

Selection Committee Evaluation

The selection committee met on Monday, December 9, 2013 to review the written proposals and evaluate strengths and weaknesses using the criteria listed in the RFP. Following the discussion, each committee member individually filled out scoring sheets (Attachment B). Based on the results, the selection committee shortlisted the top three scoring firms for interviews. On December 17 & 18, 2013, the selection committee conducted oral interviews with the three firms and finalized its scoring. After the interviews, each committee member individually completed scoring sheets (Attachment C) and submitted them to the TJPA Contracts Compliance Officer for tabulation.

Based on the criteria outlined in the RFP, Ross & Baruzzini was ranked highest by the selection committee. The committee recommends that the TJPA negotiate an agreement with Ross & Baruzzini to provide Safety and Security Concept of Operations Services for the TJPA.

Evaluation Scores (100 points max individual/600 points max total)

Firm	Panelist A	Panelist B	Panelist C	Panelist D	Panelist E	Panelist F	Total Score
AECOM	80	63	75	69	62	70	419
Delcan Corporation	89	65	67	56	41	57	375
Risk and Strategic Management, Corp.	87	85	69	63	57	77	438
Ross & Baruzzini	93	86	89	75	80	81	504
TRC Engineers, Inc.	77	59	71	50	42	60	359

Evaluation Scores (150 points max individual/900 points max total)

Firm	Panelist A	Panelist B	Panelist C	Panelist D	Panelist E	Panelist F	Total Score
AECOM	148	117	132	112	127	133	769
Risk and Strategic Management, Corp.	94	92	112	111	88	115	612
Ross & Baruzzini	124	125	125	124	116	125	739

Totals (1,500 points max total)

Firm	Evaluation	Interview	Total Score
AECOM	419	769	1,188
Risk and Strategic Management, Corp.	438	612	1,050
Ross & Baruzzini	504	739	1,243

Attachments

- Attachment A, RFQ Announcement
- Attachment B, Evaluation Scoring Sheet
- Attachment C, Interview Questions/Scoring Sheet

Reference

Request for Proposals No. 13-03 for Safety and Security Concept of Operations Services issued by the Transbay Joint Powers Authority on Friday, September 27, 2013.

The proposals submitted in response to this RFP are available for review at 201 Mission Street, Suite 2100 upon contacting the TJPA, where it will be maintained on permanent record.

Attachment A

ANNOUNCEMENT

REQUEST FOR PROPOSALS NO. 13-03 SAFTEY AND SECURITY CONCEPT OF OPERATIONS

The Transbay Joint Powers Authority (TJPA) is issuing a Request for Proposals (RFP) for SAFTEY AND SECURITY CONCEPT OF OPERATIONS for the Transbay Transit Center Program from firms with expertise in the development of Safety and Security Concept of Operations (ConOps) documentation and other related consulting services.

The TJPA will select one firm for a contract for a period up to three (3) years.

A pre-proposal conference will be held at 2:00 pm Pacific on Thursday, October 17, 2013, at the TJPA offices, located at 201 Mission Street, Suite 2100, San Francisco, CA 94105. Proposal packages must be received by the TJPA no later than **3:00 pm Pacific on Wednesday, November 13, 2013**, at the same address. Late proposal packages will not be considered.

Prospective Respondents may obtain copies of this RFP, including required forms, by visiting the TJPA's website at www.TransbayCenter.org (>TJPA>Doing Business with the TJPA>Current Contract Opportunities) or by contacting the TJPA at (415) 597-4620 or at ConOps@transbaycenter.org.

Attachment B

EVALUATION SCORE SHEET RFP 13-03 Safety and Security Concept of Operations

Name of Respondent: _____

Name of Panelist: _____

Signature of Panelist: _____

<i>Criteria</i>	<i>Value</i>	<i>Reviewer Comments</i>
<p>Introduction and Executive Summary (3 page limit)</p>		
<p>Qualifications and Experience of Respondent Firm (20 page limit) [maximum 65 points]</p> <ul style="list-style-type: none"> • Describe how the Respondent firm meets the minimum requirements described in Section 6.1. Be as specific as possible. Provide at least two examples of success on behalf of public agency clients and discuss relevance to this Scope of Work. • Describe how the Respondent firm meets any of the additional qualifications described in Section 6.2. Be as specific as possible. • Describe the Respondent firm’s proposed approach, methodology, deliverables, and estimated timeline for providing the Services. The proposal should be designed to address the specific needs and requirements of the TJPA and the Project. Include firm’s approach to avoiding conflicts of interest and prioritizing client interests. Describe in detail how the proposed approach would fulfill the TJPA’s purposes, goals, and objectives. • Describe how the Respondent would tailor its professional Services to meet the needs of the TJPA. • Describe the proposed staff that will be used to provide the Services. Specifically, provide their names, titles, business addresses, phone numbers, and brief resumes describing the relevant qualifications and work experience. (The length of résumés must be shortened if necessary to avoid exceeding the maximum page limit established for the Proposal.) Describe the role each staff member would play in providing the Services. Clearly show the extent and nature of the involvement of the key team members who would provide the 		

