PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is entered into this __ day of _____ 2018, between the CITY OF STOCKTON, a municipal corporation ("City"), and **KIMLEY-HORN AND ASSOCIATES, INC.** whose address is **1300 CLAY STREET, SUITE 325, OAKLAND, CA 94612** ("Consultant") for the **BUS RAPID TRANSIT PHASE 1-B (PROJECT NO. PW1515/FEDERAL PROJECT NO. CML-5008 (148)**, hereinafter referred to as "Project".

RECITALS

A. Consultant represents that it is licensed in the State of California and is qualified, willing and able to provide the services proposed in the SCOPE OF WORK section of this Contract.

B. City finds it necessary and advisable to use the services of the Consultant for the purposes provided in this Contract.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions in this Contract, City and Consultant agree as follows:

1. <u>SCOPE OF SERVICES.</u> Subject to the terms and conditions set forth in this Contract, Consultant shall undertake and complete the services described in **Exhibit A**. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit A and compatible with the standards of the profession. Consultant agrees that it shall produce a fully complete project that is acceptable to the City.

2. <u>COMPENSATION.</u> City shall pay Consultant for services outlined in **Exhibit A** according to the fee not to exceed the schedule detailed in **Exhibit B**, which is attached to this Contract and incorporated by this reference. Consultant agrees this fee is for full remuneration for performing all services and furnishing all staffing and materials called for in the scope of services. The payments shall be made on a monthly basis upon receipt and approval of Consultant's invoice. Total compensation for services and reimbursement for costs shall not exceed **$128,290.86** or as otherwise mutually agreed to in a Contract Change Order.

3. <u>INSURANCE.</u> During the term of this Contract, Consultant shall maintain in full force and effect at its own cost and expense the insurance coverage as set forth in the attached Exhibit D and shall otherwise comply with the other provisions of Exhibit D.

4. <u>INDEMNITY AND HOLD HARMLESS.</u> With the exception that this section shall in no event be construed to require indemnification by Consultant to a greater extent

than permitted under the public policy of the State of California, Consultant shall indemnify, and hold harmless City, its Mayor, Council, officials, and employees from and against any and all claims and causes of action which result in liabilities, judgments, awards, losses, damages, expenses, and costs (including reasonable attorneys' fees, expert and consultant fees, and other expenses of litigation) including, but not limited to, death or injury to persons, or damage to property, which arise out of any violation of federal, state, or municipal law or ordinance, to the extent damages are caused by the Consultant's negligent services provided under this Agreement, or are in any way caused by the negligent performance of work by the Consultant or Consultant's officers, agents, employees, or subcontractor. Consultant shall not be obligated to indemnify or defend City for claims finally determined by a court of law or arbitrator to arise from the negligence or willful misconduct of the City. It is the intent of the Parties that this indemnity obligation is at least as broad as is permitted under California law. To the extent California Civil Code sections 2782, et seq., limit the defense or indemnity obligations of Consultant to City, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by Consultant under the law. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With the exception that this section shall in no event be construed to require indemnification by Consultant to a greater extent than permitted under the public policy of the State of California, and in addition to the other indemnity obligations in this Agreement, Consultant shall indemnify, defend, and hold harmless City, its Mayor, Council, officials, representatives, and employees from and against claims, losses, expenses, and costs including, but not limited to, reasonable attorneys' fees, arising out of any claim brought against the City by an employee of Consultant, regardless of whether such claim may be covered by any applicable workers compensation insurance. Consultant's indemnification obligation is not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Consultant under workers' compensation acts, disability acts, or other employee benefit acts.

5. **SCHEDULE AND TERM.** Consultant shall perform the scope of work as described in Exhibit A according to the schedule detailed in **Exhibit C**, which is attached to this Contract and incorporated by this reference. This contract shall commence on the date written above and shall expire on **December 31, 2020**, unless extended by mutual agreement through the issuance of a Contract Change Order.

a. Invoices submitted by Consultant to City must contain a brief description of work performed, time used and City project number. Payment shall be made within thirty (30) days of approval of invoice by City.

b. Upon completion of work and acceptance by City, Consultant shall have sixty (60) days in which to submit final invoicing for payment. An extension may be granted by City upon receiving a written request thirty (30) days in advance of said time limitation. City shall have no obligation or liability to

pay any invoice for work performed which Consultant fails or neglects to submit within sixty (60) days, or any extension thereof granted by the City, after work is accepted by City.

6. CONFORMANCE TO APPLICABLE LAWS. Consultant shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Consultant shall not discriminate in the employment of persons or in the provision of services under this Contract on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

a. TITLE VI

Title VI of the Civil Rights Act of 1964 requires that "no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 USC Section 2000d). http://www.dol.gov/oasam/regs/statutes/titlevi.htm.

The City of Stockton requires compliance with the requirements of Title VI in all of its programs and activities regardless of funding source.

b. DISCRIMINATION AND HARASSMENT POLICY

The City of Stockton has a Discrimination and Harassment Policy (Exhibit E). The purpose of this policy is to reaffirm the City's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace, to define the types of behavior and conduct prohibited by this policy, and to set forth a procedure for reporting, investigating, and resolving complaints of discrimination and harassment in the workplace.

c. LABOR STANDARDS PROVISIONS/CALIFORNIA LABOR CODE

The bidder shall understand that conditions set forth in Chapter 1, Part 7, Division 2 of the California Labor Code shall be considered part of the contract agreement. https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=LAB&division=2.&title=&part=7.&chapter=1.&article=2.

d. PREVAILING WAGE RATES

Consultant and any subcontractor shall pay each employee engaged in the trade or occupation not less than the prevailing hourly wage rate. In

accordance with the provisions of Section 1770 of the Labor Code, the Director of Department of Industrial Relations of the State of California has determined the general prevailing rates of wages and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.1, apprenticeship or other training programs authorized by Section 3093 and similar purposes applicable to the work to be done. Consultant performing the work under this contract shall obtain a copy of the wage rate determination and shall distribute copies to each subcontractor. As the wage determination for each craft reflects an expiration date, it shall be the prime Consultant and each subcontractor's responsibility to insure that the prevailing wage rates of concern is current and paid to the employee.

i. The Consultant performing the work shall be responsible for obtaining a copy of the State wage rate determination. State wage rates may be obtained at http://www.dir.ca.gov/OPRL/pwd/Determinations/Northern/Northern.pdf. The Consultant shall be responsible for posting said wage rates at a prominent location at the work site and shall maintain same in a good readable condition for the duration of the work.

ii. Should the Consultant choose to work on a Saturday, Sunday or on a holiday recognized by the Labor Unions, the Consultant shall reimburse the City the actual cost of engineering, inspection, superintendence, and or other overhead expenses which are directly chargeable to the contract. Should such work be undertaken at the request of the City, reimbursement will not be required. To conform strictly with the provisions of Division 2, Part 7, Chapter 1, Article 2, of the Labor Code of the State of California. To forfeit as a penalty to City the sum of TWENTY FIVE AND NO/100 DOLLARS ($25.00) for each laborer, worker, or mechanic employed by Consultant, or by any subcontractor under Consultant, in the execution of this contract, for each calendar day during which any laborer, worker, or mechanic is required or permitted to work more than eight (8) hours and who is not paid the general prevailing rate of per diem wages for holiday and overtime work in violation of the provisions of Sections 1770 to 1781 of the Labor Code of the State of California. That all sums forfeited under the provisions of the foregoing sections shall be deducted from the payments to be made under the terms of this contract.

iii. PAYROLL RECORDS The Consultant to whom the contract is awarded shall insure that the prime and each subcontractor will, in accordance with Section 1776 of the Labor Code, maintain certified payroll records. A copy of said records shall be provided with each invoice to the Public

Works Department, Attention: Contract Compliance Officer. It shall be the Consultant's responsibility to obtain copies of the current prevailing wage rate determination for all subcontractors. Additionally, certified payroll records must be uploaded to the DIR website as required by labor code.

iv. APPRENTICESHIP STANDARDS The Consultant shall comply with the provisions established in Section 1777.5 of the Labor Code concerning the 1) certified approval by local joint apprenticeship committees for the employment and training of apprentices, and 2) contribution of funds to administer and conduct apprenticeship programs, if applicable to the job.

7. RIGHTS AND DUTIES OF CITY. City shall make available to Consultant all data and information in the possession of City which both parties deem necessary to complete the work, and City shall actively aid and assist Consultant in obtaining such information as may be deemed necessary from other agencies and individuals.

8. OBLIGATIONS OF CONSULTANT. Throughout the term of this Contract, Consultant represents and warrants that it has or will have at the time this Contract is executed, all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required for the Consultant to practice its professions, and Consultant shall, at its own cost and expense, keep in effect during the life of this Contract all such licenses, permits, qualifications, insurance, and approvals. Consultant shall meet with the Public Works Director or other personnel of City or third parties as necessary on all matters connected with the carrying out of Consultant's services. Such meetings shall be held at the request of either party hereto. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

9. OWNERSHIP OF WORK. All reports, drawings, designs, plan review comments, work product, and all other documents completed or partially completed by Consultant in the performance of this Contract shall become and remain the property of the City. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment. All materials shall be delivered to the City upon completion or termination of the work under this Contract. If any materials are lost, damaged, or destroyed before final delivery to the City, the Consultant shall replace them at its own expense. Consultant shall keep materials confidential. Materials shall not be used for purposes other than performance of services under this Contract and shall not be disclosed to anyone not connected with these services unless the City expressly provides prior written consent.

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10. CHANGE ORDERS. City reserves the right to make such alterations as may be deemed necessary or advisable and to require such extra work as may be required for the proper completion of the work contemplated by Consultant. Any such changes will be set forth in a Contract Change Order which will specify, in addition to the work done in connection with the change made, adjustment of contract time, if any, and the basis of compensation for such work. A contract change order will not become effective until approved by the authorized City official.

11. TERMINATION. The City may terminate this Contract at any time by mailing a notice in writing to Consultant. The Contract shall then be deemed terminated and no further work shall be performed by Consultant. If the Contract is so terminated, the Consultant shall be paid for that percentage of work actually completed at the time the notice of termination is received.

12. CONSULTANT STATUS. In performing the obligations set forth in this Contract, Consultant shall have the status of an independent contractor and Consultant shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of Consultant are its agents and employees, and are not agents of the City. Subcontractors shall not be recognized as having any direct or contractual relationship with the City. The persons engaged in the work, including employees of subcontractors and suppliers, will be considered employees of Consultant. The Consultant shall be responsible for the work of subcontractors, which shall be subject to the provisions of this Contract. The Consultant is responsible to the City for the acts and omissions of its subcontractors and persons directly or indirectly employed by them.

a. If in the performance of this Contract any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by Consultant.

   i. It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

   ii. As an independent contractor, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against the City based upon any contention by any third party that employer-employee relationship exists by reason of this Contract.

13. ASSIGNMENT. Consultant shall not assign, sublet, or transfer this Contract or any interest or obligation in the Contract without the prior written consent of the City,

and then only upon such terms and conditions as City may set forth in writing. Consultant shall be solely responsible for reimbursing subcontractors.

14. HEADINGS NOT CONTROLLING. Headings used in the Contract are for reference purposes only and shall not be considered in construing this Contract.

15. NOTICES. Any and all notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

To Consultant:	Kimley-Horn and Associates, Inc. 1300 Clay Street Suite 325 Oakland, CA 94612	To City: Public Works Director City of Stockton 22 E. Weber Ave., Rm. 301 Stockton, CA 95202

16. LICENSES, CERTIFICATIONS, AND PERMITS. Prior to the City's execution of this Contract and prior to the Consultant's engaging in any operation or activity set forth in this Contract, Consultant shall obtain a City of Stockton business license, which must be kept in effect during the term of this Contract. Consultant covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Contract.

17. RECORDS AND AUDITS. City reserves the right to periodically audit all charges made by Consultant to City for services under this Contract. Upon request, Consultant agrees to furnish City, or a designated representative, with necessary information and assistance.

Consultant agrees that City or its delegate shall have the right to review, obtain, and copy all records pertaining to performance of the Contract. Consultant agrees to provide City or its delegate with any relevant information requested, and shall permit City or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purposes of determining compliance with this Contract. Consultant agrees to maintain such records for a period of three years from the date that final payment is made.

18. CONFIDENTIALITY. Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City reports, information or conclusions.

19. CONFLICTS OF INTEREST. Consultant covenants that other than this Contract, Consultant has no financial interest with any official, employee, or other representative of the City. Consultant and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner or degree by the performance of Consultant's services under this Contract. If such an interest arises, Consultant will immediately notify City.

20. WAIVER. In the event either City or Consultant at any time waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Contract, whether of the same or of any other covenant, condition, or obligation.

