



Request for Proposals for PUBLIC RELATIONS/COMMUNICATIONS SPECIALIST

Date issued: January 12TH, 2012
Proposal due: January 26th, 2012



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**Request for Proposals for
Public Relations/Communications Specialist**

Table of Contents

	Page
I. Introduction and Schedule.....	[1]
II. Scope of Work	[2]
III. Submission Requirements.....	[3]
IV. Evaluation and Selection Criteria.....	[5]
V. Terms and Conditions for Receipt of Proposals.....	[5]
VI. Central Subway Partnership (CSP) and City Contract Requirements.....	[9]

I. Introduction and Schedule

A. General

The Central Subway Project (Project) is seeking to retain a public relations/communications specialist to provide strategic communication services on this New Starts project for the period leading up to and beyond approval by the Federal Transit Administration (FTA) of the Full Funding Grant Agreement (FFGA).

The selected Consultant will enter into an as-needed contract with the Central Subway Partnership (CSP), the Project Manager/Construction Manager for the Project. The total contract amount should not exceed \$95,000 and the term is projected to begin in February 2012 and not exceed six months.

The work described in this RFP is to be financed with the assistance of a grant from the Federal Transit Administration, and all work shall be performed in accordance with FTA guidelines and regulations.

B. Schedule

The anticipated schedule for selecting a consultant is:

<u>Phase</u>	<u>Date</u>
RFP is issued	<u>January 12th, 2012</u>
Proposals due	<u>January 26th, 2012</u>
Contract Starts	<u>February 16th, 2012</u>

II. Scope of Work

Central Subway Strategic Communications RFP Scope of Work

The Central Subway Project is seeking a Professional Services Consultant to provide strategic communications services for the period leading up to and beyond approval by the FTA of the FFGA to underwrite construction of the Project. The SFMTA's FFGA application was submitted September 19, 2011. The FFGA is being reviewed by the Department of Transportation and will subsequently be submitted for congressional review.

The following scope of work is to advance the Project through the FFGA and the transition to major construction of this \$1.6 billion extension of the T Third Light Rail Project from 4th and King Streets to Moscone Center/Yerba Buena, Market Street/Union Square and Chinatown (see <http://www.sfmta.com/cms/mcsp/cspover.htm> for detailed Project description). The scope of work includes developing and executing a strategic communications plan focused on sustaining and strengthening existing, and generating new, sources of support for the Project to secure the federal FFGA and to advance the Project to major construction. This contract will not involve any federal lobbying activities.

- Specific tasks and deliverables encompass:

Formulating communications strategies and tactics to reach stakeholders and other key public and private-sector individuals and organizations as the Project advances through federal review and major construction start up

- Developing compelling, penetrating messaging tailored to target specific audiences. The messaging should be capable of leveraging sustained action and consistent follow-up in pursuit of the FFGA
- Setting forth tactics defining the communications channels and activities for reaching and retaining target audiences throughout the FFGA review period and beyond
- Providing specific strategies to educate and mobilize specific individuals and audiences to obtain support for the Project. Representative sectors would include:
 - The business sector
 - Relevant public agency regulatory leaders
 - The media and relevant trade press
 - Other resources, such as labor, non-profits, special interest groups, community and grassroots organizations
- Providing swift feedback to target audiences based on their participation, actions and results
- Assisting target audiences in their advocacy roles to maximize effectiveness and to ensure the success of their efforts

- Recognizing and extolling the efforts of these supporters for their efforts in advancing the largest transportation infrastructure project in the City's history which will open a new mobility to drive social, economic and environmental benefits for residents and visitors today and for future generations

Upon issuance of the Notice to Proceed, as the need arises, the above scope will be organized and authorized as separate discrete as-needed tasks via a Purchase Order (see sample in attachment A), each with a not-to-exceed dollar amount and a predetermined schedule as outlined

III. Submission Requirements

A. Time and Place for Submission of Proposals

Proposals must be received by **2:00 PM PST, on January 26th, 2012**. Postmarks will not be considered in judging the timeliness of submissions. Proposals may be delivered in person and left with Jenny Vodvarka or mailed to:

**Jenny Vodvarka
821 Howard St.
San Francisco, CA 94103**

Proposers shall submit **five (5)** copies and five (5) CD copies of the proposal. Proposals that are submitted by fax will not be accepted. Late submissions will not be considered.

B. Format

Please use three-hole recycled paper, print double-sided to the maximum extent practical, and bind the proposal with a single staple, or submit it in a three-ring binder. Please do not bind your proposal with a spiral binding, glued binding, or anything similar. You may use tabs or other separators within the document.