<p>Services.</p> <ul style="list-style-type: none"> • Include any additional information that demonstrates the Respondent's qualifications to perform the Services and successful completion of similar services for other public agencies. 		
<p>References (10 page limit) [maximum 15 points]</p>		
<p>Fee Proposal [maximum 20 points]</p> <p>Respondent will provide a Pricing Proposal that allows the TJPA to receive the Services for the best possible price, and provides the TJPA flexibility in authorizing components of the services based on the TJPA’s budgetary requirements. Thus, Respondents are encouraged to provide a “menu” of pricing/service options in their Pricing Proposals. The Pricing Proposal should clearly explain what services are proposed to be included (and excluded) from each menu option.</p> <p>The following information shall be included in the Pricing Proposal:</p> <ul style="list-style-type: none"> • For each firm, including each subconsultant, the direct current hourly rates by individual for all key personnel, management, technical or professional staff and direct current hourly rates by position for support personnel • For each firm, including each subconsultant, overhead and profit rates. There is a maximum of 10% profit markup on direct and overhead costs • For each firm, including each subconsultant, a list of direct expenses 		

Total _____
(100 maximum total score possible)

Attachment C

FIRM NAME:

PANELIST:

DATE:

TJPA INTERVIEW SCORE SHEET

RFP 13-03: Safety and Security Concept of Operations

<i>Description</i>	<i>Score</i>	<i>Notes</i>
<p>Presentation (30 minutes maximum; 50 points)</p> <p>The TJPA would like to make sure it fully-understands each team’s staffing plan, management approach, and submitted fee proposal. We ask that you begin the interview with a presentation of up to 30 minutes addressing in detail the following topics:</p> <ul style="list-style-type: none"> • Total proposed fee • Tasks included in the fee • Hours involved for each task • Personnel involved in each task (including percentage of participation or extent of hours per person) • Cost for each task (fee and ODC) • Schedule for completing tasks • Cash flow (quarterly) • On site meetings (purpose/scope of meetings, estimated number of meetings, your proposed staffing, stakeholders you envision being involved and estimated cost (fee and ODC)) • Other direct costs associated with meetings and deliverables • Tasks that you believe are necessary to complete a Safety and Security Concept of Operations, but which are <u>not</u> included in your fee proposal (or you expect to be done by others) (if any) • Tasks in your proposal that you believe the TJPA may consider as alternate or optional tasks to the primary purpose of preparing a Safety and Security Concept of Operations (if any) (if any alternate/optional tasks are identified, describe cost of such tasks (fee and ODC)) <p>The TJPA is interested in having you fully define your Staffing Plan, Management Approach and Fee Proposal to allow the TJPA to receive the Services for the best possible price, and provides the TJPA flexibility in authorizing components of the services.</p> <p>You may use any remaining time in these 30 minutes to present any other aspects of your proposal, qualifications, or experience to the selection committee.</p>		

Questions (<i>maximum 100 points; 10 points each</i>)		
1. Discuss security related lessons learned from working with other transit agencies such as bus and train operators. (10 Points)		
2. The TJPA is a joint powers authority made up of the City and County of San Francisco, AC Transit and Caltrain. Numerous other federal, state, regional, and local agencies, as well as neighboring property owners, have stakes and partnerships in the project. Discuss past successful strategies for jointly working with local, regional, state and federal agencies in preparing safety and security measures for transportation facilities. (10 Points)		
3. The successful respondent team must operate in a seamless and efficient manner, particularly where the team is made up of more than one corporate entity and where team members are operating from diverse geographic locations. Please explain whether your proposed team has worked together before and, if so, in what context. Please also identify how you intend to coordinate, manage, and supervise your geographically diverse team and how you will orchestrate the creation of the deliverables. (10 Points)		
4. Public agencies need to balance many factors in adopting a ConOps for a public transit facility, including safety and security, transit operations, public access, and cost. Describe your method for assisting clients with identifying and evaluating these and other factors. Is your team prepared to provide recommendations to the TJPA when tradeoffs are required? (10 Points)		
5. The Transbay Program and surrounding development will be designed, built, and occupied in a phased manner. Please explain how your ConOps will anticipate and respond to this phased implementation addressing multiple stakeholder schedules. (10 points)		

<p>6. 6. A major feature of the Transit Center is the 5.4 acre public park on its roof which is an integral occupancy and activity program that must be integrated into the ConOps documentation. Please describe any experiences your team has with safety and security of open public spaces and parks, and the resources that are available to you to inform your planning for this unique space.</p> <p>(10 points)</p>		
<p>7. Another major feature of the Transit Center is significant tenant fit-outs for retail and a concessionaire-operated restaurant. Please describe your approach to integrating these tenant occupancies as part of your ConOps documentation.</p> <p>(10 points)</p>		
<p>8. There is a well-developed design for a Mass Notification System/Emergency Communication System to be deployed for the overall Transit Center Development Program. The system is part of the Construction Documents and is designed to meet NFPA standards. Please describe how your ConOps documentation will support the programming of the decision support templates inherent in the set-up and use of the Mass Notification System/Emergency Communication System so that the system functions in a manner supportive of the ConOps you recommend.</p> <p>(10 points)</p>		
<p>9. The Transbay Transit Center will have a significant life span. The TJPA wants to be positioned to identify and implement emerging technologies over the life of the facility. Describe your team’s approach to emerging technologies and how they can be incorporated into the ConOps.</p> <p>(10 points)</p>		
<p>10. Provide your team’s philosophy regarding access control.</p> <p>(10 points)</p>		

TOTAL SCORE: _____
(150 points maximum)