21. GOVERNING LAW. California law shall govern any legal action pursuant to this Contract with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the federal District Court of California, Eastern District, Sacramento Division.

22. NO PERSONAL LIABILITY. No official or employee of City shall be personally liable to Consultant in the event of any default or breach by City or for any amount due Consultant.

23. INTEGRATION AND MODIFICATION. The response by Consultant to the Request for Proposals and the Request for Proposals on file with the City Clerk are hereby incorporated herein by reference to the extent that such documents do not differ from the provisions and terms of this Contract that shall supersede such response to Request for Proposals. This Contract represents the entire integrated agreement between Consultant and City, supersedes all prior negotiations, representations, or agreements, either written or oral, between the parties, and may be amended only by written instrument signed by Consultant and City. All exhibits and this contract are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Contract and the attached exhibits, the terms of this Contract will prevail.

24. FEDERAL PROVISIONS. Consultant shall comply with the Federal Aid Consultant Contract Provisions which are attached hereto as Exhibit “F” and incorporated herein by this reference.

25. SEVERABILITY. The provisions of this Contract are severable to the extent that should any of its provisions or terms be declared void in whole or in part by operation of law or agreement of the parties, the remainder of the provisions or terms not expressly declared void shall remain enforceable and in full effect.

26. THIRD PARTY RIGHTS. Nothing in this Contract shall be construed to give any rights or benefits to anyone other than City and Consultant.

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ATTACHMENT B

27. AUTHORITY. The undersigned hereby represent and warrant that they are authorized by the parties to execute this Contract.

IN WITNESS WHEREOF: the parties have executed this Contract the day and year first hereinabove written.

CITY OF STOCKTON

By:_____
KURT O. WILSON
CITY MANAGER

ATTEST:

By:_____
CHRISTIAN CLEGG
DEPUTY CITY MANAGER/
INTERIM CITY CLERK

APPROVED AS TO FORM:

By:_____
DEPUTY CITY ATTORNEY

KIMLEY-HORN AND ASSOCIATES, INC.

By:_____
Signature

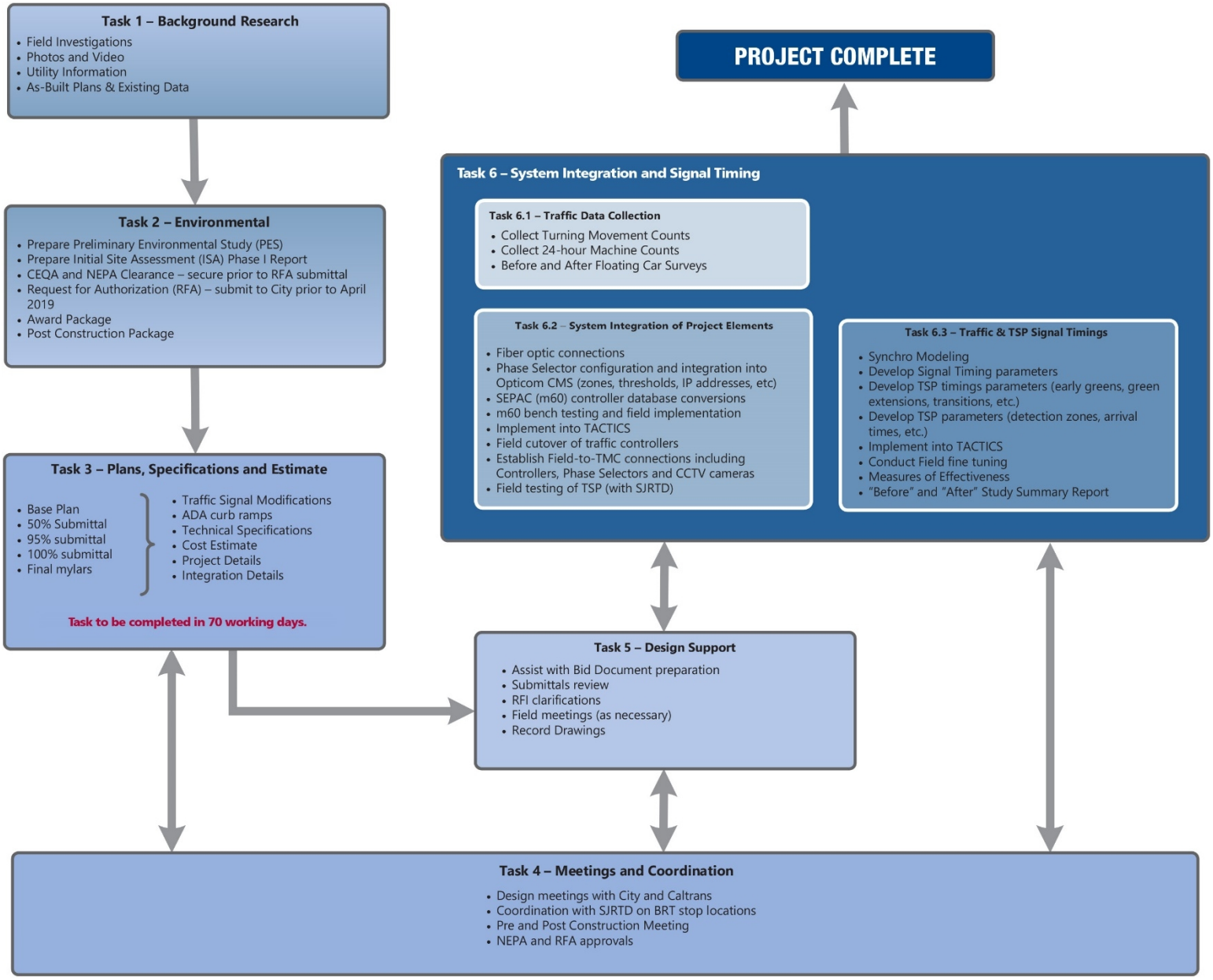
Randy Durrenberger
Print Name

Title: Sr. Vice President

EXHIBIT A

6. Detailed Work Plan

We have prepared our detailed scope very carefully based on our experience and lessons learned from the BRT phases II, III and IV. We have learned many specific lessons regarding TSP details, working directly with the construction contractor and the issues raised during construction. We have always made it our first priority to support and assist the City throughout the design and construction process, providing responsive services to address any and all issues as they arise. Because of our approach and diligence to ensure the success of the City's BRT Program, and our intimate knowledge of the proposed corridor, we believe that we are in a very good position to make this BRT Phase 1B corridor improvements seamless and efficient. Based on our experience, we have prepared a detailed scope of work which is summarized in the Work Flow Diagram shown below.



Outlined below are the detailed descriptions of the tasks in our proposed Scope of Work.

Task 1: Background Research

Kimley-Horn will conduct background research which will include the review of readily available relevant project documents and design standards, compiling aerial photographs, public utility system maps, as-built traffic signal plans, and details for use in the project's detailed design. We will also submit utility information request letters to privately owned utility companies with facilities in the public right-of-way that may be affected as a result of the project.

We will coordinate with SJRTD to gather information on the proposed BRT stop locations along the project corridor. This will be important when establishing the tie-in points between the traffic signal cabinets and the BRT bus stops.

Kimley-Horn will collect signal timing plans from the City.

We will meet with City and SJRTD staff to obtain the requested information and current contact lists for private utility companies.

Field reviews will be completed during the data gathering phase of the project to access as-built and record information provided by the City and utility companies. Kimley-Horn will drive and walk the project corridor to observe existing traffic conditions, gather existing lane configurations, signal phasing, posted speed limits, existing bus stops and routes, and visible utilities (above and below ground).

We will conduct a topographic survey of locations deemed necessary to receive civil improvements in order to bring them into ADA compliance or up to City of Stockton standards.

We will review and log existing traffic signal equipment, including signal control equipment, preemption detectors and phase selectors, underground conduit sizes (where accessible) and capacity, and signal communications. A project photo log will be prepared through each project intersection for use during project design. The photo log will be submitted via Sharefile to City staff. Much of this effort is readily available and we will start this process with this information.

We will work with the City to verify the operability and detection ranges of the existing optical detectors at the project signals. We will use this information to determine necessary equipment replacements. It is anticipated that the City traffic signal maintenance staff will utilize their existing optical emitter equipment as part of this verification.

Task 1 Deliverables:

- Photo log of project corridor
- Log of existing traffic signal equipment
- Copies of information request letters to private utilities

Task 2: Environmental

It is anticipated that the project would be Categorically Exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15300 (Class 1 exemption – Existing Facilities and Class 4 exemption – Minor Alterations to Land).

Task 2.1: Preliminary Environmental Studies Form/Notice of Exemption Form

Kimley-Horn will prepare a Preliminary Environmental Studies (PES) form as required by Caltrans Local Assistance Procedures Manual (Chapter 6, Environmental Procedures) for federally-funded projects located off the State Highway System (SHS). The PES form will outline the recommended environmental documentation, clearances, agency coordination and permits required for the project. It is assumed that no resource agency permitting will be required for the proposed project. Kimley-Horn will attend a field review of the project area with Caltrans and City of Stockton staff during the preparation of the PES form, if necessary.

Based on Kimley-Horn's experience with similar projects in the City of Stockton, we have assumed that an air quality study will not be required for environmental clearance. Additionally, based on our understanding of the project, it will be classified as a

Type III project, as defined in Title 23, Part 772 of the Federal Code of Regulations. Accordingly, we have not assumed that a noise study report will be required. Therefore, question 4 of the PES form will provide documentation of the project's classification as Type III. The requirement for technical studies, if any, will be determined by Caltrans District 10 Local Assistance staff following their review of the PES form.

This scope of work assumes that the PES form and any required technical studies will be adequate to support issuance of Categorical Exclusion by Caltrans in their role as lead agency for National Environmental Policy Act (NEPA) compliance. It is anticipated that the project would be Categorically Exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15300 (Class 1 exemption – Existing Facilities and Class 4 exemption – Minor Alterations to Land).

Kimley-Horn will support the process by preparing a draft Notice of Exemption (NOE) form for the City's review and comment. Following incorporation of any edits, the NOE will be submitted by the City to the San Joaquin Recorder-County Clerk's Office to start the 35-day statute of limitations period for the project.

The proposed project will not increase traffic volumes. Since the project is being implemented under the Highway Safety Improvement program, it is exempt from project-level C conformity analysis as listed in 40 CFR 93.126, Table 2. However, it is not exempt from regional conformity. San Joaquin County is in Nonattainment for PM2.5 and Ozone. A conformity determination will be required.

Task 2.2: Prepare Initial Site Assessment Phase 1 Report.

The Initial Site Assessment (ISA) scope of services described in this task addresses the due diligence procedures and methodology presented in the American Society for Testing and Materials (ASTM) Standard Method E 1527-13, Standard Practice for Environmental Site Assessments and Chapter 18 of the California Department of Transportation (The Department) document titled Project Development Procedures Manual (1999). The Project Development Procedures Manual states that "every project that includes excavation, structure demolition or modification, or the purchase of new right-of-way, will require an ISA to determine if known or potential hazardous waste is present within the project limits". This scope assumes that the analysis will be performed at up to five (5) intersections.

The purpose of the ISA is to provide the following:

- An identification of Recognized Environmental Conditions (RECs)
- An opinion of the impacts on the property resulting from conditions identified during the investigation, by a qualified Environmental Professional (EP)
- An opinion, by a qualified EP, on the need for additional investigations
- A statement consistent with ASTM E 1527-13, 12.13, on the qualifications of the EP and the suitability of the ISA to meet the requirements of The All Appropriate Inquiry Rule, CFR 40 312.

The assessments will reflect the general national standard of practice and the local customary practice as understood by the EP. The EP will use ASTM 1527-13 along with our judgment and experience when reviewing results of the assessment and in identifying findings and RECs.

Based on our previous experience with Caltrans District 10 Local Assistance, an ISA is required that shall include all intersection locations (e.g. 20 intersections) in order to comply with the National Environmental Policy Act (NEPA) standards. However, the site reconnaissance and regulatory review will only include the intersections where ground disturbance is planned.

Kimley-Horn's findings relative to potential hazardous waste facilities within and adjacent to the project boundaries will be summarized in the final ISA report. Kimley-Horn's scope of services for conducting the ISA consists of the tasks set forth below. The following tasks refer to only that information that is defined as reasonably ascertainable.

Task 2.2.1 Records Review. This task will general consist of an environmental database record search, aerial photograph review, and review of historical maps and sources.

Task 2.2.2 Site Reconnaissance. Kimley-Horn will conduct a site reconnaissance at up to five (5) sites at the subject property consistent with ASTM E 1527-9. The Site Reconnaissance will be non-invasive. We will not collect or analyze any samples. We assume that we will be allowed appropriate access to all areas of the site and that the site reconnaissance shall be conducted as a single event. Should an additional site reconnaissance be required due to access limitations, the additional site reconnaissance shall be considered additional services.