For word processing documents, CSP prefers that text be unjustified (i.e., with a ragged-right margin), with a serif font (e.g., Times Roman, and not Arial), and that pages have margins of at least one inch (1") on all sides (excluding headers and footers).

If your response is over 10 pages, please include a Table of Contents.

You must also submit an electronic version of the proposal.

C. Content

Firms interested in responding to this RFP must submit the following information, in the order specified below:

1. Introduction and Executive Summary (up to 2 pages)

Submit a letter of introduction and executive summary of the proposal. The letter must be signed by a person authorized by your firm to obligate your firm to perform the commitments contained in the proposal. Submission of the letter will constitute a representation by your firm that your firm is willing and able to perform the commitments contained in the proposal.

2. Qualifications and Experience (up to 25 pages)

- a. List all clients for which you have performed public relations work in the last five years in the area of strategic and crisis communications. Include the name, address, contact person, and telephone number for each client.
- b. Provide a summary of the types of services performed for each such client and the dates of such services.
- c. Provide a narrative explaining how your prior experience has qualified you to perform the services requested under this RFP. Please include information regarding the following:
 - Summary and examples of how your work was particularly effective for your clients;
 - Your experience and strategies regarding crisis communications;
 - Your ability to develop and disseminate consistent messages to the public and employee while avoiding unfair practice charges;
- d. Proposers shall provide examples of their work, along with related exhibits such as strategy papers, outreach plans, finished communications materials, ad campaigns, meeting and event plans, press releases, media clips and associated results. (Exhibits will not be counted toward the page limit.)
- e. Provide references for the firm, including the lead individual assigned to the project; supply the name, address and telephone number of at least three but no more than five recent clients (preferably other public agencies). CSP reserves the right to contact former clients who are not listed as references for purposes of evaluating the proposals.

3. Project Approach (up to 5 pages)

Describe your approach to performing the Scope of Work for the project. Include a work plan that outlines the tasks and strategies you recommend, including, projected outcomes and deliverables, to perform the Scope of Work for the budget proposed.

4. Service and Staffing Ability (up to 5 pages)

Provide resumés for staff assigned to the project and explain how staff will be assigned to project tasks.

5. Fee Proposal

CSP intends to award this contract to the firm or individual that it considers will provide the best overall program services.

Please provide a fee proposal in a sealed envelope that includes the following:

- a. Total fee for the Scope of Work with a not-to-exceed figure.
- b. Hourly rates (broken down by direct salary rates and overhead) for the lead individual assigned to the project and any other personnel that will be involved in the effort.
- c. Proposed fixed fee profit.
- d. Vehicle use or mileage rates and any other applicable rates.
- e. Proposed Other Direct Costs (ODCs).

6. City and County of San Francisco and Federal Forms

The following are required to be submitted with the Proposal:

- A. All businesses who are located in or who conduct business in San Francisco must have a Business Registration Certificate. If a proposer is not registered or if its status has recently changed, submit a completed Business Tax Declaration. Forms can be obtained at the following website:
<http://sfgsa.org/Modules/ShowDocument.aspx?documentid=7624>
- B. Completed Certification Regarding Lobbying (Appendix D)

IV. Evaluation and Selection Criteria

A. The proposals will be evaluated by a selection committee comprised of parties with expertise in **communications and public relations**. The following are the complete criteria, listed by their relative degree of importance, by which proposals from responsible Proposers will be evaluated and ranked for the purposes of determining any competitive range and to make any selection of a proposal for a potential award.

- (1) Qualifications and Experience (30 points)
- (2) Project Approach (20 points)
- (3) Service and Staffing Ability (10 points)
- (4) Reasonableness of Fee (10 points)
- (5) Oral Interview (30 points)

B. Following the evaluation of the written proposals, the highest-ranking firms within the competitive range will be interviewed by the committee to make the final selection, and references will be checked. Proposers will be required to present recommended themes for project communications during interviews conducted by the selection panel. CSP will provide selected proposers with the format of the oral interviews in advance of the oral interviews. Due to the nature of the services required, the oral interviews will be extremely important in determining the winning proposer, as will the reference checks.

V. Terms and Conditions for Receipt of Proposals

A. Errors and Omissions in RFP

Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify Central Subway, in writing, if the proposer discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to CSP promptly after discovery, but in no event later than five working days prior to the date for receipt of proposals. Modifications and clarifications will be made by addenda as provided below.