Task 2.2.3 Interviews. Consistent with ASTM E 1527-13, KHA will make a reasonable attempt to conduct interviews with current and past property owners, neighboring property owners in the case of abandoned properties, or local agency representatives with knowledge of the project area.

Task 2.2.4 ISA Report Preparation. Upon completion of the Tasks 2.2.1, 2.2.2 and 2.2.3, Kimley-Horn will prepare a summary report for the subject property. The report will be formatted consistent with Appendix X4 of ASTM E 1527-13. The report will include conclusions and recommendations based on the findings of the ISA.

Task 2 Deliverables:

- Preliminary Environmental Study (PES)
- Notice of Exemption (NOE)
- Initial Site Assessment Phase 1 Report

Task 3: Plans, Specifications, and Estimates (PS&E)

Kimley-Horn will develop the Plans, Specifications, and Cost Estimate (PS&E) for the BRT improvements including, but not limited to, traffic signal modifications, transit signal priority elements, civil improvements and communications system elements.

Our scope includes the submittal of PS&E packages at the 50% and 95% design levels for City design review. The final PS&E package will be submitted at the 100% design level for a final City plan check prior to providing the final bid-ready (final) construction documents. We have further detailed our scope of services with the following sub-tasks.

Our team will coordinate the designs at the intersections along Miner Avenue with the Miner Avenue Complete Streets project where improvements overlap. We are assuming that the City will provide the design plans and specifications that are necessary to accomplish this design coordination.

Task 3.1: Topographic Survey

Prior to the start of detailed design, we will complete a topographic survey at the project intersections listed in the table below at the Tier 1 locations. The survey will cover the curb ramps, the gutter, and sidewalk in order to collect sufficient data to design replacement curb ramps. The survey will also capture locations of all above-ground utilities in the areas of survey.

The survey limits for each intersection corner will be 50-ft along the sidewalk beyond beginning of curb return to 50-ft along sidewalk beyond end of curb return. Cross sections will be taken at 5-ft beyond beginning of curb return, beginning of curb return, 1/3 of curb return, 1/2 of curb return, 3/4 of curb return, end of curb return, and 5-ft beyond curb return. Cross sections will include elevations for the following: 5-ft from the back of sidewalk (where possible), back of sidewalk, intermediate sidewalk grade breaks, top and bottom of curb ramps, top of curb, gutter flow line, lip of gutter, roadway pavements at 5-ft and 10-ft and 20-ft from the face of curb. Survey will also provide pavement grades adjacent to each crosswalk ramp, for verifying ADA compliance.

Survey control will tie into City of Stockton listed survey monuments. The survey will provide right-of-way and easements based on County records and tied to City of Stockton Horizontal and Vertical System. We will identify, list, tie out/perform construction

staking of survey monuments, and show existing survey monuments on construction plans. We will file all pre-construction Corner Records or Records of Survey with San Joaquin County and submit a copy to the City. The Corner Records or record of Survey will show monuments within the area of construction reasonably subject to removal or disturbance not shown on a recent record document.

Task 3.2: Prepare 50% Plans, Specifications, and Estimates

Prior to the development of the 50% PS&E documents, we will develop the base plans for the project locations. This includes developing the base maps with the existing traffic signal and utility information that is received by the City and the utility companies, and the planned BRT stops received from SJTRD.

Once the base plans are prepared, Kimley-Horn will begin the preparation of the 50% design level plans, specifications (outline level), and cost estimates (PS&E) for the BRT improvements. One set of plans will be prepared at an appropriate scale for the intended design in AutoCAD 2013 format and will adhere to the applicable City design standards and requirements. We will utilize the City standard plan sheet borders with title block and general construction notes and CAD standards that were used for the Charter Way BRT Phase IV project. The anticipated breakdown of sheets for the 50% plans is as follows:

- Cover – General Notes, Abbreviations, Sheet Index, Legend and Project Location [1 sheet]
- Overview of Work – Traffic Signal and Electrical Notes [1 sheet]
- Details – Pull boxes, Foundations, CCTV, Electrical, TSP equipment (cabinets and poles) [4 sheets]
- System Diagram – Overall [1 sheet]
- System Diagram – Field Cabinet Equipment Connections [2 sheets]
- System Diagram – Field Cabinet Network Connections [2 sheets]
- System Diagram – TMC Equipment Room Connections [1 sheet]
- Traffic Signal Modification Plans [13 sheets]
- Civil Improvement Plans and Details [up to 2 sheets]
- Equipment Installation Summary [1 sheet]

Traffic Signal Modification

Traffic signal modification plans will include layout representations, in plan view, at a drawing scale of 1"= 20' for traffic signal and TSP modifications. It is assumed the location of TSP signal equipment modifications (i.e., replacement of controller and service cabinets, optical detectors, and controller units) at the intersections can be accomplished schematically. At this design stage, design details including equipment and conductor schedules will not be shown.

Traffic signal modification plans will include installation of new signal poles and equipment, TSP/EVP detectors, new traffic signal controllers and cabinets, electrical service cabinets, conduit routing, pull boxes, and wiring.

Curb Ramp Modifications

Based on our initial field assessment, there are up to 30 curb ramps that may need to be upgraded to meet ADA standards. However, based on our experience, we have grouped the curb into two tiers of ramps: Tier 1 – ramps that will need to be replaced; and Tier 2 – optional to be replaced, but likely acceptable to remain as is. We have grouped the 30 ramp locations into the two tiers as shown in the table below.

Location	Quadrant	Tier 1	Tier 2
Pacific/Central	NW	■	
Madison/Park	All corners (already in the proposal)	■	
Madison/Oak	SE, SW	■	

Location	Quadrant	Tier 1	Tier 2
Madison/Fremont	NE (already in the proposal)	■	
Center/Miner	NE	■	
El Dorado/Miner	NE	■	
Pacific/Harding	SW		■
Madison/Oak	NW, NE		■
Fremont/Center	All corners (5)		■
Center/Miner	SE		■
El Dorado/Miner	NW, SW		■
Hunter/Miner	NE, NW		■
San Joaquin/Miner	All corners (4)		■
Sutter/Miner	NE, NW, SE		■

We have assumed in this scope of work that the curb ramps listed under the Tier 1 locations will be surveyed and replaced with ADA compliant ramps. Using the topographic survey data, and the City's standard curb ramp standard details as a basis, Kimley-Horn will design the new curb ramps at the locations and corners identified under the Tier 1 list.

The civil improvement plans will be at a scale of 1"= 20'. We will show the curb ramp improvements including conform points, sawcut limits, and flowline slopes. We will work closely with the City on identifying and finalizing the locations where new curb ramps are needed. We do not anticipate utility relocations. However, some utilities may require adjustment, such as the City storm drain inlets that may be affected by the curb ramp installation, and the existing joint poles and fire hydrants at the intersections.

Communications

The existing and proposed fiber optic connections will be shown in the System Diagram sheets. We will work closely with City traffic engineers to document in detail the specific fiber optic connections in each controller cabinet by first conducting a field walkthrough and noting all of the fiber connections.

We will also coordinate with the City on the specific equipment connections within the TMC Equipment Room including the placement of equipment in existing racks, cable routing, video switch connections, video encoders, network switches and power supplies.

The plans will reflect the fiber connections within the controller cabinets, including terminations and assignments. The Traffic Signal Modification plans will detail the work to be done to preserve the existing fiber drop cables.

We will include the connections and integration of the City's new CCTV cameras into the design. This design will be consistent with the current design for BRT II, III, and IV. This includes connecting the new City cameras in analog format over the fiber strands allocated for video communications in each signal cabinet.

At the TMC, the video analog signals will be connected to the City's video matrix switch. The video switch will provide the video routing to the video encoders to be placed on the Police network. At the TMC, if there are BRT stop cameras, the SJRTD's

analog video signals will be encoded into digital format and then routed to the SJRTD's facilities via the Ethernet network (as designed under the BRT II project).

Specifications and Estimates

For the 50% technical specifications submittal, we will prepare the specifications based on the previous BRT phase. The bid items will not be prepared at this stage. The specifications will be prepared in Microsoft Word.

Opinions of probable construction cost (estimates) will be based on other recent similar construction cost estimates. Opinions of probable construction costs will be prepared in Microsoft Excel format.

Task 3.2 Deliverables:

- Curb ramp recommendations technical memorandum
- Six sets of the 50% Plans and Technical Specifications outline
- Six copies of the 50% Opinion of Probable Construction Costs

Task 3.3: Prepare 95% Plans, Specifications, and Estimates

Upon completion of the 50% design review by the City, Kimley-Horn will organize a design review meeting to receive and discuss comments on the design. A comment resolution matrix will be prepared that will summarize the comments received on the 50% PS&E documents and the resolutions for each comment. This matrix will be submitted with the 95% PS&E documents and the original, red-lined City mark-ups of the 50% PS&E documents. Based on the review comments on the 50% PS&E, the approved version of the 50% PS&E will be advanced to the 95% completion level.

The additional design details to be prepared at the 95% design level include the following:

- System Diagram – TMC Equipment Room Connections [1 sheet]
- Traffic Signal Modification Plans – conductor schedules [13 sheets]
- Equipment Installation Summary [1 sheet]

The 95% technical specifications will be developed to include specific provisions regarding construction requirements, materials, and compensation. The applicable City, County, and Caltrans standard details will be provided in an appendix to the special provisions.

Traffic signal improvement special provisions will include detailed system requirements to be used by the Contractor in the installation and testing of TSP functions.

We will also submit the 95% PS&E documents to the City for review and comment, including the red-lined markups of the 50% plans, specifications, estimate, and the comment resolution matrix.

Our design plans will include specific cabinet equipment details including connections of all equipment and fiber assignments. We propose to prepare the plans similar to the Charter Way BRT IV and V plans.

Task 3.3 Deliverables:

- Six sets of the 95% Plans and Technical Specifications
- Six sets of the 95% Opinion of Probable Construction Costs
- Comment Resolution Matrix

Task 3.4: Prepare 100% Plans, Specifications, and Estimates

Upon completion of the 95% design review by the City, Kimley-Horn will organize a design review meeting to receive and discuss comments on the design. A comment resolution matrix will be prepared that will summarize the comments received on the 95%

PS&E documents and the resolutions for each comment. This matrix will be submitted with the 100% PS&E documents and the original, red-lined City mark-ups of the 95% PS&E documents. Based on the review comments on the 95% PS&E, the approved version of the 95% PS&E will be advanced to the 100% completion level.

Kimley-Horn will submit the 100% (pre-final) PS&E to the City for a final plan check review. It is anticipated that any comments resulting from the plan check will be editorial in nature and will be communicated via e-mail or discussed on a conference call. Any significant revisions to the design after submittal of the 100% (pre-final) PS&E will be considered as additional services to be completed for an additional fee upon receipt of written authorization from the City. A total of one additional design meeting is included after the submittal of the 100% (pre-final) PS&E documents.

It is anticipated that the City will furnish any applications and requirements to be used by the Contractor to obtain permits for construction within City limits. Permit requirements will be included in an appendix to the technical specifications.

Final plans, specifications, and estimates will be prepared following completion of the City's plan check review. The final plans will be sealed by the professional engineer in responsible charge and will include the registration number and expiration date. The Final PS&E will be submitted to the City for use in advertising and constructing the improvements. Final plans will be provided on Mylar and electronically in AutoCAD format.

Final specifications will be provided electronically in Microsoft Word format for the City's use in finalizing the bid documents for advertisement.

We will prepare the complete Request for Authorization (RFA) package and submit it to the City for review.

Task 3.4 Deliverables:

- Comment Resolution Matrix
- One set of the 100% (pre-final) PS&E Documents
- One set of Final plans on Mylar
- Plans in AutoCAD format
- Specifications in Microsoft Word format
- Opinion of Probable Construction Costs in Microsoft Excel format
- RFA Package

Task 4: Meetings and Coordination

For this task, the coordination items and meetings for the project will include the following items by Kimley-Horn:

- Arrange and attend up to four (4) meetings with the City, Caltrans, and/or SJRTD to discuss and present the proposed designs or to discuss their input and review comments on the design plans
- Prepare the entire Request for Authorization (RFA) to obtain the E76 Authorization to proceed with construction. We anticipate one meeting with the Caltrans Local Assistance Office
- Relevant materials from the LAPM Chapter 12 will be included in the specifications
- Prepare and complete monthly updates to the project schedule using Microsoft Project (baselined)
- Attend and prepare meeting minutes for the project kick-off meeting, up to two (2) design review meetings
- Attend and prepare meeting minutes for up to four (4) construction meetings, including the preconstruction meeting and post-construction meeting
- Prepare up to seven (7) monthly progress reports, schedule updates and invoices, and participate in monthly conference calls with City staff to discuss current action items and schedule based on completion of project design within 90 working days from receipt of the notice to proceed

Task 5: Design Support

Bidding and construction phase engineering support will include answering City staff questions during the bid and award of the contract, review of submittals, responding to contractor requests for information (RFIs), review of contract change orders, preparation of addenda, and preparation of record drawings.

Attendance at regular construction meetings, including the pre- and post-construction meetings is included in the scope provided for Task 4.

Bidding and construction phase engineering support services will be provided on a time and materials basis, based on hourly billing rates, up to the maximum number of hours as indicated in the sealed Cost Proposal. Kimley-Horn will notify the City upon reaching approximately 80% of the approved level of effort and provide recommendation or request additional contract authorization, if necessary. Additional services will be provided if requested by the City, subject to additional fee.

Task 5 Deliverables:

- Review and preparation of responses for submittals
- Preparation of responses for RFIs
- Review and preparation of responses for CCOs
- Preparation of project addenda
- Preparation of record drawings

Task 6: System Integration and Traffic Signal Timing

Under this task, we have separated the tasks into three sub-tasks, Traffic Data Collection, System Integration and Signal Timing.

Task 6.1: Traffic Data Collection

This task consists of the following key activities:

- Collection of turning movement counts
- Collection of 24-hour machine counts

Under this task, Kimley-Horn will collect the necessary traffic data including turning movement counts and 24-hour machine counts to be used for the traffic and TSP timing development.

Turning Movement Counts will be collected at all 13 project signals on a Tuesday, Wednesday, or Thursday during the morning (7a-9a), midday (11a-1p) and evening (4p-6p) peak periods, and will include vehicular, pedestrian, and bicycle counts. The traffic counts will not be collected on holidays or during abnormal weather conditions, on school breaks, or periods of scheduled lane or street closures for construction and/or events. In addition, weekend turning movement counts will not be collected.

24-hour Machine Counts will be collected for seven (7) days to establish daily and weekly traffic patterns. We propose to collect 24-hour counts at three locations along the corridor. We will work with the City to determine the exact locations to collect the counts.

Field information will also be collected and confirmed to develop the signal timing plans. This information includes, but is not limited to:

- Other roadway conditions, such as on-street parking locations, bus stop locations, truck traffic
- Saturation flow rates for typical movements
- Travel speeds between intersections and along the corridor

- Travel patterns, particularly at or near the I-5 interchange and around Airport Way
- Peak surges in traffic due to adjacent land uses, e.g., schools, retail, etc.

We will coordinate with SJRTD to verify the proposed BRT route and stop locations along the project corridor. This will be important when determining the TSP timing parameters as well as developing the Synchro model.

Task 6.1 Deliverables:

- Summary of turning movement and 24-hour machine counts
- Summary of field collected data (speeds, saturation flow rates, etc.)

Task 6.2: System Integration

This task consists of the following key activities:

- Conversion of existing traffic controller databases
- Integration of the existing and new fiber optic network connections
- Configuration, testing and fine-tuning of the TSP system (field and central)
- Documentation of the final configuration of the TSP elements

Kimley-Horn will conduct field and central integration of the BRT system elements including the fiber optic elements, traffic controllers, TSP/EVP elements and CCTV cameras. As part of the integration, we will coordinate and cooperate with the construction contractor and City inspectors throughout the process in order deliver a fully functioning system. We will attend the pre-construction and the post-construction meetings.

Traffic Controller Integration

Kimley-Horn will convert the databases from the existing traffic signal controllers to the new controller firmware. The conversions will be from the existing SEPAC v3.3 firmware or Model 170E controller (Caltrans C8) to the SEPAC v4.57 for the m60 (City) and the TSCP firmware for the Model 2070 (Caltrans) controllers.

We will use the City's TACTICS central to enter the new databases including the TSP parameters. We have used both of these tools to convert or prepare entire controller databases for the City's SEPAC controller firmware.

Once the new databases have been entered into TACTICS, Kimley-Horn will download the entire databases to each m60 traffic controller in the City's TMC for bench testing. We will use either the City's or Kimley-Horn's suitcase tester to fully test the converted signal databases, signal timings, and the TSP functions. We will also test the communications with TACTICS on the bench prior to field deployment. We will assist the City and Caltrans in the field during the cutover of the existing controllers to the new controllers.

We regularly perform this specific type of work and will provide hands-on technical assistance to troubleshoot and fine-tune the new controller settings and timings in a similar fashion as the Airport Way BRT II, Hammer Lane BRT III and BRT V projects.

TSP/EVP System Integration

Kimley-Horn will configure all of the Opticom phase selectors with the addresses provided by the City (i.e., IP addresses, phase selector IDs, etc.). We will assist the City and SJRTD with the verification testing and fine-tuning of the TSP parameters, detection zones and threshold settings, which includes the fine-tuning of the TSP arrival times for optimal bus and traffic signal operations.

We will coordinate with SJRTD on having a BRT equipped vehicle for this field testing and fine-tuning of the TSP parameters. Also, the testing will verify that the Opticom CMS is accurately receiving field notifications from the TSP phase selectors.

Since Kimley-Horn installed the TSP Central Monitoring System (CMS) for the City, our detailed knowledge of this CMS will ensure that all of the new TSP field equipment will be connected to this system for real-time monitoring as necessary, logging and error reporting, and also to configure the phase selectors as needed for any changes to the operations at the intersections.

We will provide assistance to the City and the construction contractor on the network connections for the fiber optic system. As we have done in the past, we will verify the equipment orders for the specific network elements and coordinate the effort to make the connections in the field and the TMC equipment room.

Task 6.2 Deliverables:

- Converted and tested databases for all 18 City project traffic signals along the corridor
- Updated traffic controller databases based on the field fine-tuning
- Configured, tested, and fine-tuned TSP system including configuration documentation

Task 6.3: Traffic and TSP Signal Timing

This task consists of the following key activities:

- Determine TSP parameters and timings
- Development, implementation, and fine-tuning of TSP and traffic signal timing

Under this task, the first effort for the traffic signal timing services will be to prepare the TSP parameters and timings for the City's controllers as well as Caltrans' controllers, to reduce potential vehicular and BRT bus delays at each signalized intersection. This includes developing the estimated bus arrival times for each intersection in each direction based on the City-verified Opticom detector settings (i.e., where the call is placed along the approach to the intersection).

Kimley-Horn will work with the City and the SJRTD on developing these settings such that they achieve the optimal arrival times for each intersection. Given that the system will be a schedule-based system (as opposed to a headway-based system), it will be more important to have optimized TSP detection settings versus consistent settings, i.e., the requested TSP phases need to be consistently granted when the buses need the priority. In this case, TSP features such as the headway lockout are not needed.

The following outlines the TSP parameters that will be reviewed and developed:

- TSP phase minimum and maximum green times (for each peak period if necessary)
- Bus arrival times (i.e., the maximum green extension or early green to accommodate the TSP phases)
- Non-TSP phase maximum green reduction times for each peak period
- TSP delay time (if necessary, a delay after TSP call before the TSP operation begins)
- Transition type
- TSP parameters for both coordinated and free operation

Kimley-Horn will assist the City in confirming the TSP operations with the new firmware prior to field implementation through bench testing which will be conducted by Kimley-Horn.

We will also review project documentation submitted by the Contractor, and based on our detailed experience with working with the City's standard firmware (SEPAC) we will be able to configure and test the TSP operations.

Kimley-Horn will develop traffic signal timings for corridor coordination plans and TSP timing parameters based on a Synchro software simulation model of existing traffic conditions during the AM, midday, and PM peak hour conditions that will be developed as part of this task. It is anticipated that coordination timing plans will be developed for all of the existing signalized intersections along the BRT 1B corridor.

The initial step in the development of coordinated timing plans is the review of the grouping of traffic signals for coordination. The goal of signal grouping is to cluster those intersections together that have similar operational characteristics such as cycle lengths, higher platooning traffic, and shorter travel time between intersections.

The desirability of coordinating adjacent intersections will be reviewed based on the following criteria:

- Travel patterns
- Travel time
- Storage space
- Platooning of vehicles
- Traffic volumes
- Natural cycle length similarities
- TSP operations

In addition, half-cycling of less critical intersections will be reviewed where more critical intersections have a much higher cycle length. In cases where critical intersections would greatly increase the cycle lengths of the other signals in the grouping, setting the critical intersection to free or actuated operation will be reviewed. The optimization process will include an initial cycle evaluation and selection of the optimum cycle lengths and final split/offset optimization. Coordinated timing plans will be developed for the AM and PM peak periods on weekdays only. In addition, Kimley-Horn will review and make recommendations regarding the implementation of coordination plans during the midday and school peak period.

If warranted, Kimley-Horn will develop school peak coordination plans. The development of weekend, or special event coordination plans is not included in this scope of services.

The optimization process will include the review of alternate phase sequences. Based on the City's opinion of phase sequencing options (use of lead/lag), we will consider alternative phase sequencing to achieve optimum bandwidth along the study corridor.

Once the final model runs are completed, signal timing parameters, critical performance measure information, and other relevant timing information will be summarized in a draft Signal Timing Memorandum.

The result of the signal timing plans will be documented on time-space diagrams (TSD). The TSDs will indicate the green bands, phase numbers, vehicle movements, intersection name, split allocations and offsets for each intersection and the cycle length for the plan.

A summary of the tasks accomplished including the methodology used, and recommended traffic and TSP signal timing plans will be incorporated into the memo and will be submitted to the City for review and comment. One City review and revision cycle is assumed for the development of signal coordination plans and TSP signal timing parameters.

Once the proposed signal timing plans and TSP timing parameters are reviewed by the City, Kimley-Horn will rerun the models once with the requested adjustments or modifications to finalize the modeling process. Recommended coordination plans and TSP timing parameters will be provided to the City for implementation.

Kimley-Horn will perform field fine-tuning of the time-of-day traffic signal coordinated timing plans. We will conduct field fine-tuning with City staff to observe operations during the peak traffic hours and implement modifications as necessary for improving the optimization.

Kimley-Horn will participate in the post-installation TSP firmware testing and acceptance. We will assist the City and SJRTD with the verification testing and fine-tuning of the TSP parameters and detection zones, and also the fine-tuning of the TSP arrival times for optimal bus and traffic signal operations. We anticipated utilizing an SJRTD bus equipped with TSP equipment for the field testing. We will assist the City in working with SJRTD to assign a BRT bus for the testing as we have done in the past.

"Before" Vehicular Travel Time Study

Floating car "Before" surveys will be conducted along the BRT 1B corridor, as shown in the exhibit included in the Project Understanding. The surveys will be conducted in accordance with the ITE Manual of Transportation Studies methodology. Up to six runs will be conducted in each direction along the corridor during each of the weekday AM, midday, and PM peak periods. The travel time data will be summarized for the corridor and will include the average travel time, stops, total delay time, speed, and distance traveled. Kimley-Horn will submit a summary of the "Before" information to the City.

"After" Vehicular Travel Time Study

Following implementation and fine-tuning of the TSP and traffic signal timings, Kimley-Horn will conduct the "after" travel time study. As with the before studies, the surveys will be conducted in accordance with the ITE Manual of Transportation Studies methodology. Up to six runs will be conducted in each direction along the corridor during each of the weekday AM, midday, and PM peak periods. The travel time data will be summarized for the corridor and will include the average travel time, stops, total delay time, speed, and distance traveled. Kimley-Horn will submit a summary of the "Before" information to the City. This "After" study will be consistent with the "Before" study that is conducted under this same task.

We have assumed that bus travel time and delay information will be furnished by SJRTD and will utilize data available from their transit AVL system. In addition, on-board transit travel time and ridership studies and rider surveys are not included in this scope of services.

"Before" and "After" Study Project Report

Once the before and after surveys are completed and the data is collected, Kimley-Horn will document the final, field-tuned, coordination and TSP signal timings as part of the Before and After Study Project Report. Results of the Before and After vehicular travel time studies as well as compiled information on transit travel time and delay will be provided to the City in the Before and After Study Project Report. The Project Report will document the changes in signal timings and intersection operations before and after the TSP and signal timing plan implementation.