B. Inquiries Regarding RFP

Inquiries regarding the RFP and all oral notifications of intent to request written modification or clarification of the RFP, must be directed to:

Jenny Vodvarka at Jenny.Vodvarka@sfmta.com

Objections to RFP Terms

Should a proposer object on any ground to any provision or legal requirement set forth in this RFP, the proposer must, not more than ten calendar days after the RFP is issued, provide written notice to Jenny Vodvarka@sfmta.com, setting forth with specificity the grounds for the objection. The failure of a proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

C. Term of Proposal

Submission of a proposal signifies that the proposed services and prices are valid for 120 calendar days from the proposal due date and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

D. Revision of Proposal

A proposer may revise a proposal on the proposer's own initiative at any time before the deadline for submission of proposals. The proposer must submit the revised proposal in the same manner as the original. A revised proposal must be received on or before the proposal due date.

In no case will a statement of intent to submit a revised proposal, or commencement of a revision process, extend the proposal due date for any proposer.

G. Errors and Omissions in Proposal

Failure by CSP to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the vendor from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

E. Financial Responsibility

CSP accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Submissions of the RFP will become the property of the Project and may be used by CSP in any way deemed appropriate.

F. Proposer's Obligations under the Campaign Reform Ordinance

Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

If a proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the proposer is prohibited from making contributions to:

- the officer's re-election campaign

- a candidate for that officer's office
- a committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (1) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (2) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

1. Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

G. Communications Prior to Contract Award

It is the policy of the Project that only staff identified in the RFP as contacts for this competitive solicitation are authorized to respond to comments or inquiries from Proposers or potential Proposers seeking to influence the contractor selection process or the award of the contract. This prohibition extends from the date the RFP is issued until the date when the contractor selection is finally made.

All firms and subcontractor(s) responding to this RFP are hereby notified that they may not contact any Project staff member, other than a person with whom contact is expressly authorized by this RFP for the purpose of influencing the contractor selection process or the award of the contract from the date the RFP is issued to the date when the contract award is approved.

Except as expressly authorized in the RFP, where any person representing a Proposer or potential Proposer contacts any Project staff for the purpose of influencing the content of the competitive solicitation or the award of the contract between the date when the RFP is issued and the date when the final selection is approved, the Proposer or potential Proposer shall be disqualified from the selection process. However, a person who represents a Proposer or potential Proposer may contact City elected officials and may contact the Director of Transportation of the SFMTA or the CSP Project Manager if s/he is unable to reach the designated staff contact person(s) identified in the RFP or wishes to raise concerns about the competitive solicitation.

Additionally, the firms and subcontractor(s) responding to this RFP will not provide any gifts, meals, transportation, materials or supplies or any items of value or donations to or on behalf of any Project staff member from the date the RFP is issued to the date when the contract award is approved

All lobbyists or any agents representing the interests of proposing prime contractors and subcontractor(s) shall also be subject to the same prohibitions.

An executed Attestation of Compliance (see Appendix C) certifying compliance with this section of the RFP will be required to be submitted signed by all firms and named subcontractor(s) as part of the response to this RFP. Any proposal that does not include the executed Attestation of Compliance as required by this section will be deemed non-responsive and will not be evaluated. Any Proposer who violates the representations made in such Attestation of Compliance, directly or through an agent, lobbyist or subcontractor will be disqualified from the selection process.

H. Sunshine Ordinance

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

I. Public Access to Meetings and Records

If a proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the proposer must comply with Chapter 12L. The proposer must include in its proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to proposer's meetings and records, and (2) a summary of all complaints concerning the proposer's compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the proposer shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in proposer's Chapter 12L submissions shall be grounds for rejection of the proposal and/or termination of any subsequent Agreement reached on the basis of the proposal.

M. Reservations of Rights by CSP

The issuance of this RFP does not constitute an agreement by CSP that any contract will actually be entered into by CSP. CSP expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2. Reject any or all proposals;
3. Reissue a Request for Proposals;
4. Prior to submission deadline for proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
5. Procure any materials, equipment or services specified in this RFP by any other means; or

6. Determine that no project will be pursued.

N. No Waiver

No waiver by CSP of any provision of this RFP shall be implied from any failure by CSP to recognize or take action on account of any failure by a proposer to observe any provision of this RFP.

VI. CSP, Federal and City Contract Requirements

A. Minimum Compensation Ordinance (MCO)

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in S.F. Administrative Code Chapter 12P. Generally, this Ordinance requires contractors to provide employees covered by the Ordinance who do work funded under the contract with hourly gross compensation and paid and unpaid time off that meet certain minimum requirements. For the contractual requirements of the MCO, see § 43.