Task 6.3 Deliverables:

- Copies of Synchro simulation models for existing conditions and fine-tuned post construction operations at 20 intersections
- Field fine-tuning of coordination timing plans and TSP timing parameters
- Draft and final Signal Timing Memorandum
- Copies of "Before" and "After" travel time study data
- Draft and final "Before" and "After" Study Project Report

ATTACHMENT B

EXHIBIT B

CITY OF STOCKTON
Bus Rapid Transit (BRT) Phase 1B Corridor Improvements
Federal Project No. CML 5008(148)/City Project No. PW1515
September 5, 2018

195.24% Overhead %

194.67% Overhead % w/o FCCM

10% Fee %

		Kimley-Horn and Associates, Inc.													
	Name	Aguigui	Durrenberger	Sowers	Pulliam	Fidler	Wages	Rainey	Carley						
	Category/Title	Project Manager	Principal in Charge	Sr. Professional Traffic	Sr. Professional Civil	Sr. Professional Environmental	Professional Traffic	Professional Traffic	Professional Civil	Analyst Traffic	Analyst Civil	Project Support	Admin Support		
	Direct Rate*	$91.88	$91.88	$81.29	$80.79	$63.11	$54.03	$42.71	$56.55	$38.03	$38.03	$42.67	$31.56	**Total KH Hours**	**Total KH Cost**
	Billing Rate	$298.34	$298.34	$263.95	$262.33	$204.92	$175.44	$138.68	$183.62	$123.49	$123.49	$138.55	$102.48		
Task 1:	**Background Research**	0	0	0	0	0	0	12	0	16	0	0	0	28	**$ 3,640.00**
	Field Observations and Data Gathering							8		8				16	$ 2,097.36
	Utility Coordination							4		8				12	$ 1,542.64
Task 2:	**Environmental**	0	0	0	0	32	0	0	0	46	0	0	0	78	**$ 12,237.98**
	Site Reconnaissance and interviews					14								14	$ 2,868.88
	PES preparation					8				16				24	$ 3,615.20
	ISA preparation					10				30				40	$ 5,753.90
Task 3:	**PS&E**	10	2	0	**20**	0	40	**50**	**42**	**60**	**70**	3	4	301	**$ 47,369.59**
	Prepare 50% PS&E Documents	4	1		8		16	16	16	20	31	2	1	115	$ 18,231.75
	Prepare 95% PS&E Documents	4			8		16	16	14	24	26	1	1	110	$ 17,304.13
	Prepare 100% PS&E Documents	2	1		4		8	10	12	8	13		1	59	$ 9,633.87
	Prepare RFA Package							8		8			1	17	$ 2,199.84
Task 4	**Meetings and Coordination**	8	0	0	0	0	0	8	0	0	0	0	0	16	**$ 3,496.16**
	Meetings and Coordination with City	4						4						8	$ 1,748.08
	Meetings and Coordination with Caltrans													0	$ -
	Meetings and Coordination with SJRTD	4						4						8	$ 1,748.08
Task 5	**Design Support**	0	0	0	0	0	0	16	0	20	0	0	0	36	**$ 4,688.68**
	RFIs and Submittals reviews							8		4				12	$ 1,603.40
	Project Addendums							4						4	$ 554.72
	Record Drawings							4		16				20	$ 2,530.56
Task 6	**System Integration and Traffic/TSP Signal Timing**	4	0	18	0	0	22	32	0	82	0	1	2	161	**$ 24,711.59**
	Data Collection (Traffic Counts)													0	$ -
	Prepare TSP Parameters							4		8				12	$ 1,542.64
	Calibrate and Optimize Traffic Model			6			4	4		20				34	$ 5,309.98
	Prepare Summary Memorandum			2				4		4				10	$ 1,576.58
	Implementation and Fine Tuning (Traffic)			8			8	4		12				32	$ 5,551.72
	Controller Database Conversions and System Input	2					2			10				14	$ 2,182.46
	Assist with Fiber Optic Connections							4						4	$ 554.72
	Assist with Fiber Cutovers							4						4	$ 554.72
	Field Implementation and Fine Tuning (TSP)						8	4		12			1	25	$ 3,542.60
	Before Study (sub effort)													0	$ -
	After Study (sub effort)	2												2	$ 596.68
	Before and After Study Project Report			2				4		16		1	1	24	$ 3,299.49
	TOTAL HOURS	**22**	**2**	**18**	**20**	**32**	**62**	**118**	**42**	**224**	**70**	**4**	**6**	**620**	
	Subtotal Labor:	**$6,563.48**	**$596.68**	**$4,751.10**	**$5,246.60**	**$6,557.44**	**$10,877.28**	**$16,364.24**	**$7,712.04**	**$27,661.76**	**$8,644.30**	**$554.20**	**$614.88**		**$ 96,144.00**
	Other Direct Costs														**$ 32,146.86**
	Traffic Counts (Wiltec - DBE)														$ 11,000.00
	Travel/Mileage/Expenses														$ 200.00
	ESP Survey (Subconsultant)														**$ 20,946.86**
	TOTAL COST:														**$ 128,290.86**

Exhibit 10-H1 Cost Proposal
Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts
(Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed

☑ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Consultant Kimley-Horn and Associates, Inc.

Project No. PW1515 Contract No. CML 5008(148) Date 9/5/2018

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate*	Total
Project Manager	Kevin Aguigui	22	$91.88	$ 2,021.36
Principal in Charge	Randy Durrenberger	2	$91.88	$ 183.76
Sr. Professional	Brian Sowers	18	$81.29	$ 1,463.22
Sr. Professional	John Pulliam	20	$80.79	$ 1,615.80
Sr. Professional	Karina Fidler	32	$63.11	$ 2,019.52
Professional	Matt Wages	62	$54.03	$ 3,349.86
Professional	Shawn Rainey	118	$42.71	$ 5,039.78
Professional	Daniel Carley	42	$56.55	$ 2,375.10
Traffic Analyst		224	$38.03	$ 8,518.72
Civil Analyst		70	$38.03	$ 2,662.10
Project Support		4	$42.67	$ 170.68
Admin Support		6	$31.56	$ 189.36

LABOR COSTS *Estimated Direct Rate effective 7/1/18

a) Subtotal Direct Labor Costs $ 29,609.26

b) Anticipated Salary Increases (see page 2 for calculation) $ -

c) **TOTAL DIRECT LABOR COSTS [**(a) + (b)] **$ 29,609.26**

INDIRECT COSTS

d) Fringe Benefits (Rate: 43.49%) e) Total Fringe Benefits [(c) x (d)] $ 12,877.07

f) FCCM (Rate: 0.57%) g) FCCM [(c) x (f) $ 168.77

h) General and Administrative (Rate: 151.18%) i) Gen & Admin [(c) x (h)] $ 44,763.28

j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] **$ 57,809.12**

FIXED FEE k) **TOTAL FIXED FEE** [(c) + (e) + (i)* fixed fee 10%] **$ 8,725.62**

l) **CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)**

Description of Item	Quatity	Unit	Unit Cost	Total
Traffic Counts (Wiltec)			$0.00	$ 11,000.00
Mileage			$0.00	$ 200.00
			$0.00	$ -

l) **TOTAL OTHER DIRECT COSTS** **$ 11,200.00**

m) **SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

Subconsultant 1: ESP Surveying $ 20,946.86

Subconsultant 2: $

(m) TOTAL SUBCONSULTANS' COSTS **$ 20,946.86**

(n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] **$ 32,146.86**

TOTAL COST [(c) + (j) + (k) + (n)] **$ 128,290.86**

Exhibit 10-H Cost Proposal
Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) contracts
(Calculations for Anticipated Salary Increases)

Consultant Kimley-Horn and Associates, Inc. Contract No. CML 5008(148) Date 9/5/2018

1. Calculate average hourly rate for 1st Period of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal		Total Hours per Cost Proposal		Avg Hourly Rate	**Contract Duration**
$ 29,609.26	/	620	=	$47.76	Period 1 Avg Hourly Rate

2. Calculate hourly rate for all periods (Increase the Average hourly rate for a period by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Period 1	$47.76	+	5%	=	$50.14	Period 2 Avg Hourly Rate
Period 2	$50.14	+	5%	=	$52.65	Period 3 Avg Hourly Rate
Period 3	$52.65	+	5%	=	$55.28	Period 4 Avg Hourly Rate
Period 4	$55.28	+	5%	=	$58.05	Period 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each period by total hours)

	Estimated % Completed Each Period		Total Hours per Cost Proposal		Total Hours per Period	
Period 1	100.00%	*	620	=	620	Estimated Hours Period 1
Period 2	0.00%	*	620	=	0	Estimated Hours Period 2
Period 3	0.00%	*	620	=	0	Estimated Hours Period 3
Period 4	0.00%	*	620	=	0	Estimated Hours Period 4
Period 5	0.00%	*	620	=	0	Estimated Hours Period 5
Total	100%		Total	=	620	

4. Calculate Total Costs including Escalation (multiply average hourly rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated Hours (calculated above)		Cost Per Period	
Period 1	$47.76	*	620	=	$29,609.26	Estimated Hours Period 1
Period 2	$50.14	*	0	=	$0.00	Estimated Hours Period 2
Period 3	$52.65	*	0	=	$0.00	Estimated Hours Period 3
Period 4	$55.28	*	0	=	$0.00	Estimated Hours Period 4
Period 5	$58.05	*	0	=	$0.00	Estimated Hours Period 5

Total Direct Labor Cost with Escalation	=	$29,609.26	
Direct Labor Subtotal before escalation	=	$29,609.26	
Estimated total of Direct Labor Salary Increase	=	**$0.00**	Transfer to Page 1

Period 1 = Contract inception through 6/30/19 Period 2 = 7/1/19 through 6/30/20 Period 3 = 7/1/20 through 6/30/21
Period 4 = 7/1/21 through 6/30/22 Period 5 = 7/1/22 through 6/30/23

Exhibit 10-H1 Cost Proposal

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Anthony Podegracz

Title*: Vice President

Signature: Anthony Podegracz

Date of Certification (mm/dd/yyyy): 9/5/2018

Email: anthony.podegracz@kimley-horn.com

Phone Number: 510-625-0712

Address: 1300 Clay Street, Suite 325, Oakland, CA 94612

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Engineering services

Exhibit 10-H1 Cost Proposal
Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) Contracts
(Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed

☐ Prime Consultant ☑ Subconsultant ☐ 2nd Tier Subconsultant

Consultant ESP Surveying, Inc.

Project No. PW1515 Contract No. CML 5008(148) Date 6/19/2018

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Project Manager	David Jordan	46	$34.00	$ 1,564.00
Survey Manager	Frank Mungia	4	$48.00	$ 192.00
2 Man Survey Crew		50	$78.41	$ 3,920.50
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -
				$ -

LABOR COSTS

a) Subtotal Direct Labor Costs $ 5,676.50

b) Anticipated Salary Increases $ -

c) **Total Direct Labor Costs [**(a) + (b)] **$ 5,676.50**

INDIRECT COSTS

d) Fringe Benefits (Rate: 95.25%) e) Total Fringe Benefits [(c) x (d)] $ 5,406.87

f) Overhead (Rate: 70.19%) g) Overhead [(c) x (f) $ 3,984.34

h) General and Administrative (Rate: 33.99%) i) Gen & Admin [(c) x (h)] $ 1,929.44

j) **Total Indirect Costs** [(e) + (g) + (i)] **$ 11,320.64**

FIXED FEE

k) **TOTAL FIXED FEE** [(c) + (j)]* fixed fee 10%] **$ 1,699.71**

l) CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZE (Add additional pages if necessary)

Description of Item	Quatity	Unit	Unit Cost	Total
Travel	3	0	$750.00	$ 2,250.00
			$0.00	$ -
			$0.00	$ -
			$0.00	$ -
			$0.00	$ -

l) **TOTAL OTHER DIRECT COSTS** **$ 2,250.00**

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1: $

Subconsultant 2: $

Subconsultant 3: $

Subconsultant 4: $

(m) TOTAL SUBCONSULTANS' COSTS **$ -**

(n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] **$ 2,250.00**

TOTAL COST [(c) + (j) + (k) + (n)] **$ 20,946.86**

Exhibit 10-H1 Cost Proposal

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: Joanne Espinosa Title*: CFO

Signature: Joanne Espinosa Date of Certification (mm/dd/yyyy): 9/5/2018

Email: info@espls.com Phone Number: 559-442-0883

Address: 2598 N. Miami Ave. Fresno, CA 93727

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Land Surveying Services

EXHIBIT C

8. Schedule

We have assumed a start date of December 2018, and with this start date we will complete the PS&E documents by April 2019. We propose to prepare the PES immediately upon notice to proceed, and will prepare the RFA package by April 2019 coinciding with the final PS&E package. We anticipate the start of construction around September 2019 with a construction timeline assumed around 90 working days.