For the amount of hourly gross compensation currently required under the MCO, see www.sfgov.org/olse/mco. Note that this hourly rate may increase on January 1 of each year and that contractors will be required to pay any such increases to covered employees during the term of the contract.

Additional information regarding the MCO is available on the web at www.sfgov.org/olse/mco.

B. First Source Hiring Program (FSHP)

If the contract is for more than \$50,000, then the First Source Hiring Program (Admin. Code Chapter 83) may apply. Generally, this ordinance requires contractors to notify the First Source Hiring Program of available entry-level jobs and provide the Workforce Development System with the first opportunity to refer qualified individuals for employment.

Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the FSHP is available on the web at www.sfgov.org/moed/fshp.htm and from the First Source Hiring Administrator, (415) 401-4960.

C. Conflicts of Interest

The successful proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the Project on behalf of the successful proposer might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to

the City within ten calendar days of the City notifying the successful proposer that the City has selected the proposer.

D. Certification Regarding Lobbying

All prospective consultants are required to complete and submit along with their proposals, the certification form in Appendix D regarding lobbying. The same certification shall be obtained and submitted from all lower tier participants (subconsultants, suppliers, etc.) with work greater than \$100,000.

E. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Lower Tier Covered Transactions (Third Party Contracts over \$25,000)

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." Therefore, by signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the San Francisco Municipal Transportation Agency ("SFMTA"). If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the SFMTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR Parts 180, Subpart C and 1200, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

VIII. Protest Procedures

A. Protest of Non-Responsiveness Determination

Within five working days of issuance of a notice of non-responsiveness, any firm that has submitted a proposal and believes that the CSP has incorrectly determined that its proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by CSP on or before the fifth working day following the issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for CSP to determine the validity of the protest.

CSP reserves the right to proceed the proposal selection process with the responsive proposers during the five-day protest period. CSP will cease the proposal selection process only when it receives a notification of decision that is in favor of the protester.

Appendix A (Also known as Exhibit A)

EXHIBIT "A"

Central Subway Partnership (CSP) Purchase Order General Terms and Conditions Professional Services

Compensation and Payment

1. For and in consideration of the performance and completion of the services hereunder, CSP agrees that Vendor shall be compensated and paid for its services in an amount not to exceed **\$TBD** over the life of this Purchase Order.
2. After submittal of each deliverable, Vendor shall submit an invoice for services for the value of that deliverable (see cost above). Within seven (7) days following receipt by CSP from Client of payment for Vendor's services, CSP shall promptly pay Vendor the amount due. **CSP's receipt of payment from the Client for Vendor's services is a condition precedent to CSP's obligation to pay Vendor.**
3. Vendor shall not perform any additional service, or incur any additional expense in the performance of this Purchase Order without the prior written approval of CSP.
4. CSP shall not be responsible for payment or reimbursement of monies for additional services performed without the prior written approval of CSP.
5. Should a change of scope or additional services be required, payment for such services will be determined at the time of CSP's written approval, and such shall be amended to this Purchase Order and Annual Task Order.
6. Vendor hereby agrees to indemnify CSP against any payments made by CSP to Vendor which are subsequently disallowed by the Client, and agrees to promptly reimburse CSP for any such amounts plus interest which CSP may be required to pay the Client on behalf of Vendor.
7. In the event any invoiced cost(s) submitted by the Vendor through CSP to the Client is disallowed, any amount(s) paid, or due to be paid thereon, by the CSP to the Vendor shall be subject to appropriate adjustment to reflect such disallowance.

GENERAL PROVISIONS FOR PURCHASE ORDERS

8. Responsibility

Vendor shall be solely responsible for the professional quality, technical accuracy and the coordination of all calculations, data, reports or other Services to be provided hereunder, and shall, without any additional compensation, correct or revise any errors or deficiencies promptly upon notice or discovery thereof. Neither a review, approval or acceptance of, nor payment for, any of the Services required hereunder shall be construed as a waiver of any rights under this Purchase Order by CSP or of any cause of action arising out of the performance of this Purchase Order, and Vendor shall be liable for all damages caused by or arising out of Vendor's negligent performance of any Services provided or required hereunder.

9. Changes

CSP may, upon ten (10) days written notice, make changes in the Scope of Services to be provided hereunder. If such changes result in an increase or a decrease in Services, the time required for performance thereof, or the compensation thereof, this Purchase Order shall be modified accordingly in writing in order for such changes to be valid.