ID	Task	2018	2019												2020			
		DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	APR
1	Notice to Proceed (Assumed November 2018)																	
2	**Task 1: Background Research**																	
3	Background Research																	
4	**Task 2: Environmental**																	
5	*Task 2.1: Preliminary Environmental Study (PES)*																	
6	Caltrans review																	
7	*Task 2.2: Initial Site Assessment Phase 1 Report*																	
8	Prepare RFA Package																	
9	Submit RFA Package to City																	
10	City Review of RFA Package																	
11	RFA Submittal to Caltrans Local Assistance																	
12	**Task 3: Plans, Specifications and Estimates (PS&E)**																	
13	*Task 3.1: Topographic Survey*																	
14	*Task 3.2: Prepare 50% PS&E*																	
15	Submit 50% PS&E Package																	
16	City Review																	
17	*Task 3.3: Prepare 95% PS&E*																	
18	Submit 95% PS&E Package																	
19	City Review																	
20	*Task 3.4: Prepare 100% PS&E*																	
21	Submit 100% PS&E Package																	
22	City Review																	
23	Submit Final PS&E (signed and sealed)																	
24	**Task 4: Coordination and Meetings**																	
25	Coordination and Meetings																	
26	**Task 5: Design Support**																	
27	Bidding Support (Advertisement)																	
28	Construction Contract Award (anticipated)																	
29	Construction NTP (anticipated)																	
30	Construction Support (anticipated)																	
31	**Task 6: System Integration & Traffic Signal Timing**																	
32	*Task 6.1: Traffic Data Collection*																	
33	*Task 6.2: System Integration*																	
34	*Task 6.3: Traffic and TSP Signal Timing*																	
35	Conduct "Before" Study																	
36	Conduct "After" Study																	
37	Develop "Before" and "After" Study Project Report																	
38	Draft Project Summary Report																	

Exhibit D:
Insurance Requirements for Professional Services
(Bus Rapid Transit (BRT) Phase 1B)

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the **general aggregate limit shall be twice** the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$1,000,000** per accident for bodily injury and property damage.

3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease. ***(Not required if consultant provides written verification it has no employees)***

4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limit no less than **$2,000,000** per occurrence or claim, $2,000,000 aggregate. (If Claims-made, see below.)

If the Consultant maintains higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to coverage for the higher limits maintained by the consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

Other Insurance Provisions
The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status
The City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers are to be covered as additional insureds on the CGL

policy and AL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (**at least as broad as** ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used). Additional insured Name of Organization shall read "City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers." Policy shall cover City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers for all locations work is done under this contract.

Primary Coverage
For any claims related to this contract, the **Consultant's insurance coverage shall be endorsed as primary** insurance as respects the City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers shall be excess of the Consultant's insurance and shall not contribute with it. The City of Stockton does not accept endorsements limiting the Consultant's insurance coverage to the sole negligence of the Named Insured.

Notice of Cancellation
Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the City of Stockton**.

Waiver of Subrogation
Consultant hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions
Any deductibles or self-insured retentions must be declared to and approved by the City of Stockton Risk Services. The City of Stockton may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers
Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII if admitted to do business in the State of California; if not admitted to do business in the State of California, insurance is to be placed with insurers with a current A.M. Best's rating of no less than A+:X.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. If Claims Made policy form is used, a three (3) year discovery and reporting tail period of coverage is required after completion of work.

Verification of Coverage
Consultant shall furnish the City of Stockton with original certificates and amendatory endorsements required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. Failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time, for any reason or no reason.

Consultant shall, prior to the commencement of work under this Agreement, provide the City of Stockton with a copy of its Declarations Page and Endorsement Page for each of the required policies.

Certificate Holder Address
Proper address for mailing certificates, endorsements and notices shall be:

- City of Stockton
- 400 E Main Street, 3rd Floor – HR
- Attn: City Risk Services
- Stockton, CA 95202

City of Stockton Risk Services Phone: 209-937-5037
City of Stockton Risk Services Fax: 209-937-8558

Maintenance of Insurance
If at any time during the life of the Contract or any extension, the Consultant fails to maintain the required insurance in full force and effect, all work under the Contract shall be discontinued immediately. Any failure to maintain the required insurance shall be sufficient cause for the CITY to terminate this Contract.

Subcontractors
Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that City of Stockton is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

CITY OF STOCKTON, CALIFORNIA
CITY MANAGER ADMINISTRATIVE DIRECTIVE

Subject:	Directive No. HR-15	Page No. 1 of 14
DISCRIMINATION AND HARASSMENT POLICY	Effective Date: 5/1/2015	Revised From: 7/27/09 4/6/09 3/1/2010 (see below)

PER-015 (Sexual Harassment in the Workplace) revised from 10/21/94, 5/1/95, 1/1/98
PER-037 (Sexual Harassment Investigative Procedures) revised from 2/15/93

I. PURPOSE

The purpose of this policy is to reaffirm the City's commitment to demonstrating respect for all individuals by strictly prohibiting discrimination and harassment, including sexual harassment in the workplace. This policy defines prohibited behavior and conduct, and sets forth a procedure for reporting, investigating and resolving complaints of discrimination, harassment, in the workplace, including retaliation and hostile work environment.

II. POLICY

A. The City of Stockton prohibits any form of discrimination and/or harassment of any person based on race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute consistent with state or federal law. All such discrimination and harassment is unlawful and shall not be tolerated. In addition, under the federal Affordable Care Act (ACA), the City of Stockton prohibits discrimination and/or harassment, or retaliation against an employee who obtains coverage, receives a tax credit or subsidy through the Health Care "Market Place" or "Exchange."

B. It is an unlawful employment practice to discriminate against or to harass an unpaid intern or volunteer on the basis of any legally protected classification unless an exception applies, such as a bona fide occupational qualification.

C. The City will neither tolerate nor condone discrimination and/or harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business service, or professional relationship.

D. All City employees and non-employees share a responsibility to assist in

maintaining an employment environment free of discrimination and harassment. This policy applies to all aspects of City employment, including, but not limited to, hiring, reassignment, placement, promotion, employment action, disciplinary action, layoff, reemployment, transfer, leave of absence, compensation and benefits, training; or other terms of treatment of that person in an unpaid internship, or another limited duration program to provide unpaid work experience for that person, or the harassment of an unpaid intern or volunteer.

E. All allegations of discrimination and/or harassment shall be investigated immediately by the City, in accordance with this policy. If it is determined that any prohibited activity has occurred, remedial action shall be taken. Such action may include discipline up to and including discharge. In addition, under applicable law, individual supervisors and employees may be subject to personal liability and/or punitive damages in any litigation arising as a result of such conduct.

F. All new hires shall attend harassment awareness training, and supervisors and managers shall attend harassment awareness and prevention training for supervisors every two years.

G. The City of Stockton prohibits retaliation against any employee or non-employee by another employee, non-employee, supervisor, or manager for reporting, filing, testifying, assisting or participating in any manner in any investigation, proceeding, or hearing conducted by the employer or a federal or state enforcement agency.

H. This policy applies to all officials, employees, volunteers, unpaid interns, agents, or contractors of the City.

I. This policy shall be administered by the Director of Human Resources.

III. DEFINITION AND EXAMPLES OF DISCRIMINATION AND HARASSMENT

A. "Discrimination," as used in this policy, is any action, behavior, practice, or process that is intended to deny, or results in the denial of, employment rights, privileges, or benefits because of a person's race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other prohibition identified under state and federal law. The following are examples of conduct that may constitute discrimination:

1. Soliciting applications from a source where all or most of potential workers are of the same race or color.

2. Considering a person's gender as the basis for differences in pay, work assignments, performance evaluations, training, discipline, or any other area of employment; and

3. Questioning a job applicant about the existence, nature and severity of a disability.

B. "Harassment," as used in this policy, consists of any conduct affecting another person because of his or her race, religious creed, color, national origin, ancestry, military and veterans status, physical or mental disability, medical condition, genetic characteristics or information, denial of family and medical care leave, marital status, sexual orientation, sex (including gender, gender identity, gender expression, transgender, pregnancy, childbirth and breastfeeding), political affiliation, age (40 and older), concerted labor activity, or any other category or attribute identified under state and federal law when such conduct has the purpose or the effect of: (1) creating an intimidating, hostile or offensive work environment; (2) unreasonably interfering with the employee's or non-employee's work performance; or (3)

otherwise adversely affecting an employee's or non-employee's employment opportunities.

Harassment may take many forms, including, but not limited to, the following examples:

1. Verbal Harassment: Epithets, derogatory and offensive comments or slurs based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

2. Physical Harassment: Assault, impeding or blocking movement that results in the physical interference with normal work or movement on the basis of race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

3. Visual Harassment: The displaying of posters, photography, notices, bulletins, e-mails, cartoons or drawings with derogatory and offensive content based on race, religion, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, medical condition, gender, sexual orientation, political affiliation, age, or any other category or attribute identified under state and federal law.

C. "Sexual harassment," as used in this policy, is a subcategory of harassment, and is specifically defined by law as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition of employment; or

2. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or

3. Such conduct has the purpose or effect of unreasonably interfering with an employee's or non-employee's work performance or creating an intimidating, hostile or offensive working environment because of the persistent, severe or pervasive nature of the conduct.

   Examples of Sexual Harassment include, but are not limited to the following:

   a. Unwelcome sexual overtures or propositions.

   b. Offering employment benefits or status in exchange for sexual favors.

   c. Making or threatening retaliation after a negative response to sexual advances.

   d. Visual conduct such as leering, making sexual gestures, displaying sexually suggestive objects or pictures, cartoons, calendars or posters.

   e. Verbal conduct such as using epithets or slurs, telling sexually explicit jokes, or making derogatory or suggestive comments about a person's body or dress.

   f. Written communications of a sexual nature distributed in hard copy, soft copy or via a computer network.

   g. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.

   h. Physical conduct such as touching, assaulting, impeding or blocking movements.

i. Retaliation for making harassment reports or threatening to report harassment.

D. Affordable Care Act (ACA) Anti-Retaliation

Pursuant to section §1558 of the Affordable Care Act, the City prohibits discrimination or retaliation towards any employee who:

1. Receives a health insurance tax credit or subsidy through the Health Care "Marketplace" or "Exchange", by which can trigger a penalty payable by the employer;
2. Reports potential violations of protections afforded under Title I of the Act, which provides guaranteed availability protections among other things;
3. Testifies in a proceeding concerning such violation;
4. Assists or participates in a proceeding concerning a violation; or
5. Objects to, or refuses to participate in, any activity, policy, practice, or assigned task that the employee reasonably believes to be in violation of any provision of the Title I of the Act.

An employee who believes that he or she has been discharged or otherwise discriminated against in violation of section §1558 of the Affordable Care Act may seek relief in accordance with the procedures, notifications, burdens of proof, remedies, and statutes of limitation set forth in section 2087(b) of title 15, United States Code.

IV. REPORTING AND COMPLAINT PROCEDURES

A. Immediate Action Required

The City's reporting and complaint procedures provide for an immediate, thorough and objective investigation of discrimination or harassment claims, appropriate disciplinary action taken against any person found to have engaged in prohibited behavior, and appropriate alternative remedies to any

employee or non-employee subject to discrimination or harassment. To accomplish this, such incidents must be reported immediately to a supervisor or manager.

1. Employee's and Non-Employee's Responsibilities when Subjected to Discrimination and/or Harassment

   a. Employees or non-employees who believe they have been subjected to discrimination or harassment, or are aware of discrimination or harassment against others, shall report the situation immediately to his/her supervisor or manager, except as specified in subsection (b), below. Employees and non-employees shall report any such incidents occurring in the workplace, whether committed by coworkers, supervisors or managers, or third persons doing business with the City, such as customers or vendors, or other non-employees. If comfortable doing so, an employee or non-employee who has a complaint of discrimination or harassment is encouraged to directly inform the person(s) engaging in the behavior that such conduct is offensive and insist the behavior to stop.

   b. Employees and non-employees must immediately contact a supervisor or manager to register a complaint of discrimination or harassment, unless that supervisor or manager is the individual engaging in the unwanted behavior. In that case, the employee or non-employee may contact someone at the next supervisory level. If the employee or non-employee feels uncomfortable dealing directly with his or her immediate supervisor or manager, he or she may contact the department head, or the Director of Human Resources (or either of their designees) to register a complaint of discrimination or harassment.

   c. Employees and non-employees may file a formal complaint of harassment or discrimination with their department head or

with Human Resources. To assist the City in conducting a thorough investigation, complaints shall be submitted in writing and shall include specific details of the incident(s), the names of the individuals involved, the names of any witnesses, and any documentary evidence (notes, pictures, cartoons, etc.) that will corroborate the allegations.

d. Employees and non-employees shall immediately report any retaliation to a supervisor, manager, department head or Director of Human Resources (or designee). All retaliation complaints shall be immediately, objectively and thoroughly investigated in accordance with the investigation procedures. If a report of retaliation is substantiated, appropriate disciplinary action, up to and including discharge shall be taken.