10. Termination

- A. Performance of the work and Services hereunder may be terminated by CSP at any time, in whole or in part:
- (1) Whenever Vendor shall default in its obligations hereunder or fails to make progress in the prosecution of the work or Services; or
 - (2) At the request of the Client.
 - (3) For the convenience of CSP.
- B. Termination shall be effected by delivery to Vendor of the Notice of Termination, specifying whether said termination is for default of Vendor, at the request of the Client or for the convenience of CSP, the extent to which performance of the work and Services is terminated; and the date upon which said termination is to become effective. If, after Notice of Termination for default, it is determined that Vendor was not in default, or that Vendor's failure to fulfill its obligations was due to causes beyond its control and without its fault or negligence, the Notice of Termination shall be deemed to have been issued for the convenience of CSP.
- C. Following receipt of Notice of Termination, Vendor shall discontinue performance on the date and to the extent specified therein, and deliver to CSP the completed or partially completed plans, information, data, reports, estimates, summaries, materials, or other documents which, if performance had been completed, would be furnished to CSP. Vendor shall continue performance of such part of the work and Services which are not terminated by the Notice of Termination. Vendor shall prepare and submit a termination claim for services satisfactorily performed, which shall include costs and expenses, reimbursable in accordance with the Terms of this Purchase Order, not previously paid to Vendor, incurred prior to the effective date specified in the Notice of Termination, and CSP may agree upon the whole or any part of the amount(s) claimed by Vendor on account of the termination or partial termination.
- D. In the event of termination for default, CSP shall be entitled to complete the work and Services hereunder or engage others to do so and in addition to whatever remedies it may have at law if the expense of completing said work and Services is greater than the amount Vendor was to receive as compensation therefore, CSP shall be entitled to recover the difference from Vendor.

11. Confidentiality

Vendor hereby agrees that all information provided by CSP pursuant to the work and Services hereunder shall be considered confidential and proprietary, and shall not be reproduced,

transmitted, used or disclosed by the Vendor without the written consent of CSP, except as may be necessary for the non-disclosing party to fulfill its obligations hereunder; provided that the limitation shall not apply to any information or portion thereof, which is within the public domain at the time of its disclosure. The requirements of this provision shall survive the term of this Purchase Order.

12. Ownership and Reuse of Documents

All non-proprietary data, information, reports, drawings, renderings, or other documents or materials prepared by Vendor hereunder shall become the property of CSP or the Client if imposed by the Prime Contract, whether or not the work covered thereby is executed; provided that Vendor may retain a record copy for its files.

13. Relationship

The legal relationship of Vendor to CSP hereunder shall be that of an independent contractor and not that of an agent, employee or joint venturer.

14. Examination of Records

Vendor shall until the expiration of six (6) years after final payment hereunder, maintain such books and records under generally recognized accounting methods and permit inspection by CSP or the Client, or the authorized representatives of either of them at mutually convenient times, or the Comptroller General of the United States or any of his authorized representatives.

15. Compliance with Laws

Vendor shall comply with all applicable federal, state, and local laws, ordinances, rules, regulations, and orders in effect throughout the term of this Purchase Order, including, but not limited to Executive Order No. 11246 of September 24, 1965, as amended (regarding Equal Employment Opportunity), and the orders of the Secretary of Labor pursuant thereto.

16. Insurance

- A. Without limiting Vendor's indemnification obligations, Vendor shall provide, pay for, and maintain in force at all time during the performance of the services insurance to protect himself, CSP, and the Client: from claims arising under Workman's (Worker's) Compensation; from claims for damages because of bodily injury including personal injury, sickness or disease or death of any person; from claims for damages resulting from injury to or destruction of property, including loss of use thereof; and from claims arising out of the performance of professional services, or as a consequence thereof, caused by error, omission, or negligent act for which Vendor, its employees, agents, vendors, and material suppliers, or the invitees of any of them, may be responsible.
- B. Vendor shall provide, pay for, and maintain in force at all times during the performance of the Services insurance as specified below.
 - i. Workers' Compensation Insurance as may be required by all state and federal workers' compensation acts, the Federal Longshoremen's and Harbor Workers' Compensation Act, the Outer Continental Shelf Act and such other acts as may be applicable to the PURCHASE ORDER SERVICES performed hereunder.
 - ii. Employers' Liability Insurance with amounts required by law or \$100,000 whichever is greater.
 - iii. Commercial General Liability Insurance covering liabilities for death and personal injury and liabilities for loss of or damage to property with combined single limit of One Million (\$1,000,000.00) Dollars per occurrence.
 - iv. Automobile Public Liability Insurance with a minimum One Million (\$1,000,000.00) Dollars per occurrence coverage for both bodily injury and property damage.

- v. Professional Liability Insurance with limits of liability not less than Two Million (\$2,000,000.00) Dollars per claim/per aggregate.
- C. Vendor shall submit to CSP certificates of insurance evidencing such policies upon the signing of this Purchase Order. The certificates provided to CSP shall specifically state that CSP shall be given thirty (30) days notice prior to cancellation or material change in policy coverage. Certificates of Insurance shall be sent to Central Subway Partners, 821 Howard St., San Francisco, CA 94103, Attn: Jenny Vodvarka. Jenny Vodvarka is the certificate holder. She can be reached at jenny.vodvarka@sfmta.com.
- D. Except with respect to Professional Liability and Worker's Compensation Insurance, Vendor shall name CSP as well as the City and County of San Francisco, its Officers and Employees as additional insured on all insurance policies required above.

17. Indemnity

Notwithstanding any provision of this Purchase Order to the contrary, Vendor agrees to indemnify, hold harmless, and defend CSP and the Client from and against all claims, demands, damages, losses, costs, expenses (including attorneys' fees), fines, or penalties arising out of, related to, or as a consequence of, or alleged to arise out of, relate to, or be a consequence of any act, error, or omission to act on the part of the Vendor or its employees, agents, or independent contractors, or the invitees of any of them.

18. Remedies

The rights and remedies set forth herein shall be in addition to any other remedies provided by law, and waiver by CSP of any provision hereunder or a breach thereof by Vendor shall not be deemed a waiver of future compliance thereof and such provision shall continue in full force and effect.

19. Severability

In the event that any term or provision of this Purchase Order is held to be illegal, invalid, or unenforceable under the laws, regulations or ordinances of any federal, state, or other government to which this Purchase Order is subject, such term or provision shall be deemed severed from this Purchase Order and the remaining terms and provisions shall remain unaffected thereby and continue in full force.

20. Notices

All notices required or permitted under this Purchase Order shall be considered as duly given to any party for all purposes hereof only if given in writing and hand delivered; or sent by registered or certified mail, postage prepaid and return receipt requested; or sent by telex, telegram, TWX or cable and also confirmed by registered mail, postage prepaid and return receipt requested, addressed as set forth below, or to such other address as may be designated by notice given as provided above. All notices shall be effective upon first receipt, unless otherwise specified herein.

21. Modification

This Purchase Order may only be modified by a written amendment hereto, duly executed by both parties.

22. Successors and Assignment

Vendor binds itself, its successors, assigns, and legal representatives to CSP with respect to all of the covenants of this Purchase Order and further agrees that it shall not sell, assign, transfer, mortgage, pledge or in any manner encumber its interests in this Purchase Order or in any proceeds from this Purchase Order without the prior written consent of CSP. In the event that Vendor violates the foregoing prohibition, or in the event that Vendor without the prior written consent of CSP, which

consent shall not be unreasonably withheld, sells, assigns, transfers, mortgages, pledges or in any manner encumbers, except as security for credit Purchase Orders, all or substantially all of its corporate assets, or directly or indirectly undergoes a change in control of its ownership, CSP shall be entitled, at its sole option:

1. To require the Vendor's successor to continue to perform under this Purchase Order and to continue to satisfactorily fulfill Vendor's obligations under this Purchase Order; or
2. To terminate this Purchase Order. In such case Vendor shall be responsible for any and all liabilities arising from such termination. In the event that CSP replaces Vendor with another vendor after such termination, Vendor shall be responsible for any and all costs, expenses and liabilities arising from such substitution. In any event, Vendor shall remain liable for any and all work product or services provided by it prior to the termination.

23. Extent of Purchase Order

This Purchase Order contains all of the promises, representations and understandings of the parties hereto and supersedes any previous understandings, commitments, proposals or Purchase Orders, whether oral or written, and may only be modified as hereinbefore provided.

24. Governing Laws

Unless otherwise specified herein, this Purchase Order shall be governed by the law of the State of California.

25. Vendor Quality Assurance and Control Plan

Vendor agrees that it shall follow the Project Specific Quality Assurance and Control Plan (the "Quality Plan") that sets forth CSP's policy for quality assurance and control and the procedures for implementing that policy during the performance of work or services as described in the Contract and/or vendors proposal. All services or work performed by Vendor shall be in conformity with the Quality Plan. Reliance on the Quality Control Plan does not relieve the Vendor of any liability for any deficiency in Vendor's work or services, and CSP does not accept any liability therefore. Vendor is subject to audits and reviews by CSP as part of its quality program to verify satisfactory implementation of the quality plan.