2. Supervisor's or Manager's Responsibilities to Eliminate Discrimination and/or Harassment

a. A supervisor or manager is responsible for enforcing the City's discrimination and harassment policy. Supervisors or managers must ensure that all employees and non-employees are aware of the City's policy through open discussion of the policy at staff meetings and by posting the policy in a conspicuous location accessible to all staff members.

b. A supervisor or manager shall be cognizant of employees' and non-employees' behavior and shall not permit any employee or non-employee under their supervision to be subjected to or engage in any conduct prohibited by this policy.

c. A supervisor or manager who observes conduct prohibited by this policy shall immediately direct the employee or non-employee to cease the conduct.

d. A supervisor or manager who receives a complaint of prohibited conduct is required to take the complaint seriously, and report the matter immediately to the department head; be supportive of the complainant; ensure there is no retaliation against the complainant; conduct an internal fact-finding review into the allegations; obtain as much detailed information as possible; thoroughly document the findings; communicate in written form to the parties the resolution of the complaint; and report to and consult with the Human Resources Department promptly, without delay.

B. Confidentiality. The City will make every effort to protect the privacy and confidentiality of all parties involved, as well as any information and/or documentation obtained, to the extent possible consistent with a thorough investigation.

C. Penalty for Non-Compliance. The City shall take disciplinary action, up to and including discharge, against any supervisor or manager who fails in his/her responsibility to take immediate action in response to an employee's or non-employee's complaint of discrimination or harassment. Further, such disciplinary action shall be taken against a supervisor or manager who fails to stop discriminatory or harassing conduct committed in his/her presence or to stop such conduct about which the supervisor or manager has knowledge.

V. INVESTIGATION PROCEDURES

A. Determination of Responsibility for Investigation

If a formal complaint is filed with the department head or the Director of Human Resources (or either of their designees), the department head and the Director of Human Resources shall consult with one another to determine whether the department or Human Resources shall conduct the fact-finding investigation into the allegations. Either the department head or the Director of Human Resources (or either of their designees), depending on who is

responsible for the investigation, shall issue written notification to the complainant and alleged harasser(s). The notification shall specify the nature of the complaint, and inform the parties that an investigation into the allegations of discrimination and/or harassment shall be conducted.

B. Investigative Guidelines

The investigation shall include the following steps taken in the order best suited to the circumstances:

1. Identify and preserve the evidence.

2. Confirm the name and position of the complainant. Interview the complainant.

3. Allow the complainant the opportunity to place the complaint in writing.

4. Obtain the identity of the alleged harasser(s).

5. Obtain as many details as possible regarding the incident(s) that prompted the complaint, including the number of occurrences, dates, times, locations, and witnesses (if applicable).

6. Ascertain how the complainant felt about the alleged incident when it occurred; complainant's response(s) to the alleged behavior; and witness statements (if applicable).

7. Ascertain if any threats or promises were made in connection with the alleged harassment.

8. Ascertain if the complainant knows of or suspects that there are other victims of harassment by the same person(s).

9. Ascertain whether the complainant has spoken to anyone, especially

supervisors, about the harassment.

10. Ascertain what resolution would be acceptable to the complainant.

11. Interview the alleged harasser to get his or her side of the story, including any possible motivation for a false allegation.

12. Interview witnesses who were identified by the complainant regarding the alleged harasser or other persons identified during the investigation.

13. Interview witnesses who were identified by the alleged harasser or other persons identified during the investigation.

14. Advise all participants that the investigation is "confidential" and not to engage in any retaliatory conduct, as such conduct is subject to disciplinary action up to and including discharge. Confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction.

15. Conduct follow-up interviews, if warranted.

16. Prepare report of findings and discuss with management and designated legal staff.

VI. RESPONDING TO THE COMPLAINT

A. Following the completion of the fact-finding investigation, either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation, shall

make a report of findings, along with a recommendation regarding the appropriate remedial action to be taken, if warranted. The recommendation shall be made after reviewing the findings of the investigation, giving consideration to all factual information, the nature of the alleged conduct, and the totality of the circumstances. If the investigation was conducted by the Director of Human Resources, or designee, the Director, or designee, shall confer with the affected department head and both shall concur on the remedial action to be taken, if any. If the investigation was conducted by the department head, the department head shall confer with the Director of Human Resources prior to making the report of findings and both shall concur on the remedial action to be taken, if any.

B. If either the department head or the Director of Human Resources does not concur with the findings and recommendation of the other, the City Attorney (or designee) shall review and resolve the matter in dispute.

C. Report of findings and recommendation shall be treated as a confidential document and no other distribution shall be made without first consulting with the City Attorney's Office. A completed investigation report will not be disclosed, except as it is deemed necessary to support a disciplinary action, to take remedial action, to defend the City in adversarial proceedings, or to comply with the law or court order.

D. Either the department head or the Director of Human Resources (or either of their designees), depending on who is responsible for the investigation shall provide a written response to the complainant and the person alleged to have committed the misconduct, discrimination and/or harassment. The response shall include a copy of the City's discrimination and harassment policy and a memorandum indicating the City's determination as to whether the complaint is:

1. Unsustained: The investigation failed to disclose sufficient evidence to substantiate the allegation(s).

2. Unfounded: The investigation proved that the act(s) or omission(s)

complained of did not occur. The finding also applies when the individual employee(s) named in the complaint were not involved in the act(s) or omission(s) alleged.

3. Sustained: The investigation disclosed sufficient evidence to substantiate the allegation(s) made in the complaint; appropriate action will be taken.

E. Details regarding any specific fact-findings or disciplinary action to be taken will not be communicated to the complainant. The City Attorney shall review the response for legal sufficiency before dissemination.

F. The City shall close and retain the investigation file, in accordance with applicable laws, regulations, and City policy regarding retention of City records.

VII. DISCIPLINE

Disciplinary action imposed as a result of any investigation conducted pursuant to this policy shall be commensurate with the severity of the offense, up to and including discharge, even for a first offense.

VIII. ALTERNATIVE REMEDIES

If upon exhausting all internal remedies to file, investigate, and respond to a charges of discrimination/harassment, pursuant to title VII of the Federal Civil Rights Act of 1964 (42 U.S.C §§ 2000e *et seq.)*, any person has a right to file a charge of discrimination/harassment with the Equal Employment Opportunity Commission ("EEOC"). In addition, pursuant to the California Fair Employment and Housing Act (Gov. Code §§ 12900 – 12996.) a person may also file a complaint of discrimination/harassment with the California Department of Fair Employment and Housing ("DFEH"). Employees or non-employees who believe that they have been subjected to discrimination/harassment may file a complaint with either of these

agencies. Both the EEOC and DFEH serve as neutral fact-finders and attempt to assist parties in resolving disputes voluntarily.

IX. COMMUNICATION OF POLICY

This policy shall be provided to all managers, supervisors, employees, volunteers, unpaid interns, agents or contractors of the City and shall be posted in the appropriate places. All employees shall participate in City approved harassment awareness training as directed by management or Human Resources; and all supervisors, as required by law, shall participate in City approved interactive harassment awareness training and education sessions at least once every two years, or as otherwise specified by law.

APPROVED:

KURT O. WILSON
CITY MANAGER

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Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

CONTENTS

ARTICLE I INTRODUCTION 2
ARTICLE II STATEMENT OF WORK 3
ARTICLE III CONSULTANT'S REPORTS OR MEETINGS 4
ARTICLE IV PERFORMANCE PERIOD 4
ARTICLE V ALLOWABLE COSTS AND PAYMENTS 4
ARTICLE VI TERMINATION 6
ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS 6
ARTICLE VIII RETENTION OF RECORDS/AUDIT 7
ARTICLE IX AUDIT REVIEW PROCEDURES 7
ARTICLE X SUBCONTRACTING 9
ARTICLE XI EQUIPMENT PURCHASE 10
ARTICLE XII STATE PREVAILING WAGE RATES 11
ARTICLE XIII CONFLICT OF INTEREST 11
ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION 12
ARTICLE XV PROHIBITION OF EXPENDING CITY, STATE OR FEDERAL FUNDS FOR LOBBYING 12
ARTICLE XVI STATEMENT OF COMPLIANCE 13
ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION 14
ARTICLE XVIII FUNDING REQUIREMENTS 15
ARTICLE XIX CHANGE IN TERMS 15
ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION 15
ARTICLE XXI CONTINGENT FEE 17
ARTICLE XXII DISPUTES 18
ARTICLE XXIII INSPECTION OF WORK 18
ARTICLE XXIV SAFETY 18
ARTICLE XXV INSURANCE 19
ARTICLE XXVI OWNERSHIP OF DATA 19
ARTICLE XXVII CLAIMS FILED BY THE CITY's CONSTRUCTION CONTRACTOR 20
ARTICLE XXVIII CONFIDENTIALITY OF DATA 20

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION 21
ARTICLE XXX EVALUATION OF CONSULTANT 21
ARTICLE XXXI RETENTION OF FUNDS 21
ARTICLE XXXII NOTIFICATION 22
ARTICLE XXXIII CONTRACT 22
ARTICLE XXXIV SIGNATURES 22

Additional California Department of Transportation (Caltrans) Exhibits Incorporated:

Exhibit 10-I "Notice to Proposers Disadvantaged Business Enterprise Information"
Exhibit 10-K "Consultant Certification of Costs and Financial Management System"
Exhibit 10-O1 "Consultant Proposal Disadvantaged Business Enterprise Commitment"
Exhibit 10-O2 "Consultant Contract Disadvantaged Business Enterprise Commitment"
Exhibit 10-Q "Disclosure of Lobbying Activities"
Exhibit 10-U "Consultant in Management Position Conflict of Interest Statement"
Exhibit 12-B "Bidders List of Subcontractors (DBE and Non-DBE's)
Exhibit 12-H "Debarment and Suspension Certification"
Exhibit 15-H "DBE Information – Good Faith Efforts"
Exhibit 17-F "Final Report-Utilization of DBE First Tier Subcontractors"
Exhibit 17-O "DBE Certification Status Change"

ARTICLE I INTRODUCTION

The provisions contained in this exhibit are hereby made a part of the consultant contract for this project. The provisions are additive to the Professional Services Contract and shall be physically attached to the Contract.

"Scope of Services" in the following articles is defined as the combination of the project scope of work and the corresponding fee to complete the scope of work.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

ARTICLE II STATEMENT OF WORK

A. Services to be Furnished
See Exhibit "A", Scope of Services of the Professional Services Contract.

B. Design Standards
The Consultant shall perform the services in accordance with the City of Stockton Standard Plans & Specifications (current edition), and Caltrans 2010 Standard Plans & Specifications and any amendments thereto.

C. Consultant's Endorsement on Plans, Specification and Estimates/other Data
The responsible Consultant/engineer shall sign all plans, specifications, estimates (PS&E) and engineering data furnished by him/her, and where appropriate, indicate his/her California registration number.

D. Right of Way
See Exhibit "A", Scope of Services of the Professional Services Contract.

E. Subsurface Investigation
See Exhibit "A", Scope of Services of the Professional Services Contract.

F. The City's Obligations
See Section 7 "Rights and Duties of City", of the Professional Services Contract.

G. Conferences, Visits to Site, Inspection of Work
The Consultant and any subcontractor shall permit the CITY, the state, and the FHWA if federal participating funds are used in this contract; to meet, review, and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis. Cost incurred by Consultant for meetings, subsequent to the initial meeting shall be included in the fee.

H. Checking Shop Drawings/Submittals
See Exhibit "A", Scope of Services of the Professional Services Contract.

I. Documentation
The Consultant shall document the results of their services to the satisfaction of the CITY, and if applicable, the state and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the scope of work objectives.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

J. Number of Copies
See Exhibit "A", Scope of Services of the Professional Services Contract.

K. Surveys
See Exhibit "A", Scope of Services of the Professional Services Contract, to determine if Consultant will be providing survey services.

L. Consultant Services During Construction
See Exhibit "A", Scope of Services of the Professional Services Contract, to determine if Consultant will be providing services during construction, such as materials testing, construction surveys, etc. Also see Exhibit "B," Compensation to the Professional Services Contract, for method of payment requirements.