APPENDIX B

FTA REQUIREMENTS FOR PERSONAL SERVICES CONTRACTS

I. DEFINITIONS

A. Approved Project Budget means the most recent statement, approved by the FTA, of the costs of the Project, the maximum amount of Federal assistance for which the City is currently eligible, the specific tasks (including specified contingencies) covered, and the estimated cost of each task.

B. Contractor means the individual or entity awarded a third party contract financed in whole or in part with Federal assistance originally derived from FTA.

C. Cooperative Agreement means the instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project or Program, and in which FTA takes an active role or retains substantial control.

D. Federal Transit Administration (FTA) is an operating administration of the U.S. DOT.

E. FTA Directive includes any FTA circular, notice, order or guidance providing information about FTA's programs, application processing procedures, and Project management guidelines. In addition to FTA directives, certain U.S. DOT directives also apply to the Project.

F. Grant Agreement means the instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project, and in which FTA does not take an active role or retain substantial control, in accordance with 31 U.S.C. § 6304.

G. Government means the United States of America and any executive department or agency thereof.

H. Project means the task or set of tasks listed in the Approved Project Budget, and any modifications stated in the Conditions to the Grant Agreement or Cooperative Agreement applicable to the Project. In the case of the formula assistance program for urbanized areas, for elderly and persons with disabilities, and non-urbanized areas, 49 U.S.C. §§ 5307, 5310, and 5311, respectively, the term "Project" encompasses both "Program" and "each Project within the Program," as the context may require, to effectuate the requirements of the Grant Agreement or Cooperative Agreement.

I. Recipient means any entity that receives Federal assistance directly from FTA to accomplish the Project. The term "Recipient" includes each FTA "Grantee" as well as each FTA Recipient of a Cooperative Agreement. For the purpose of this Agreement, Recipient is the City.

J. Secretary means the U.S. DOT Secretary, including his or her duly authorized designee.

K. Third Party Contract means a contract or purchase order awarded by the Recipient to a vendor or contractor, financed in whole or in part with Federal assistance awarded by FTA.

L. Third Party Subcontract means a subcontract at any tier entered into by Contractor or third party subcontractor, financed in whole or in part with Federal assistance originally derived from FTA.

M. U.S. DOT is the acronym for the U.S. Department of Transportation, including its operating administrations.

II. FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

III. ACCESS TO RECORDS

A. The Contractor agrees to provide the City and County of San Francisco, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.

B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

C. The Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the City, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. 49 CFR 18.36(i)(11).

IV. DEBARMENT AND SUSPENSION

See Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

V. NO FEDERAL GOVERNMENT OBLIGATIONS TO CONTRACTOR

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

B. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

VI. CIVIL RIGHTS

A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 41 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOT) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

C. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

VII. PATENT RIGHTS (*applicable to contracts for experimental, research, or development projects financed by FTA*)

A. General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the City and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the FTA.

B. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor’s status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual), the City and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government described in U.S. Department of Commerce regulations, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” 37 CFR Part 401.

C. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

VIII. RIGHTS IN DATA AND COPYRIGHTS (Applicable to contracts for planning, research, or development financed by FTA)

A. Definition. The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

B. Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of this Agreement.

1. Publication of Data. Except for its own internal use in conjunction with the Agreement, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

2. Federal License. In accordance with 49 CFR §§ 18.34 and 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, "for Federal Government purposes," any subject data or copyright described below. As used in the previous sentence, "for Federal Government purposes" means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party:

a. Any subject data developed under this Agreement, whether or not a copyright has been obtained; and

b. Any rights of copyright purchased by City or Contractor using Federal assistance in whole or in part provided by FTA.

3. FTA Intention. When FTA awards Federal assistance for a experimental, research or developmental work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in the work. Therefore, unless FTA determines otherwise, the Contractor performing experimental, research, or developmental work required by the underlying Agreement agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Agreement, or a copy of the subject data first produced under the Agreement for which a copyright has not been obtained. If the experimental, research, or developmental work which is the subject of this Agreement is not completed for any reason whatsoever, all data developed under this Agreement shall become subject data as defined in Subsection a. above and shall be delivered as the Federal Government may direct. This subsection does not apply to adaptations of automatic data processing equipment or programs for the City's use the costs of which are financed with Federal transportation funds for capital projects.