ARTICLE III CONSULTANT'S REPORTS OR MEETINGS

A. Consultant shall submit progress reports at least once a month. The report should be sufficiently detailed for the Project Manager to determine, if Consultant is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

B. Consultant's Project Manager shall meet with CITY'S Project Manager, as needed, to discuss progress on the contract.

ARTICLE IV PERFORMANCE PERIOD

A. Effective Contract Dates
See Section 5 – Schedule and Term of the Professional Services Contract.

B. Contract Award
Consultant is advised that any recommendation for contract award is not binding on the CITY until the contract is fully executed and approved by the CITY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

A. The method of payment for this contract will be based on actual cost plus a fixed fee. The CITY will reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the work. Consultant will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant's Scope of Services, unless additional reimbursement is provided for by contract

amendment. In no event, will Consultant be reimbursed for overhead costs at a rate that exceeds the CITY's approved overhead rate set forth in the Scope of Services. In the event, that the CITY determines that a change to the work from that specified in the Scope of Services and contract is required, the contract time or actual costs reimbursable by the CITY shall be adjusted by Contract Change Order to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by Contract Change Order.

B. In addition to the allowable incurred costs, the CITY will pay Consultant a fixed fee of (See Exhibit B to Professional Services Contract). The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by Contract Change Order.

C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Compensation Schedule- Exhibit B to the Professional Services Contract.

D. When milestone cost estimates arrears included in the approved Scope of Services, shall obtain prior written approval for a revised milestone cost estimate from the Project Manager before exceeding such cost estimate.

E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of Consultant's fixed fee will be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, the CITY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.

G. Consultant will be reimbursed, as promptly as fiscal procedures will permit upon receipt by the CITY's Project Manager of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Scope of Services and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due the CITY including any equipment purchased under the provisions of Article XV Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to the CITY's Project Manager at the following address:

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

City of Stockton, Public Works Department
22 E. Weber Avenue, Room 301
Stockton, CA, 95202

H. The total amount payable by the CITY including the fixed fee shall not exceed the amount noted in Section 2 – Compensation of the Professional Services Contract.

I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Scope of Services and is approved by the Public Works Director.

   For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

J. All subcontracts in excess of $25,000 shall contain the above provisions.

ARTICLE VI TERMINATION

A. Termination of Contract
   See Section 11 of the Professional Services Contract.

B. Liable Amount
   The maximum amount for which the Government shall be liable if this contract is terminated is for only those costs uncured up to termination of contract.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

A. Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.

B. Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

C. Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 49 CFR Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to the CITY.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

D. All subcontracts in excess of $25,000 shall contain the above provisions.

ARTICLE VIII RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; Consultant, subconsultants, and CITY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, CITY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant that are pertinent to the contract for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of $25,000 shall contain this provision.

ARTICLE IX AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by the CITY's Chief Financial Officer.

B. Not later than 30 days after issuance of the final audit report, Consultant may request a review by the CITY's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by the CITY will excuse Consultant from full and timely performance, in accordance with the terms of this contract.

D. For contracts totaling $150,000 or greater, Consultant and subconsultants' contracts, including Scope of Services and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a Contract Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the contract, Scope of Services and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's workpapers. The contract, Scope of Services, and ICR shall be adjusted by Consultant and approved by CITY

project manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by the CITY at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the Federal, State, or local governments have access to CPA workpapers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

For contracts over $3,500,000, the following section applies:

E. Consultant Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the Consultant and approved by the City Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the Consultant to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

1. During a Caltrans' review of the ICR audit work papers created by the Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, the City will reimburse the Consultant at a provisional ICR until a FAR compliant ICR {e.g. 48CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:

   a. If the proposed rated is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
   b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
   c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.

3. If the Consultant fails to comply with the provisions of this Section E, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the provisional ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this provisional ICR will become the actual and final ICR for reimbursement purposes under this contract.

4. Consultant may submit to City final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all work under this contract has been completed to the satisfaction of City; and, (3) Caltrans has issued its final ICR review letter. The Consultant MUST SUBMIT ITS FINAL INVOICE TO City no later than 60 days after occurrence of the last of these items.

The provisional ICR will apply to this contract and all other contracts executed between City and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

A. Nothing contained in this contract or otherwise, shall create any contractual relation between City and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to City for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from City's obligation to make payments to the Consultant.

B. Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by City's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

C. Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by Local Agency.

D. Any subcontract in excess of $25,000 entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

E. Any substitution of subconsultant(s) must be approved in writing by City's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE

A. Prior authorization in writing, by the CITY's Project Manager shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding $5,000 for supplies, equipment, or Consultant services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service or consulting work not covered in Consultant's Scope of Services and exceeding $5,000 prior authorization by the CITY's Project Manager; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

C. Any equipment purchased as a result of this contract is subject to the following: "Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of $5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the CITY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, Consultant may either keep the equipment and credit the CITY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CITY procedures; and credit the CITY in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the CITY and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the CITY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than $5,000 is credited to the project.

D. All subcontracts in excess $25,000 shall contain the above provisions.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

ARTICLE XII STATE PREVAILING WAGE RATES

A. Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

B. Any subcontract entered into as a result of this contract if for more than $25,000 for public works construction or more than $15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination (see http://www.dir.ca.gov).

ARTICLE XIII CONFLICT OF INTEREST

A. Consultant shall disclose any financial, business, or other relationship with the CITY that may have an impact upon the outcome of this contract, or any ensuing CITY construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing CITY construction project, which will follow.

B. Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

C. Any subcontract in excess of $25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

D. Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

E. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

F. Consultant hereby certifies that neither Consultant, its employees, nor any firm affiliated with Consultant providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one which is subject to the control of the same persons through joint ownership or otherwise.

G. Consultant further certifies that neither Consultant nor any firm affiliated with Consultant, will bid on any construction subcontracts included with Construction Contract. Additionally, Consultant certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.

H. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

Consultant warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any CITY employee. For breach or violation of this warranty, the CITY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING CITY, STATE OR FEDERAL FUNDS FOR LOBBYING (Applies only to contracts over $150,000)

A. Consultant certifies to the best of his or her knowledge and belief that:

1. No state, federal or City appropriated funds have been paid, or will be paid by-or-on behalf of Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting 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 this federal contract, grant, loan, or cooperative agreement; Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. 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 Section 1352, Title 31, US. Code. Any person who 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.

C. Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed $100,000, and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI STATEMENT OF COMPLIANCE

A. Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Firm and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Firm and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Firm and its subconsultants shall give written notice of their obligations under

this clause to labor organizations with which they have a collective bargaining or other Contract.

C. Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation- Title 49 Code of Federal Regulations, Part 21- Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of non-discrimination in which no person in the State of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

D. Consultant, with regard to the work performed by it during the contract shall act in accordance with Title VI. Specifically, Consultant shall not discriminate on the basis of race, color, natural origin, religion, sex, age, or disability in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination, prohibited by Section 21.5 of the US Department of Transportation's regulations, including employment practices with the contract covers a program whose goal is employment.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

A. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the CITY.

B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

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C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

ARTICLE XVIII FUNDING REQUIREMENTS

A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.

B. This contract is valid and enforceable only, if sufficient funds are made available to the CITY for the purpose of this contract. In addition, this contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or the CITY governing board that may affect the provisions, terms, or funding of this contract in any manner.

C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.

D. The CITY has the option to void the contract under the 30-day cancellation clause, or by mutual agreement to amend the contract to reflect any reduction of funds.

ARTICLE XIX CHANGE IN TERMS

A. This contract may be amended or modified only by mutual written agreement of the parties.

B. Consultant shall only commence work covered by a Contract Change Order after the Contract Change Order is executed and notification to proceed has been provided by the CITY's Project Manager.

C. There shall be no change in Consultant's Project Manager or members of the project team, as listed in the approved Scope of Services, which is a part of this contract without prior written approval by the CITY's Project Manager.

ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

A. This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

B. The goal for DBE participation for this contract is _17__%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. If a DBE subconsultant is unable to perform, Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US Department of Transportation-assisted agreements. Failure by Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as City deems appropriate.

D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.

E. A DBE firm may be terminated only with prior written approval from City and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting City consent for the termination, Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.

G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra

participant, examine similar transactions, particularly those in which DBEs do not participate.

H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

I. Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

J. Upon completion of the contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report- Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by Consultant or Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to Consultant when a satisfactory "Final Report- Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

K. If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the contract, the subconsultant shall notify Consultant in writing with the date of certification. Any changes should be report to City's Contract Administrator within 30 days.

ARTICLE XXI CONTINGENT FEE

Consultant warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business. For breach or violation of this warranty, CITY has the right to annul this contract without liability; pay only for

the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXII DISPUTES

A. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of the CITY's Project Manager and Public Works Director, who may consider written or verbal information submitted by Consultant.

B. Not later than 30 days after completion of all work, including deliverables necessary to complete the plan, specifications, and estimate, if applicable, under the contract, Consultant may request review by the CITY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

C. Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this contract.

ARTICLE XXIII INSPECTION OF WORK

Consultant and any subconsultant shall permit the CITY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

ARTICLE XXIV SAFETY

A. Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by the CITY Safety Officer and other CITY representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on the construction project site.

B. Pursuant to the authority contained in Section 591 of the Vehicle Code, the CITY has determined that such areas are within the limits of the project and are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

D. Consultant must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

ARTICLE XXV INSURANCE

See Section 3 of the Professional Services Contract.

ARTICLE XXVI OWNERSHIP OF DATA

A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in the CITY; and no further contract will be necessary to transfer ownership to the CITY. Consultant shall furnish the CITY all necessary copies of data needed to complete the review and approval process.

B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.

C. Consultant is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by the CITY of the machine-readable information and data provided by Consultant under this contract; further, Consultant is not liable for claims, liabilities, or losses arising out of, or connected with any use by the CITY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by Consultant.

D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).

E. The CITY may permit copyrighting reports or other contract products. If copyrights are permitted; the contract shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

F. Any subcontract in excess of $25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

ARTICLE XXVII CLAIMS FILED BY THE CITY's CONSTRUCTION CONTRACTOR

A. If claims are filed by the CITY's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with the CITY's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

B. Consultant's personnel that the CITY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from the CITY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for Consultant's personnel services under this contract.

C. Services of Consultant's personnel in connection with the CITY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this contract in order to resolve the construction claims.

D. Any subcontract in excess of $25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

A. All financial, statistical, personal, technical, or other data and information relative to the CITY's operations, which are designated confidential by the CITY and made available to Consultant in order to carry out this contract, shall be protected by Consultant from unauthorized use and disclosure.

B. Permission to disclose information on one occasion, or public hearing held by the CITY relating to the contract, shall not authorize Consultant to further disclose such information, or disseminate the same on any other occasion.

C. Consultant shall not comment publicly to the press or any other media regarding the contract or the CITY's actions on the same, except to CITY's staff, Consultant's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

D. Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the CITY, and receipt of the CITY's written permission.

E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

F. As it relates to the preparation of plans, specifications and estimates, if applicable: All information related to the construction estimate is confidential, and shall not be disclosed by Consultant to any entity other than the CITY.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

Consultant's performance will be evaluated by the CITY. A copy of the evaluation will be sent to Consultant for comments. The evaluation together with the comments shall be retained as part of the contract record.

ARTICLE XXXI RETENTION OF FUNDS

A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.

B. No retainage will be withheld by the City from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

Exhibit "F"
Federal-Aid Consultant Contract Provisions
BUS RAPID TRANSIT PHASE 1-B
City Project No. PW1515/Federal-Aid Project No. CML-5008(148)

This form shall be physically attached to Professional Services Contract

---

ARTICLE XXXII NOTIFICATION

See Section 15- Notices of the Professional Services Contract.

ARTICLE XXXIII CONTRACT

Refer to the Professional Services Contract.

ARTICLE XXXIV SIGNATURES

Refer to the Professional Services Contract.

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: City of Stockton
2. Contract DBE Goal: 15%
3. Project Description: BRT Phase 1B Corridor Improvements Federal Project CML 5008(148) City Project PW1515
4. Project Location: Stockton, CA
5. Consultant's Name: Kimley-Horn and Associates
6. Prime Certified DBE: ☐
7. Total Contract Award Amount:
8. Total Dollar Amount for **ALL** Subconsultants: $20,814.03
9. Total Number of **ALL** Subconsultants: Kimley-Horn and A

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Surveying Services	12505	ESP Surveying, Inc. Brianda Butler 559.442.0883	$20,946.86
Traffic Counting	8440	WILTEC, Inc. Denni Wilson 626.564.1944	$11,000
		14. TOTAL CLAIMED DBE PARTICIPATION	$ 31,946.8
			25 %

Local Agency to Complete this Section

20. Local Agency Contract Number:
21. Federal-Aid Project Number:
22. Contract Execution Date:

Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.

23. Local Agency Representative's Signature
24. Date
25. Local Agency Representative's Name
26. Phone
27. Local Agency Representative's Title

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.

15. Preparer's Signature
16. Date: 9.5.18
17. Preparer's Name: Randal R. Durrenberger
18. Phone: 510.625.0712
19. Preparer's Title: Sr. Vice President

DISTRIBUTION: 1. Original – Local Agency
2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.