4. Hold Harmless. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties, against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement. The Contractor shall not be

required to indemnify the Federal Government for any such liability arising out of the wrongful acts of employees or agents of the Federal Government.

5. Restrictions on Access to Patent Rights. Nothing contained in this section on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

6. Application to Data Incorporated into Work. The requirements of Subsections (2), (3) and (4) of this Section do not apply to data developed by the City or Contractor and incorporated into the work carried out under this Agreement, provided that the City or Contractor identifies the data in writing at the time of delivery of the work.

7. Application to Subcontractors. Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

C. Provision of Rights to Government. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (large business, small business, state government or instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the City and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

D. Flow Down. The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

IX. CONTRACT WORK HOURS AND SAFETY STANDARDS (*applicable to nonconstruction contracts in excess of \$100,000 that employ laborers or mechanics on a public work*)

A. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph A of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph A of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph A of this section.

C. Withholding for unpaid wages and liquidated damages - The City and County of San Francisco shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to

be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

D. Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A through D of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A through D of this section.

X. ENERGY CONSERVATION REQUIREMENTS

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

XI. CLEAN WATER REQUIREMENTS *(applicable to all contracts in excess of \$100,000)*

A. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor agrees to report each violation of these requirements to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA regional office.

B. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

XII. CLEAN AIR *(applicable to all contracts and subcontracts in excess of \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any yea.)*

A. Contractor agrees to comply with applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

XIII. PRIVACY

If Contractor or its employees administer any system of records on behalf of the Federal Government, Contractor and its employees agree to comply with the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a (the Privacy Act). Specifically, Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Government. Contractor acknowledges that the requirements of the Privacy Act, including the civil and criminal penalties for violations of the Privacy Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of this Agreement. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

XIV. DRUG AND ALCOHOL TESTING

To the extent Contractor, its subcontractors or their employees perform a safety-sensitive function under the Agreement, Contractor agrees to comply with, and assure compliance of its subcontractors, and their employees, with 49 U.S.C. § 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655.

XV. TERMINATION FOR CONVENIENCE OF CITY *(required for all contracts in excess of \$10,000)*

See Agreement Terms and Conditions.

XVI. TERMINATION FOR DEFAULT *(required for all contracts in excess of \$10,000)*

See Agreement Terms and Conditions.

XVII. FALSE OR FRAUDULENT STATEMENTS AND CLAIMS

A. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

B. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

C. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

XVIII. FLY AMERICA

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

XIX. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required

by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

XX. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS (*applicable to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator*)

A. The Contractor agrees to the comply with applicable transit employee protective requirements as follows:

1. General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection A, however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (2) and (3) of this clause.

2. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

3. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

B. The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

XXI. NATIONAL ITS ARCHITECTURE POLICY (*Applicable to contracts for ITS projects*)

If providing Intelligent Transportation Systems (ITS) property or services, Contactor shall comply with the National ITS Architecture and standards to the extent required by 23 U.S.C. § 512, FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455, et seq., January 8, 2001, and later published policies or implementing directives FTA may issue.

XXII. TEXTING WHILE DRIVING; DISTRACTED DRIVING

Consistent with Executive Order 13513 “Federal Leadership on Reducing Text Messaging While Driving”, Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.10 “Text Messaging While Driving”, Dec. 30, 2009, SFMTA encourages Contractor to promote policies and initiatives for employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to include this provision in each third party subcontract involving the project.

XXIII. SEAT BELT USE

In compliance with Executive Order 13043 “Increasing Seat Belt Use in the United States”, April 16, 1997 23 U.S.C. Section 402 note, the SFMTA encourages Contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project.

Appendix C

Attestation of Compliance on Communication Prior to Contract Award

To be completed by all Proposing Firms and All Individual Subcontractors

(Please check each box, sign this form and submit it with your proposal.)

Name of individual completing this form:

The form is submitted on behalf of firm:

Title of RFP and RFP No.: RFP for Public Relations/Communications Specialist

1. I attest that I and all members of the firm listed above will and have complied to date with Section V.G of the RFP. Yes
2. I understand that if my firm or any members of the firm listed above are found to be in violation of the Section V.G of the above RFP, this will disqualify my firm and any Proposal in which my firm is named from further consideration. Yes

I have entered required responses to the above questions to the best of my knowledge and belief.

Signature: _____

Date: _____

Appendix D

APPENDIX A, 49 CFR, PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

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

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. 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.

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

Executed this _____ day of _____, 19__.

By: _____
(signature of authorized official)

(title of authorized official)